

ESSEX COURT CHAMBERS

BARRISTERS



PAUL KEY QC

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PROFESSIONAL PRACTICE

Paul Key is recognised as one of the leading silks at the Commercial Bar, specializing in complex, cross-border and high-value disputes.

He wins praise from clients for combining strong analytical skills (*"intellect of an Einstein"*, *"you bring him in when you have a case which needs a lot of the grey matter to be applied to it"*, *"incredibly bright and hard-working"*, *"incisive and insightful"*, *"supremely intelligent"*) with powerful advocacy (*"astonishingly good advocate"*, *"the go-to advocate for important cases"*, *"amazing ability to get the most difficult tribunal on his side"*) and a teamwork ethic (*"a definite inclusion when compiling a dream team for a case"*, *"approachable and responsive"*, *"seamlessly slots into the wider team and provides spot-on insights"*, *"a team player who is very switched-on, very good with clients, and user-friendly"*).

As well as appearing as sole counsel in Courts and in arbitrations, Paul also acts as a member of larger teams in heavyweight disputes, including 14 separate cases in recent years valued at over US\$1billion. In addition to acting for and against high net-worth individuals and companies, Paul

regularly acts for and against States and State-entities (e.g. China, Iran, Kazakhstan, Nigeria, Russia, Singapore and the USA).

Paul's litigation work has seen him win complex and very substantial cases for his clients at all levels of the English Court system, including the Supreme Court ("*secured a huge victory for us in a very difficult case*", "*superb courtroom advocate*", "*having an extremely high-profile year*", "*his knowledge of English law is phenomenal*", "*clear, concise, confident and easy to work with*").

Paul has been widely recognized for his specialism in arbitration, both international commercial arbitration (including ICC, LCIA, UNCITRAL, SCC and ARIAS) and investment treaty arbitration (including ICSID). He has been ranked in the top-tier (band 1) rankings for arbitration for over 10 years and has consistently been identified as one of the leading figures in that field ("*a real arbitration expert*", "*few can rival his expertise, ability and knowledge in the field of investment arbitration*", "*he has established an impressive case portfolio*", "*the first port of call for important arbitration disputes*", "*an arbitration guru*", "*when working on a huge international arbitration, he seamlessly slots into the wider team and provides spot-on insights*"). He has appeared as advocate in over 300 major international arbitrations worldwide, as well as appearing regularly before the English Courts (at all levels) and foreign Courts on arbitration matters. In addition to his extensive experience in international commercial arbitration, he is one of the very few English Silks to have real expertise in investment arbitration. He has been lead counsel in a very large number of BIT / investment arbitrations, acting both for and against States.

He is Visiting Professor in international arbitration law at King's College, London, and has lectured and published widely in this field. He has been a long-standing representative of the UK on the ILA International Commercial Arbitration Committee and is also a delegate for the UNCITRAL Working Group on Arbitration.

His practice spans a vast array of fields in international and domestic law, including very substantial experience in each of the following subject-matter areas: foreign investment; international trade; civil fraud; energy; joint ventures; power and other large scale infrastructure projects; offshore disputes; oil & gas; telecommunications; shipping; agency and distribution (including commercial agency); conflict of laws; and public international law (largely in the investment context).

Prior to taking Silk, Paul won the Chambers & Partners Award for "*International Arbitration Junior Barrister of the Year*" and was also nominated for this award in commercial dispute resolution. He was recently nominated (as one of three) for Silk of the Year in Projects and Energy.

AREAS OF EXPERTISE

- Arbitration & related court applications
- Banking & financial services
- Commercial dispute resolution
- Conflict of laws & private international law
- Energy & natural resources
- Injunctions, interim relief
- Insurance & reinsurance
- International commercial arbitration
- Public international law
- Revenue law (including VAT, IPT, duties & excise)
- Shipping & admiralty

WHAT OTHERS SAY

Paul is recommended as a leading QC for International Arbitration in Chambers and Partners and the Legal 500. Comments include *“an unflappable barrister with a strong work ethic”, “another of the set’s standouts”, “approachable and responsive”, “when working on a huge international arbitration, he seamlessly slots into the wider team and provides spot-on insights”, “one of the most incisive and insightful juniors at the Bar”, “an expert in commercial arbitration and litigation”, “a true gentleman with the intellect of an Einstein.”* “Since his appointment to silk in 2013, he has continued to carve out a strong foothold in the arbitration arena. He is praised for his ability to handle both commercial and investment treaty disputes.” “He is supremely intelligent.” “He is very responsive and has good commercial awareness.”

He is similarly recommended for Commercial Dispute Resolution in Chambers and Partners and the Legal 500. Comments include *“wonderful. He is a team player who is very switched-on, very good with clients, and user-friendly”, “singled out for his “thorough and detailed advice” and client commitment. He has established an impressive case portfolio”, “having an extremely high-profile year”, “clear, concise, confident and easy to work with,” “his knowledge of English law is phenomenal. He knows all the cases.”*

Paul is recommended in the Legal 500 for Projects and Energy. He is shortlisted (as one of three) as Silk of the Year in Projects and Energy for 2014.

He is also listed as a leading QC for VAT in Chambers and Partners and the Legal 500.... For He is described as *“first class”, “a persistent and attractive advocate with very good client-handling skills’, very reasonable and practical’, “proactive and hard-working”, “an extremely diligent performer who always gets the work done” “a true gentleman whom you bring in when you have a case which needs a lot of the grey matter to be applied to it. “an excellent barrister with great organisational skills“.*

EXAMPLES OF NOTABLE CASES

Habas v. Sometal [2010] EWHC 29 (Comm) (High Court). Challenge to Tribunal's jurisdiction under section 67. Incorporation of an arbitration clause.

– CNH Global NV v. PGN Logistics Ltd [2009] 1 CLC 807 (High Court). Challenge to arbitration award under section 68. Separate issue as to enforcement of the award.

– AIG v. Republic of Kazakhstan [2006] 1 WLR 1420 (High Court and Court of Appeal). Proceedings to enforce an ICSID award.

Bankers Trust Company v. Government of Moscow (High Court and Court of Appeal): The Times, 1 September 2003; [2003] 1 WLR 2885; [2004] 2 Lloyd's Rep 179; [2004] BLR 229; [2005] QB 207. Acted for the Government of Moscow during its successful defence of a US\$300m claim made against it by Bankers Trust plc. Appeared for Moscow in the subsequent arbitration applications to the Commercial Court in which the award in favour of Moscow was upheld and also on a separate issue before the Court of Appeal, namely whether judgments in arbitration applications are public documents or secret documents.

– Hussmann v. Pharaon (High Court and Court of Appeal): [2002] CLC 1030; The Times, 12 March 2003; [2003] 1 All ER (Comm) 879. Challenge to arbitration award on grounds of bias, lack of substantive jurisdiction and serious irregularity. Also s 69 appeal on point of law.

ARBITRATION & RELATED COURT APPLICATIONS

Co-Arbitrator / Sole Arbitrator in major international arbitrations, including appointments in institutional and *ad hoc* arbitration cases.

Specialises in international commercial arbitrations, including bilateral investment treaty arbitrations, ICSID arbitrations, Bermuda form arbitrations and arbitrations conducted in England and abroad.

Regularly appear and advise as Counsel in international arbitrations in many different countries and under a variety of rules, including ICC, LCIA, SCC, ARIAS, UNCITRAL and ICSID. Counsel in over 300 international arbitrations in numerous countries worldwide, across the full spectrum of subject matter listed below. Most cases are confidential and are not reported.

Regularly advise and appear as Counsel before the English High Court and Court of Appeal in arbitration matters.

BANKING & FINANCIAL SERVICES

Wide experience in international and domestic banking, trade and export financing, guarantees, letters of credit, insurance, reinsurance and financial markets. Acted for HFC Bank in its successful claim against Centrica for ownership and control of the Goldfish credit card. Recent work includes *Garban-Intercapital v Lau*, a case concerning the recovery of trading debts and the application of the Financial Services Act.

COMMERCIAL DISPUTE RESOLUTION

Advised and acted on a wide range of commercial matters, such as international trade, investment contracts, insurance, shipping, jurisdiction disputes, freezing orders and anti-suit injunctions. Particular experience of litigation in the Commercial Court.

INSURANCE & REINSURANCE

Extensive experience of insurance and reinsurance policy coverage disputes and accounting issues, including non-disclosure, brokers' fraud, misrepresentation and negligence. Involved in numerous arbitrations and Court cases including claims for and against Lloyd's syndicates (including the Lloyd's "travel insurance" litigation), claims involving the Bermuda excess liability form and reinsurance schemes of arrangement.

REVENUE LAW (INCLUDING VAT, IPT, DUTIES & EXCISE)

Specialises in advisory work and litigation, including cases before the VAT Tribunal, the High Court, the Court of Appeal and the ECJ. Recent cases include:

- *EMI* (2010, ECJ) (supply of samples);
- *InsuranceWide.com and Trader Media* [2009] STC 2219 (insurance exemption);
- *Centralan* [2003] STC 290 and [2006] STC 1542 (ECJ) (capital goods scheme);
- *Fengate Developments* [2004] STC 772 and [2005] STC 191 (CA) (supply by a partnership).
- *Kimberley Clerk* [2004] STC 473 (single/multiple supply);
- *University of Sussex* [2001] STC 1495 and [2004] STC 1 (CA) (input tax claim and three-year

cap);

- *Tesco* [2002] STC 1332 and [2003] STC 1561 (CA) (vouchers under the “Clubcard” scheme);
- *Hartwell* [2002] STC 22 and [2003] STC 396 (CA) (discount vouchers);
- *Peugeot* [2003] STC 1438 (“free insurance” scheme); and
- *Overland Shoes* [2002] ECR I – 11133 (ECJ) (import scheme).

SHIPPING & ADMIRALTY

Commercial Court and Admiralty Court, including cargo claims, charterparty disputes, hire and demurrage disputes and C&F contracts.

CAREER

1997 to date Member of Essex Court Chambers

1994 – 1996 Litigation Solicitor, Herbert Smith, London

1993 – 1994 Commercial Barrister, New Zealand

1990 Commercial Barrister, New Zealand

In private practice as a Barrister since 1990, specialising in international and commercial, including international and commercial arbitration

EDUCATION

Doctor of Philosophy, Gonville and Caius College, University of Cambridge

(Oct.1990-Aug.1993)

Thesis title: The Role of Equitable Estoppel in the Law of Restitution

1994: University of Cambridge Yorke Prize

1990- Tapp Scholarship in Law, Gonville and Caius College,

1993 Cambridge

Cambridge Commonwealth Trust Scholarship

Overseas Research Award, British Government

William Georgetti Scholarship

Bachelor of Laws (First Class Honours), University of Auckland

1990: Clearly Memorial Prize

Best Mooter in New Zealand Mooting Finals

Represented New Zealand in Jessup International Moot Competition

Working knowledge of French and Italian

AWARDS

1994 Yorke Prize, University of Cambridge

1990 -1993 Tapp Scholarship in Law, Gonville and Caius College, Cambridge

Cambridge Commonwealth Trust Scholarship

Overseas Research Award, British Government

William Georgetti Scholarship

1990 Clearly Memorial Prize, most promising newly-admitted barrister and solicitor in New Zealand

Best Mooter in New Zealand Mooting Finals

Represented New Zealand in Jessup International Moot Competition

1989 Senior Prize in Law

Senior Scholar in Law

New Zealand Legal Research Foundation Unpublished Paper Award