



EDMUND KING

Born 1975

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Specific Areas of Work Edmund King has a broad commercial and commercial chancery practice with an emphasis on advocacy: experience in the Court of Appeal, High Court, in arbitrations (domestic and international) and in VAT Tribunals, including instructions as lead advocate to defend multi-billion dollar claims.

Practises in general commercial/commercial chancery litigation and VAT. His commercial practice includes international arbitration, banking, commodities, fraud, insurance, shipping, and sovereign immunity claims and he also has considerable experience of shareholder disputes.

Significant experience of interim applications, including arbitration applications and appeals, and obtaining and setting aside freezing orders, in support of proceedings here and in other jurisdictions or in support of arbitrations.

Called to the Bar in the British Virgin Islands and a registered DIFC advocate.

Recommendations Recommended in 7 Categories by the Legal 500/Chambers and Partners (Banking & finance, Commercial Litigation/Dispute Resolution, Chancery: Commercial, fraud, VAT, commodities and shipping). Recent comments include *“very able, hardworking and particularly good on his feet”*; *“legal analysis and tactical awareness is excellent”*; *“bags of enthusiasm and drive”*; *“a great legal mind with sound commercial prowess”*; *“incisive and enthusiastic”*; *“a lawyer who is widely regarded as very much on the up”*.
Profiled by *The Times* in November 2008 as one of ten future stars of the Bar.

Career

1999	Essex Court Chambers
1998	Called to the Bar
1998	Lecturer in Constitutional Law at St Edmund Hall, Oxford

Education

1997—8	LLM, Harvard Law School (Placed First in Advanced Constitutional Law Class)
1994—7	BA (Law) Balliol College, Oxford (First Class); Mods in Philosophy & French: Distinction

Awards	2003	Joint winner of Legal Business' award for Litigation Team of the Year (with Allen & Overy, Bernard Eder QC & Brian Dye) for defence of a South African bank from fraud claims
	1998—9	Princess Royal Scholar, Inner Temple
	1997—8	Kennedy Scholar, Harvard Law School
	1997	Martin Wronker Prize for Land Law (University Finals prize)
	1997	Jenkyns Prize (Balliol)
	1995	College Scholarship from Balliol
	1995	Junior Heath Harrison Scholar (French) (Oxford University undergraduate prize)

Languages French

Memberships LCIA, YIAG, Chancery Bar Association, Combar, Revenue Bar Association, Commercial Fraud Lawyers Association, LMAA

Specific Areas Arbitration / Public International Law

Currently acting in Lehman-related shareholder disputes (LCIA). Recently acted in a dispute between two international drinks companies in Africa (ICC); and a dispute over whether rights to a gas field have been forfeited as a result of non-payment of cash calls under an exploration contract (LCIA), as well as for a Russian oligarch defending multi-billion fraud claims in a LCIA arbitration (retained as lead advocate), a multi-billion SIAC dispute. Was also instructed on the IPOC - LVFG dispute.

Experience of LCIA, ICC, SIAC, ICSID, LME, LMAA and ad hoc arbitrations.

Significant experience of applications under the Arbitration Act, including s.9 (stays), s.43 (obtaining evidence from third parties), s.44 (freezing orders; general injunctions; orders for delivery up of vessels; orders for production of documents; orders for deposing witnesses), s.68 (serious misconduct), s.69 (error of law).

Was instructed for the Government of Nigeria in *AIC v Nigeria* on the effect of the State Immunity Act in resisting enforcement of a Nigerian Judgment against Nigeria's UK assets held at the Bank of England.

Has advised on the enforcement of ICSID awards against foreign government's UK assets and the effect of the State Immunity Act.

Also acted for an African government in relation to an international investment arbitration under ICSID rules, and for a private individual to recover loans from a Middle Eastern Head of State.

Acted for another African Government in a jurisdiction challenge which was resolved shortly before trial in the High Court.

Acted for the family interests of a well known billionaire in a LCIA arbitration over an alleged entitlement to commission arising out of an investment in Africa.

Acted in a LME arbitration for a customer whose trade was

cancelled by a member of the LME.

Banking

Currently acting in a dispute concerning Lehman-related losses (multi-billion dollar claim) and in an action by minority lenders against the majority lenders, now in the same ultimate ownership as the private equity owners of the Ideal Standard Group.

Acted for Proton against UBS in one of the first bank on bank actions following the credit crunch, involving a LMA sub-participation dispute. The case concerned misrepresentation, custom and practice and quantum issues (Commercial Court; settled September 2010).

Instructed by Medium Term Noteholders of Sigma Finance Corporation in the Gordian Knot litigation in their successful appeal to the House of Lords (overturning the CA and Ch D). The case concerned the construction of a security trust deed following the collapse of the SIV with over US\$10bn of liabilities and assets of a few percent of that sum and the extent to which the commercial background assumed *pari passu* treatment on insolvency.

Also involved in advising offshore hedge funds facing massive redemption claims as to their ability to suspend redemptions; and onshore hedge funds being made subject to orders of the US courts as to their impact on their activities here.

Bond disputes: As well as the Ideal Standard dispute mentioned above, acted for the bondholders of Elektrim in their successful application for payment down of over €500m. Instructed by the Elektrim bondholders in the ongoing dispute between Elektrim / Law Debenture / Vivendi, in claims which raise issues concerning the construction of bonds, duties of trustees, conflict of laws, the insolvency regulation, economic torts, and the jurisdiction of arbitrators (CA judgment October 2010 upholding the judge's award of €180m to the Bondholders). Also acted for the Bondholders of Kremikovtzi in their €500m summary judgment application.

In addition to reported cases, experience of claims against trading houses and banks (including significant disputes over alleged bribery, claims in bad faith, fraud, front running), claims to have traded in error, and overseas regulatory intervention into hedge funds operating out of London.

Instructed to defend South Africa's largest bank from claims of front running and dishonesty; case settled successfully before trial with the Claimant publicly acknowledging the Bank's integrity and making a payment towards its costs. (Joint winner of Legal Business' 2003 award for Litigation Team of the Year (with Allen & Overy, Bernard Eder QC & Brian Dye for the work done on this case.)

Commercial Litigation (including Fraud / Breach of Fiduciary Duty / Economic Torts / Sale of Goods)

Frequent experience of disputes involving allegations of fraud, bribery, breach of trust by employees/agents, breaches of "best

efforts” and “good faith” obligations, dishonest assistance in breach of trust, disputes over apparent / ostensible authority of consultants, directors, and brokers.

Experience of disputes over share sale agreements, distribution and reseller agreements, shareholder disputes (including taking s.459 petition injunctions to the Court of Appeal for successful variation), mortgage disputes, fraudulent processing of credit card transactions, sale contract disputes, guarantee claims, claims raising issue estoppel / res judicata / abuse of process / limitation issues.

Disputes as to evidence: experience of applications to declare inadmissible expert evidence on the grounds of bias and dishonesty following successful cross examination; fabrication of evidence including fake fax transmission reports; amendments to plead fraudulent destruction of documents during litigation.

Recommended in Chambers and Partners and the L500. Described as bringing “real spirit” to cases and “very able, hard working and particularly good on his feet”.

Energy

Acting in a dispute long term supply of coal dispute.

Acted in an oil and gas dispute regarding interests in a gas field following non-payment of cash-calls.

Acted in disputes over agreements for the supply of oil under long term contracts in Africa, Romania, and numerous arbitrations arising out of long term coal supply contracts to Europe from Australia, and claims for royalties on oilfields. Acting in a dispute over an alleged “mistaken trade” on the LME.

Advised in relation to the then largest ever Kyoto protocol carbon emissions offset trade (for some €500m) raising issues of assignment of burdens in contracts.

Acted for the administrators of one of the UK’s largest consumers of gas (accounting for 0.5% of national demand) in a dispute over the pricing of gas provided out of contract following termination on administration.

Insurance & Re-insurance

In addition to reported cases, experience of avoidance claims, political risk insurance, advising insureds in negotiations on policy wordings re D&O liability, credit risk policies, war risks & hull risks claims, defending film finance brokers from allegations of fraud, suing brokers for failing to obtain proper cover, coverage disputes, and claims for contribution on the grounds of double insurance.

Professional Negligence

Defended reinsurance brokers of allegations of fraud in Film Finance. Acted for reinsureds against brokers for failing to ensure proper cover obtained on placement. Acted for and against solicitors accused of negligence in respect of administration of trusts, tax advice, and preparation of wills.

Shipping / Commodities

In addition to reported cases, acted or presently acting in various MOA disputes (both NSF93 and 87), including disputes over which party was the principal of brokers in various ship sales including one where over \$60m was claimed as damages, the measure of damages where there is no available market, brokers' entitlement to commission.

Presently acting or acted in a number of back-to-back long term commodity supply disputes raising such issues as frustration, force majeure, meaning of fairly evenly spread/evenly spread provisions regarding shipment windows, nomination obligations and implied terms.

Also acted or acting in a variety of safe port / safe berth disputes (including the leading Court of Appeal authority *The Archimidis*), bill of lading claims, cargo claims for contamination / short delivery, charterparty disputes (including claims for repudiation of long term timecharters on the basis of excessive noise and vibration), disputes between lines and their agents, demurrage disputes (including a modern rarity, a Commercial Court demurrage trial, as well as numerous construction issues in relation to demurrage provisions of sale contracts and whether they are freestanding or operate by way of indemnity), claims to general average and advice over a major pollution disaster.

Currently acting in a FPSO conversion arbitration. Previous experience of numerous construction/conversion cases: including the leading Court of Appeal authority *Stocznia Gdynia SA v Gearbulk Holdings SA* [2009] 3 WLR 677 (whether contractual remedies are a complete code, interpretation of exclusion clauses, and effect of a contractual termination on common law rights). Was instructed for the yard in *Latvian Shipping*. Acted in various shipbuilding arbitrations (including for the buyers of two oil rigs regarding claims for over \$500m).

Instructed on five superyacht construction cases by different billionaires/royal families, as well more minor yacht disputes. Experience of applications for injunctions for orders to transfer vessels to buyers before delivery is due under the shipbuilding contract.

Listed as a leading junior in the 2005-10 editions of Legal 500, which refer to his practice as "stellar" and praise his legal analysis and tactical awareness.

VAT

A significant and expanding part of Edmund's practice. In addition to reported cases, numerous interlocutory appearances, and also successfully opposed leave to appeal to the House of Lords in *Bookit v HMRC*. Recommended in the 2010 Legal 500, which refers to him as "incisive and enthusiastic".

Experience of single/multiple disputes, special methods for partial exemption, claims to compound interest, scope of the financial services exemption, scope of the insurance exemption, scope of the medical exemption, unjust enrichment, the land exemption,

s.47 FA 1997 and the three year cap, the effect of s.85 agreements, face value vouchers, and dealing with the rewriting of transactions following a finding of abuse.

Reported Cases

DCM (Optical Holdings) Ltd v HMRC (No 2) [2010] UK FTT 393 (TC): Appropriateness of zoning in PSEM.

Vision Express (UK) Ltd v HMRC [2009] All ER(D) 146 (Ch D) Validity of Special Method override notice and PESMs; scope of the medical care exemption.

Re Sigma Finance Corporation [2009] All ER(D) 146 HL; (2009) BCC 393 (CA); [2008] EWHC 2997 (Ch D) Construction of Security Trust Deed of insolvent SIV; whether pay-as-you-go or pari passu.

Law Debenture v Elektrim & Anr [2009] All ER (D) 304: Approach to loss of a chance of a sum to be assessed by an expert determination; valuation; burden of proof; res judicata and issue estoppel; approach to construction of deeds and estoppels arising from pre-contractual negotiations.

Friendly Loans Ltd v HMRC UK FTT 247(TC) Scope of financial services exemption – loanbrokers – intermediary services.

Ideal Shopping v HMRC UK FTT 104(TC) Validity of Default Surcharge Notices – whether capable of amendment if based on incorrect percentage

Bank of Ireland v HMRC VTD 20824 Scope of insurance exemption – application to skewed insurance panels.

Stocznia Gdynia SA v Gearbulk Holdings Ltd [2009] 3 WLR 677 (CA) [2008] 2 Lloyds Rep 202 (first instance) Whether a contractual termination clause was a complete code; interpretation of exclusion clauses; whether a exercising a contractual right of termination precluded a subsequent claim for common law damages.

AIC v Marine Pilot Ltd [2008] 1 Lloyds Rep 597, The Times 22 April 2008 (Court of Appeal); [2007] 2 Lloyds Rep 101 (Comm Ct). Whether tender of contractual performance of contractual effect if not expected to be accepted and not accepted; whether Charterers warrant safety of port X by a term in a charter providing “1 safe port, port X”.

Vigdor Ltd (T/A Michael Jane) v HMRC VTD 20322, Executors of MJ Taylor v HMRC VTD 20323 Holland v HMRC VTD 20325. Scope of land exemption from VAT, single/multiple supply issues. Holland and Vigdor’s appeal to the High Court is reported at (2008) All ER (D) 302.

DCM (Optical Holdings) Ltd v HMRC VTD 19549 Appropriateness of a floor space partial exemption special method; scope of medical care exemption.

Callard v Pringle & Ors [2008] 2 BCLC 505: Interim Injunctions: Court of Appeal decision on whether requirement of a good arguable case must be shown. S.459 Companies Act injunction

appeal, *O'Neill v Phillips* offers.

Law Debenture Trust Corporation Plc v Concord Trust and others [2007] All ER (D) 149. Construction of bonds, obligations of trustees, entitlement to release of security, trustees rights of retention in respect of feared future litigation. Bondholders' rights to vote on resolutions entitling them to paid their expenses of litigation out of payment down in priority and out of payment to be made to all bondholders.

High Seas Venture Ltd Partnership v Sinom (Hong Kong) Ltd [2007] All ER (D) 492. Demurrage trial: whether weather bad; whether anticipated bad weather within weather days exception; effect of signature on statement of facts.

Morpheus 2002 Ltd v HMRC VTD 19854 – scope of financial services exemption – application to remortgage conveyancing.

3DM Asia v 3DM Worldwide [2006] All ER (D) 57. Formation of contract; whether intended to have legal effect on signature or on exchange of signatures; alleged condition precedent.

Baines & Ernst v HMRC [2006] STC 1632 (CA); [2006] STC 653 (Ch D). VAT – Recovery of unlawfully levied “tax” – defence of unjust enrichment, passing on the burden of VAT and economic loss.

Miranos International Trading Inc v VOC Steel Services BV Lawtel 15 July 2005: s.68 and 69 Arbitration Act, arbitrator deciding case on point of his own without inviting submissions, whether minimum duration guarantee in a timecharter amounted to a minimum hire guarantee.

Voblo GmbH & Co KG v Firbank [2005] All ER (D) 289. Guarantee; duress; ability of set off counterclaims against sums claimed under guarantee.

Fal Oil v Petronas [2004] 2 Lloyds Rep 282 (Court of Appeal). Shipping/sale of goods: burden of proof in contamination claims, demurrage in C&F sale contracts.

Kronos v Sempra [2004] 1 Lloyds Rep 260 (Court of Appeal), and [2003] 1 Lloyds Rep 378 (first instance). Shipping/sale of goods: the operation of demurrage in FOB sale contracts.

GMAC Commercial Credit Development v Sandhu [2004] All ER (D) 589 (Comm Ct). Banking/guarantees: whether oral variation of a guarantee complies with Statute of Frauds 1607.

Brotherton v Colseguros [2003] Lloyds Rep IR 746; [2003] 2 All ER (Comm) 298 (Court of Appeal). Reinsurance: reinsured's duty to disclose allegations against the originally insured, even if subsequently found to be untrue.

AIC v Federal Government of Nigeria & Attorney General of Nigeria [2003] All ER (D) 190 [2003] (QB) Banking/Public International Law: Enforcement of foreign judgment against foreign state's assets in the UK, sovereign immunity, scope of “commercial purposes” exception and Central Bank immunities under the State Immunity Act.

Commerce Insurance v Lloyds Underwriters [2002] 1 WLR 1323;
Viking v Rossdale [2002] 1 Lloyds Rep 219 (Comm Ct)
Reinsurance/arbitration: obtaining evidence for use in foreign
arbitral proceedings.

The Delos [2001] 1 Lloyds Rep 703 (Comm Ct)
Shipping/arbitration: words required to incorporate arbitration
clause from Charterparty into bill of lading.

Mogadam v Official Receiver [2001] All ER (D) 203 (Ch D)
Insolvency/costs: Application to annul adjudication of bankruptcy
based on costs order which is under appeal.

If you require further information please contact
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