

HIS HONOUR JOHN TOULMIN CMG QC

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Curriculum Vitae

John Toulmin retired as a Judge of the specialist Technology and Construction Court of the High Court (TCC) after more than 13 years as a full time judge trying complex construction and technology cases involving a wide range of subject matter as well as cases in the Chancery Division and Queen's Bench Division of the High Court as a Deputy High Court Judge. During this time he devised and was instrumental in carrying through the Dispute Settlement Process, akin to mediation, under which a Judge of the TCC (who would not thereafter be involved in the case) assists the parties in attempting to achieve a settlement of the dispute. John Toulmin carried out 5 such "mediations" each one of which was successful. Before that, as a Recorder and Deputy High Court Judge, he tried both civil and criminal cases.

John Toulmin is well-qualified to act as an arbitrator. In addition to his judicial experience he was involved in commercial arbitration as counsel and as arbitrator. In the 1970s he was involved in a successful arbitration over the appropriate gallonage charges for oil companies at Heathrow Airport, led by Maurice Drake QC and in an arbitration concerning copper mines in Chile (Anaconda) led by Robert McCrindle QC. His last two cases before becoming a full-time judge were international arbitrations, one as counsel, and the other as part of a three person international arbitral panel. In 1996 he was nominated by the United Kingdom to the World Trade Organisation (WTO) Disputes Panel.

In relation to mediation, John Toulmin attended mediation courses in Geneva (World Intellectual Property Organisation (WIPO)) and Brussels (CPR New York). In order to be qualified to conduct the Disputes Settlement procedure, he received further mediation training in 2005.

John Toulmin teaches a course in Dispute Resolution for LL.M students as an Honorary Visiting Professor at King's College London Law School. The course includes arbitration and the theory and practice of mediation.

John Toulmin's professional work and his work outside the law have given him a wide experience which he brings to arbitration and mediation. He has a Master's degree from the University of Michigan Law School and worked for a New York law firm. He had a wide and varied practice at the Bar, both as a Junior and as a QC appearing in all divisions of the High Court and in the Court of Appeal, the House of Lords and the Privy Council. In his earlier years he did a great deal of medical work involving disciplinary cases, judicial review and clinical negligence. His work included an inquiry for the Department of Health into Unnecessary Dental Treatment in the National Health Service and he was counsel to a year-long inquiry into Normansfield Psychiatric Hospital. He was for 30 years connected with the Maudsley and Bethlem Hospitals and the Institute of Psychiatry as member of the Hospital Management Committee and Trustee of the Institute of Psychiatry. As Commissary for Notarial Appeals he hears disciplinary cases against notaries, and was also involved in revising the disciplinary procedure.

As President of the European Bar (CCBE) in 1993, and as editor of EC Legal Systems and EFTA Legal Systems (1994/5), he acquired a detailed knowledge of legal systems in the EU. As President of the CCBE he negotiated successfully the Uruguay Round on behalf of the European legal profession, and was one of the original drafters of the Lawyers' Establishment Directive. As member, Vice-Chairman and Chairman of the Trustees of ERA since 1993, he has been closely involved in the development of legal education and the related wider questions of policy in the EU. He remains closely involved as Honorary President of the Board of Trustees of ERA for life, a unique honour conferred on him at the end of his Chairmanship. In 2011 he was presented with a Liber Amicorum containing chapters on European legal issues by 22 distinguished authors to mark his service to ERA.

At King's College London he was a member of the Council for 12 years and was a member and the Chairman of the Governance Committee. He was instrumental in drafting the radically revised Charter, Statutes, Ordinances and Regulations of the College, one of the leading universities ranked in the top 25 in the world.

He was awarded a Fellowship of King's College (FKC) in 2006, and a Helen Hudson Award for services to King's College in 2011.

In 1994 he was appointed CMG (Companion of the Order of St Michael and St George) for services to the European legal profession. In the same year he became an Honorary Member of the Law Society of England and Wales, the first practising barrister to be so honoured. In 1994 he became a Senator for life of the European Bar Presidents' Conference in Vienna, and in 1995 he was honoured by the Austrian Government with the Great Decoration of Merit.

John Toulmin has a wide experience through his professional work and family which equips him to act as arbitrator or mediator in a wide range of cases.

Arbitrator and Mediator at 3VB Chambers since 2011

DoB 14.02.41

Married (1967) to Carolyn, Barrister, Law Reporter for the Incorporated Council of Law Reporting (ICLR)

Educated:

Trinity Hall (Patterson Scholar), Cambridge University BA 1963 & MA 1966

University of Michigan Law School (Ford Foundation & Fulbright Scholar) LL M 1965

Called to Bar Middle Temple (Harmsworth Entrance Exhibition, Astbury Scholar 1965

Elected Bencher Middle Temple 1986

Lent Reader of Middle Temple 2008

Career Summary – Barrister 1965-1997:

1965	Worked for New York Law firm Winthrop, Stimson, Putnam & Roberts as Summer Associate
1965-1997	In private practice at English Bar, specialising in commercial cases, cases involving national and international legal practice and medical cases in the Queen's Bench Division, Administrative Court and before disciplinary tribunals. Appeared at all levels of the English court system including the House of Lords and the Privy Council and as arbitrator and counsel in international arbitrations.
1976-1980	Member of Rules Committee of Supreme Court
1977-1978	Counsel to Department of Health public enquiry into Normansfield Psychiatric Hospital
1980	Appointed Queens Counsel (QC)
1981-1983	Member Council of Legal Education
1982	With Arthur Marriott QC drafted Rules of Mediation for Building Contractors' Association of Hong Kong
1986	Co-author of the Department of Health Independent Report into Unnecessary Dental Treatment in the National Health Service
1989	Called to the Bar of Northern Ireland
1991	Called to the Irish Bar
1993	Member of International Panel of Distinguished Mediators CPR New York
1996 -	Nominated by UK Government to World Trade Organisation (WTO) Disputes Settlement Panel

Career Summary – Judge Full time 1997-2011:

1984-1997	Part-time Recorder of the Crown Court, Deputy Judge in the Chancery and Queen's Bench Divisions from 1994
1997 --2011	Full time Official Referee of the Supreme Court, then Judge of Technology and Construction Court of the High Court(TCC) dealing with international and national construction and computer disputes. Also Deputy High Court judge in the Chancery and Queen's Bench Divisions

- 2006 Was instrumental in devising and carrying through Rules for Dispute Settlement Process whereby a Judge of the Court (having received mediation training) mediates a settlement between parties to litigation before the TCC. Carried out 5 such mediations all of which resulted in a settlement.
- 2001- Commissary for Notarial Appeals appointed by Archbishop of Canterbury to hear disciplinary cases involving Notaries.
[Note: The majority of judgments are reported in www.bailii.org and many have been referred to in other cases. References to many of the cases are set out below. Three notable cases are *R v Secretary of State for Transport, Ex p Factortame* [2001] 1 WLR 942 (whether breach of EU law constitutes action in tort); *Smith v Bridgend County Borough Council* [2002] 1 AC 136 where, in an insolvency case, the House of Lords restored a judgment that had been reversed by the Court of Appeal; *CIB Properties Ltd v Birse Construction* [2005] 1 WLR 2252 (whether an adjudication award could be upheld in a complex post-termination dispute).

Associated Professional Activities:

- 1971-1993 Member of Bar Council for 13 years out of 19 to 1990, Chairman of the Young Bar 1973-1975, International Relations Committee 1987, Observer Member 1991-1993
- 1987-1992 Taught week-long courses for US National Institute for Trial Advocacy (NITA) in UK and US in Gainesville, Fla, and Washington DC.
- 1993 President of European Bar Council (CBBE), Vice President 1991-1992, represented UK Legal Professions (1984-1990); Leader of UK Delegation to CBBE 1987 - 1990
- 1989-1993 Negotiated Uruguay Round (WTO) on behalf of European Legal professions (see *The American Lawyer* April 1994)
Co-drafted first CCBE draft of what became Lawyers' Establishment Directive EC Directive 98/5, 16 February 1998
- 1992&1996 Leader EU Official Delegations of EU Lawyers to Japan
- 1984-1993 Member (from 1987 Chairman) CCBE Lawyers Delegation to European Court of Justice Luxembourg (ECJ)
Co-drafted Notes for Guidance on written and oral procedure before the ECJ
Author of a paper to EC Judges on 'Legal Aid before the Court of Justice'
- 1993 Professor William W Bishop, Jnr, Distinguished Fellow at University of Michigan Law School
- 1996-2006 Member of University of Michigan Law School Board of Visitors
- 1993 - Member (from 1994 Vice Chairman) of Board of Trustees of European Law Academy in Trier, Germany (ERA)
Chairman of Board of Trustees from 1997-2010, re-elected 2000, 2004 & 2008
Succeeded by Chief Justice of Finland
- 1991&1997 Participated in International Conferences in Brazil
- 2008 Delivered series of three Lectures in Brazil (see below)
- 2008 Participated in Seminars on "The Global Legal Profession" and "The Treaty of Lisbon" at Georgetown University, Washington DC
- 2009 Visiting Professor of Law at King's College London University, teaching a course in Civil Dispute Resolution for the LL M Course.
- 2011 Honorary President of Board of Trustees of ERA for Life.

Some Other Activities:

- 1963 Cambridge University two-man debating Tour of USA (40 debates in 50 Days October – December) with Michael Howard (Rt Hon Lord Howard of Lympne CH, PC, QC)
- 1979-1987 Member of Maudsley and Bethlem Hospital Management Committee
- 1982-2002 Trustee of the Institute of Psychiatry (Chairman 1999-2002) (Member of Advisory Committee 2002-2009)

- 1991-2010 Member of the Church Committee of the Temple Church (Chairman 2003)
- 1992-1997 Trustee of Pro Corda (National Association of Young String Players)
- 1992 - Trustee of the Temple Music Trust (Chairman from 2002)
- 1997-2009 Council of King's College London University (Chairman Governance Committee which redrafted extensive amendments to the Charter, Statutes, Ordinances and Regulations of the College)

Honours:

- 1994 Companion of the Order of St Michael and St George (CMG) for services to European Law
- 1993 Honorary Life Member of the Law Society of England and Wales (first practising barrister to be so honoured)
- 1994 Senator, European Bar Presidents' Annual Conference Vienna
- 1995 Awarded Grosse Ehrenzeichen fur Verdienst an die Republik Österreich (Great Decoration of Merit) by the Republic of Austria
- 2006 Fellow of King's College London University (FKC)
- 2011 Helen Hudson Award for Services to King's College London
- 2011 Lifetime Honorary Member of Technology and Construction Bar Association (TECBAR)
- 2011 Honorary Life President of the Board of Trustees of ERA
- 2011 Presented by ERA with Liber Amicorum (22 chapters on EU legal subjects) in recognition of service to ERA (see www.era.int)

Some Lectures and Papers since 1987:

From 1987 participated in law conferences in Europe, Japan, Brazil, USA and New Zealand on Free Movement of Lawyers and the Uruguay Round.

- 1990 The EU Diplomas Directive – Lawyers in Europe, Vol 1, Jan/Feb 1990
- 1992 “A Worldwide Code of Professional Ethics”, 15 Fordham University International Law Journal
- 1994 “Our Worldwide Legal Profession”, University of Michigan Law Quadrangle, Vol 37, No2, pp 46-53
- 1994 Contributor to “Contemporary International Law Issues” – The Hague Joint Publication of the American Society of International Law and the Nederlandse Vereniging voor International Recht
- 1995 “Right to Exercise the Profession of Lawyer throughout Europe – Worldwide Code of Professional Ethics”: two chapters in “Rights, Liability and Professional Ethics in International Legal Practice”, Mary C Daly and Roger J Goebel, Editors
- 1996 “Resolution Disputes within WTO” paper to International Law Conference in Sao Paolo, Brazil, April 1997
- 1997 “Legal Services in European Union” including relevance of World Trade Organisation. Chapter in Practitioners' Handbook of EC Law published By the Bar Council of England and Wales
- 1998 “Lawyers' Practice and Ideals, A Comparative View”, Chapter 14 of Ethical Rules and Professional Ideologies, edited by John Barcello III and Roger C Crampton, published by Kluwer – Chapter 14 based on a paper given at the Cornell Law School Symposium, Paris, France, July 1997
- 2001 “Avocats sans Frontieres”, history of the EU Lawyers' Establishment Directive 98/5 EC, Address given at inauguration of the English Bar's European Circuit, subsequently relied on extensively in the History of the European Bar Council (CCBE)(2005), and in the CCBE Commemorative 50th Anniversary publication 2010, pp 56 and following.
- 2002 “Reform to Provide Efficient Procedures for the Resolution of

- International Commercial Disputes” – Revista de Economia e Direito Vol VII, No 1, 2002, based on a lecture given at Universidad Autonoma de Lisboa (UAL)
- 2003 “In Pursuit of Excellence” – History of the Institute of Psychiatry 1979 – 2002 (see Institute of Psychiatry website: www.iop.kcl.ac.uk)
- 2007 “The First Fifteen Years” – lecture given at the Congress on “The Future of Legal Europe”, 27 September 2007, held to celebrate the 15th Anniversary of the foundation of the European Law Academy (ERA), subsequently published by the ERA in “ERA 1992-2007, 15 Years at the Service of European Law”
- 2007 [“The Critical Path, Delay and Windows” by Roger Gibson – Lessons to be learned from JT’s judgment in *Mirant Asia Pacific Construction (Hong Kong) Ltd v Ove Arup* [2007] EWHC 918 (TCC), see 24 Construction Law Journal 566]
- 2008 “The Middle Temple and the Future”, speech given at Reader’s Feast in the Middle Temple, 19 February 2008 (see Middle Temple website: www.middletemple.org.uk)
- 2008 “Arbitrators Taking Procedural Control: A Good Idea or Not?” - Paper given to Chartered Institute of International Arbitrators, European Branch Istanbul, 2 May 2008.
- 2008 “The European Court of Justice”, lecture at the Justice Tribunal of Sao Paulo, Brazil (Chief Justice Balocchi, presiding)
- 2008 “Alternative Dispute Resolution”, lecture at International Law Seminar for Graduate Students at Escola Paulista de Direito (EPD) Sao Paulo, Brazil
- 2008 “The Legal Profession and the Court System in England and Wales”, lecture at the University of Rio Preto, Brazil
- 2009 Arbitrators Taking Procedural Control – A Good Idea or Not? (2009) 25 Construction Law Journal 3 (based on the paper given in Istanbul in 2008)
- 2009 Cross-Border Mediation and Civil Proceedings in National Courts 4 ERA Forum 551, re-printed with minor amendments in 26 Construction Law Journal 516 (2010)
- 2011 Chapter entitled “History of the Temple Church” in the “History of the Middle Temple” published by Hart Publishing Ltd, June 2011
- 2011 Chapter in 2010 ERA Annual Report “History of ERA 1997-2010”

As Editor

- 1989 European Section of Butterworth’s “Banking Law Encyclopaedia” (main editors Peter Cresswell QC and William Blair QC)
- 1992 Consultant Editor “EC Legal Systems”, Butterworths
- 1993 Consultant Editor “EFTA Legal Systems”, Butterworths

Evidence to Select Committees of House of Lords

- 1987 Setting up Court of First Instance (now the General Court)
- 1989 EC Diplomas Directive
- 1995 Draft Lawyers’ Establishment Directive
- 1996 Inter-Governmental Conference

Recreations: Family, cricket, music, theatre, Burgundy.

Some judgments

1992-99

- Merson Group v Rover Group 22/5/92
- Regina v Daniel Lennihan Dangerous Dogs - Ruling 5/12/92
- Gouldens(A firm) v Herd & Voller QBD 1997
- City Access v Jackson 11/2/98
- Barclays Bank Plc v Weeks Legg & Dean (A Firm) & Ors[1998] EWCA CIV 868 (21 May 1998)

Jarvis v Galliard 8/4/98 Appeal – 12/12/99
Michael Stock & Ors v London Underground 1999
Q V Ltd v Frederick Smith 1999
G A B Robins v Specialist Computers 1999
S W Water v International Computers 29/6/99
Smith v Bridgend County Council 15/10/99
Hammersmith Hospitals v Troup 12/11/99
Hospitals National Health Service Trust(1)[1999] EWHC Technology 273(12th November 1999)

2000-01

Anglo Group Plc v Winther Brown & Co Ltd BML(Office Computers) Ltd Anglo Group plc BML(Office Computers)Ltd [2000] EWHC Technology 127 (8 March 2000)
Bloor Construction (UK) v Bowmer & Kirkland (London) Ltd[2000]EWHC 183 (TCC)(05 April 2000)
Pride Valley Foods Ltd v Hall & Partners[2000] EWHC Technology 106 (4th May 2000)
R Durnell & Sons v Secretary of State for Trade and Industry [2000] EWHC 464 (TCC)(26 May 2000)
John Mowlem v Hydra-Tight Ltd 6 June 2000 Jurisdiction of Adjudicator
Maymac Environmental v Faraday 16 October 2000
R v Secretary of State for Transport ex parte Factortame Ltd(No 7)[2000] EWHC Technology 179(27 November 2000)
Deepak Fertilisers v Davy McKee 18 June 2001
Hammersmith Hospitals NHS Trust & Ors v Troup Bywaters & Anders(A Firm) [2001] EWCA Civ 793 (25 May 2001)

2002

Electronic Data Systems Ltd v National Air Traffic Services & Anor[2002] EWCA Civ 13(15 January 2002) COA.
Original Judgment 30/11/00
Motherwell Bridge v Micafil 31 January 2002
Dunk v Firestone 22/2/02
Pride Valley Foods Ltd v Hall & Partners [2002] EWCA Civ 805 (28 May 2002)
Brimpath Ltd v John Allen Associates Ltd 28 October 2002
Picardi(t/a Picardi Architects) v Cuniberti & Anor[2002] EWHC 2923(TCC)(19 December 2002)

2003

Phee Farrar Jones Ltd v Connaught Mason Ltd 30 March 2003
SMC Electronics Ltd v Akhter Computers & Ors 11 April 2003 EWHC 787(TCC)
Mirant Asia-Pacific Construction (Hong Kong) Ltd & Anor v OVE Arup & Partners International Ltd & Anor[2003] EWHC 1304 (TCC)(11 June 2003)
Enertag(UK) Ltd v Sea Land Power & Energy Ltd 30/9/03
Enertag – Court of Appeal Judgment 17/5/04
Viatel Circe Assets Ltd v Eastnet Telecommunications 16 October 2003 EWHC 244(TCC)
Ove Arup & Partners International v Mirant Asia-Pacific Construction(Hong Kong) Ltd [2003] EWCA Civ 1729 (02 December 2003)
Architype Projects Ltd v Dewhurst MacFarlane (18 December 2003)EWHC 3341(TCC)

2004

Amec Capital Projects Ltd v Whitefriars City Estates Ltd[2004] EWHC 393(TCC) (27 February 2004)
AWG Construction Ltd v Rockingham Motor Speedway Ltd [2004] EWHC 888(TCC) (5 April 2004)
McAlpine PPS Pipeline Systems v Transco Plc[2004] EWHC 2030(12 May 04)
Mersey Docks Property Holdings v Michael Kilgour[2004] EWHC 1638(TCC)(25 June 2004)
Mirant Asia Pacific Construction v Ove Arup [2004] EWHC 1750 (TCC)(21July 2004)
Mirant Asia – Court of Appeal Judgment 21/5/05
LFEPa v Halcrow Gilbert Associates[2004]EWHC 2340(TCC) (28July 2004)
City Connect Management Ltd v Telia International[2004] EWHC 2357(TCC)(30 July 2004)
CIB Properties Ltd v Birse Construction [2004]EWHC 2365(TCC) (19 October 2004)

Mersey Docks Property Holdings v Birse Construction [2004] EWHC 3264(TCC) (21 October 2004)
Amec Capital Projects Ltd v Whitefriars City Estates Ltd [2004] EWCA Civ 1418(28 October 2004)

2005

Premier Contracts Ltd v Lilygrove Ltd [2005] EWHC47 (20 January 2005)
Davidson v Hanson Quarry Products(Europe)[2005]EWHC 298(TCC)(11 February 2005)
J P Mac Ltd v Hanson Quarry Products(Europe)Ltd[2005] EWHC 297(TCC) (11 February 2005)
Burkle Holdings Ltd v Laing[2005]EWHC 638(TCC)(23 March 2005)
Northstar Land v Brooks [2005]EWHC 1919(27 July 2005) Chancery appeal 14/6/06 EWCAW 756
Caitlin Estates Ltd v Carter Jonas[2005]EWHC 2315(TCC) (31 October 2005)
Upstate Ltd v BHW Refrigeration [2005]EWHC 2968(TCC) (21 December 2005)
Ove Arup & Partners International Ltd & Anor vMirant Asia-Pacific Construction(Hong Kong)Ltd & Anor[2005]
EWCA Civ 1585(21 December 2005)
Philip Small v Andrew Martin 21/12/05

2006

Small v Martin[2006]EWHC 126(TCC)(2 February 2006) Costs
Small v Andrew Martin (21 December 2005) Liability& Quantum
Oral Application for Permission to Appeal refused 18/5/06
Take v BSM Marketing Ltd[2006] EWCHC 1085(QB)(12 April 2004)
Hillview Developments v Botes Building [2006]EWHC 1365(TCC)(7 June 2006)
Hodson Developments v GTA Civils [2006]EWHC 1913(TCC)(13 July 2006)
ALE Heavylift v MSD(Darlington)Ltd[2006]EWHC 2080 (TCC) (31 July 2006)
Dene Construction Ltd v Antshire Ltd[2006]EWHC 2567 (TCC) (13 October 2006)

2007-08

Mirant Asia-Pacific Construction(Hong Kong) v Ove Arup[2007]EWHC 918 (TCC)(20 April 2007)
Heifer International Inc v Helge Christiansen & Ors[2007] EWCHC 3015(TCC)(18 December 2007)
Felton Construction v Liverpool City Council[2007]EWHC 3049(TCC) (21 December 2007)
Take Ltd v BSM Marketing Ltd & Anor[2008] EWCA Civ 423(11 March 2008)
Fashoff & Forall v Linton & Anr[2008]EWHC 537(Ch) (19 March 2008)
Warner & Ors v [2008] EWHC 1129(Ch) (22 May 2008)
Richardson Roofing v Ballast Plc[2008] EWHC 1806(TCC) (25 July 2008)
Rodrigues v Sokal [2008] EWHC 2005(TCC) (30 July 2008)
Business Environment Bow Lane v Deanwater Estates[2008]EWHC 2003 (31 July 2008)
Hayes v Gallant [2008] EWHC 2726(TCC) (10 November 2008)

2009

Amsprop Ltd v ITW Ltd [2009]EWCA 2689(TCC)(29 October 2009)
Hart v Smith & Anor[2009] EWHC 22239(TCC)(3 September 2009)
National Trust for Places of Historic Interest v Birden[2009] EWHC 2023(Ch)(31 July 2009)
Bole v Huntsbuild[2009]EWHC 483(TCC)(13 March 2009)
Bole v Huntsbuild[2009]EWCA Civ 770(15 June 2009)
Bole v Huntsbuild[2009] EWCA Civ 1146(20 October 2009)
Colorcon Ltd v Huckell & Ors[2009] EWHC 979 (Ch)(07 May 2009)
Country Estates Construction Ltd v Oxfordshire County Council[2009]EWHC 642(Ch)(27 March 2009)
McFaddens(a firm) v Platford[2009] EWHC 126 (TCC) (30 January 2009)

2010

Kingsway Hall Hotel Ltd v Red Sky IT(Hounslow) Ltd[2010]EWHC 965(TCC)(06 May 2010)
PGF II SA & Anor v Royal Sun Alliance Insurance Plc & Anor[2010]EWHC 1459(TCC)(13 July 2010)
PGF II SA & Anor v Royal Sun Alliance Insurance Plc & Anor[2010]EWHC 1981(TCC)(29 July 2010)