

Tom De Vecchi

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Year Of Call: **2009**



Tom is an experienced practitioner specialising in commercial, banking, civil fraud, insurance, and insolvency disputes. He has advocacy experience in the High Court, County Courts, arbitrations, and the courts of the Cayman Islands.

He regularly accepts instructions relating to a range of banking and financial services matters relating to; alleged mis-selling of derivatives and investment products, both at a wholesale and a retail level; regulatory issues and investigations facing individuals, banks and other financial services firms; safe custody services; money laundering and tipping-off issues; and guarantee claims and other debt recovery proceedings. Tom has contributed to a variety of academic texts on banking law.

Before coming to the Bar, Tom worked on a range of public policy and legal policy issues at the Bank of England (2002-5), the Financial Services Authority (2005-6) and the Law Commission (2008-9). This experience is invaluable in practice at the Bar, as he is able to draw on it to his clients' benefit in a range of banking and financial services matters.

For example, recent and typical instructions include:

- Acting for three defendants in the SKAT litigation, concerning a €1.5 billion alleged fraud on the Danish tax and customs administration (led by Andrew Onslow QC and David Head QC). The claims were dismissed following a preliminary issue trial in March 2021 (at which Tom was led by Alison Macdonald QC): *Skatteforvaltningen v Solo Capital Partners LLP (and many others)* [2021] EWHC 974 (Comm). The defendants were awarded their costs of the claims on the indemnity basis: *Skatteforvaltningen v Solo Capital Partners LLP (and many others)* [2021] EWHC 1222 (Comm).
- Acting for an Indian bank in two related £10+ million debt claims in the Commercial Court (as sole advocate), including the successful defence of a jurisdiction challenge by the defendants: *Punjab National Bank (International) Ltd v Vishal Cruises (Private) Ltd and others* [2020] EWHC 1962 (Comm).
- Acting for a French bank in a novel application seeking the Court's approval of inspection and sale of deposit boxes held in its custody since (in some cases) the early 20th century: *Re Credit Agricole Corporate and Investment Bank* [2021] EWHC 1679 (Ch).
- Acting for a Guernsey-based cell company in its £20 million claim under a D&O policy (led by Tom Weitzman QC).
- Acting for a Cayman Islands company in its claim against an insurer in relation to the

confiscation of an aircraft by the Brazilian government (tried over 2 weeks in the Cayman Islands, led by Tom Weitzman QC).

- Assisting RBS in connection with its defence in the RBS Rights Litigation (led by Sonia Tolaney QC).

Directory Quotes

'Recent years have seen a slew of excellent juniors make silk, and still the junior members are very talented indeed.'

Legal 500 UK 2014

"one of the premier finance sets in the country, and a chambers that offers a universal service."

Chambers & Partners UK 2015

Expertise

Financial Services

Before coming to the Bar, Tom worked on a range of public policy and legal policy issues at the following institutions:

- Bank of England (2002-5)
- Financial Services Authority (2005-6)
- Law Commission of England and Wales (2008-9).

He is regularly instructed for financial services work, in a representative and advisory capacity, and also in connection with drafting regulatory rules and guidance. Recent and typical instructions include:

- Advising an individual in connection with an FCA investigation into alleged insider dealing.
- Drafting market infrastructure rules and guidance for the Astana International Financial Centre.
- Advising a commercial property investment structure in relation to its regulatory obligations.
- Advising a FinTech start up on the application of the Payments Services Regulations to its model.
- Drafting insolvency and companies rules and guidance for the Qatar Financial Centre.
- Advising a bank in connection with a regulatory investigation into the sale of certain insurance products, working closely with a wider legal team over an extended period as the investigation developed; instructed by Fulbright and Jaworski LLP.
- Advising the largest adviser network in the UK on the changes to the regulatory regime arising from the FSA's Retail Distribution Review (together with Michael Blair QC).

- Acting for a former employee of a major financial institution who has been fined by the FSA (FSMA Tribunal), in a case extensively covered by the Financial Times. Led by Michael Blair QC; instructed by Addleshaw Goddard.
- Advising on whether a private family trust amounted to a collective investment scheme. Instructed by Sherrards.

At the Bank, he worked on issues relating to financial stability, including: regulation of banks' liquidity; Basel II; and payments systems - advising inter alia the Governor, Deputy Governor and other senior management. He researched policy solutions and produced analysis for Bank senior management and publication in, for example, the Bank's *Financial Stability Review* and the European Central Bank's *Occasional Papers* series. During this period, he represented the Bank on a European Central Bank Task Force relating to Accounting Standards.

At the FSA, he was part of a team within the Retail Policy area which negotiated and implemented a variety of European Directives - in particular, the Markets in Financial Instruments Directive ("MiFID") and the Payment Services Directive. He worked closely with internal counsel in attempting to knit together MiFID and the new COBS rules introduced as a consequence.

Commercial Dispute Resolution

Tom regularly appears in the County Court and High Court in general commercial matters, with a focus on banking, insolvency and financial services, and offshore jurisdictions. Recent and typical instructions include:

- Acting for three defendants in the SKAT litigation, concerning a €1.5 billion alleged fraud on the Danish tax and customs administration (led by Andrew Onslow QC and David Head QC). The claims were dismissed following a preliminary issue trial in March 2021 (at which Tom was led by Alison Macdonald QC): *Skatteforvaltningen v Solo Capital Partners LLP (and many others)* [2021] EWHC 974 (Comm). The defendants were awarded their costs on the indemnity basis: *Skatteforvaltningen v Solo Capital Partners LLP (and many others)* [2021] EWHC 1222 (Comm).
- Acting for an Indian bank in two related £10+ million debt claims in the Commercial Court (as sole advocate), including the successful defence of a jurisdiction challenge by the defendants: *Punjab National Bank (International) Ltd v Vishal Cruises (Private) Ltd and others* [2020] EWHC 1962 (Comm).
- Acting for a French bank in a novel application seeking the Court's approval of inspection and sale of deposit held in its custody since (in some cases) the early 20th century: *Re Credit Agricole Corporate and Investment Bank* [2021] EWHC 1679 (Ch).
- Acting for a Guernsey-based cell company in its £20 million claim under a D&O policy (led by Tom Weitzman QC).
- Acting for a Cayman Islands company in its claim against an insurer in relation to the confiscation of an aircraft by the Brazilian government (tried over 2 weeks in the Cayman Islands).
- Acting for a large consumer goods corporation in relation to its defence to a claim arising from a contract to supply and install plant to one of its facilities.
- A secondment (between April 2016 and January 2017) to Harney Westwood & Riegels in the Cayman Islands. During this time Tom worked on a range of matters including: an insurance

dispute arising from the confiscation of a private jet by the Brazilian government; several fair valuation disputes under section 238 of the Companies Law (2016 Revision) concerning large PRC businesses; and the receivership of a UK-based litigation fund.

- Assisting RBS in connection with its defence in the RBS Rights Litigation (led by Sonia Tolaney QC).
- Acting for a large nationwide haulage firm in proceedings to injunct abuses of the Direct Debit system.
- Acting for Dutch pension fund Vervoer in a claim against Goldman Sachs Asset Management in connection with investments made between 2007 and 2009. One of The Lawyer's "top 20 cases of 2014". Led by John Odgers QC and Ali Malek QC. Instructed by Brown Rudnick LLP.
- Acting for an Italian bank in its successful defence of a restitutionary claim brought by a German bank in connection with a swap transaction entered into with an Italian municipality. This gave rise to issues of Italian law as to the powers of Italian municipalities to enter into derivatives, and a novel point of construction concerning the standard ISDA novation terms. Led by Sonia Tolaney QC. Instructed by Simmons & Simmons LLP. See *HSH Nordbank AG v Intesa Sanpaolo SpA* [2014] EWHC 142 (Comm).
- Acting in various disputes concerning different banking products including several claims relating to complex derivative transactions between an investment bank and Italian municipalities (led by Sonia Tolaney QC): see for example *UBS Ltd and UBS AG v Regione Calabria* [2012] EWHC 699 (Comm).
- Acting for a liquidator in arbitral proceedings concerning the return of an ATE insurance premium. Instructed by K&L Gates LLP.
- Acting for a bank in a dispute concerning an alleged loss of a stamp collection and giving rise to complex issues of the law of bailment. Led by Angharad Start. Instructed by Addleshaw Goddard. See *Andre and anor v Clydesdale Bank plc* [2013] EWHC 169 (Ch).
- Acted for the junior lender in a dispute concerning distressed debt and the right of the junior lender to appoint a special loan servicer. Led by Jonathan Nash QC. Instructed by Burges Salmon LLP.
- Acting for a bank in several disputes against Italian municipalities, concerning complex derivative transactions. Led by Sonia Tolaney QC. Instructed by Clearly Gottlieb Steen & Hamilton.
- Acted for a chartered surveyor's practice in a claim for unpaid fees. Instructed by Stephens and Scown.
- Acted for a tanning equipment manufacturer, in the defence of a claim for allegedly defective spray-tanning equipment. Instructed by Darwin Grey LLP.
- Acted for a former company secretary in the successful defence of a preference / transaction at an undervalue claim. Instructed by Dechert LLP
- Acted for a former ship's captain in a claim for unpaid consultancy fees. Instructed by Stephenson Harwood.
- Acted for a finance house in a number of trials of breach of contract claims concerning vehicle lease and lease purchase agreements. Instructed by Cobbetts LLP.
- Acted for an individual in a trial of a breach of confidence claim against a local authority. Instructed by Mark Humphries Ltd.
- Regular appearances in business guarantee claims, possession hearings and interim and final hearings in the County Court.

Tom also has experience of arbitrations in a commercial dispute resolution context - for example he was instructed in a three-week ICC arbitration concerning a wireless network in the Middle East (led by David Quest); and as sole counsel in arbitration proceedings concerning return of premiums under an ATE policy.

After undertaking law school, Tom spent a year as a Research Assistant at the Law Commission, where he contributed to its ongoing project to reform insurance law, dealing in particular with issues relating to: non-disclosure and misrepresentation; post-contractual good faith; and remedies for late payment of insurance claims.

Banking

Tom's experience before coming to the Bar, at the Bank of England and the Financial Services Authority, is proving invaluable.

He is now regularly instructed for banking work, both individually and as a junior.

Recent and typical instructions include:

- Acting for an Indian bank in two related £10+ million debt claims in the Commercial Court (as sole advocate), including the successful defence of a jurisdiction challenge by the defendants: *Punjab National Bank (International) Ltd v Vishal Cruises (Private) Ltd and others* [2020] EWHC 1962 (Comm).
- Acting for a French bank in a novel application seeking the Court's approval of inspection and sale of deposit held in its custody since (in some cases) the early 20th century: *Re Credit Agricole Corporate and Investment Bank* [2021] EWHC 1679 (Ch).
- Acting for several banks in proceedings concerning alleged mis-selling of interest rate swaps (including claims involving allegations relating to the fixing of LIBOR).
- Assisting RBS in connection with its defence in the RBS Rights Litigation (led by Sonia Tolaney QC).
- Acting for a large nationwide haulage firm in proceedings to injunct abuses of the Direct Debit system.
- Acting for Dutch pension fund Vervoer in a claim against Goldman Sachs Asset Management in connection with investments made between 2007 and 2009. One of The Lawyer's "top 20 cases of 2014". Led by John Odgers QC and Ali Malek QC. Instructed by Brown Rudnick LLP.
- Acting for an Italian bank in its successful defence of a restitutionary claim brought by a German bank in connection with a swap transaction entered into with an Italian municipality. This gave rise to issues of Italian law as to the powers of Italian municipalities to enter into derivatives, and a novel point of construction concerning the standard ISDA novation terms. Led by Sonia Tolaney QC. Instructed by Simmons & Simmons LLP. See *HSH Nordbank AG v Intesa Sanpaolo SpA* [2014] EWHC 142 (Comm).
- Acting for a bank in a dispute concerning an alleged loss of a stamp collection and giving rise to complex issues of the law of bailment. Led by Angharad Start. Instructed by Addleshaw Goddard. See *Andre and anor v Clydesdale Bank plc* [2013] EWHC 169 (Ch).
- Regularly advises a bank in connection with allegations of mis-selling of interest rate swaps. Instructed by Freshfields Bruckhaus Deringer.
- Acted for UBS in a jurisdiction dispute relating to a complex derivative transaction. See *UBS*

Ltd and UBS AG v Regione Calabria [2012] EWHC 699 (Comm).

- Acting for a bank in several disputes against Italian municipalities, concerning complex derivative transactions. Led by Sonia Tolaney QC. Instructed by Clearly Gottlieb Steen & Hamilton.
- Acting for a bank in a dispute against an individual concerning a complex interest rate swap transaction. Instructed by SNR Denton.
- Acted for a finance house in a number of trials of breach of contract claims concerning vehicle lease and lease purchase agreements. Instructed by Cobbetts LLP.
- Regularly acts for lenders in possession claims and professional negligence claims against solicitors and surveyors.
- Regular appearances for banks in business guarantee claims, possession hearings, debt recovery and PPI claims, and interim and final hearings.

Academic & Professional Education

- BA Philosophy, Politics and Economics - Magdalen College, Oxford - First (2001)
- CPE/GDL - BPP Law School - Distinction (3rd in year overall) (2007).
- BVC - BPP Law School - Outstanding (2008).

Publications

"Section 83 of the Fires Prevention (Metropolis) Act 1774: Redundant and Pleonastic?"
(2009) *British Insurance Law Association Journal* 117 (with Christopher Carr).

Contributor to Paget's Law of Banking 15th edition (2018) - chapter 2 (money laundering).

Contributor to Bullen & Leake & Jacob's Precedents of Pleadings (banking and financial services section).

Contributor to Key Authorities in Banking Law 2011-2012 (ed. Sonia Tolaney QC).

Professional Memberships

COMBAR

LCLCBA

Inner Temple

Chancery Bar Association