

## Tom Weitzman QC

Email Address: [tweitzman@3vb.com](mailto:tweitzman@3vb.com)

Year Of Call: **1984**

Year Of Silk: **2003**



Tom Weitzman QC has a general commercial practice, specialising in insurance and reinsurance work. He also undertakes a substantial amount of professional negligence work. In recent years his practice has included financial regulation, product liability and pensions work. He has experience of both commercial arbitration and ADR.

Tom is ranked by both Chambers & Partners and Legal 500 as among the Leading Silks in the fields of "Insurance" and "Professional Negligence".

Nominee and runner-up (one of two) for Chambers & Partners' Leading Insurance Silk of the Year Award 2015 and 2019 and Chambers & Partners' Leading Professional Negligence Silk of the Year Award 2013.

### Directory Quotes

"An experienced, excellent insurance specialist."

Chambers & Partners UK 2020

"Absolutely brilliant - one of the best advocates. He fights like a tiger."

Chambers & Partners UK 2021

### Expertise

#### Insurance & Reinsurance

Clients include: Lloyd's syndicates, major insurance and reinsurance companies (including both composite and specialist insurers and reinsurers), captives and indemnity funds, many of the major insurance and reinsurance brokers (Aon, JLT, Lockton, Marsh etc. and a wide variety of insureds (individuals, professionals, companies and institutions).

Areas of expertise include (but are not limited to) the following types of cover: Business Interruption;

Contractors All Risk; Directors & Officers; Energy; Financial Institutions; Life (and other “Long Term” insurance products); Marine; Political and like risks; Professional Indemnity; Project Insurance; Public and Product Liability; Reinsurance (both facultative and treaty).

He is also familiar and is regularly instructed in connection with, insurance regulatory issues (see below under “Financial Regulation). In addition to advising firms and their insurers in relation to such issues, he is also regularly instructed by the Financial Conduct Authority and the Prudential Regulation Authority (and was formerly regularly instructed by their predecessor, the Financial Services Agency).

Reported cases include:

***Re Equitable Life Assurance Society*** [2019] EWHC 3336 (Ch): Combined scheme of arrangement and Part VII Insurance Business Transfer in effect bringing to an end the business of Equitable Life.

***Re Scottish Widows Ltd*** [2019] EWHC 642 (Ch): Part VII Insurance Business Transfer to mitigate the effects of Brexit.

***Re Royal London Mutual Insurance Society Ltd*** [2019] EWHC 185 (Ch): Part VII Insurance Business Transfer to mitigate the effects of Brexit.

***Re the Society of Lloyd’s*** [2018] EWHC 3228 (Ch): Part VII Insurance Business Transfer to mitigate the effects of Brexit.

***Randgold Resources Ltd v Santam Ltd*** [2018] EWHC 2493 (Comm): Insurance and reinsurance dispute as to the effect of a “cut-through” clause.

***Cultural Foundation (t/a the American School of Dubai) v Burzley Furlonge Ltd*** [2018] EWHC 1083, 2185 and 2548 (Comm): Insurance dispute as to the effect of a notification and which was the relevant year of cover.

***Phoenix Life Assurance Limited v The Financial Services Agency*** [2013] EWHC 60 (Comm): Dispute as to the proper construction of “with profits” policies sold to consumers and the nature of the guarantee as to the performance of such policies given to such policyholders.

***Gard Marine & Energy Ltd v Lloyd Tunncliffe & Ors*** [2011] EWHC 1658 (Comm): Energy market reinsurance dispute in respect of losses caused by Hurricane Rita.

***Re Commercial Union Life Assurance Company Ltd*** [2009] EWHC 2521 (Ch): Court approval of the re-attribution of the Aviva inherited estate.

***Westminster International v Dornoch BV*** [2009] EWCA Civ 1323: Appeal in relation to disclosure.

***Dornoch Ltd & ors v Westminster International BV & Ors*** [2009] EWHC 1782 (Admlty): Trial of further issues arising out of the loss of the WD Fairway, including a claim by the insurer against the assured pursuant to sections 423 to 425 of the Insolvency Act 1986.

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***Dornoch Ltd & ors v Westminster International BV & Ors*** [2009] EWHC 201 (Admlty): Preliminary issues in relation to a dispute between assured and insurers arising out of the loss of a mega-size dredger, the WD Fairway; issues include the insurer's rights in relation to wreck pursuant to sections 63(1) and/or 79(1) of the Marine Insurance Act 1906.

***Gard Marine & Energy Ltd v Lloyd Tunncliffe & Ors*** [2011] EWHC 1658 (Comm): Energy market reinsurance dispute in respect of losses caused by Hurricane Rita.

***Standard Life Assurance Ltd v. Oak Dedicated Ltd & Ors*** [2008] EWHC 222 (Comm); [2008] Lloyd's Rep. IR 552: Dispute as to the proper construction of a Financial Institutions Insurance Policy; claim against brokers for failing to obtain cover that clearly met the assured's requirements.

***GNER Ltd v JLT Corporate Risks Ltd*** [2006] EWHC 1478 (QB): Claim against brokers for obtaining cover which did not meet its client's requirements; strike out application involving consideration of issues of limitation and abuse of process.

***HIH Casualty and General Insurance Ltd v JLT Risk Solutions Ltd*** [2006] EWHC 485 (Comm); [2006] Lloyd's Rep. 493; [2007] EWCA Civ. 710; [2007] Lloyd's Rep. IR 717 Claim against brokers by insurers in respect of film finance insurance; allegations of both fraud and negligence.

***BP plc v Aon Limited and Another*** [2005] EWHC 424 & 2115 (Comm); [2006] Lloyd's Rep. IR 577: Claim against brokers in respect of declarations to an Open - "fac/oblig"- cover; issues in dispute include sub-brokers' duties, causation, estoppel etc.

***Friends Provident Life & Pensions Ltd v Sirius International Insurance Corp & Others*** [2004] EWHC 1799 (Comm) [2004] 2 All ER (Comm) 707, [2005] Lloyd's Rep. IR 135; [2005] EWCA] Civ 601: Claim by insured under excess insurance in respect of liability for pensions mis-selling; issues include the requirements as to the giving of notice to excess layer insurers and the effect of the CA's earlier decision in Alfred McAlpine v BAI.

***College Credit Ltd v The National Guarantee Corporation Ltd*** [2004] EWHC 978 (Comm): Construction of an insurance policy providing cover in respect of a finance scheme.

***Midland Mainline Ltd & Others v Commercial Union Assurance Co Ltd & Others*** [2003] EWHC} 1771 (Comm); [2004] Lloyd's Rep. IR 22: Insurance claim in respect of losses suffered by train operators following the Hatfield rail crash; issues as to construction, aggregation, the operation of policy exclusions etc.

***GE Reinsurance Corp & Others v New Hampshire Insurance Co*** [2003] EWHC 302 (Comm); [2004] Lloyd's Rep. IR 404 Film Finance reinsurance dispute; issues as to breach of warranty etc.

***Sphere Drake Insurance Ltd v Euro International Underwriting Ltd*** [2003] EWHC 1636(1): Claim against underwriting agents and broker arising out of the PA spiral (present for part of trial only).

***Re Continental Assurance Company of London plc*** [2001] BPIR 733: Claim pursuant to section 214 of the Insolvency Act against former directors of insolvent insurance company.

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**Re Drake Insurance plc** [2001] Lloyd's Rep. IR 643: Directions in relation to the conduct of the insolvency of Drake insurance plc; issues as to the return of premium etc.

**Gan v. Tai Ping** [2001] Lloyd's Rep IR 291: Reinsurance dispute with a claim over against the broker in respect of the reinsurer's allegations of misrepresentation/non-disclosure.

**O&R Jewellers v. Terry** [1999] Lloyd's Rep. IR 436: Claim under Lloyd's jewellers block policy with a claim over against the brokers.

**New Hampshire v. MGN** [1997] Lloyd's Rep. IR 24 (at 1st Instance only): Claims under fidelity insurance by various Maxwell companies and the trustees of Maxwell pension funds; issues include the legal nature of composite insurance etc.

**Deeny v. Walker; Deeny v. Littlejohn** [1996] Lloyd's Rep. IR 276: Claim by Lloyd's Names against their syndicate's auditors and brokers.

**St Paul Fire & Marine Insurance Co. v. McConnell Dowell and others** [1995] 2 LLR 116: Dispute between assured and its insurers; important guidance on inducement.

**South Carolina Insurance Co. v. Al Ahlia Insurance Co.** [1987] AC 24: Reinsurance dispute involving claim to injunct evidence gathering proceedings in the US; important dicta on the basis and availability of injunctive relief.

## **Directories**

Ranked by both Chambers & Partners and The Legal 500 UK as a Leading Insurance Silk.

## **Chambers & Partners**

"First class." "An experienced, excellent insurance specialist." (2020)

"Very precise and structured in his analysis and very user-friendly" (2019)

"He really knows how to strike the correct balance between being technically very good and having excellent judgment and being very user friendly with lay clients". (2018)

"A very bright, confident and engaging QC, who gives great strategic advice. He sticks to his guns and is a fine exponent of the law." (2016)

"A very well-regarded insurance and reinsurance silk who has decades of experience. He is particularly adept at dealing with D&O and professional indemnity policy claims for both policyholders and insurers. ... 'Offers first-class advice on a number of complex issues of insurance law. He's very responsive and quickly gains the confidence of clients.'" (2015)

"Praised ... as a silk with 'a brilliant mind", he has a comprehensive knowledge of insurance and reinsurance law. He is sought after to appear in many high profile cases, especially those involving professional indemnity issues." (2014)

"Attracts praise for his 'prompt and decisive advice' and his 'quick wit and in-depth knowledge of

insurance law.” (2013)

### **The Legal 500 UK**

“A smooth operator, able to impress hard-to-please clients.” (2016)

“An excellent insurance heavyweight, who is highly intelligent and fun to work with.” (2015)

“A leader in his field.” (2014)

“... the go-to person for technically complex policy and construction matters.” (2013)

### **Professional Negligence**

He has experience of acting for and/or against the following professionals: Actuaries; Accountants; Architects; Brokers (both insurance and reinsurance); Engineers; Financial advisers; Solicitors; Surveyors and valuers; and Underwriting agents.

Clients include: many of the leading insurance and reinsurance brokers (Aon, JLT, Lockton, Marsh etc.), major firms of architects and engineers, leading accountancy firms, actuaries and solicitors, various IFA networks and individual IFAs and the professional indemnity insurers of all the above professions.

Reported Cases include:

***Gard Marine & Energy Ltd v Lloyd Tunncliffe & Ors*** [2011] EWHC 1658 (Comm): Energy market reinsurance dispute in respect of losses caused by Hurricane Rita; claim against brokers for failing to obtain the cover required.

***Standard Life Assurance Ltd v. Oak Dedicated Ltd & Ors*** [2008] EWHC 222 (Comm); [2008] Lloyd's Rep. IR 552 Dispute as to the proper construction of a Financial Institutions Insurance Policy; claim against brokers for failing to obtain cover that clearly met the assured's requirements.

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***Gan v. Tai Ping*** [2001] Lloyd's Rep IR 291: Reinsurance dispute with a claim over against the broker in respect of the reinsurer's allegations of misrepresentation/non-disclosure.

***Urban Regeneration Agency and Ors v Mott MacDonald & Ors*** (1999): Multi-million pound professional negligence claim against engineers in respect of the decontamination of St Mary's Island, Chatham.

***O&R Jewellers v. Terry*** [1999] Lloyd's Rep. IR 436: Claim under Lloyd's jewellers block policy with a claim over against the brokers.

***Deeny v. Walker: Deeny v. Littlejohn*** [1996] Lloyd's Rep. IR 276: Claim by Lloyd's Names against their syndicate's auditors and brokers.

### **Directories**

Ranked by both Chambers & Partners and The Legal 500 UK as a Leading Professional Negligence Silk.

### **Chambers & Partners**

"A very impressive advocate." "He is tactically astute and he thinks deeply about how to work the case he's handling to his advantage." (2020)

"He's thorough and intellectually rigorous but also pragmatic and willing to work towards commercial and practical solutions." "An accomplished advocate." (2019)

"An excellent practitioner with great organisational and advocacy skills." "His advices and the way he conducts conferences are models of clarity - he knows just what the market requires." (2018)

"A clever strategist." "He is great with clients and judges alike." (2016)

"He gives very precise advice and is very good with clients. He has a clear, logical and structured approach which clients love. ... He is exceptionally bright, but what makes him stand out is that he is easy to work with and collaborative" (2015)

"Renowned for his work in insurance related-disputes. He has a good reputation among brokers and in-house insurance lawyers and is billed as "quite simply the go-to silk for brokers negligence cases." (2014)

"... another highly rated advocate. ... Interviewees say he is 'top of the tree' when it comes to brokers negligence cases." (2013)

### **The Legal 500 UK**

"Bright and commercial" (2016)

"A fantastic intellect." (2015)

"A strong ability and willingness to work as part of a team to find practical solutions to difficult

problems.” (2014)

“very straightforward and easy to work with.” (2013)

## **Arbitration**

Tom Weitzman QC frequently represents insureds, insurers and reinsurers in arbitrations (albeit that the details of such arbitrations must necessarily be confidential). He is also regularly appointed to act as an arbitrator or expert in relation to insurance and reinsurance disputes.

## **Financial Regulation**

Tom Weitzman QC frequently represents insureds, insurers and reinsurers in arbitrations (albeit that the details of such arbitrations must necessarily be confidential). He is also regularly appointed to act as an arbitrator or expert in relation to insurance and reinsurance disputes

Reported cases include:-

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***Re the Society of Lloyd's*** [2018] EWHC 3228 (Ch): Part VII Insurance Business Transfer to mitigate the effects of Brexit.

***Phoenix Life Assurance Limited v The Financial Services Agency*** [2013] EWHC 60 (Comm): Dispute as to the proper construction of “with profits” policies sold to consumers and the nature of the guarantee as to the performance of such policies given to such policyholders.

***Re Commercial Union Life Assurance Company Ltd*** [2009] EWHC 2521 (Ch): Court approval of the re-attribution of the Aviva inherited estate.

## **Insolvency**

Tom Weitzman QC has experience of insolvency in the insurance context.

Reported cases include:

***Dornoch Ltd & ors v Westminster International BV & Ors*** [2009] EWHC 1782 (Admlty): Trial of issues arising out of the loss of the vessel, the WD Fairway, including a claim by the insurer to set aside the disposal of the wreck by the assured pursuant to sections 423 to 425 of the Insolvency Act

1986.

***Re Drake Insurance plc*** [2001] Lloyd's Rep. IR 643: Directions in relation to the conduct of the insolvency of Drake insurance plc; issues as to the return of premium etc.

***Re Continental Assurance Company of London plc*** [2001] BPIR 733: Claim pursuant to section 214 of the Insolvency Act against former directors of insolvent insurance company.

## **Product Liability**

Tom Weitzman QC has experience of product liability litigation (for example he acted for a major UK cigarette manufacturer in respect of group proceedings brought by claimants suffering from lung cancer: see *Hodgson v. Imperial Tobacco Ltd & Others* [1998] 1 WLR 1056).

He is regularly instructed by both insured and insurers in relation to claims under Product Liability Insurance Policies. Recent instructions in this area include acting for a large medical services provider seeking indemnity from its Product Liability insurer in respect of claims arising out of the supply of "PIP" breast implants.

He is also familiar with the Bermuda Form and has been instructed in connection with a number of disputes arising under that Form.