



PAUL KEY QC

Born 1967

Essex Court Chambers
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Practice

- Arbitration
- Banking, Securities, Derivatives
- Commercial Litigation
- Conflict of Laws
- Cross-Border Litigation
- Insurance and Reinsurance
- International Commercial Arbitration
- Shipping
- VAT, IPT, Duties and Excise

Paul Key has a broad-based practice in line with Chambers' profile and specialises primarily in international and commercial law. Prior to joining Chambers, he was a solicitor with Herbert Smith.

He has very considerable experience of Commercial Court litigation and international commercial arbitrations, including ICC, LCIA, UNCITRAL, SCC, ARIAS and bilateral investment treaty arbitrations.

Career

Call: 1997 Inner Temple

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

	1989: Senior Prize in Law Senior Scholar in Law New Zealand Legal Research Foundation Unpublished Paper Award
Awards	1994 Yorke Prize, University of Cambridge 1990 —93 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International Moot Competition 1989 Senior Prize in Law Senior Scholar in Law New Zealand Legal Research Foundation Unpublished Paper Award
Languages	Working knowledge of French and Italian
Member	Commercial Bar Association (COMBAR) International Law Association LCIA Young International Arbitrators Group London Common Law and Commercial Bar Association London Court of International Arbitration New York State Bar Association
Professional Positions & Affiliations	Member of Essex Court Chambers 1997 to date UK appointed member of International Law Association committee on international commercial arbitration Jurisdictional council member (UK) of Inter-Pacific Bar Association Previously appointed by Attorney-General (England & Wales) to the approved "C Panel" list of Counsel Member of: LCIA International Bar Association Commercial Bar Association (COMBAR) London Common Law and Commercial Bar Association New York State Bar Association International Law Association
Professional Qualifications	Barrister of Supreme Court of England and Wales – called 1997 Barrister and Solicitor of High Court of New Zealand - admitted July 1990 Former Solicitor of High Court of England and Wales - admitted 1992 Attorney of New York State Bar - admitted May 1995 Barrister of Supreme Court of New South Wales - called December 1998 Barrister and Solicitor of Supreme Court of Victoria - admitted February 1999 Barrister of Supreme Court of Queensland - called April 2001
Select Publications	"Estoppel by Representation as a Defence to Restitution: The Exception Proves the Rule?" [2001] CLJ 465 "Abuse of Process and Dismissal for Want of Protection" (1999) 115 LQR

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"Restitution, Void Contracts and Jurisdiction under Article 5" [1998] SJ 356

"Excising Estoppel by Representation as a Defence to Restitution" [1995] C.L.J. 525

"Detrimental Reliance in Anticipation of a Contract" (1995) 111 L.Q.R. 512
Review of Birks, *Frontiers of Liability* [1995] L.M.C.L.Q. 420

"Change of Position" (1995) 58 M.L.R. 505

"Bona Fide Purchase as a Defence in the Law of Restitution" [1994] L.M.C.L.Q. 425

A large number of conference papers on arbitration law and practice

Specific Areas

Arbitration / International Commercial Arbitration

Counsel

- 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 200 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. E.g.:-
 - 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.

Arbitrator

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

Banking, Securities, Derivatives

- 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 Litigation

- 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 and 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.

Shipping

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

VAT

- 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).
 Also advises regularly on all aspects of VAT.

**Other Professional
Activities**

Nominated New Zealand Delegate at UNCITRAL

Visiting lecturer on arbitration law at the International Development Law Organisation (Rome)

Lecturer (Arbitration Law), London School of Economics

Regularly lecture in England and abroad on international arbitration and many aspects of commercial law

University of Cambridge, Gonville & Caius College: Law Tutor in contract law (1993)

If you require further information please contact
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