

Tim Calland

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Tim has more than fifteen years' experience providing advice and advocacy across the full range of commercial-chancery litigation. He has appeared in courts at all levels, including in the Supreme Court and in the Court of Appeal on many occasions.

Tim frequently appears in applications for urgent interim relief, including for injunctions and freezing and search orders, often at very short notice.

The directories report him to be a *"superb advocate"*, with *"an amazing legal brain that can unlock even the trickiest legal problems"*, who *"impresses peers and clients alike with his unflappable presence in court"* and who is *"detailed, clever and tough when he needs to be"*.

Sources say *"he is just very good to work with. Whatever you give him he takes on with such enthusiasm"*; he is *"very approachable, commercial and great with clients"* and *"he is capable of picking up a case at very short notice and knowing it inside out and back to front in no time"*.

Areas of practice

Real Property

Tim has extensive experience of most kinds of real property litigation, including title to land, rights over land, property-related torts and issues surrounding development and property finance. He has particular experience of fisheries and rights over the seashore. His clients range from large developers, estates and property funds to individual owners. Recent cases include:

- Advising a large developer on rights of way serving a development site
- Advising a landowner on the construction of an overage agreement
- Representing the owner of an ancient landed estate in an appeal to the Supreme Court concerning the seaward extent of his private fishery on the seashore

Landlord and Tenant

All kinds of commercial and residential landlord and tenant litigation. His commercial experience covers the whole range of disputes, including contested lease renewals, dilapidations, rent review arbitrations. He has particular interest in the complex issues arising out of tenant insolvency (especially in the retail context); Tim is general editor of *Butterworth's Property Insolvency*. Recent experience:

- Representing a national developer in a contested lease renewal relating to a prominent building beside the Thames in London
- Advising a company that acquired the business of a national retailer in administration on the forfeiture of a lease of a major trading site
- Advising a commercial tenant on the efficacy of a defective break notice

Tim's resi experience covers both long-lease issues – e.g. service charges, enfranchisement, management issues – and those arising from residential tenancies, including protected, statutory, secure and assured tenancies. Clients include large London estates, and registered providers of social housing. Recent cases:

- Advising the freeholder of a prestigious central-London block of flats on applications to the FTT to vary leases so as to allow compliance with the Heat Network Regulations 2015
- Representing a large London landowner in a claim for possession of a prime central London property subject to a statutory tenancy under the Rent Act

Tim also has experience of acting for both landowners and operators in disputes under the Electronic Communications Code, e.g.:

- Representing a local authority in a claim to remove a telecommunications mast from a site earmarked for the development of a new school
- Representing a higher education college and a national developer in a claim to remove a mast from the college's former premises that was to undergo a major residential development

Mortgage, banking and financial disputes

Tim frequently acts in claims for and against banks. He has a specialism in mortgage litigation, including the creation, construction, priority and enforcement of mortgages, as well as mortgage fraud and mortgage regulation.

- Representing a private bank in a priority dispute in which a subsequent mortgagee alleged misconduct on the part of the bank
- Representing the purchaser of a substantial central London property in a dispute about whether the sale by a mortgagee bank had passed good title in circumstances where the borrower disputed the bank's right to sell

He has particular experience of acting for receivers and has spoken at the annual conference of the Non-Administrative Receivers Association. Examples:

- Advising a major high-street bank on its procedures for appointing fixed-charge receivers
- Defending receivers in a borrower's claim that they sold charged property at an undervalue
- Resisting applications for injunctions restraining receivers from dealing with charged property
- Advising on the appointment of receivers by way of equitable execution against a world-famous private art collection

Tim also acts in more general banking disputes, including guarantees, security over chattels and choses in action, asset finance and receivables finance, promissory notes, performance bonds, failure-to-lend cases, misselling of complex financial products and regulation under the FCA Handbook, e.g.:

- Representing a bank in a substantial claim for damages by a business customer for the bank's allegedly wrongful failure to lend it money
- Representing a bank in a claim for damages by a business customer for the bank's allegedly negligent operation of its loan-facility account

- Advising a high-net-worth customer on claims against a bank for mis-selling a complex foreign-currency denominated loan product

Insolvency

Extensive experience of both corporate and personal insolvency. Tim's experience covers every stage of the insolvency process, including contested petitions and administration applications, contested VAs, proof of claims, directions applications for creditors and office-holders, priority issues between secured creditors and claims relating to antecedent transactions, misfeasance and wrongful and fraudulent trading. Tim has a particular interest in property insolvency.

- Advising liquidators on misfeasance and S.423 claims available following a company's use of aggressive tax-avoidance schemes that subsequently failed
- Representing the liquidators of a finance company in TUV and preference claims arising out of the restructuring of a major finance group
- Representing a trustee in bankruptcy in a long-running claim to recover a property that was subject to an IVA trust and that had been the subject of orders in matrimonial proceedings between the bankrupt and his wife

Commercial disputes and asset recovery

Tim has substantial experience of business to business disputes in a wide range of contexts and is able to bring his broad knowledge to find creative ways of approaching such litigation. Examples include:

- A substantial claim by a finance house against a train manufacturer relating to the manufacture of train seats
- A claim relating to defective property arising out of a fraudulently procured insurance policy
- A claim to recover assets for a victim of a fraudulent forex-trading Ponzi scheme

Company and Partnership

Every kind of internal company and partnership dispute, including disputes between shareholders and between partners, claims against directors and partners, derivative claims, minority shareholders' claims, partnership accounts.

Professional negligence

Experience of claims against professionals relating to his main areas of practice (both claimant and defendant), including against solicitors (especially in property-related claims), accountants (especially in tax-related claims), receivers, valuers and architects.

Traditional chancery

He also represents clients in disputes concerning the construction of wills, the appointment and removal of trustees and executors, in contentious probate matters and in cases concerning vulnerable elderly clients.

Notable cases include

Banwait v Dewji [2015] EWHC 3441 (Ch); overreaching of equitable charge on sale of beneficial interest in property

Jones v Longley [2015] EWHC 3362 (Ch); removal of executors

Virdi v RK Joinery Ltd [2014] EWHC 3492 (Ch); [2014] All ER(D) 318; third party costs order against witness whose evidence was rejected at trial

Redd Factors Ltd v Bombardier Transportation UK Ltd [2014] EWHC 3138 (QB); [2014] All ER(D) 250; substantial commercial case about manufacturing train seats

Loose v Lynn Shellfish Ltd [2014] EWCA Civ 846; [2015] 2 WLR 643; effect of accretion to foreshore on several fishery

Gardner v Clydesdale Bank Plc [2013] EWHC 4356 (Ch); defending claim against bank by developer after failed property development

Smeaton v Equifax Plc [2013] EWCA Civ 108; [2013] 2 All ER 959; [2013] Info TLR 1; [2013] BPIR 231; duty owed by credit reference agencies, in tort and under Data Protection Act

Brune v Perkins [2013] EWHC 2977 (QB), [2013] All ER(D) 147; substantial case concerning defective property and fraudulently procured insurance policy

Rubin v Dweck [2012] BPIR 854, represented trustee in bankruptcy in claim to set aside a property transfer under S.423 IA 1986

McGuinness v Norwich & Peterborough BS [2011] EWCA 1286; [2012] 2 All ER (Comm) 265; [2012] 2 BCLC 233; [2012] BPIR 145; whether a creditor was entitled to present a bankruptcy petition based on a guarantee liability that was actionable in damages only

Clark v Clark [2011] EWHC 2746 (Ch); dispute over testamentary option

Messih v McMillan Williams & Ors [2010] EWCA 844; [2010] CPR 41; [2010] 6 Costs LR 914; costs on discontinuance of professional negligence claim where one defendant had settled whole liability

Re Capitol Films Ltd [2010] EWHC 2240 (Ch); contested asset sale in administration

QFS Scaffolding Ltd v Sable [2010] EWCA Civ 682; [2010] L&TR 30; surrender of lease by operation of law where tenant in administration

Irish Reel Productions Ltd v Capitol Films Ltd [2010] EWHC 180 (Ch); [2010] BusLR 854; [2010] BCC 588; costs of winding-up petition as administration expense

Omotajo v Omotajo [2008] All ER(D)156; occupation rights under TOLATA

Clark v Clark [2007] All ER(D) 186; construction of will

Williamson v Governor & Company of the Bank of Scotland [2006] EWHC 1289 (Ch); [2006] BPIR 1085; applicability of UTCCR 1999 to personal guarantee given by member of LLP to bank

Southwark LBC v Mohammed [2006] EWHC 305 (Ch); [2006] All ER(D) 77; bankruptcy and council-tax liability orders

Coulter v Chief of Dorset Police (No.2) [2005] EWCA Civ 1113; [2006] BPIR 10; abuse of process and relitigation of issues in bankruptcy

Coulter v Chief of Dorset Police [2004] EWCA Civ 1259; [2005] 1 WLR 130; [2005] BPIR 62; bankruptcy and assignment of choses in action

Sadrolashrafi v Marvel International Food Logistics Ltd [2004] EWHC 777 (Ch); [2004] BPIR 834; fresh evidence in bankruptcy appeal

Career, publications and memberships

Tim graduated from UCL with a first in philosophy. He was a Hardwicke, Sir Thomas More and Megarry scholar at Lincoln's Inn and was called to the bar in 1999. He is a member of the Bar Council's Law Reform Committee.

He is general editor of Butterworth's Property Insolvency (2015), a new textbook produced by a team of barristers and by lawyers and other professionals from Pinsent Masons LLP and Grant Thornton UK LLP.

Tim has also contributed to property and equity topics in Jowitt's Dictionary of English Law (3rd edition, Sweet & Maxwell), and to The Landlord and Tenant Factbook (Sweet & Maxwell) and Annotated Guide to Insolvency Legislation and Practice (Butterworths). He regularly writes articles and has recently written for Estates Gazette, Journal of International Financial and Banking Law, Practical Law Company and R3's Recovery magazine.

Memberships

Chancery Bar Association
COMBAR
Insolvency Lawyers Association
Property Bar Association



Recommendations

Legal 500, 2017

Property Litigation

"He assimilates large amounts of information quickly, and formulates good strategies and creative solutions."

Legal 500, 2017

Insolvency

"Particularly rated for property-related insolvencies."

Chambers UK, 2017

Chancery: Commercial

"He is really easy to deal with and extremely good with difficult clients - he's extremely down-to-earth and really understands the commercial side of things."

Chambers UK, 2017

Real Estate Litigation

"A fantastic advocate who remains calm in a crisis and provides sharp, commercially focused advice on all instructions. A force to be reckoned with in the courtroom." "Very able and knows his stuff inside and out."

Chambers UK, 2016

Chancery: Commercial

"He is just very good to work with. Whatever you give him he takes it on with such enthusiasm."

Chambers UK, 2016

Real Estate Litigation

"He has a calm but confident manner with clients. He does not rush into responses but gives considered and detailed answers." "He provides very commercial advice."

Legal 500, 2015

Insolvency

"Very approachable, commercial and great with clients"

Legal 500, 2015

Property Litigation

Chambers UK, 2015

Chancery: Commercial

"A very good junior for commercial disputes of all types."

Chambers UK, 2015

Property Litigation

"He is clever and approachable, and has an excellent knowledge of property law."

Legal 500

"Thorough and determined." (2014)

"He is clever and charming, a most effective advocate, and works hard for his clients." (2014)

"Technically and tactically sound"; "eminently approachable and pragmatic" (2012)

"Excellent with clients, commercial and down to earth" (2012)

"Superb advocate" (2011)

"One of the future stars of the bar" (2011)

Chambers UK

"He has an excellent client manner, and he is capable of picking up a case at very short notice and knowing it inside out and back to front in no time. He is an excellent advocate." (2014)

"Very good and thorough." (2014)

"Clever and approachable." (2013)

"An excellent knowledge of both property law and insolvency law." (2013)

"Impressive, incredibly hard-working and very bright." (2013)

"Very much a rising star at the Chancery Bar." (2012)

"Very clever, extremely capable and will go far." (2012)

"Superb advocate" (2011)

"Knows his stuff, and is detailed, clever and tough when he needs to be." (2011)

"Terrifically confident and unflappable at all times." (2010)

"Amazing legal brain that can unlock even the trickiest of problems." (2010)

"His practical commercial focus and team ethos" ensure a steady flow of instructions." (2010)

"Broad and extensive knowledge." (2010)

"Impresses peers and clients alike with his 'unflappable presence in court and user-friendliness.'" (2009)

"Terrifically astute and employs his great intellect to good effect." (2008)

"Quick wits and ability to handle tricky disputes." (2007)

"He's as intelligent as you would expect a Chancery junior to be but also very commercially minded and tremendously good with clients." (2007)