

## Timothy Harry

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Tim's practice is in Chancery and commercial litigation, with an emphasis on commercial disputes, property litigation, professional negligence, partnership and insolvency. He is instructed in cases both domestically and internationally.

### 1. Commercial

By way of example, in recent years he has completed two substantial commercial arbitrations, one ICC arbitration in Singapore under the laws of Thailand relating to a joint venture for the production of eucalyptus pulp; and the other an LCIA arbitration under the laws of New York relating to an IT royalties arrangement; he has acted for Hanson plc in relation to an interference by a pipeline with its aggregates dredging operation in the North Sea; he has acted on behalf of Danone for the purpose of obtaining a Norwich Pharmacal order to support economic tort proceedings in California (*Danone Asia PTE Ltd v SB Chow & Co*); he has successfully opposed the disqualification of an arbitrator for bias in an UNCITRAL arbitration (*Jung Science Information Technology Co Ltd v ZTE Corpn*); he has successfully opposed an UNCITRAL award being set aside for procedural unfairness; he has acted for a hedge fund in a BVI case in relation to a hotel project joint venture on the mainland of China; he has acted in a case which deals with the principles relating to contempt of court in the context of a *Mareva* injunction (*Gill v Darroch*); and has appeared in the Court of Appeal of Samoa on the issue of whether the confidentiality provisions of the companies legislation can be overridden by *Norwich Pharmacal* principles. He has frequently been instructed in cases involving commercial litigation interim remedies (*Mareva*, *Chabra*, *Anton Piller* and *Norwich Pharmacal* applications).

### 2. Property

His work includes general conveyancing disputes, issues in relation to commercial leases, rent reviews, break options, overage, easements, restrictive covenants, contaminated land and adverse possession.

By way of example, he has been instructed in *Lennox Lewis v Eliades* (extent of beneficial interest, and the law of set-off); for Barclays Bank in *Barclays Bank v Savile Estates* (time of essence in rent review clause); in relation to one of the seminal cases on the Trusts of Land Act 1996 (*The Mortgage Corporation v Shaire*); on a standard form covenant in a Crown Lease in Hong Kong, where issues of waiver and estoppel arose (*Expressluck Development Ltd v Secretary For Justice* [2007] HK CFI 754); in relation to the interpretation of a building covenant (*Jarvis Homes v Marshall*, Court of Appeal); on the issue of whether a property transaction or a trust can be struck down as a sham (*Westworld Ltd v Azulay and Nightingale Mayfair v Mehta*); in *Howard De Walden Estates v Malekshad*, (leasehold enfranchisement, House of Lords); in *J Alston & Sons Ltd v BOCM Paul* (adverse possession by licensee); and in *Mitchell v Watkinson* (adverse possession by an unincorporated association – a novel issue).

### 3. Professional Negligence

His expertise includes claims against solicitors, surveyors, auditors, and quantity surveyors. He is one of the contributing editors of Professional Negligence and Liability, and is contributing the chapters relating to solicitors', valuers' and accountants' negligence for the next edition of the publication 'Lender Claims'.

He has been in some of the leading authorities including *Platform Home Loans v Oyston*, House of Lords (valuers' negligence, damages) *Mortgage Express v Bowerman* (extent of solicitor's duty to a lending institution); *Zwebner v The Mortgage Corporation* (solicitor's liability on an undertaking); *Paratus v Countrywide Surveyors* (effect of securitisation on a professional negligence claim, margin of error and contributory negligence); and *D B Bank v Edmunds & Co* (extent to which solicitors can be held liable for breach of trust in a conveyancing transaction).

#### 4. Company and Insolvency

He has frequently being instructed in litigation related to shareholders' disputes, derivative actions, joint ventures and the lawfulness of shareholder and board resolutions.

He has acted for HSBC in the Akai liquidation (*Kong Wah Holdings Ltd v HSBC*); in the long running *Macro* litigation (unfair prejudice, rights of pre-emption); *Rosshill Properties* (receivership); *Lord v Sinai Securities* (test for transaction at undervalue); and *Greenhaven Motors* (the sanctioning of a compromise).

Tim is called to the Bar in Hong Kong, and has a tenancy at Gilt Chambers, c/o Room 3403, Tower One, Lippo Centre, 89 Queensway, Admiralty, Hong Kong. He is on the list of Counsel for instruction in civil cases on behalf of the Hong Kong Government. He is called to the Bar of the Eastern Caribbean, and has recently done work for Cayman, Swiss, and Isle of Man firms. He is also admitted to practise in the courts of the Dubai International Finance Centre (DIFC), and has been called to the Bar of Samoa for the purpose of conducting an appeal before the Court of Appeal there (comprising New Zealand judges).

He sits as an arbitrator, and is an accredited mediator. He is on the Register of Arbitrators in the Chamber of Commerce, Nur-Sultan (formerly Astana), Kazakhstan.

He is recommended in *The Legal 500* and *Chambers UK Directory*.

His publications include being a contributing editor to *Snell's Equity*; *Hill & Redman*; and *Professional Negligence and Liability*.

#### Qualifications

MA (Oxford) First Class

Bachelor of Civil Law, Oxford

Formerly Lecturer in Law, Hertford College, Oxford

#### Publications

*Snell's Equity* (31st Edition);

Sweet & Maxwell's Land Registration Act 2002, Contributing Editor

*Professional Negligence and Liability*, Contributing Editor

Lloyds Law Reports: *Professional Negligence*, Contributing Editor

*Hill & Redman's Law of Landlord and Tenant*, Contributing Editor

Sweet & Maxwell's Hong Kong Civil Justice Reform Practice Manual, Contributing Editor

#### Other Interests

He has travelled and explored extensively (including Africa, South America, the South Pacific, all major cities in China, all countries in the Far East, including North Korea, and Nepal and Iran).

He is a Fellow of the Royal Geographical Association, a Fellow of the Royal Asiatic Society, a member of the Travellers' Club, of the Iran Society and of the Lord Denning Society.

He has taken part in charitable projects in Sierra Leone (2012) and in Rwanda (2013), and is a member of the Bar Council Special Interest Group on Sierra Leone.

He has spent time in Italy at a specialist international trade firm working on potential post-Brexit issues.

He has travelled with the Hong Kong Bar Association to teach International Arbitration at Peking University.

## **Recommendations**

### **Chambers UK (Real Estate Litigation)**

"He is phenomenally hard-working and doesn't leave any stone unturned."

"He is a delight to work with, and homes in on the real issues of a case." (2015)

"A lauded junior in the real estate litigation field"

"Accessible, commercial and helpful,"

"Very able, extremely user-friendly, commercial and bright." (2014)

"Thorough, responsive and commercial" "formidable opponent" (2013)

"Provides a swift and comprehensive service," (2012)

"Very client-focused and a pleasure to deal with." (2011)

"Thorough advice and fine-quality written submissions." (2010)

### **UK Legal 500 (Property Litigation)**

"Excellent with clients and at providing clear legal advice." (2014)

"Excellent written advice" (2013)

"Proactive"; "goes the extra mile" (2012)

"Delivers considered and well-researched advice" (2011)

### **UK Legal 500 (Professional Negligence)**

"A very deep knowledge of the law as well as a calm and measured approach." (2014)

"Flexible, commercial and very popular with clients" (2013)

"Thinks outside the box" (2012)