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## TOM COULSON

Call: 2014

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### Areas of practice

- Construction & Engineering
- Professional Negligence
- International Arbitration
- Energy & Natural Resources
- Offshore Construction & Marine Engineering
- PFI/PPP
- Adjudication
- Public Procurement

### Clerks' Details

**Paul Adams**

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T: +44 (0)20 7544 2797

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### Practice overview

Tom Coulson has a busy practice in domestic and international construction, engineering, and energy disputes, together with associated professional negligence and insurance matters.

Tom has acted in a number of the most significant and substantial disputes in the TCC in recent years, including *Martlet Homes Ltd v Mulalley & Co Ltd*, the first cladding and fire safety trial in the TCC following the Grenfell Tower fire, *Northumbria Healthcare NHS Foundation Trust v Lendlease Construction (Europe) Ltd*, selected by *The Lawyer* as one of its 'Top Cases of 2022', and *Equitix v Fox & ors*, a three-week trial in 2021 concerning and energy from waste plant.

Tom is described as "a rising star at the Construction Bar" and as having "significant experience as junior or sole counsel in TCC proceedings" (Chambers and Partners 2021). He is described as offering "great analytical skills" and as "extremely helpful and proactive not just in terms of legal advice but also strategically".

Tom is familiar with a wider range of standard forms. He is a contributor to Keating on JCT Contracts, and also has significant experience of the various FIDIC and NEC forms. Tom is also a contributor to Keating on Construction Contracts, Keating on Offshore Construction and Marine Engineering Contracts, and to the Construction Law Reports.

Recent experience as sole counsel includes:

- The trial of a Part 8 claim in an energy dispute concerning an expert determination (*Empyreal Energy Ltd v Daylighting Power Ltd* [2020] BLR 555).

- Acting for a major homebuilder in the trial of preliminary issues concerning potential liability in tort for economic loss for building defects (Thomas v Taylor Wimpey [2019] BLR 382).
- An appeal concerning the relationship between the Part 36 regime and the rules governing amendments (Bentley Design Consultants Ltd v Sansom [2018] EWHC 2238 (TCC)).
- Acting for a contractor in a 3-day trial in the TCC.

Recent experience as junior counsel includes:

- A challenge to an international arbitration award arising out of a project to extend a port facility in Jordan (Soletanche Bachy France SAS v Aqaba Container Terminal (PVT.) Co. [2019] 1 Lloyd's Rep 431).
- Junior counsel in a 2-week, \$300m arbitration arising out of the construction of a natural gas pipeline.
- Appeals to the Court of Appeal concerned with the scope of an employer's implied contractual obligations to obtain planning consent (Clin v Walter Lilly [2018] BLR 321) and the requirements of the conservation area regime (Walter Lilly v Clin [2021] 1 WLR 2753).
- Appearing in a 3-week, \$120m ICC arbitration in Australia arising out of a marine engineering project.

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## Recent Cases

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### Construction & Engineering

- Junior counsel in multi-party proceedings arising out of the design and construction of a hospital.
- Acting in a dispute concerning defective cladding in a substantial commercial building.
- Instructed in proceedings concerning the M&E works in a major public building.
- Multi-million US\$ dispute arising out of the construction of a power station.
- Acted for a contractor in respect of delay and disruption claims arising out of a major engineering project in Australia.
- Appeared on behalf of a contractor in a dispute concerning fire-stopping defects in the construction of a new hospital.
- Instructed in relation to the construction of a motorway in eastern Europe.
- Acting in US\$ 1 billion dispute concerning the design and construction of a mass transit system in the Middle East.
- A final account dispute concerning the construction of a supertall skyscraper in Dubai.
- Acting for an infrastructure contractor in respect of a ground conditions dispute arising out of a tunnelling project.

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*“Tom is a very high-level junior counsel who is able to deal with high-level and complex matters comfortably.”*

Chambers & Partners UK Bar 2024

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### Professional Negligence

Professional negligence disputes represent a significant proportion of Tom's practice. He is regularly instructed (both as sole and junior counsel) in claims involving architects, engineers and surveyors.

Recent examples of Tom's professional negligence work acting as sole counsel include:

- Instructed on behalf of an architectural practice in a c. £3m claim relating to firestopping and related design issues.
- Acting for a claimant in a substantial architect's negligence dispute in the TCC (value c. £1m).

- Representing an architect in multi-party proceedings in the TCC (value c. £300k).
- Acting for a claimant in a substantial claim against a structural engineer raising a variety of technical and quantum issues (value c. £200k).
- Representing architectural practice in respect of a claim concerning allegations of negligent design, over-certification and negligent contract administration (value c. £250k).
- Acting on behalf of a major design and build contractor in a series of claims against novated members of the employer's professional team (value c. £1m).
- A claim against a surveyor (value c. £400k).

Recent examples of acting as junior counsel include:

- Acting on behalf of a multi-disciplinary design services provider in multi-party proceedings in the TCC (value c. £7m).
- Instructed in relation to claims against an architect and contract administrator.

Tom has a particular interest in policy coverage disputes and other insurance issues and has been instructed to advise in relation to:

- The scope of cover under a professional indemnity policy
- The operation of double insurance and aggregation provisions in a series of disputes arising out of the collapse of commercial premises
- The significance of joint insurance principles in relation to claims following a fires on site
- Claims under new build homes policies

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*“Tom is a first-rate barrister. Not only is his technical analysis always spot on, he is able to deliver advice, whether in writing or verbally, in exactly the right way. He is exceptional.”*

Chambers & Partners UK Bar 2024

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### International Arbitration

Tom has acted in a number of substantial international arbitrations under a variety of different arbitral rules in disputes governed by a wide range of governing law. Recent examples include:

- Proceedings in the Commercial Court arising out a challenge to an award in an international arbitration arising out a project to extend a port facility in the Middle East.
- An LCIA arbitration arising out of an offshore project (English and Nigerian law).
- Appearing in a 3-week ICC arbitration concerning a major offshore marine engineering project in Australia (Australian law).
- Acting in an arbitration under the SIAC rules arising out of the design and construction of a power station in Cambodia (English law).
- Appearing in a two-week ICC arbitration concerning a major engineering project in Oman (Omani law).
- Appearing in 5-day DIAC arbitration concerning a supertall skyscraper in Dubai (UAE Law).
- Acting in arbitration proceedings concerning a major transport infrastructure project (UAE law).
- Acting in an ICC arbitration arising out of the construction of a pipeline and associated LNG facilities in North Africa (English law).

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*“He’s incredibly well versed in all the detail and has a strategic sense for the key points.”*

Construction, Chambers UK Bar 2023

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### Energy & Natural Resources

Examples of recent cases include:

- A dispute concerning the provision and ownership of solar panels.
- A dispute concerning the design and performance of a power station in Cambodia.
- Proceedings concerning a pipeline and associated LNG facilities in North Africa.
- Issues arising out of the design and performance of solar panels.
- Dispute concerning delays to a windfarm project.
- A series of adjudications concerning a waste-to-energy plant.

### Offshore Construction & Marine Engineering

Tom is a contributor to Keating on Construction & Marine Engineering. Examples of recent cases include:

- A dispute concerning the environmental impact of a harbor dredging project
- An arbitration concerned with the design and construction of a container port
- A dispute arising out of the construction, fabrication and commissioning of an FPSO
- Acting for a contractor in a dispute concerning the construction of a desalination plant

### PFI/PPP

Tom has a particular interest in PFI disputes and has significant experience of them, both in adjudication and, increasingly, in High Court proceedings. Examples of recent PFI experience includes:

- A series of adjudications concerning the design and construction of a major new hospital and the applicability of payment deductions.
- Multi-party proceedings in the TCC between a project co., building contractor and FM contractor arising out of a PFI project.
- An ongoing dispute concerning the termination of project agreements for the refurbishment and maintenance of local authority housing.

### Adjudication

Tom has acted in numerous adjudications and is regularly instructed to advise parties in relation to the enforceability of adjudicator’s decisions, the operation of the 1996 Act, and in respect of related Part 8 proceedings. Examples of recent experience include:

- Adjudication enforcements: successfully enforcing several adjudicator’s decisions in the TCC.
- Acted (with Justin Mort QC) in proceedings concerned with the scope of the carve-out from agreement to arbitrate in the JCT forms of contract in respect of “disputes or differences in connection with the enforcement of any decision of an adjudicator”: see *Maelor Foods Ltd v Rawlings Consulting (UK) Ltd* [2018] EWHC 1878 (QB); 180 Con L.R. 219.
- Instructed to advise on the enforceability of an adjudicator’s decision against residential occupiers.
- Instructed to advise in relation to an application for a stay of execution in the enforcement of an adjudicator’s decision.

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*“In a team of very talented barristers, Tom stands out as exceptional. His grasp of the facts and the issues is excellent, his written work is excellent and he is a real team player.”*

Legal 500 UK Bar 2024

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### Public Procurement

Tom has acted as junior counsel in a number of substantial procurement disputes. Examples include:

- A trial of a procurement claim arising out of the purported abandonment of a procurement (Ryhurst Ltd v Whittington Health NHS Trust [2020] EWHC 448 (TCC); 189 Con LR 83).
- Acting (as junior to Sarah Hannaford QC) in proceedings concerning the award of contracts of operate the Manchester Metrolink.
- Acting (as junior to Sarah Hannaford QC) in High Court proceedings concerning the award of contracts to construct a major European subsea pipeline.
- Acting (as junior to Fionnuala McCredie QC) in a challenge to the award of contracts for the provision of criminal law legal aid services.
- Instructed as part of the counsel team by the GLD / Treasury Solicitor in a dispute arising out a procurement conducted by a Government Department.

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### Education & Professional Career

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Tenant, Keating Chambers	2015
Pupil, Keating Chambers	2014-2015
Bar Professional Training Course, City University (Outstanding, 4th in year)	2013-2014
Graduate Diploma in Law, City University (Distinction)	2012-2013
MSt in Modern British and European History, St Peter's College, Oxford (Distinction)	2011-2012
BA in Modern History, (Double First) St Peter's College, Oxford	2008-2011

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### Awards & Scholarships

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Barstow Scholarship, City University, performance on BPTC	2014
Bedingfield Scholarship, Gray's Inn	2013
Runner-up, Maitland Advocacy Prize	2013
CPE Award, Gray's Inn	2012
Domus Scholarship, St Peter's College Oxford	2011
T W Mason Award, St Peter's College Oxford	2011

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### Seminars & Publications

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Keating on Construction Contracts 10th edition, contributor (2016).

Keating on JCT Contracts (loose-leaves).

Keating on Offshore Construction & Marine Engineering Contracts (2018).

Keating on NEC3 & NEC4 (forthcoming).

Construction Law Reports.

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## Additional Information

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Tom retains a strong interest in history of all types and periods and also enjoys playing Sunday league football.