

# Mark Tushingham

CALL: 2012 (NEW ZEALAND); 2016 (ENGLAND AND WALES)

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Languages: Spanish (conversational)



## Overview

Mark has a broad practice in commercial law and a growing practice in public international law. In his commercial practice, he has represented clients in energy, shipping, banking and civil fraud disputes. He is frequently instructed as sole counsel or as part of a larger counsel team in international arbitrations (under all major institutional rules) and in disputes before the English courts.

Mark's cases frequently involve applications for interim relief from courts and arbitral tribunals. He has experience obtaining freezing injunctions, relief from emergency arbitrators, anti-suit injunctions and stays of domestic court proceedings on the basis of jurisdiction and arbitration agreements. Mark has also represented clients in proceedings to enforce arbitral awards under the New York Convention.

Before joining the English Bar in 2016, he practised as a barrister in New Zealand at a leading commercial set. Mark also worked as a law clerk for two leading international arbitrators, where he gained exposure to many commercial and investment treaty arbitrations. He is currently writing a textbook, with co-authors, on the arbitration of joint venture disputes.

Mark holds degrees in both Law and Accounting from the University of Auckland, where he wrote his dissertation thesis on damages in international investment arbitration. Mark also holds a Bachelor of Civil Law degree from the University of Oxford where he obtained a Distinction and the prize for the highest examination mark in the International Law of the Sea course.

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## Publications

- Co-author of 'Recalibrating the Balance Between Protecting Foreign Investments and Protecting the Environment: Is Asia Taking the Lead?' (2018) [Asian Dispute Review](#)
- Co-author of 'The application of the *Henderson v Henderson* rule in International Arbitration' (2014) 26 [Singapore Academy of Law Journal](#)

## Professional memberships

- The Commercial Bar Association
- Young ICCA
- Young International Arbitration Group

## Education

- 2016: BPP University, Bar Transfer Test
- 2015: University of Oxford: Bachelor of Civil Law, Distinction
- 2012: University of Auckland: LLB (Hons), Senior Scholar
- 2012: University of Auckland: BCom (Accounting)

## Career

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- 2017: Tenant at 20 Essex Street following completion of pupillage
- 2016: Called to the Bar (Lincoln's Inn)
- 2015-2016: Law Clerk to Dr Michael J Moser
- 2012-2014: Barrister, Bankside Chambers
- 2012: Admitted as a Barrister and Solicitor of the High Court of New Zealand
- 2011-2012: Law Clerk to Sir David A R Williams QC

## Major awards / prizes / scholarships

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- 2016: Directed Studies Course, Private International Law, Hague Academy of International Law
- 2016: Oxford Law Faculty Prize in International Law of the Sea
- 2015: FMB Reynolds Scholarship in Law to Oxford
- 2012: Semi-finalist, Philip C Jessup International Moot Court Competition, Washington DC

## Example cases

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- Representing the claimant in five related arbitrations seated in different jurisdictions (ICC, LMAA, SMA Rules) against a Venezuelan state-owned entity in the commodities and mining sectors, successfully securing awards of over US\$ 250 million in a dispute which raised serious allegations of fraud and corruption.
- Representing the claimant in four related LCIA arbitrations involving claims under a facility agreement and a joint venture agreement in the mining sector (including a challenge to the jurisdiction of one tribunal).
- Representing a trader in an appeal to the Court of Appeal in relation to a claim brought by his former employer involving the implication of terms into a loan agreement: [\*Bou-Simon v BGC Brokers LP\* \[2018\] EWCA Civ 1525](#).
- Representing a fund and asset management company in a claim in the Chancery Division to recover funds misappropriated by a former employee (involving a successful application for a freezing injunction against ten respondents).
- Representing owners of three vessels in a substantial LMAA arbitration concerning the ownership of shares in an offshore company (involving allegations of fraud) and the termination of ship management agreements.
- Representing the owners of a chemical tanker in an LMAA arbitration under a charterparty to recover an indemnity from charterers arising out of the contamination of cargo.