

Mark Tushingam

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

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Languages: Spanish (conversational)



Overview

Mark has a broad practice in commercial law, international arbitration and public international law. He has acted for corporations and State entities in a wide variety of disputes at all levels of the English courts and in international arbitrations under all major institutional rules.

Mark is currently instructed in high-profile litigation raising important questions of international law and foreign relations law arising out of Venezuela's constitutional and political crisis and the battle for control of Venezuela's gold reserves at the Bank of England as well as other assets located in England. He is representing the Ad-Hoc Board of the Central Bank of Venezuela (appointed by Interim President Guaidó). An appeal will be heard in the Supreme Court later this year.

Before joining the English Bar in 2016, Mark practised as a barrister in New Zealand at a leading commercial set. He also worked as a law clerk for two leading international arbitrators, where he gained exposure to many international commercial arbitrations and investment treaty arbitrations.

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.

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

- 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

- 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

Arbitration

- *Deutsche Bank AG v Central Bank of Venezuela* (2019-2021): representing the Ad-Hoc Board of the Central Bank of Venezuela (appointed by Interim President Guaidó) in a dispute to determine who has authority to represent the Central Bank of Venezuela in an LCIA Arbitration arising out of the early termination of a gold swap agreement (with Andrew Fulton).
- *K v T* (2020): representing the claimants in two related ICC arbitrations in a mining dispute about a mine in the Democratic Republic of Congo involving allegations of corruption and bribery (with Charles Kimmins QC).
- *A v B Bank* (2019): representing a foreign mining company in related LCIA arbitrations under a facility agreement and a joint venture agreement in the mining sector, including a substantial jurisdiction challenge in one arbitration (with Paul Lowenstein QC and Tamara Oppenheimer).
- *S v L* (2019): representing the claimants in related HKIAC and ICC arbitrations in a billion dollar private equity dispute involving allegations of fraud and sham (with Charles Kimmins QC and Luke Pearce).
- *Commodities & Minerals Enterprise Ltd v CVG Ferrominera Orinoco CA* (2017-2019): 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, securing arbitral awards of over US\$250 million in a dispute which raised serious allegations of fraud and corruption (with Charles Kimmins QC, Philip Riches and Luke Pearce).

Banking and financial services

- *Central Bank of Venezuela v Bank of England* (2020-2021): representing the Ad-Hoc Board of the Central Bank of Venezuela (appointed by Interim President Guaidó) in a dispute to determine who has authority to represent the Central Bank of Venezuela in its dealings with the Bank of England in relation to USD 2 billion of Venezuela's gold reserves (with Andrew Fulton).
- *A v B Bank* (2019): representing a foreign mining company in related LCIA arbitrations under a facility agreement involving claims under a guarantee and issues relating to appropriation and share valuation following the enforcement of a share pledge (with Paul Lowenstein QC and Tamara Oppenheimer).
- *X v Citibank* (2018-2020, County Court): representing Citibank in defending numerous claims brought by consumers in connection with alleged PPI Policy mis-selling, including allegations of deliberate concealment of commissions and reliance upon section 32 of the Limitation Act 1980.
- [Bou-Simon v BGC Brokers LP \[2018\] EWCA Civ 1525](#) : representing a trader in an appeal to the Court of Appeal in respect of a claim brought by his former employer to recover a sign-on bonus, involving the implication of terms into a commercial loan agreement.

Civil fraud and asset tracing

- *Gorbachev v Guriev* (2018-2021, Commercial Court): representing a Russian businessmen in a multi-billion dollar claim against his former business partner to recover his interests in respect of an LSE-listed Russian fertiliser business, involving claims of fraudulent breach of trust (with Paul Stanley QC).
- *J v X* (2018-2020, Chancery Division): representing a fund and asset management company in claims to recover funds misappropriated by a former employee, involving a successful application for a freezing injunction against ten respondents and various related applications (with Tony Beswetherick).
- *M v M* (2018-2020): representing a businessman in connection with claims in the Chancery Division and in arbitration against his brothers and related individuals in the hotel industry, involving allegations of conspiracy to injure (with Andrew Fulton).
- *Hurst v Green* (2020, Chancery Division): representing the respondents in an application for permission to bring contempt proceedings under Part 81.
- *S v L* (2019): representing claimants in related HKIAC and ICC arbitrations and in proceedings in the Nevis courts in a private equity dispute involving serious allegations of fraud (with Charles Kimmins QC).

Energy and infrastructure

- *A v B Bank* (2019): representing a foreign mining company in related LCIA arbitrations under a facility agreement and a joint venture agreement in the mining sector, including a substantial jurisdiction challenge in one arbitration (with Paul Lowenstein QC and Tamara Oppenheimer).
- *Commodities & Minerals Enterprise Ltd v CVG Ferrominera Orinoco CA* (2017-2019): 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 arbitral awards of over US\$250 million in a dispute which raised serious allegations of fraud and corruption (with Charles Kimmins QC, Philip Riches and Luke Pearce).

Insurance and reinsurance

- *X v Citibank* (2018-2020, County Court): representing Citibank in defending numerous claims brought by consumers in connection with alleged PPI Policy mis-selling, including allegations of deliberate concealment of commissions and reliance upon section 32 of the Limitation Act 1980.

Jurisdiction, conflicts and enforcement

- [*Evison Holdings Ltd v International Company Finvision Holdings LLC*](#) (2019-2020, Commercial Court): representing a Russian businessman in a jurisdiction challenge in connection with committal proceedings for contempt, raising allegations of material non-disclosure and issues relating to the Hague Service Convention (with Paul Lowenstein QC).
- *P v I* (2020): advising foreign entities in relation to the application of the lis pendens rules contained in the Brussels I (Recast) Regulation in connection with proceedings in different EU Member States (with Paul Lowenstein QC).

Public international law

- *Central Bank of Venezuela v Bank of England* (2020-2021): representing the Ad-Hoc Board of the Central Bank of Venezuela (appointed by Interim President Guaidó) in proceedings *X v Y* (2019-2020, Commercial Court): representing a foreign State entity in confidential proceedings raising issues relating to the recognition of foreign governments, the foreign act of state doctrine and principles of non-justiciability (with Sir Daniel Bethlehem QC and Andrew Fulton).
- Advising foreign investors in connection with the benefits and risks of a corporate restructuring in order to obtain protection under various bilateral investment treaties (with Philip Riches).

Shipping

- *C v M* (2019-2020): representing owners in an LMAA arbitration in a dispute regarding redelivery of the vessel under a bareboat charterparty (sole counsel).
- *A v T* (2020): representing owners in an LMAA arbitration in a dispute regarding overpaid hire under a charterparty (sole counsel).
- *A v D* (2018-2019): representing owners of three vessels in a substantial LMAA arbitration concerning the ownership of

shares in an offshore company and the termination of ship management agreements, involving allegations of fraud and issues of Liberian corporate law (with Timothy Hill QC, Blair Leahy and Alex Carless).

- *H v U* (2018-2019): representing owners of a chemical tanker in an LMAA arbitration to recover an indemnity from charterers arising out of the contamination of cargo (sole counsel).

Recommendations

Comes up with fantastic ideas which nobody else thinks of. His drafting is also very good and extremely fast. [Chambers UK Bar 2022](#)

His knowledge of the law is phenomenal and nothing is too much effort for him. [Chambers UK Bar 2021](#)

He is excellent and has a great understanding of the legal issues. [Chambers UK Bar 2021](#)

Mark gets to grips with the documents and his drafting is fantastic. [Chambers UK Bar 2021](#)