

Mark Cullen

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A powerful advocate who is always attuned to the judge's thinking. He has sound judgement, is calm under pressure and inspires confidence

- Legal 500

Mark Cullen specialises in commercial litigation, with a particular focus on civil fraud, offshore work and professional liability claims in a commercial context.

Mark was admitted as an Attorney at Law in the Cayman Islands in 2018 and as a Barrister of the Eastern Caribbean Supreme Court (British Virgin Islands) in 2017. Mark has significant experience of working in the Cayman Islands, the British Virgin Islands and the Isle of Man.

Mark's previous experience includes working as the Judicial Assistant to Lord Justice Maurice Kay, then the Vice-President of the Court of Appeal (Civil Division). During this time, Mark was involved in a number of high profile cases and gained an invaluable insight into the appellate process.

Mark holds a M.A. in Law and a first class LL.M. from Jesus College, University of Cambridge, where he was awarded a Foundation Scholarship. He was called to the Bar by Inner Temple in 2013, having been awarded a Major Scholarship and Duke of Edinburgh Entrance Award for his BPTC year.

For examples of Mark's ongoing and previous work, please see the individual practice areas below.

Privacy Policy

Click here for a [Privacy Policy](#) for Mark Cullen.

Areas of Expertise

Commercial Litigation

Mark has acted in a wide range of commercial disputes (both onshore and offshore), including claims involving allegations of commercial fraud, claims against directors for misappropriating company funds, breach of warranty claims, shareholder disputes, claims arising from the sale of goods and a variety of contractual claims.

Mark's work frequently has an international element to it. He was admitted as an Attorney at Law in the Cayman Islands in 2018 and as a Barrister of the Eastern Caribbean Supreme Court (British Virgin Islands) in 2017. He also has significant experience of litigation in the Isle of Man.



Mark has particular experience of search orders (see [2021] EWHC 1360 (Ch)), applications for injunctions (see [2020] EWHC 2530 (Comm)), security for costs (see [2021] EWHC 2316 (Ch) and [2018] EWHC 1533) and disclosure and inspection (see [2018] 4 W.L.R. 26).

Cases

- **Vneshprombank LLC v Georgy Bedzhamov & Ors**
Acting (led by Justin Fenwick QC) for Georgy Bedzhamov in strongly contested proceedings brought by a Russian bank in liquidation for alleged fraud, seeking damages of over £1 billion, including in respect of issues arising in respect of a search order: see [2021] EWHC 1360 (Ch).
- **Catlin Syndicate Limited & Ors v Amec Foster Wheeler USA Corp & Ors**
Acting (led by Roger Stewart QC and George Spalton) for the Defendants to an application for the continuation of an anti-suit injunction by which insurers sought to stay proceedings in New Jersey, USA: [2020] EWHC 2530 (Comm).
- **Accident Exchange v McLean & Ors**
Mark acted (led by Jamie Smith QC and Miles Harris) for two of the solicitor defendants to a £130 million Commercial Court claim for unlawful means conspiracy claim and deceit brought by Accident Exchange arising out of the conduct of thousands of “credit hire” cases. The claim spawned large numbers of interlocutory disputes, including Accident Exchange v McLean & Ors [2018] 4 W.L.R. 26 (in which the Commercial Court rejected the claim that the “iniquity” exception applied so as to disapply privilege) and Accident Exchange v McLean & Ors [2018] EWHC 1533 (Comm) (in which the Commercial Court granted the solicitor defendants’ applications for security for costs).
- **R5 Capital Ltd v Mitheridge Capital Management LLP**
Acting (led by Graham Chapman QC) in a claim against an investment manager relating to the payment of success fees: see [2021] EWHC 2316 (Ch) in relation to security for costs.
- **Claim arising out of share purchase agreement**
Acting (led by Matthew Bradley) for the defendants to a c. £10m Commercial Court claim for fraudulent misrepresentation and unlawful means conspiracy arising out of a share purchase agreement relating to the sale of a company.
- **Dispute arising out of distribution services agreement**
Mark acted (led by Graham Chapman QC) for a commercial company in a dispute relating to a distribution services agreement.
- **Penta v Storrier**
Acted (led by Neil Hext QC) in a claim against a director arising out of the alleged significant mismanagement of various companies and/or financial misstatements in relation to them (see [2020] EWHC 2400 (Ch)).
- **Comodo Holdings Ltd v Renaissance Ventures Ltd & Anr**
Mark acted (led by Paul Chaisty QC and Mark Forte) in an application for injunctive relief in a shareholder dispute in the BVI Commercial Court.
- **Hitomi Matsuura v A & S Company Limited**
Mark acted (led by Alain Choo-Choy QC and Jerry Samuel) in the trial of an unfair prejudice claim in the BVI Commercial Court (whilst on secondment to Conyers Dill and Pearman in the BVI).
- **Claim against director arising out of payment of secret commissions**
Mark acted as sole counsel for a company in a claim against its former managing director arising out of the payment and receipt of secret commissions in relation to the negotiation of various commercial contracts.
- **Confidential dispute arising from a commercial service agreement**
Mark assisted Ben Elkington QC to advise in a dispute relating to a commercial service agreement.
- **Claim relating to the sale of goods**



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Mark acted as sole counsel for a multinational company in a claim relating to the sale of goods.

- **Appeal concerning cause of action estoppel**

Mark acted as sole counsel for a broker in an appeal relating to the applicability of the doctrines of cause of action estoppel and merger to the decisions of the Financial Ombudsman Service.

Civil Fraud

Mark has significant experience of acting in claims involving allegations of fraud, including those involving allegations of unlawful means conspiracy, deceit, knowing receipt and dishonest assistance. Mark also has expertise in claims involving the payment and receipt of secret commissions.

Cases

- **Vneshprombank LLC v Georgy Bedzhamov & Ors**

Acting (led by Justin Fenwick QC) for Georgy Bedzhamov in strongly contested proceedings brought by a Russian bank in liquidation for alleged fraud, seeking damages of over £1 billion, including in respect of issues arising in respect of a search order: see [2021] EWHC 1360 (Ch).

- **Accident Exchange v McLean & Ors**

Mark acted (led by Jamie Smith QC and Miles Harris) for two of the solicitor defendants to a £130 million Commercial Court claim for unlawful means conspiracy claim and deceit brought by Accident Exchange arising out of the conduct of thousands of “credit hire” cases. The claim spawned large numbers of interlocutory disputes, including Accident Exchange v McLean & Ors [2018] 4 W.L.R. 26 (in which the Commercial Court rejected the claim that the “iniquity” exception applied so as to disapply privilege) and Accident Exchange v McLean & Ors [2018] EWHC 1533 (Comm) (in which the Commercial Court granted the solicitor defendants’ applications for security for costs).

- **Claim arising out of share purchase agreement**

Acted (led by Matthew Bradley) for the defendants to a c. £10m Commercial Court claim for fraudulent misrepresentation and unlawful means conspiracy arising out of a share purchase agreement relating to the sale of a company.

- **Unfair prejudice and unlawful means conspiracy claim**

Instructed (led by Daniel Saoul QC) in an unfair prejudice and unlawful means conspiracy claim in the BVI Commercial Court arising out of a substantial fraud.

- **Claim against director arising out of secret commissions**

Mark acted as sole counsel for a company in a claim against its former managing director arising out of the payment and receipt of secret commissions.

- **Fraud claim against solicitor defendants**

Mark acted (led by Alex Hall Taylor) in a Commercial Court claim in deceit, conspiracy, dishonest assistance and for the return of secret commissions.

- **Secret commission claim**

Mark assisted Can Yeginsu to advise in a £13m secret commission and action for damages for fraud claim.

Offshore work

Mark was admitted as an Attorney at Law in the Cayman Islands in 2018 and as a Barrister of the Eastern Caribbean Supreme Court (British Virgin Islands) in 2017.

He was recognised in the Legal 500 (2021) as a “Rising star” for offshore work and described as “*An impressive junior with experience beyond his seniority in offshore work.*”



Mark has spent significant periods of time working in the Cayman Islands, the BVI and the Isle of Man. He has appeared as sole and junior counsel in the BVI Commercial Court and as junior counsel in the Financial Services Division of the Grand Court of the Cayman Islands.

He has particular expertise in offshore claims against professionals, including claims against fund managers and directors and claims involving allegations of civil fraud. He also has experience of shareholder disputes and contentious insolvency matters.

Cases

- **Claim against a fund manager**
Acting (led by Graham Chapman QC) for a fund manager in a claim arising out of the collapse of a collective investment scheme.
- **Unfair prejudice and unlawful means conspiracy claim**
Instructed (led by Daniel Saoul QC) in an unfair prejudice and unlawful means conspiracy claim in the BVI Commercial Court arising out of a substantial fraud.
- **Claim against insurance company arising out of declinature**
Mark acted for an insurance company which had declined cover for a claim arising out of the misappropriation of assets. The claim also raised issues relating to service out and the court's jurisdiction to hear the claim.
- **Claim arising out of investment in an offshore bond**
Mark acted as sole counsel for a client in a dispute with an offshore life assurer arising out of an investment in an offshore bond with unexpected tax consequences.
- **Comodo Holdings Ltd v Renaissance Ventures Ltd & Anr**
Mark acted (led by Paul Chaisty QC and Mark Forte) in an application for injunctive relief in a shareholder dispute in the BVI Commercial Court.
- **Hitomi Matsuura v A & S Company Limited**
Mark acted (led by Alain Choo-Choy QC and Jerry Samuel) in the trial of an unfair prejudice claim in the BVI Commercial Court (whilst on secondment to Conyers Dill & Pearman in the BVI).

Professional Liability

Mark is ranked as a Leading Junior for professional negligence work in the Legal 500: *"His advice is comprehensive and clear, which demonstrates significant attention to detail and a deep rooted understanding of the complex issues."*

He was previously recognised as a "Rising Star" and described as *"A powerful advocate who is always attuned to the judge's thinking. He has sound judgement, is calm under pressure and inspires confidence."*

Mark has significant experience of acting for and against professionals in a range of high value, complex and sensitive cases, with particular expertise in relation to claims against lawyers, directors and fund managers. Mark has particular expertise in professional liability claims arising in an offshore or international context and fraud claims against professionals.

Cases

- **Maggistro-Contenta v Jury O'Shea LLP**
Mark acted (led by Jamie Smith QC) in a £10 million claim arising out of the conduct of the financial affairs of Giacomino Maggistro-Contenta after his death. The Court refused the Claimant's application for an extension of time for service of the particulars of claim and granted the Defendants' application that the Court had no jurisdiction to try the claim: [2019] EWHC 3035 (Ch).
- **Accident Exchange v McLean & Ors**
Mark acted (led by Jamie Smith QC and Miles Harris) for two of the solicitor defendants to a £130 million unlawful means



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conspiracy claim brought by Accident Exchange arising out of the conduct of thousands of “credit hire” cases. The claim spawned large numbers of interlocutory disputes, including *Accident Exchange v McLean & Ors* [2018] 4 W.L.R. 26 (in which the Commercial Court rejected the claim that the “iniquity” exception applied so as to disapply privilege) and *Accident Exchange v McLean & Ors* [2018] EWHC 1533 (Comm) (in which the Commercial Court granted the solicitor defendants’ applications for security for costs).

- **Claim against a fund manager**

Acting (led by Graham Chapman QC) in a £15m claim against a fund manager arising out of the collapse of an offshore collective investment scheme.

- **Penta v Storrier**

Acted (led by Neil Hext QC) in a claim against a director arising out of the alleged significant financial mismanagement of companies (see [2020] EWHC 2400 (Ch)).

- **R5 Capital Ltd v Mitheridge Capital Management LLP**

Acting (led by Graham Chapman QC) in a claim against an investment manager relating to the payment of success fees.

- **Claim against a security company**

Mark acted (led by Ben Hubble QC) for a security company in a claim arising out of an alleged £1.5m theft.

- **Contribution claim against accountants**

Mark acted as sole counsel for a company in a £1 million contribution claim against accountants.

- **Claim against valuers relating to a failed tax scheme**

Mark acted (led by Jamie Smith QC and Tim Chelmick) in a claim arising out of the valuation of a technology business for the purposes of a tax scheme.

- **Fraud claim against solicitor defendants**

Mark acted (led by Alex Hall Taylor) in a Commercial Court claim in deceit, conspiracy, dishonest assistance and for the return of secret commissions.

Insurance

Mark has experience of a range of insurance disputes, including coverage disputes.

Mark has recently co-authored (with Neil Hext QC) an article for Practical Law on the main types of insurance cover that are potentially relevant in relation to losses arising from COVID-19, in particular relating to business interruption, event cancellation, employer’s liability, D & O, credit and travel insurance policies.

Mark was part of the COMBAR Working Group looking at the impact of Brexit on commercial insurance (with Leigh-Ann Mulcahy QC and Ben Lynch QC).

Cases

- **Catlin Syndicate Limited & Ors v Amec Foster Wheeler USA Corp & Ors**

Mark acted (led by Roger Stewart QC and George Spalton) in proceedings relating to insurers’ alleged failure to pay defence costs in respect of high value litigation against the defendants in the US.

- **Cape Distribution Limited v Cape Intermediate Holdings Limited**

Junior counsel to Justin Fenwick QC and Leigh-Ann Mulachy QC in proceedings relating to the circumstances in which a subrogated claim can be brought by an insurer of a subsidiary against a parent company.

- **Claim against insurer and insurance broker**



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Sole counsel acting for a policyholder in a claim against an insurer for failing to indemnify the policyholder and a claim against a broker for acting in breach of contract and/or negligently in arranging the insurance.

- **Claim against insurance company arising out of declinature**
Mark acted as sole counsel for an insurance company which had declined cover for a claim arising out of the misappropriation of assets in an offshore context.
- **Claim against insurance broker**
Advising a company in relation to coverage issues in the context of a claim against an insurance broker for failing to procure adequate cover.

Sports Law

Mark is developing his practice in sports law, with a particular focus on football-related matters and commercial disputes in a sports context.

Cases

- **FA disciplinary proceedings**
Mark acted (led by Kendrah Potts) for a professional footballer in FA disciplinary proceedings following a failed drugs test.
- **Dispute relating to the exercise of a contractual option**
Mark acted as sole counsel for a professional footballer in a dispute with his club relating to the extension of his playing contract.
- **Secret commission claim**
Mark assisted Can Yeginsu to advise a sports agency in a dispute with a former professional footballer.
- **Image rights dispute**
Mark assisted Richard Liddell to advise a football player in a dispute with a club relating to the player's image rights.

International Arbitration

Mark is developing a practice in international arbitration. He has experience of commercial and construction disputes.

Cases

- **International arbitration relating to the construction of a nuclear installation**
Mark acted as part of a counsel team led by Roger Stewart QC and Anneliese Day QC in a complex international arbitration worth in excess of £100 million relating to the construction of a nuclear installation.
- **Confidential dispute arising from a commercial service agreement**
Mark assisted Ben Elkington QC to advise in a dispute relating to a commercial service agreement.
- **Confidential dispute relating to a contract for the sale of shares**
Mark provided research assistance to Nicholas Feltcher QC in a dispute relating to a share purchase agreement.
- **Resisting application to appoint an arbitrator**
Mark acted as sole counsel in an application under s.18 of the Arbitration Act 1996 to appoint an arbitrator in a construction dispute.

Construction & Engineering

Mark has experience of construction-related litigation and arbitration.



Cases

- **International arbitration relating to the construction of a nuclear installation**
Mark acted as part of a counsel team led by Roger Stewart QC and Anneliese Day QC in a complex international arbitration worth in excess of £100 million relating to the construction of a nuclear installation.
- **Claim against a structural engineering company**
Mark acted as junior counsel to Anneliese Day QC and Richard Liddell in a claim against a structural engineering company.
- **Resisting application to appoint an arbitrator**
Mark acted as sole counsel in an application under s.18 of the Arbitration Act 1996 to appoint an arbitrator in a construction dispute.

Qualifications & Memberships

Education:

M.A. (Cantab) LL.M. (Cantab)

Bar Admissions:

England and Wales: 2013

British Virgin Islands: 2017

Cayman Islands: 2018

Memberships:

Commercial Bar Association

Commercial Fraud Lawyers Association

Professional Negligence Bar Association

Technology and Construction Bar Association

Young International Arbitration Group

Insights

The COVID-19 challenge: insurance coverage in the time of lock-down

1 April 2020

In this article written for Thomson Reuters Practical Law, Neil Hext QC and Mark Cullen of 4 New Square provide guidance on the main types of insurance cover that are potentially relevant in relation to losses resulting from COVID-19. In particular, they consider whether insurance cover might be available under business interruption, event cancellation, employer's liability, D&O, credit and travel insurance policies.

Case Note on Ocean Finance & Mortgages Limited v Oval Insurance Broking Limited and Senior Wright Limited, Publication: Insurance Law London

2 February 2016

In this judgment, Mr Justice Cooke had to determine the comparative responsibility of placing and producing brokers for failing to



advise an insured to make a "block notification" of "circumstances that may give rise to a claim" against a backdrop of PPI mis-selling.

Soland v Clifford Harris: warehousing litigation an abuse of process, Publication: Practical Law Dispute Resolution Blog

22 December 2015

The judgment of Arnold J in *Solland v Clifford Harris* highlights that unilaterally "warehousing" a claim (that is, putting a claim on hold without intending to pursue it) can amount to an abuse of process, even if a claimant subsequently decides to pursue the claim.

Case Note on Luffeorm Limited v Kitsons LLP, Publication: Professional Negligence Bar Association Newsletter

8 October 2015

The Claimant brought professional negligence proceedings against a firm of solicitors who had acted on its behalf in a transaction involving the purchase of a pub business. The case contains an unorthodox analysis of the burden of proof, and considers once again the challenging boundary line between commercial and legal advice. PNBA membership required.

Procedural Fairness in an Information Rights Context, Judicial Review, 20:1, 26-32

1 June 2015

Considers (with Tom Pascoe, Brick Court Chambers) the tension between fairness and reliance on closed material in the information rights context.