

OUR PEOPLE

## Mark Cullen

CALL 2013

LEGAL 500

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



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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, after having been called to the Bar in England and Wales in 2013.

Mark has appeared in a broad range of commercial cases in the Commercial Court and Chancery Division in London, as well as in the Court of Appeal of England and Wales. He also has significant experience of litigation in the Cayman Islands, the BVI and the Isle of Man, both at first instance and on appeal.

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. Mark was awarded a Major Scholarship by Inner Temple and a 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

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## Expertise

## Commercial Litigation

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Mark has acted in a wide range of commercial and business disputes, including claims involving allegations of fraud, a variety of contractual claims, breach of warranty claims and shareholder disputes. Mark's work frequently has an international or offshore element to it and he has experience of jurisdictional challenges and forum disputes.

Mark has experience of applications and issues relating to the impact of Russian sanctions: see [2022] EWCA Civ 854 and [2022] EWHC 101 Ch; worldwide freezing orders: see [2022] EWHC 1166 (Ch); anti-suit injunctions: see [2020] EWHC 2530 (Comm); search orders: see [2021] EWHC 1360 (Ch), security for costs: see [2022] EWHC 1047 (Ch), [2021] EWHC 2316 (Ch) and [2018] EWHC 1533; and disclosure and inspection: see [2018] 4 W.L.R. 26.

### Featured Commercial Litigation cases

- *Vneshprombank LLC v Georgy Bedzhamov & Ors*; acting (led by Justin Fenwick KC) for Georgy Bedzhamov in strongly contested proceedings brought by a Russian bank in liquidation seeking damages of over £1 billion: see [2022] EWHC 1166 (Ch), [2022] EWHC 101 (Ch), [2021] EWHC 1360 (Ch).
- *R5 Capital Ltd v Mitheridge Capital Management LLP*; acting (led by Graham Chapman KC) in a claim against an investment manager relating to the payment of success fees: see [2021] EWHC 2316 (Ch).
- *Catlin Syndicate Limited & Ors v Amec Foster Wheeler USA Corp & Ors*; acting (led by Roger Stewart KC and George Spalton KC) for the Defendants to an application for the continuation of an anti-suit injunction: [2020] EWHC 2530 (Comm).
- *Grantham Capital Ltd v Langham & Ors*; acting (led by Matthew Bradley KC) 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.
- *Penta v Storrier*; acted (led by Neil Hext KC) 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).
- *Accident Exchange v McLean & Ors*; Mark acting (led by Jamie Smith KC and Miles Harris) for two of the defendants to a £130 million Commercial Court claim for unlawful means conspiracy claim and deceit: see [2018] 4 W.L.R. 26 and [2018] EWHC 1533.
- *Comodo Holdings Ltd v Renaissance Ventures Ltd & Anr*; acting (led by Paul Chaisty KC 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*; acting (led by Alain Choo-Choy KC 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).

## Civil Fraud

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Mark has significant experience of civil fraud claims, particularly those proceeding in the Chancery Division and Commercial Court in London, but often involving a significant international or offshore element.

Mark has experience of various interlocutory applications in the civil fraud context, including relating to worldwide freezing orders (see [2022] EWHC 1166 (Ch)), search orders (see [2021] EWHC 1360 (Ch)), security for costs (see [2022] EWHC 1047 (Ch)) and disclosure and inspection (see [2018] 4 W.L.R. 26).

### Featured Civil Fraud cases

- *Vneshprombank LLC v Georgy Bedzhamov & Ors*; acting (led by Justin Fenwick KC) 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 [2022] EWCA Civ 854; [2022] EWHC 1166 (Ch), [2022] EWHC 101 (Ch), [2021] EWHC 1360 (Ch).
- *Kireeva v Bedzhamov*; acting (led by Justin Fenwick KC) for Georgy Bedzhamov in opposing the recognition of his Russian trustee in bankruptcy in England and Wales, including on the basis the bankruptcy was obtained by fraud: see [2022] EWHC 2676 (Ch) and [2022] EWHC 1047 (Ch).
- *Grantham Capital Ltd v Langham & Ors*; acting (led by Matthew Bradley KC) 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*; acting (led by Daniel Saoul KC) in an unfair prejudice and unlawful means conspiracy claim in the BVI Commercial Court arising out of a substantial fraud.
- *Accident Exchange v McLean & Ors*; acting (led by Jamie Smith KC and Miles Harris) for two of the defendants to a £130 million Commercial Court claim for unlawful means conspiracy claim and deceit. The claim spawned large numbers of interlocutory disputes: see [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 [2018] EWHC 1533 (Comm) (in relation to security for costs).
- *Claim against director arising out of secret commission*; acting 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*; acting (led by Alex Hall Taylor KC) in a Commercial Court claim in deceit, conspiracy, dishonest assistance and for the return of secret commissions.
- *Confidential dispute*; Mark assisted Can Yeginsu to advise in a £13m secret commission and action for damages for fraud claim.

## Offshore work

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Mark has a significant offshore practice, particularly for his year of call, with notable experience of litigating in the Cayman Islands, the BVI and the Isle of Man. 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.

Mark is ranked as a leading junior in the Legal 500 for offshore work: *“Mark has an excellent work ethic and thinks deeply about the legal and commercial problems he is presented with. He has a very strong academic background, but refreshingly is focused on practical solutions. His knowledge of private international law is particularly useful for offshore work, and he also has a formidable command of areas of law that are always relevant to offshore disputes.”*

He was previously recognised as a “Rising star” for offshore work and described as *“An impressive junior with experience beyond his seniority in offshore work.”*

Mark 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 also has experience of appeals in the BVI and the Isle of Man.

Reflecting his broader practice, he has particular expertise of claims involving allegations of civil fraud and offshore claims against professionals. He also has experience of shareholder disputes and contentious insolvency matters.

### Featured Offshore cases

- *Claim against a fund manager*; acting (led by Graham Chapman KC) for a fund manager in a significant and long-running claim arising out of the collapse of an offshore collective investment scheme.
- *Unfair prejudice and unlawful means conspiracy claim*; acting (led by Daniel Saoul KC) in an unfair prejudice and unlawful means conspiracy claim in the BVI Commercial Court arising out of a substantial fraud.
- *Comodo Holdings Ltd v Renaissance Ventures Ltd & Anr*; acting (led by Paul Chaisty KC 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*; acting (led by Alain Choo-Choy KC 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 Negligence

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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 and claims involving allegations of civil fraud or involving an offshore or international element.

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” (2021) 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.”*

## Featured Professional Negligence cases

- *Claim against a fund manager*; Acting (led by Graham Chapman KC) in a £15m claim against a fund manager arising out of the collapse of an offshore collective investment scheme.
- *Penta v Storrier*; acting (led by Neil Hext KC) in a claim against a director arising out of the alleged significant financial mismanagement of companies (see [2020] EWHC 2400 (Ch)).
- *Maggistro-Contenta v Jury O'Shea LLP*; acting (led by Jamie Smith KC) 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 acting (led by Jamie Smith KC and Miles Harris) for two of the solicitor defendants to a £130 million unlawful means 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).
- Acting (led by Ben Hubble KC) for a security company in a claim arising out of an alleged £1.5m theft.
- Acting as sole counsel for a company in a £1 million contribution claim against accountants.
- Acting (led by Jamie Smith KC and Tim Chelmick) in a claim arising out of the valuation of a technology business for the purposes of a tax scheme.

## Insurance

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

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

Mark co-authored (with Neil Hext KC) 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.

## Featured Insurance cases

- *Catlin Syndicate Limited & Ors v Amec Foster Wheeler USA Corp & Ors*; acting (led by Roger Stewart KC and George Spalton KC) 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*; acting as junior counsel to Justin Fenwick KC and Leigh-Ann Mulachy KC in proceedings relating to the circumstances in which a subrogated claim can be brought by an insurer of a subsidiary against a parent company.
- Acting as sole counsel 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.
- Acting 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.
- 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

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

## Featured Sports Law cases

- Acting (led by Kendrah Potts) for a professional footballer in a dispute relating to the payment of sums due following the termination of a playing contract.
- Acting (led by Kendrah Potts) for a professional footballer in FA disciplinary proceedings following a failed drugs test.
- Acting as sole counsel for a professional footballer in a dispute with his club relating to the extension of his playing contract.
- Assisting Can Yeginsu to advise a sports agency in a dispute with a former professional footballer.
- Assisting Richard Liddell KC to advise a football player in a dispute with a club relating to the player's image rights.

## International Arbitration

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

### Featured International Arbitrations

- Acting as part of a counsel team led by Roger Stewart KC in a complex and extremely high value international arbitration relating to a significant construction project in the Middle East.
- Acting as part of a counsel team led by Roger Stewart KC and Anneliese Day KC in a complex international arbitration worth in excess of £100 million relating to the construction of a nuclear installation.
- Assisting Ben Elkington KC to advise in a dispute relating to a commercial service agreement.

## Awards



## Qualifications

### Education:

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

### Bar Admissions:

England and Wales: 2013

British Virgin Islands: 2017

Cayman Islands: 2018

### Memberships:

Commercial Bar Association

Chancery Bar Association

Professional Negligence Bar Association

Commercial Fraud Lawyers Association

Young Fraud Lawyers Association

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