



## Philip Marshall QC

Year of Silk: 2003

Year of Call: 1987

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### Overview

“One of the Bar’s most successful silks”, Philip Marshall QC is a senior commercial and chancery silk who specialises in complex commercial disputes and commercial fraud, particularly international fraud. He continues to be involved in a number of high profile matters and is “selected for very sophisticated cases”.

In 2009 he was authorised to sit as Deputy High Court Judge (Chancery and Queen’s Bench Division) and regularly acts and advises in several overseas jurisdictions including the British Virgin Islands, Bermuda and Hong Kong. He is called to the Bar of the British Virgin Islands.

Philip is classified in Chambers & Partners as one of “the Stars at the Bar” and is recommended in 8 different practice areas. He is a Legal Commentator for television and was The Times ‘Lawyer of the week’ for work on a major fraud case.

### Areas of expertise

- Civil Fraud
- Company
- Professional Negligence
- Insolvency
- Banking
- Commercial Litigation
- Financial Services
- Trusts and Probate
- Sports, Entertainment and Media
- Chancery
- Offshore

### Recommendations

Recommended for:

Banking & Finance, Chancery: Commercial, Commercial Dispute Resolution, Company, Fraud: Civil, Offshore,

Restructuring/Insolvency (*Chambers & Partners*)

Banking and finance, Commercial litigation, Company, Fraud: civil, Insolvency, International arbitration, Professional negligence (*Legal 500*)

Dispute Resolution: Commercial, Dispute Resolution: Commercial Chancery, Offshore, Restructuring/Insolvency (*Chambers Global*)

Civil Fraud (*Who's Who Legal: UK Bar 2016*)

Recently The Times 'Lawyer of the week' for work on *Lexi Holdings v. Luqman* (a major fraud case).

## Quotes

Classified in Chambers & Partners as one of "the Stars at the Bar"

For Fraud cases:

*"...he provides direct and straightforward advice that gets to the heart of an issue, and it is delivered in a reassuringly calm and measured manner"* (Chambers & Partners 2015)

*"...a superb advocate who balances aggression with excellent judgement"* (Chambers & Partners 2015)

*"...phenomenally intelligent and extremely hardworking"* (The Legal 500 2014)

*"...full of praise for his 'creative yet convincing advocacy and terrific ability on his feet in court'"* (Chambers & Partners 2012)

*"...is highly regarded for his 'confident and robust advocacy coupled with first-rate analytical skills'"* (The Legal 500 2010)

*"...one of the best - it's like sending in the Marines!"* (The Legal 500 2009)

*"...always displays star quality"* (Chambers & Partners 2009)

*"...clearly one of the leading figures in the fraud world"* (Chambers & Partners 2009)

*"...a formidable cross-examiner"* (The Legal 500 2009)

For Insolvency:

*"...he is a superb advocate who balances aggression with excellent judgement."* (Chambers Global 2016)

*"...fabulously bright and can come up with a strategy extremely quickly"* (Chambers & Partners 2015)

*"...a thoughtful and assertive individual who knows how to drive a case forward"* (Chambers & Partners 2012)

*"...outstanding on his feet"* (The Legal 500 2010)

*"...one of the best advocates of his generation"* (The Legal 500 2009)

*"...a tough but user-friendly advocate who certainly fights his clients' corners"* (Chambers & Partners 2009)

For Commercial Litigation:

*"...a fearsome advocate. He is incredibly bright, hard-working and very tenacious."* (Chambers Global 2016)

*"...a sensibly aggressive and combative advocate whose advocacy is of the first order."* (Chambers Global 2016)

*"...goal-oriented in terms of understanding what the client is looking to achieve, and will take robust decisions and find nuanced, calculated means of achieving those aims"* (Chambers & Partners 2015)

*"...will use his immense legal knowledge to get you the practical result you're looking for"* (Chambers & Partners 2015)

*"...spots the weakness in the other side's position and goes on the attack. Watching him cross-examine a witness - it's like they do it in the films"* (Chambers & Partners 2015)

*"...brings real gravitas and experience, both in court and when providing advice"* (The Legal 500 2014)

*"... 'a really shrewd tactician' with a 'top-rate mind'"* (Chambers & Partners 2013)

*"...has strong analytical skills, but is first and foremost a very strong advocate - someone to turn to for a tough*

*litigation fight*" (The Legal 500 2010)

For Company Law:

*"...a lawyer with an outstanding brain"* (Chambers & Partners 2014)

*"...a force of nature in court: an excellent advocate with a razor-sharp intellect"* (The Legal 500 2013)

*"...commercially savvy and pragmatic"* (Chambers & Partners 2012)

Chancery Commercial:

*"...he is fantastic in court. He gets the results, so you can't knock him."* (Chambers Global 2016)

*"...he is a very, very, very effective advocate. Judges just love him and seem to be eating out of his hand. It is a joy to behold."* (Chambers Global 2016)

*"...combative, focused and multi-talented"* (Chambers & Partners 2015)

*"...a bold cross-examiner and hugely experienced in fraud cases"* (Chambers & Partners 2015)

*"...great fighter', his 'energy, dynamism and force of personality are impressive.' He is blessed with 'a good turn of phrase in Court' and is 'a great person to have with you in the trenches.'"* (Chambers & Partners 2012)

For Banking:

*"...impressive knowledge, courtroom gravitas and genuine standing"* (The Legal 500 2009)

For Professional Negligence:

*"...a very aggressive litigator and a fearsome cross-examiner"* (Chambers & Partners 2015)

*"...consistently delivers excellent results"* (The Legal 500 2014)

*"...he is punchy in his advocacy and creative in his thinking"* (Chambers & Partners 2014)

*"...brilliant, tenacious and responsive"* (The Legal 500 2013)

*"...sensible, bright and easy to deal with"* (Chambers & Partners 2012)

*"...a very strong and confident advocate"* (The Legal 500 2010)

*"...punchy, creative and user-friendly, and a tough negotiator when necessary"* (Chambers & Partners 2009)

For Offshore:

*"...he is a real fighter and has a strong presence in court."* (Chambers Global 2016)

*"...a forceful advocate who represents the heavy artillery in a case"* (Chambers & Partners 2015)

## Civil Fraud

*Constantin Medien v Ecclestone*: Media company claiming £87.5million in damages from Ecclestone and three others.

*Aeroflot v Berezovsky*. Claim for fraud in relation to financing of Russian airline.

*JSC BTA Bank v Ablyzov*. International fraud claim for in excess of \$1billion. Issues in respect of freezing relief, receivership, committal and jurisdiction.

*Arkhangelsky v Bank of St. Petersburg* (acting for bank in relation to fraud proceedings in BVI involving ancillary proceedings in France and Bulgaria).

*Lexi Holdings v Luqman*: International fraud claim for £155m. Involved applications for freezing and search orders as well as two committal hearings. Reported decisions on director's fiduciary obligations and interaction between civil orders and restraint orders.

*AWG v Morrison*: Multi-million pound Fraud claim against directors regarding profit forecast following take over of Morrison by AWG. Acted for former Chief Executive of Morrison.

*Zakharov v White*: International fraud claim; established principles for issue of bench warrants in civil proceedings.

*Rabobank v National Westminster Bank*: Fraud, misrepresentation and unlawful interference claims arising out of banking syndicate in respect of losses exceeding £200m.

*Fiona Maritime v Privalov* (major fraud claim arising out of sales of part of the old Sovcomflot fleet - complete applications for freezing relief and search orders).

*Dubai International Capital v Lewis* (claim for fraud arising from management buy-out).

*Canada Trust Co v Stolzenberg International* fraud action for recovery of over \$250m, issues on jurisdiction under [cke\_protected\_1]Brussels/ Lugano Conventions, operation of worldwide Mareva orders.

*Berry Trade v Moussavi* International fraud action; including search and freezing order and committal applications. Trial involving issues of private international law and foreign law.

*Bishopsgate Investment Management v Maxwell* International insolvency investigation, privilege against self-incrimination.

*Cala Cristal v Al-Borno* International fraud action; operation of worldwide Mareva orders, conflict of laws, law of agency.

*Goose v Wilson Sandford* fraud/professional negligence action, joint venture, constructive trust claims.

*Renewable Power Light v Lewis* (claim for fraudulent misrepresentation and misapplication of funds by a director).

*Golfrate v Aziz* (claim for misappropriation of company funds and fraudulent misrepresentation).

*Re Trans Ocean Manufacturing* (2006) BCC 451 and [2005] EWHC 2403 (major fraudulent trading claim giving rise to jurisdiction dispute - acted for the defendant).

## Company

*Hobart v Naggat* (claim relating to de facto/shadow directorship of financial services company.)

*Hicks v Broughton* (high profile claim in the High Court concerning the sale of Liverpool Football Club involving important questions on company procedure, specifically board meetings and the question of anti- suit injunctions; Philip acted for Mr Broughton)

Major issue on whether company unfair prejudice petitions are capable of being the subject of arbitration, *Fulham Football Club v Sir David Richards*.

*Re Nortel Networks* (acting as expert witness on cases of English Law covering de facto/shadow directorship and other issues.)

*McKillen v Barclay* (claims for conspiracy in connection with acquisition of Claridges, Connaught and Berkeley Hotels)

*Lexi Holdings v Luqman* (claims for over £155m brought against directors by administrators for breaches of the Companies Act prohibition on directors' loans and substantial property transactions with directors (ss.320 & 330 of Companies Act 1985 - act for the administrators - case continuing). Several reported decisions including two in the Court of Appeal: (2009) 2 BCLC 1 (dealing with key issues of causation of loss) and [2009] 2 WLR 905 (dealing with interaction between commercial litigation and criminal restraint order proceedings).

*Tarn Insurance Services* (claims against directors for misfeasance – misapplication of company funds/issues over shareholder approval)

*Acting for Bermudian Government in relation to a company inspection.*

*Renewable Power & Light v Lewis* (misfeasance claim against directors for listed company).

*AWG v Morrison* (2006) 1 WLR 1163 (claim concerning the profit forecast provided in the acquisition of Morrison Plc the construction company by AWG - acted for the former Morrison CEO).

*MT Realisations v Digital Equipment* [2003] BCLC 117 (decision on proper construction of ss.151 and 152 of the Companies Act)

## Professional Negligence

*Dickson v Christies* (claim for misattribution and inaccurate valuation against Christies in relation to a Titian painting.)

*Re Carlyle Capital* (claim for negligence against directors)

*Re Woolworths Plc* (claim for negligence against directors arising out of collapse of Woolworths)

*Lexi Holdings v DTZ* (claim by the administrators against surveyors in relation to a number of high value commercial properties; the case raised important questions regarding contributory negligence and alleged illegality.)

*Lexi Holdings v Pannone* (claim by administrators for £55m. against solicitors for breach of trust and negligence).

*Washington Green Fine Art in the Court of Appeal* (case relating to Rolf Harris paintings and the question of responsibility for loss whilst in storage.)

Acting for the liquidators of *Ciro Citterio* in a major claim against professional advisers in relation to previous proceedings for unfair prejudice.

*Clifford Harris v Solland* [2005] EWHC 141 (solicitors claim dispute involving professional litigation claim)

*De Beer v Kanaar* [2002] EWHC 688, [2002] 3 All ER 1020 (prime bank instrument fraud)

*Goose v Wilson Sandford* (Court of Appeal Times 19/2/98) and Court of Appeal (Lawtel 14/3/00) (deceit case).

*Peach Publishing v Slater* [1998] BCC 139 (auditors negligence claim in share acquisition).

## Insolvency

*Carlyle Capital v Conway* (representing directors in largest ever claim in Guernsey following collapse of company trading in asset backed securities).

*ISIS Investments v McHarrie* (representing directors in claims for breach of duty connected with collapse of Kaupthing, the Icelandic bank).

*Re Nortel* (acting as expert witness on UK insolvency law for administrators in U.S. proceedings).

*Re Woolworths* (acting for administrators in investigations concerning collapse of Woolworths).

*Re Levene* (acting for trustee in bankruptcy in relation to complex estate of ex-financial intermediary)

*Lexi Holdings v McGarry* (claim involving variation restraint order to allow administrators to recover company funds).

*Tarn Insurance Services* (claim by administrators to recover misappropriated company funds) (ongoing).

Acting for Bermuda Government on winding-up proceedings against the IPOC group.

*Re Lexi Holdings* (fraud claims for over £28m brought against directors by administrators - act for the administrators - case is continuing).

*Re Trans Ocean Manufacturing* (2006) BCC 451 and [2005] EWHC 2403 (major fraudulent trading claim giving rise to jurisdiction dispute – acted for the defendant).

*Re Harrington* (claim for alleged transactions at undervalue/attempts to defeat creditors' claims – ongoing).

*Fraser v Oystertec Lawtel* (2004) BCC 233 – claim based on British Eagle principle.

*Thakrar v Ciro Citterio Lawtel* 1/10/02 (effect of settlement in company administration)

*Haig v Aitken* (2000) 3 All ER 80 (decision on extent of bankrupt's estate)

## Banking

*Greenwood v Goodwin* banking action.

*RBS v Hicks*: Acting for Liverpool F.C. directors in relation to sale of club.

*JSC BTA Bank v Ablyazov* (major banking case involving the largest group of fraud actions ever brought in the High Court. Philip's action covers over \$1bn of claims for fraud on a Kazakhstan bank, involving interlocutory injunctions, freezing and disclosure orders.)

*Hicks v Broughton* (high profile claim regarding sale of Liverpool FC raising issues over enforcement of security by RBS and terms of re-financing/sale)

*McKillen v Barclay* (high profile claim involving issues over the sale of loans/security by NAMA (the Irish “bad bank”) in relation to hotels in the former Savoy group)

*Arkhangelsky v Bank of St Petersburg* (claims in England and the British Virgin Islands covering validity of Russian banking transactions/security.)

*Natwest v Rabobank* [2006] EWHC 2959 (Comm) (case continuing - relates to take out of Natwest loans by Rabobank in connection with advances to Yorkshire Food Group in the 1990s - act for Rabobank).

*Banque Saudi v Lear Siegler* (2006) 1 Lloyd's Rep 273 and [2006] EWCA Civ 1130 (claim on performance bond which went to Court of Appeal on correct test on summary judgment).

*Sirius International v FAI* (2004) 1 WLR 3251 (House of Lords appeal involving construction of letter of credit conditions.)

*Wahda Bank v Arab Bank* Court of Appeal, Lawtel 16/6/99 (performance bonds and the fraud defence to a demand for payment)(see also [1996] 1 Lloyd's Rep. 470 (construction of UN sanctions legislation against Libya.)

*JSC BTA Bank v Ablyzov*. International fraud claim for in excess of \$1billion. Issues in respect of freezing relief, receivership, committal and jurisdiction.

*Rabobank v National Westminster Bank*. Fraud, misrepresentation and unlawful interference claims arising out of banking syndicate in respect of losses exceeding £200m.

## Commercial Litigation

*Aeroflot v Berezovsky* (acting for claimant in claim for fraud involving jurisdiction and arbitration issues.)

*JSC BTA Bank v Ablyzov* (largest group of fraud actions ever brought in the High Court. Philip's action covers over \$1bn of claims for fraud on a Kazakhstan bank, involving interlocutory injunctions, freezing and disclosure orders.)

*Hicks v Broughton* (high profile claim concerning agreements for the operation of Liverpool Football Club.)

*B.A.T. v Windward Prospects* (claims for indemnity in relation to environmental claims).

*Arkhangelsky v Bank of St. Petersburg* (acting for bank in relation to fraud proceedings in BIV involving ancillary proceedings in France and Bulgaria).

*McKillen v Barclay* (claims for conspiracy in connection with acquisition of Claridges, Connaught and Berkeley Hotels).

*Constantin Medien v Ecclestone* (high profile claim for damages from sale at undervalue resulting from bribes in Formula 1).

*Lexi Holdings v Luqman* (claims for over £155m brought against directors by administrators - act for the administrators - case is continuing). Several reported decisions including two in the Court of Appeal: (2009) 2 BCLC 1 (dealing with key issues of causation of loss) and [2009] 2 WLR 905 (dealing with interaction between commercial litigation and criminal restraint order proceedings).

*AWG v Morrison* (2006) 1 WLR 1163 (major claim concerning the profit forecast provided in the acquisition of Morrison Plc by AWG - acted for the former Morrison CEO).

*Natwest v Rabobank* [2006] EWHC 2959 (Comm) (claim brought against Natwest for over US\$200m for misrepresentation - act for Rabobank).

## Financial Services

*Greenwood v Goodwin* banking action.

*RBS v Hicks*: Acting for Liverpool F.C. directors in relation to sale of club.

*JSC BTA Bank v Ablyazov* (major banking case involving the largest group of fraud actions ever brought in the High Court. Philip's action covers over \$1bn of claims for fraud on a Kazakhstan bank, involving interlocutory injunctions, freezing and disclosure orders.)

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*Rabobank v National Westminster Bank*: Fraud, misrepresentation and unlawful interference claims arising out of banking syndicate in respect of losses exceeding £200m.

## Trusts and Probate

### In Guernsey:

*Carlyle Capital v Conway* (representing directors in largest ever claim in Guernsey following collapse of company trading in asset backed securities).



## In Isle of Man:

*ISIS Investments v McHarrrie* (representing directors in claims for breach of duty connected with collapse of Kaupthing, the Icelandic bank).

## Recent litigation in the British Virgin Islands has included:

*Arkhangelsky v Bank of St Petersburg* (claims in British Virgin Islands covering validity of Russian bank security.)

*JSC BTA Bank v Fidelity Corporate Services Ltd. and another* (an appeal concerning the availability of Norwich Pharmacal type disclosure orders against service providers in the BVI);

*Royal Westminster v Nilon* (an appeal concerning the jurisdiction of the court to rectify its register of members and further issues concerning international jurisdiction); and

*JSC BTA Bank v Reuel Limited* (a claim for recovery of some US\$57m.in relation to a conspiracy to defraud brought before the Commercial Court).

In Bermuda Philip has advised the Ministry of Finance on a number of matters including one of the most important public interest winding-up petitions ever brought in the jurisdiction against IPOC Ltd.

In Hong Kong Philip has advised in the liquidation of subsidiaries of the Long Term Credit Bank of Japan and more recently on the case of *Sinocare v Biran* (proceedings for fraudulent misappropriation by a company officer).

## Sports, Entertainment and Media

*Constantin Medien v Ecclestone* (high profile claim for damages from sale at undervalue resulting from bribes in Formula 1)

*Hicks v Broughton* (high profile claim in the High Court concerning the sale of Liverpool Football Club involving important questions on company procedure, specifically board meetings and the question of anti- suit injunctions; Philip acted for Mr Broughton

*Fulham Football Club v Sir David Richards* (unfair prejudice petitions raising the question whether such claims are capable of being the subject of arbitration.).

*Re Crystal Palace Football Club* (claim against administrators regarding deferred transfer fees.)

*Re Portsmouth Football Club* (claims arising out of the administration of Portsmouth concerning unfair preferences.)

## Qualifications

Called to the Bar of the British Virgin Islands

MA (First Class), Queens' College, Cambridge (Squire Scholar)

LLM, Harvard University (Kennedy Scholar)

Fellow, Queen's College, Cambridge, 1989-1993

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Lincoln's Inn; Denning Scholar 1987

## Appointments

Deputy High Court Judge - Chancery Division & Queen's Bench Division - 2009

Recorder - 2008

Member of the Panel in The London Court of International Arbitration

Bencher of Lincoln's Inn

Speaker for C5 International Fraud Conferences

Speaker and Chair for Lexis Nexis International Fraud Conferences

Speaker for R3; Insolvency Lawyers' Association; Chancery Bar Association; Television Education Network (legal)

Legal Commentator for Sky News

## Memberships

Chancery Bar Association (former committee member)

Insolvency Lawyers Association

Commercial Bar Association

The London Court of Arbitration

## Publications

Contributor, *Civil Appeals* (Sweet & Maxwell, Editor: Sir Micheal Burton)

Editor, *The Practice and Procedure of the Companies Court* (LLP, October 1997)

Office Holder's Inquisitional Powers, their uses and limits (1997) *Insolvency Law & Practice* 66

Contributory Negligence - A Viable Defence for Auditors (1990) *LMCLQ* 416

Auditors' Duties - A Narrow Approach (1990) *LMCLQ* 478

## Languages

French