



serle court

clerks@serlecourt.co.uk  
+44 (0)20 7242 6105

## Mark Wraith

Year of Call: 2017

[mwraith@serlecourt.co.uk](mailto:mwraith@serlecourt.co.uk)  
[clerks@serlecourt.co.uk](mailto:clerks@serlecourt.co.uk)



## Practice Overview

Mark has a busy commercial chancery practice with a particular interest in civil fraud, commercial litigation, shareholder disputes and trusts. He is instructed regularly in the High Court as sole counsel or as part of a larger team.

Mark recently acted in the *Eclipse* litigation, one of The Lawyer's Top 20 cases of 2024. Other recent instructions include acting in a claim arising out of the breakdown in relationship between the founders of a multi-million pound restaurant business (*Malik v Hussain* [2020] EWHC 2334 (Ch); [2021] EWHC 1405 (Ch); [2023] EWCA Civ 2), a matter arising out of the purchase of a Luxembourg business involving allegations of fraudulent misrepresentation, a substantial offshore trust matter involving allegations of breach of trust against former trustees.

Before coming to the Bar, Mark read Mathematics at Trinity College, Cambridge, and worked in the online gambling industry, and this background means that he is comfortable with matters involving financial, accounting, or other complex technical issues and expert evidence. Mark previously taught courses in trusts at undergraduate and postgraduate level at UCL.

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## Areas of Expertise

### Commercial Litigation

Acted as sole counsel in a claim arising out of breach of hire-purchase agreements for high-end vehicles involving issues of estoppel, the validity of notices of termination and the validity of guarantees (*JBR Capital Limited v JM Investments/Trading Ltd* [2023] EWHC 174 (Comm)).

Acted as junior counsel in the *Eclipse* litigation (led by Jonathan Davies-Jones KC of 3 Verulam Buildings, and instructed by Stewarts Law LLP). *Eclipse* was one of The Lawyer's top 20 cases of 2024, and arose out of the claimants' participation in a film finance scheme which was marketed as having tax benefits. The claim involved allegations of conspiracy and deceit against the defendant bank.

Acted as sole counsel in a claim arising out of the alleged breach of an agreement for the provision of pharmacovigilance services.

Acted as junior counsel in a claim arising out of the alleged fraudulent mis-selling of financial investments (*Quilter v Leonteq & ors*).

Advised in a claim arising out of the break-down in relations of the parties involved in a Cayman Island investment fund structured as an LLP, involving issues of financial mismanagement and unlawful means conspiracy.

Advised in a claim brought against a cryptocurrency exchange involving issues relating to tracing and unjust enrichment.

Acted in a claim involving allegations that a substantial commercial premises was held on a constructive or resulting trust for the party which had financed its purchase.

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### Civil Fraud

Acting as sole counsel in a claim with international elements involving allegations of fraudulent breach of a factoring agreement and conspiracy. Obtained a *Bankers Trust Order* against a third party bank into which the proceeds of the

alleged fraud had been paid.

Acted as junior counsel in the *Eclipse* litigation (led by Jonathan Davies-Jones KC of 3 Verulam Buildings, and instructed by Stewarts Law LLP). *Eclipse* was one of The Lawyer's top 20 cases of 2024, and arose out of the claimants' participation in a film finance scheme which was marketed as having tax benefits. The claim involved allegations of conspiracy and deceit against the defendant bank.

Acted as junior counsel for the Claimants (led by John Machell KC) in a claim arising out of the purchase of a Luxembourg business which it is alleged was induced by fraudulent misrepresentations made by the seller, which settled shortly before trial (*Circumference Investments & ors v Martin*).

Acted as junior counsel for the Defendants (led by David Drake) in a claim arising out of the sale of a business involving issues of fraudulent misrepresentation and breach of warranty (*Bell v Singh* [2022] EWHC 3272 (Comm)).

Acted as junior counsel (led by John Machell KC) in a claim arising out of the alleged fraudulent mis-selling of financial investments (*Quilter v Leonteq & Ors*).

Assisted Rupert Reed KC in obtaining a freezing order in support of a New York arbitral award in the courts of the DIFC.

Acted as junior counsel (led by Hugh Norbury KC) in successfully applying for a proprietary injunction in a claim arising out of allegations of breaches of duty by a company director.

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## Company

Acted as junior counsel for in a two-week trial in the High Court concerning allegations of unfairly prejudicial conduct (*Malik v Hussain & Others* [2020] EWHC 2334 (Ch)).

Acted as junior counsel (led by Hugh Norbury KC) in a successful application for permission to bring a derivative claim (*Saatchi v Gajjar* [2019] EWHC 3472 (Ch)).

Currently acting as sole counsel in a claim involving allegations breaches of a shareholders' agreement and issues as to the validity of a deemed transfer notice of shares.

Currently acting as sole counsel in a claim involving an allegedly defective transfer of shares in which the jurisdiction of the English courts to hear the claim has been challenged (*Nanji v Nanji & ors*)

Advised in relation to a claim against a de facto or shadow director for negligently causing a company to incur a substantial VAT liability.

Advised in relation to a claim involving allegations that a director caused loss to a third party dealing with his company by fraudulently misrepresenting that the company was solvent.

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## Private Client Trusts and Probate

Currently acting as junior counsel in a substantial trust dispute in Jersey involving allegations of breach of duty by the former trustees of a family trust, and allegations of mismanagement of the underlying companies in the structure.

Currently advising the trustees of a Jersey trust in relation to the recovery of trust assets from third parties.

Currently acting as junior counsel in a claim arising out of allegedly negligent advice given in relation to the restructuring of substantial English trusts.

Provided an affidavit of English law for use in probate proceedings in Trinidad and Tobago where the deceased died domiciled in that jurisdiction but had assets in England.

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## **Partnership and LLP**

Acted as junior Counsel for the claimant in a two-week trial in the High Court in which the existence of a partnership was disputed, and in a subsequent hearing involving issues as to the appropriate order to make on the winding-up of the partnership (*Malik v Hussain* [2020] EWHC 2334 (Ch); [2021] EWHC 1405 (Ch)).

Advised in a claim arising out of the break-down in relations of the parties involved in a Cayman Island investment fund structured as an LLP, involving issues of financial mismanagement and unlawful means conspiracy.

Advised (as sole counsel) in relation to the sale of a substantial unincorporated partnership business, involving issues of breach of fiduciary duty, breach of contract, and conspiracy.

Advised in relation to the breakdown of a partnership between three General Practitioners.

Assisted Dan McCourt Fritz KC in advising on a potential restitutionary claim against HMRC and/or a former partner in respect of partnership tax paid by mistake.

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## **International and Offshore**

Assisted Rupert Reed KC in obtaining a Freezing Order in support of a New York arbitral award in the courts of the DIFC.

Advised a public body in the Bahamas in relation to claims arising out of a failed construction project.

Advising in a claim arising out of the break-down in relations of the parties involved in a Cayman Island investment fund structured as an LLP, involving issues of financial mismanagement and unlawful means conspiracy.

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## **Professional Negligence**

Currently acting as junior counsel in a claim arising out of allegedly negligent advice given in relation to the restructuring of a substantial English trust.

Currently advising (as sole English counsel) in relation to a claim in Jersey involving allegations of defective building work

Advised in relation to an intended claim against a firm of solicitors arising out of their drafting of mirror wills.

During pupillage, assisted Dan McCourt Fritz KC in advising a firm of solicitors on the enforceability of exclusion and limitation clauses in their standard terms of business, having regard to the provisions of the SRA Code of Conduct, the Unfair Contract Terms Act 1977, and the Consumer Rights Act 2015.

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## **Regulatory and Disciplinary**

Acted as sole counsel in successfully obtaining the striking-out of a claim in which damages were sought for alleged breaches of the DPA 2018.

Assisted Daniel Lightman KC, acting pro-bono, in challenging a decision of the Information Commissioner that a university was entitled to rely on s. 40(2) of the Freedom of Information Act to refuse to provide a complete response to a FOI request.

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## **Insolvency**

Mark is regularly instructed in insolvency matters. His experience includes applications to obtain validation orders pursuant to s 127 of the Insolvency Act 1984, to set aside, and resist setting aside, a statutory demand, resisting winding up petitions and obtaining injunctions to prevent their presentment, to obtain interim and final charging orders, and to obtain an order for possession in favour of a mortgagee of real property.

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## **Prizes**

Outstanding Achievement Award for the highest mark on the LLB, BPP University

Master of the Rolls Scholarship for Commonwealth Students, UCL

Pump Court Tax Chambers Prize for International and Commercial Trusts Law, UCL

4 Stone Buildings Prize for Civil Litigation and Evidence, University of Law

University of Law Prize for Drafting

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## **Education & Qualifications**

Trinity College, University of Cambridge: Mathematics (MA)

BPP University: Law (LLB) (First Class, highest mark in the year)

University College London: Law (LLM) (Distinction, highest mark in the year)

University of Law: BPTC (Outstanding)

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