

Max Mallin

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 Education: MA (Cantab)
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Commercial:

Before coming to the Bar Max spent a number of years working in international investment banking, doing his initial training on Wall Street and subsequently working in the City. He worked in international capital markets first as a trader and eventually as head of international bond trading in London. His work included trading and structuring various forms of derivative instruments.

Max's practice focuses on major commercial and company disputes with particular emphasis on financial markets and commercial fraud.

Max is recommended in the major legal directories as a leading barrister in the areas of commercial litigation, civil fraud and travel.

"Terrific advocate" Max Mallin inspires confidence in his clients. His practice focuses on major commercial and company disputes, with particular emphasis on commercial fraud, financial markets issues and general contract litigation. Mallin engenders further praise for his "ability to see the bigger picture" and the fact that "he leaves the ostentatious stuff at the door and focuses on the core issues." (Chambers & Partners 2009)

"Down to earth" Max Mallin of 11 Stone Buildings puts his banking background to good use and has impressed clients in a number of high-profile travel fraud cases. (Chambers & Partners 2009)

...Max Mallin obtains plaudits for "always being on his A-game". (Chambers & Partners 2008)

'Excellent advocate' Max Mallin, formerly an investment banker, garners significant accolades. (Legal 500 2008)

Specialising in large-scale litigation and arbitration, 11 Stone Buildings' Max Mallin is noted for his expertise in contractual issues and his affinity with financial markets. "Clients like him a lot" and peers describe him as a "reliable presence" in court. (Chambers & Partners 2008)

His "agile mind" and "prowess in the art of litigation" impressed clients and also ensured the attainment of freezing orders and a judgement for USD4 million. (Chambers & Partners 2007)

Company:

In this sector Max's work is divided equally between contentious matters, in particular section 994 petitions, and pure advisory work. He finds increasingly that drawing an inflexible line between commercial and company work can be unhelpful and that an ability to work in both areas is crucial.

Financial Services:

As a result of his previous career in the City, Max has a particular expertise in disputes arising in the financial services sector and, in particular, in relation to dealings in financial markets. Also, Max's training in the City included extensive training in financial accounting and this has proved invaluable in a number of cases particularly where the cross-examination of expert accounting witnesses has been required.

Fraud:

Max specialises in all forms of commercial fraud litigation. He is recommended in the major legal directories as a leading barrister in this area. Prior to coming to the bar he was employed for 10 years in international investment banking. He was involved primarily in the financial markets, first as a trader and then responsible for running trading operations. As a result Max has a particular expertise in financial fraud, including accounting fraud and fraudulent investment schemes.

Cases of this kind frequently involve extensive use of pre-emptive remedies including Freezing Orders and Search Orders together with various Ancillary Orders. Max has considerable experience and expertise in the planning and implementation of strategies designed to maximise the benefit of such remedies as well as in making/defending individual applications.

Ongoing and Recent Cases:

In June 2008 Max acted for the Respondents to an unfair prejudice petition under section 459 of the Companies Act 1985. The trial lasted 10 days. Judgment is awaited.

Max is acting for the liquidators of the Convergence Group PLC (in liquidation) in proceedings against former directors and others arising out of the insolvency of Convergence.

Max is acting for the Claimant in arbitration proceedings in which the Claimant is claiming a substantial commission in respect of the purchase by the Defendant of a floating production, storage and offloading vessel for use on an offshore oil field.

Lord John (UK) Limited v Brands Holdings Limited Max is acting for the Claimant. The claim is for sums due under an agreement whereby the Defendant purchased, amongst other things, intellectual property rights in relation to the Lonsdale name from the Claimant. The case is set down for trial in July 2008.

Rosenberg v Nazarov and others Max acts for the Claimant. The claim is for the Claimant's share of profits arising out of a partnership arising out of trading with the Tajik Aluminium plant.

SEV v Smith & Others Max acts for the Claimant. The claim is for damages for breach of indemnity/warranties arising out of the purchase by the Claimant of a business from a company previously owned by the Defendants. The case is set down for trial in December 2008.

RM Hodson v M Hodson & Ors Max is instructed on behalf of the Claimant in respect of this claim for about £2 million for breach of fiduciary duty/undue influence and (as against the 4th and 5th Defendants) professional negligence. Max was instructed for the 6 day trial of the action between 23 November 2006 and 7 December 2006 before Patten J. The Claimant was successful against all Defendants. Max is currently advising the Claimant in relation to claims to enforce the judgment against the solicitor partners of the 4th Defendant and in relation to a potential claim against the 4th Defendant's insurer.

Shaw & Ors v Palmer Max is instructed on behalf of about 200 Claimants in respect of a very large timeshare fraud perpetrated by the Defendant, John Palmer (known as "Goldfinger"). The Claimants obtained and held onto freezing orders and got judgment for about £4 million in 2004. Palmer was made bankrupt on the Claimants' Petition in 2005 and Max is now instructed by the Trustee in bankruptcy. In that capacity, Max continues to advise in relation to the complex process of realising assets in Spain and has been instructed on various applications to the English court regarding the ownership of such assets.

Bartercard v Nabarro Wells Max acted for the Claimant which was a company which was listed on the AIM stock market. The Defendant was its Nominated Adviser. The Claimant alleged that the Defendant wrongfully terminated its agreement with the Claimant thereby causing the Claimant to be delisted from AIM and causing it substantial loss. The case settled shortly before trial in March 2008.

Gladstar v Stern Max acted for the Claimant. The Claim was for repayment of very substantial loans made to the Defendants. The Defendants initially applied to strike out/stay the Claimant's claim on the basis that the English court had no jurisdiction in respect of it. This application was dismissed in June 2007. The case was set down for trial in June 2008 but settled shortly before trial.

Dobra v Patel Max acted on behalf of the Claimant. The claim was for fraudulent misrepresentation which induced the Claimant to invest money in a goldmine in Brazil.

Cases Completed in 2007

CFG v GNI Max was instructed by the Claimant in a claim worth several million dollars arising out of large volumes of

foreign exchange trading carried out by the Claimant through the Defendant as its broker. The claim settled in April 2007 following a lengthy security for costs application (and before judgment was delivered).

Aziz v Aziz & Ors Max was instructed by the Claimant on this fraud whereby the Claimant was induced to pay over about £2 million pursuant to fraudulent misrepresentations made by the Tenth Defendant. There were various freezing orders and many other interlocutory applications. The trial of the main action took place between 27 November and 7 December 2006. Max was then instructed in relation to a committal application against the Tenth Defendant. There was a 3 day trial of that application at the end of January following which the Tenth Defendant was committed to prison for three months.

Chaim Kohn v Wagshal & Ors Max acted on behalf of the Defendants. In December 2006 Max (led by Clive Freedman QC) applied for an order setting aside the permission granted to the Claimant to enforce an arbitration award made by the Beth Din. Morsion J dismissed the application. The Defendants were granted permission to appeal to the Court of Appeal but the appeal was dismissed in October 2007.

Smagow v BJB Max acted for BJB. The claim was for some \$13 million said to be due in respect of gold supplied to BJB by Smagow (a Ghanaian company). BJB's counterclaim alleged that Smagow is, in fact, indebted to BJB in approximately the same sum. The action was tried over in July 2006 over 5 days before HHJ Seymour sitting as a Judge of the High Court. Smagow's claim was dismissed and BJB was awarded \$15 million on its counterclaim. Smagow's appeal was dismissed by the Court of Appeal in April 2007.

Barclays v Patel & Ors Max was instructed by the solicitor Defendants (Ds 18 - 20) to this large claim for breach of fiduciary duty and/or negligence. The claim was set down for a four week trial in October 2007 but settled in August 2007.

Shopland & Ors v Foxmead & Ors Max was instructed by the Claimants. The claim was for performance of an agreement whereby the Claimants had sold their interest in a business to the Defendants. The case was set down for a 1 week trial in July 2007 but settled just before trial.

MIP v Campling Max was instructed by the Claimant. The Claimant bought a business from the vendor company. The claim was for losses suffered as a result of misrepresentations made by directors of the vendor company. The case settled following mediation.

Cases Concluded in 2005 & 2006

West Yorkshire Police Authority v Reading Festival Limited Max (led by Robert Englehart QC) was instructed by the Defendant in this claim by the Claimant for fees arising out of its policing of the 2003 Leeds Festival. The Claimant won at trial but the Defendant was successful in its appeal to the Court of Appeal in April 2006.

Al Abood v Tayeb Max was instructed by the Defendant in this Part 8 claim by the Claimant for various relief arising out of the Defendant's role as executor of the Claimant's deceased husband's estate. The claim was dismissed in 2005 and the Defendant successfully resisted the Claimant's appeal in 2006.

British Airways v Blue Flyair Max was instructed by British Airways and other major airlines in relation to this travel agency fraud worth several million dollars. Freezing Orders and other interlocutory relief were obtained in 2005. The action was set down for trial in January 2006 but settled just before trial.

Tramp Oil v SEWT Max represented SEWT (an Iraqi governmental agency) which was sued for a sum in excess of \$70 million by Tramp Oil. The substantive issues between the parties were resolved immediately prior to trial in April 2006.

Maschler v Burnstone Max acted for the Claimant in this action for breach of trust against the estate of a deceased trustee who misappropriated trust funds. The case settled in April 2006 following a successful mediation.

Liquidators of Southern Cross Group PLC v Davenport & Ors Max acted for the Claimants in this action which settled soon after freezing orders were obtained against the various Defendants.

Cases Concluded in 2005

Black & Ors v Davies Max (led by Clive Freedman QC) represented the Claimant. The claim was for damages for fraudulent misrepresentation arising out of the Claimant's copper trading on the London Metal Exchange. The Claimant was successful at trial in 2004 obtaining an order for damages of about \$20 million. Whilst liability was not appealed, in 2005 the Court of Appeal found for the Appellant/Defendant on the issue of quantum.

Kuwait Air Corporation v Iraq Airways Corporation Max (led by Robert Hildyard QC) represented IAC in this long-running, complex litigation. Max was instructed in respect of 2 concurrent actions – "Spares" and "Perjury 2". There was

a trial of Perjury 2 in front of Steel J which finished on 29 April 2005 following an interlocutory appeal to the Court of Appeal on an important issue of principle in relation to legal professional privilege.

ABTA v Nardi – Max was instructed on behalf of ABTA. This was a fraud (worth about £1.2 million) by the ex-head of ABTA's legal department (Nardi). ABTA obtained judgment against Nardi and settled with his wife, Mrs Nardi, just before trial in 2005.