



# Mark Simpson KC

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Mark Simpson KC is an experienced trial and appellate advocate, who particularly enjoys cross examination.

Often described as a "streetfighter", he believes that the keys to winning a case are identifying the big points and knowing the case backwards. He understands that clients need clear, common sense advice from someone they can pick up the phone to.

He has appeared at all levels of the UK courts and also acted in cases in jurisdictions such as Guernsey, Hong Kong and the Cayman Islands. He carries out internal investigations and advises on regulatory issues, for example those involving the SRA, BSB and FRC.

Mark is General Editor of *Professional Negligence and Liability*, the most comprehensive practitioner work in this area which Commercial Lawyer described as "an indispensable addition to the collection of any serious practitioner in the field". He is also Associate Editor of the Journal of Professional Negligence.

# Recent Highlights

## Merricks v Mastercard

Acting for the Class Representative in a £14 billion claim against Mastercard, pursuant to Section 47B of the Competition Act 1988, on behalf of approximately 46 million UK consumers.

#### Sports Direct International Plc v Financial Reporting Council [2020] 1 WLR 1256

Acting for the FRC in an important case on the applicability of the Morgan Grenfell principle (privilege) in relation to regulatory disputes. (leading Rebecca Loveridge).

#### Collapse of Carlyle Capital

Acting as lead advocate for Carlyle Capital on its appeal to the Privy Council against the dismissal of its claim against the directors and investment manager, arising out of the collapse of the company in the financial crisis of 2008

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(settled 2020).	
China Forestry audit	
Acting for the liquidators of China Forestry in a substantial clair Forestry, in the High Court of Hong Kong (settled 2021).	m against KPMG relating to the 2009 audit of China
Breach of solicitor's duty of confidentiality	
Acting for an offshore law firm in a successful appeal against su arising out of alleged breaches of the solicitor's duty of confide	
Expertise	
Civil Fraud	
Notable Civil Fraud cases	
Acting for an alleged intermediary in the 1MDB fraud.	
Advising an investment fund in relation to claims arising out of manager.	an alleged \$500 million fraud by the investment
Advising the shareholders of a household goods company on c fraudulent manager.	btaining a freezing order against an allegedly
Advising a hedge fund in relation to civil claims and potential convestment in a BVI company.	omplaints to the FSA arising out of the loss of its
Acting for a public body to recover substantial sums from the	estate of an allegedly fraudulent dental practitioner.
Commercial Disputes	
Notable Commercial Disputes cases	
Advising Microsoft on the enforcement of its intellectual prope infringers.	erty rights, search orders and claims for fraud against



Advising investors in an aluminium plant in North Africa as to their rights and obligations under the newco's Shareholders' Agreement and Equity Subscription Agreement.
Advising a property company on its various loan facility agreements totalling over £500 million.
Advising a Big 4 accountant on the interpretation of a put and call option agreement in the context of a share valuation.
Acting for a major private bank in defence of a claim by a member of the Saudi royal family arising out of alleged failures in managing a property holding company.
Advising a firm of financial advisers as to the potential judicial review of a decision of the Financial Services Ombudsman.
Competition
Notable Competition cases
Advising a national TV station as to whether its Formula 1 broadcasting contract complied with competition law.
Acting for a FTSE top 10 company in the "follow on" damages claims arising out of a Commission finding that the company and several others were involved in a cartel.
Insurance
Reported Insurance cases
National Farmers Union Mutual Insurance Society v HSBC Insurance Ltd [2011] Lloyd's Rep IR 86
Acting for the claimant insurers in relation to double insurance.
Notable Insurance cases
Advising an insurer as to whether a D&O policy responded to a claim by a partner in an accountancy firm who was the subject of a criminal prosecution.
Advising an insurer in relation to aggregation issues following the decision in AIG v Woodman.



Acting for solicitors' primary layer insurers in relation to aggregation issues arising out of the <i>Innovator</i> litigation.
Acting for solicitors' primary layer insurers in relation to aggregation issues arising out of the <i>Willmett</i> litigation.
Arbitrating an aggregation dispute between solicitors and their insurers arising out of the solicitors' minimum terms.
Advising Lloyds TSB Commercial Finance on a claim against its credit risk insurers.
Advising multiple claimants on aggregation of claims against a firm of financial advisers arising out of film finance schemes.
Advising the insurers of a firm of valuers on aggregation issues under the RICS policy.
Advising the administrators of a tour company in relation to rights under an insolvency insurance policy.
Advising the insurers of a firm of solicitors, facing multiple claims arising out of allegedly fraudulent film finance schemes, on aggregation and indemnity issues.
Advising an insurance company on breach of warranty, waiver/estoppel and fraud in relation to a fire claim.
Advising the insurers of a firm of insurance brokers facing multiple claims arising out of the alleged fraudulent placing of insurance for film finance schemes.
Advising an insurance company on policy coverage in relation to a claim by a housing association arising out of a Court of Appeal decision against them on their entitlement to claim rent arrears from tenants.
Advising an insurance company on breach of condition and non-disclosure in relation to multiple claims arising from an explosion at the insured's premises.
Advising an insurance company on multiple product liability claims arising out of food contamination.
Advising an insurance company as to its potential liability under a professional indemnity policy for multiple claims arising out of a solicitor's involvement in a "cashback" scheme in various states of the USA.
Advising an insurance company as to their liability under a professional indemnity policy for consequential losses





detect fraud.
Advising a Cayman firm of solicitors in relation to potential conflicts of interest and information barriers in relation a case which had been handled by another international office.
Privilege, Confidentiality & Conflicts of Interest
Reported Privilege, Confidentiality & Conflicts of Interest cases
Sports Direct International plc v Financial Reporting Council [2020] 1 WLR 1256
Acting for the FRC in an important case on the applicability of the Morgan Grenfell principle (privilege) in relation to regulatory disputes (leading Rebecca Loveridge).
Financial Reporting Council v Frasers Group [2020] EWHC 2607
Acting for the FRC in dispute concerning the applicability of litigation privilege.
A v B [2020] 1 WLR 3989
Acting for the FRC in a privilege dispute relating to the rights of a third party company to claim privilege in the context of an investigation into its auditor.
Notable Privilege, Confidentiality & Conflicts of Interest cases
Acting for an offshore law firm in an appeal against summary judgment on liability in a \$400 million claim arising ou of alleged breaches of the solicitor's duty of confidentiality.
Sports Direct International plc v Financial Reporting Council [2020] 1 WLR 1256
Acting for the FRC in an important case on the applicability of the Morgan Grenfell principle (privilege) in relation to regulatory disputes (leading Rebecca Loveridge).
Advising a firm of solicitors in relation to potential conflicts of interest following the recruitment of a new partner.

a case which had been handled by another international office.

Advising a Cayman firm of solicitors in relation to potential conflicts of interest and information barriers in relation to



Professional Discipline	
Notable Professional Discipline cases	
Acting for the FRC in relation to potential proceedings against company.	the auditors and finance director of a FTSE 100
Acting for a solicitor in defence of SRA proceedings arising ou High Court.	t of a finding of dishonesty made against him by the
Advising a barrister in relation to proceedings brought against barrister.	them by the BSB alleging defamation of another
Advising the former finance director of an AIM-quoted PLC in FRC.	relation to proceedings brought against him by the
Advising a company in relation to a potential complaint to the	BSB as to the conduct of an opposing barrister.
Advising a solicitor's firm in relation to an SRA investigation in firm's clients.	to and alleged fraud by a partner on various of the
Advising a barrister in relation to proceedings brought against	them by the BSB alleging improper personal conduct.
Advising a barrister in relation to proceedings brought against qualifications.	them by the BSB alleging misrepresentation as to their
Advising a solicitor's firm in relation to alleged breaches of the payments by a financial controller.	Solicitors' Accounts rules arising out of irregular
Advising a barrister in relation to proceedings brought against interest.	them by the BSB alleging that they acted in conflict of
Investigating allegations of fraud against a tax partner in a soli obligations and the subsequent SRA investigation.	citors' firm, advising the firm on its legal and regulatory



## Professional Negligence - Accountants

Reported Professional Negligence - Accountants cases

#### IAP v Rosser [2018] EWHC 756 (Ch)

Acting for the defendant accountants in a £35 million claim arising out of alleged fraud and breach of fiduciary duty in relation to a tax scheme.

#### Mehjoo v Harben Barker [2014] PNLR 24 (CA)

Acting for the claimant in a claim against a firm of accountants arising out of failure to refer him to a firm which specialised in advising non-doms.

#### Pearce v European Reinsurance Consultants [2006] PNLR 142 (ChD)

Acting for the defendant accountants in a claim relating to alleged breach of fiduciary duty in carrying out a share valuation.

Notable Professional Negligence - Accountants cases

Advising the claimant in relation to a claim against a Big 4 firm arising out of a failure to advise on a change in tax legislation.

## Professional Negligence - Auditors

Reported Professional Negligence - Auditors cases

## Sports Direct v Financial Reporting Council [2020] 1WLR 1256

Acting for the FRC in an important case, relating to the 2016 audit of Sports Direct, on the applicability of the Morgan Grenfell principle (privilege) in relation to regulatory disputes.

#### Financial Reporting Council v Frasers Group [2020] EWHC 2607

Acting for the FRC in dispute concerning the applicability of litigation privilege.

#### A v B [2020] 1 WLR 3989

Acting for the FRC in a privilege dispute relating to the rights of a third party company to claim privilege in the

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context of an investigation into its auditor.
Stone & Rolls v Moore Stephens [2009] 1 AC 1391
Acting for Stone & Rolls in a \$100 million claim against Moore Stephens arising out of an alleged failure to detect fraudulent use of letters of credit.
Equitable Life v Ernst & Young [2003] 2 BCLC 603
Acting for EY (led by Mark Hapgood QC) on the strikeout application.
R v Joint Disciplinary Tribunal exp Land [2002] EWHC 2086 (Admin)
Acting for EY on the judicial review of the JDS decision to continue its investigation into EY's audit of Equitable life pending resolution of the civil proceedings (led by Mark Hapgood QC and Tim Dutton KC).
Notable Professional Negligence - Auditors cases
Advising the claimant in relation to a claim against a Big 4 firm involving alleged failure to detect substantial fraud in an overseas company.
Advising a Big 4 firm on substantial claims arising out of alleged audit negligence.
Advising a firm of auditors in relation to a potential claim against them by former clients arising out of alleged underpayment of VAT.
Acting for a top ten firm of auditors in defending a claim arising out of an alleged failure to detect employee fraud.
Acting for a Singapore company in a potential claim against its auditors arising out of an alleged failure to detect management fraud.
Acting for a top ten firm of auditors in a claim relating to the valuation of shares in a private company.
Advising a plc on a claim against a Big 4 firm arising out of negligent failure to audit the stock of a US subsidiary.
Advising a venture capital company on a claim against two firms of auditors arising out of the purchase of a gas supply company.



Acting for a UK University in a claim against the auditors of a subsidiary arising out of employee fraud.

Advising the liquidator of a Cayman fund in relation to a claim against its auditors arising out of an alleged failure to detect fraud.

## Professional Negligence - Barristers

Reported Professional Negligence - Barristers cases

#### Hall v Simons [2002] 1 AC 615 (HL)

Acting for the Bar Council (led by Peter Scott QC, Clare Montgomery KC and David Perry KC) in the landmark case on whether advocates' immunity is justified by public policy.

#### Green v Hancocks [2001] Lloyd's Rep PN 212 (CA)

Acting for the defendant barrister on an application to strike out based on the claim being within the range of non-negligent advice (led by Nigel Davis QC).

#### S v M [1998] 3 FCR 665 (ChD)

Acting for a barrister on a wasted costs application.

Notable Professional Negligence - Barristers cases

Acting for a barrister in a claim for alleged negligent settlement of personal injury proceedings.

Acting for an insurance company in a claim against a barrister in relation to advice as to whether to defend a claim under a personal accident policy.

## Professional Negligence - Financial advisers and investment managers

Reported Professional Negligence - Financial advisers and investment managers cases

#### Raymond Bieber and Others v Teathers Ltd [2014 EWHC 4205 (Ch)

Acting for multiple claimants in claims against a company which formed multiple film and television production partnerships.



Williams v Lishman, Sidwell, Campbell & Price Ltd [2009] PNLR 34
Acting for a firm of financial advisers in relation to alleged mis-selling of pensions.
Notable Professional Negligence - Financial advisers and investment managers cases
Advising the liquidators of an investment fund in relation to a \$1 billion claim against its former directors and investment manager.
Acting for a firm of financial advisers in a claim forming part of a group action arising out of the setting up of an offshore pension scheme.
Acting for a firm of financial advisers on multiple pensions mis-selling claims.
Acting for a firm of financial advisers on multiple claims arising from investments in split capital investment trusts.
Professional Negligence - Insurance brokers
Notable Professional Negligence - Insurance brokers cases
Acting for a firm of insurance brokers in a £3 million claim arising out of an alleged failure to disclose material facts to insurers, and an alleged failure to advise adequately on the level of cover required, in placing a commercial combined policy.
Acting for a firm of insurance brokers in a claim arising out of an alleged failure to disclose material facts to insurers in placing a fire insurance risk.
Acting for insurance brokers on a £1.5 million claim relating to advice on fire insurance.
Acting for insurance brokers in a £5 million professional indemnity insurance claim arising out of alleged late notification.
Professional Negligence - Solicitors
Reported Professional Negligence - Solicitors cases
Guy v Mace & Jones [2012] EWHC 1022 (ChD)



Acting for a firm of solicitors in the defence of a claim for £10 million arising out of alleged negligent conveyancing.

#### Eversheds v Mace & Jones [2012] EWHC 494 (Ch)

Acting for a firm of solicitors in a claim for alleged breach of undertaking arising out of various fraudulent mortgage transactions.

#### Swain-Mason v Mills & Reeve [2011] EWHC 410 (ChD) and Swain-Mason v Mills & Reeve [2011] 1 WLR 2735

Acting for a firm of solicitors in defending a claim for allegedly negligent tax advice, including a successful application to have the first trial judge recused. See also *Swain Mason v Mills & Reeve No 2* [2012] 4 Costs L.O 511 CA) on the issue of costs and refusal to mediate.

#### Lexi Holdings Plc v DTZ Debenham Tie Leung Ltd [2010] EWHC 2290 (Ch)

Acting for a firm of solicitors in defending a claim by a fraudulent lending vehicle in relation to allegedly negligent conveyancing.

Acting (with Michael McLaren KC) for a firm of solicitors in a £25 million claim arising out of alleged failure to seek relevant information at the completion meeting of an MBO (on a subsidiary limitation point see *Finlan v Eyton Morris Winfield* [2007] 4 All ER 143 (ChD).

Acting for the partners of a solicitors' firm in a claim against the SAR reporting accountant arising out of theft by one of the partners.

#### Dubai Aluminium v Salaam [2002] 3 WLR 1913 (HL)

Acting for one of the defendants on the contribution issues.

#### Senior v Pearson [2001] EWCA Civ 229 (CA)

Acting for the defendant solicitors on an amendment application raising the issue of whether the new claim arose out of the same facts as facts already pleaded.

#### Notable Professional Negligence - Solicitors cases

Acting for a firm of solicitors in a claim arising out of advice in relation to a tax avoidance scheme.

Acting for the claimant in a potential claim against a firm of solicitors arising out of alleged negligent advice on settlement.



Acting for the defendant solicitors in a £75 million claim arising out of alleged negligence in drafting documents for an investment fund.
Acting for the defendant solicitors in a \$500 million claim arising out of alleged breaches of the solicitors' duty of confidentiality.
Acting for the defendant solicitors in a claim for repayment of commission paid on completion of a transaction.
Acting for the claimant investment fund in a £120 million claim against solicitors arising out of the drafting of an option agreement relating to profits from a property development.
Acting for the defendant solicitors in a £100 million claim arising out of the collapse of a hedge fund.
Acting for a firm of solicitors in defending claims by multiple claimants arising out of the failure of a Jersey unit trust.
Acting for a firm of solicitors defending 200 claims arising out of lending in the sub prime market.
Acting for a firm of solicitors in a £20 million claim arising out of allegedly negligent failure to register an option notice.
Acting for a firm of solicitors in a £1.5 million claim arising out of allegedly negligent advice on capital gains and inheritance tax planning on the disposal of a family company.
GMAC v Watson & Brown
Acting for the defendant solicitors in 200 potential claims arising out of sub prime buy-to-let mortgage lending.
Acting for the claimants in a claim for £20 million against their solicitors arising out of alleged negligent drafting of documents relating to an option on land.
Acting for a solicitor in a wasted costs application arising out of alleged improper allegations against a government department.
Advising a firm of solicitors in relation to potential conflicts of interest following the recruitment of a new partner.
Advising a Cayman firm of solicitors in relation to potential conflicts of interest and information barriers in relation to



a case which had been handled by another international office.

## Professional Negligence - Valuers

Reported Professional Negligence - Valuers cases

#### MASNOL v Edward Symmons LLP [2013] EWCA 1590 (CA)

Acting for the defendant valuers in the leading case on whether hedging costs are in principle recoverable from negligent valuers.

#### Farley v Skinner [2001] 3 WLR 899 (HL)

Acting for the defendant valuer in a claim arising out of alleged negligence in relation to aircraft noise (now the leading case on damages for distress in professional contracts).

## UCB Corporate Services Ltd v Halifax (SW) Ltd - [1999] CPLR 691 (CA)

Acting for the defendant valuers in a strikeout application for abuse of process.

#### Brick v Colleys Professional Services [1999] Lloyd's Rep PN 309 (CA)

Acting for the defendant valuers in a strikeout application to dismiss the claim as disclosing no reasonable cause of action.

#### The Mortgage Corporation v Halifax (SW) Ltd [1999] Lloyd's Rep PN 159 (QBD)

Acting for the defendant valuers in a claim arising out of the alleged negligent valuation of a house in Bishops' Avenue.

#### Brophy v Dunphys [1998] EGCS 37 (CA)

Acting for the defendant valuers in a strikeout application to dismiss the claim as disclosing no reasonable cause of action.

### Notable Professional Negligence - Valuers cases

Acting for the issuer, Gemini, in a £200 million claim arising out of the alleged negligent valuation of a property portfolio valued at £1.2 billion.



Acting for a secondary lender in 250 claims against valuers arising out of alleged negligent valuation of domestic property.
Acting for the defendant valuers in a claim arising out of the allegedly negligent valuation of a hotel and block of flats.
Acting for a firm of valuers in a claim arising out of multiple alleged overvaluations of a residential development and school.
Acting for a firm of valuers in a claim arising out of the valuation of a development site and two HMOs.
Professional Negligence - Other professions
Reported Professional Negligence - Other professions cases
CNM Estates (Tolworth Tower) Ltd v Vecref I SARL [2020] PNLR 27
Acting for a receiver in a claim arising out of the sale of a large commercial building; applicability of exemption clauses in underlying finance documents.
Trustees of Stokes Pension Fund v Western Power [2005] 1 WLR 3595 (CA)
Acting for Western Power in a claim arising out of alleged negligent damage to the claimant's property.
Raiss v Palmano [2001] Lloyd's Rep PN 341 (QBD)
Acting for the defendant expert on the application to strike out the claim on the basis of experts' immunity.
Notable Professional Negligence - Other professions cases
Acting for various claimants in relation to potential claims against institutions, arising out of their involvement in promoting tax avoidance schemes.
Acting for a firm of receivers in a claim arising out of alleged negligent marketing of a commercial property.
Acting for multiple claimants in litigation against the managing partner of partnerships which invested in unsuccessful TV productions.



Philips Pension Trustees v Bacon & Woodrow
Acting for the defendants in a claim for very substantial loss allegedly arising out of negligent failure to value the liabilities of a pension fund.
Advising an insurance company on a recovery action against actuaries arising out of the valuation of a pension fund
Sports
Reported Sports cases
Warren v Burns [2014] EWHC 3671
Acting for Ricky Burns in defence of a claim by Frank Warren.
Notable Sports cases
Acting for Eddie Hearn in a dispute before the BBBoC.
Advising a Formula One driver in relation to an FIA Court of Appeal hearing.
Advising a premiership footballer on defending a commission claim from an agent.
Advising a premiership footballer on a claim for breach of fiduciary duty against his agent.
Advising a Formula One team in relation to the potential flotation of F1.
Advising a Formula One team on compliance issues relating to the Concorde Agreement.
Advising a broadcasting organisation on its Formula One television rights agreement.
Investigating and advising McLaren Racing in relation to their appearance before the World Motorsport Council following the events of the 2009 Australian Grand Prix.
Advising the Grand Prix Manufacturers' Association in relation to the Concorde Agreement.



Advising a Formula One team on its driver agreements.

# Directory Quotes

"Powerful advocate, goes the extra mile for his clients. Fabulous judgment."
The Legal 500
"If you want a good, aggressive advocate then he's your man." "A heavyweight of the Bar, he leaves no stone unturned and will pursue any point. He's a total streetfighter, a litigator in the real sense of the word."
Chambers & Partners
"Mark is an inspiring, constructive, driven leader who leads his teams well, and is always willing to listen to ideas, and gives his team members opportunities to shine at whatever level."
The Legal 500
"A real street fighter - spectacular in court and a keen litigator. He leaves no stone unturned and is a very good tactician."
Chambers & Partners
"He is a legal powerhouse and a fantastically persuasive advocate A brilliant strategist and a forensic and lethal cross-examiner."
The Legal 500
"He is a fantastic courtroom advocate. Clients love him and he is adept at getting the best possible work product from his legal team." "He is very enthusiastic and positive, which we find an effective approach."
Chambers & Partners
"Mark is a great leader and motivator. He is all over the detail and knows when to go in for the kill."



Chambers & Partners

"Mark is absolutely at the top of his game, gives robust advice and sticks to it, and produces great outcomes."

Chambers & Partners

"A real heavyweight, a leader and a fantastic cross-examiner"; "very hands-on, tactically astute and very enthusiastic."

Chambers & Partners

# Directory Rankings

#### Chambers & Partners

- Professional Negligence (Band 1)
- Professional Discipline

## The Legal 500

- Professional Negligence (Tier 1)
- Professional Disciplinary & Regulatory Law

# Education

- MA, Oxon
- Diploma in Law, City University
- Diploma in EC Law, King's College London

# International Bar / Court Appointments

- Ad hoc admission to the Cayman Islands Bar
- Ad hoc admission to the Hong Kong Bar



# Appointments, Memberships and Prizes

- Commercial Bar Association
- Professional Negligence Bar Association
- British Association for Sport & Law
- Who's Who Legal 2019 ranked #1 of "Most Highly Regarded Professional Negligence Silks"
- Professional Negligence Silk of the Year Chambers Bar Awards 2017
- The Lawyer "Hot 100" 2016

## **Publications**

- General Editor: *Professional Negligence and Liability* (Informa 2000, looseleaf). Described as "a true rival to Jackson & Powell...this is a must have book" (*Professional Negligence Law Review*), "an indispensable addition to the collection of any serious practitioner in the field" (*Commercial Lawyer*), "extremely well written, easy to use, authoritative and up to date" (*Tolleys Professional Negligence*) and "an extremely impressive publication" (*New Law Journal*).
- Associate Editor: Clerk & Lindsell on Torts (19th edn, Sweet & Maxwell).
- Consultant Editor: The Journal of Professional Negligence.

# Languages

• French (competent)

## **Awards**

