



## Lawrence Cohen QC

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### Clerks' Details

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*“Incredibly experienced and fantastic at managing a team. He understands the nuances of operating in different jurisdictions and their working practices.”*

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### Memberships

- Chancery Bar Association
- ComBar
- MCIA

### Publications

- [The effect of 'social evils' on trustees' decisions](#) (2014) *Trusts & Trustees* 20 (9): 882-890
- [Trustee exculpation - the law, the quirks and the business sense](#) (2014) *Trusts & Trustees* 20 (9): 933-942

### Practice Overview

Lawrence's practice centres on complex, high-value business disputes and transactions, often with an offshore or international aspect. Mental agility and a dynamic approach focused on solutions has drawn an enviable international client base.

He has wide experience of financial market and security transactions and investment funds of most kinds. His background in structuring and insolvency as well as offshore trusts and vehicles has been invaluable in recent years of financial market difficulty. Corruption cases, often for governments or statutory bodies such as regulators or authorities set up to manage national assets, are a frequent application of his expertise requiring a powerful court room presence and the ability to tackle factual and expert witnesses effectively yet speedily, even in the most hostile of litigation.

Vitally important tools in Lawrence's work are skills in accountancy and valuation as well as good knowledge of the inside workings of banks and funds. Commercial acumen is an essential in understanding the subject matter and, more importantly, resolving the issues.

2019 and 2020 have seen Lawrence in action in the Bahamas for nearly 7 months, appearing for the Plaintiffs in *Hayward v Striker*, the well-publicised dispute concerning the trust holding 50% of Grand Bahama Port Authority, wresting control of shares from a former trustee alleged to have dishonestly misapplied many millions in favour of one of its directors as well as significant failures in its accounting. He has also appeared numerous times in the Cayman Islands, the British Virgin Islands, the Turks and Caicos Islands and other less usual jurisdictions.

Over many years, Lawrence has been closely involved in Central Bank regulatory work in more than several jurisdictions. This has included CAMEL reviews of banks and financial intuitions and other regulatory actions aimed at protecting against systemic risks.

#### Recent examples of Lawrence's cases give a good feel for his practice:

- *Hayward v Striker & ors* - Successfully defending application to recuse a Judge on grounds of actual or apparent bias after short cross-examination of Applicant and later applying to revise judgment - 11 July 2019 and 5 November 2019; successfully dismissing appeal; see <https://www.bahamasjudiciary.com/judgments/>.
- *Re Colonial Life Insurance Company (Trinidad)* - Advising the board appointed by the Central Bank of Trinidad & Tobago after statutory intervention in this irregularly managed insurance company. The company still holds very large assets measured in \$billions but requiring extensive advice and action to overcome problems.



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## Practice Overview continued

- *Planck v Vitol Holdings II SA and Tinsel SA* – Acting for Claimant in Rotterdam proceedings challenging conversion of ordinary shares into preferred shares with no rights to dividend after conversion. The dividends lost to the shareholder are estimated at about \$200m. The complexity is from a Dutch law shareholders agreement in a Luxembourg company holding shares for all US shareholders of world's largest oil trader. Alleged to be an improper squeeze out in breach of shareholders' agreement. Final Judgment given in late 2018 (transcript available) upholding interim judgement obtained for Claimant in late 2015. Now defending an appeal to Court of Appeal scheduled for January 2021.
- *Symrise AG v Baker & McKenzie* – Successfully defending B&M for negligence in €1.8 billion takeover for alleged defects in structuring and tax advice in Mexico of largest subsidiaries outside Germany – no damage suffered 2015 EWHC 912 (Comm).

Older cases have included appearing for the BCCI liquidators (obtaining \$2.1 billion judgment after full trial for conspiracy) and defending the estate of the late Gen Abacha (accused of stealing c\$13 billion from Nigerian Treasury whilst Head of State).

## Trusts, Tax, Probate and Estates

The special type of private client work fits perfectly into the wider offshore and business practice of this highly experienced and mature silk. He undertakes only a small number of cases each year. All are very high value (often measured in billions rather than millions), complex and require intensive work, sometimes over prolonged periods. Over recent years, he has been instructed by family offices and a small number of very large trusts in connection with their structures and operations.

Three points differentiate Lawrence's practice: (1) almost all trust cases are offshore or international in character rather than domestic, (2) clients are usually the super rich or their family offices or equivalent, (3) he often works on non-contentious issues.

Where litigation is involved, it is often in one of the Caribbean offshore jurisdictions such as Cayman or the Bahamas, where he has appeared in court on literally hundreds of occasions. To thrive in this highly competitive arena of world class players is itself probably the greatest testimony to his standing in this market.

He has a charming but penetrating style that always cuts right through to the heart of the issues. His advocacy is simple, clear and compelling. Perhaps unusually amongst his competitors in this area is his ability to conduct effective but short cross-examinations of difficult witnesses.

## Commercial

Lawrence is a dynamic and exceptionally able silk whose practice is anything but ordinary. In contrast to most other silks working in this sector, he only undertakes a few cases each year. Almost all are long running and require intensive work. The cases are fairly described as high profile, very high value, and complex commercial litigation which are often international in nature. His clients are predominantly financial institutions, other large corporates or professionals such as liquidators.

### Lawrence has worked on:

- Dealing with the problems of an overseas financial institution arising from bad merchant banking transactions and a bad portfolio of investments – confidentiality prevents naming the institution.
- A US\$85m recovery exercise for a Trinidad financial institution with litigation the Turks & Caicos Islands and USA.
- Sitting as an international arbitrator in an arbitration between an investor and the Turks & Caicos Islands Government (unusually, the awards are published and freely available on the internet).
- The Algosaihi cases (a fraud estimated to be of over US \$9bn) with worldwide litigation in many separate lawsuits and arbitrations in several countries.



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## Commercial continued

### Company

The economic climate has brought company capital structures into focus both domestically and offshore. In addition to the plentiful issues encountered with offshore funds, this year has seen Lawrence at work on the re-organisation of the ownership structure and re-domiciling of a well-reputed bank from one Caribbean jurisdiction to another. Accounting issues dealing with impairment provisioning and recognition of revenue are recurring questions.

- *L v L QBD* – taking evidence in aid of proceedings in Texas concerning the valuation of very high-value redeemable preference shares in a multi-national oil trading company. This unique type of share in Dutch and Luxembourg companies had characteristics aligning them to bonds for valuation purposes.
- *Re a Company* – Grand Court of Cayman Islands – members' winding-up petition on the just and equitable ground in a hedge fund which had suspended redemptions and altered its articles with retrospective effect.

### Financial Services

Lawrence has in-depth experience in several parts of the financial services sector. The operation of mutual funds, such as hedge funds and venture capital funds in Cayman and BVI with management in London and New York, are familiar territory as is the operation of banks.

In fund work, liquidity issues and consequent strategies of gating (suspension of redemptions), distributions in kind, side-pocketing and restructuring have all been active topics as have managers, administrators and other professionals' liability. In other institutions such as banks, examining disastrous investments and devising recovery strategies as well as dealing with the implications on balance sheet strength and liquidity all continue to feature. Lawrence has published articles in both *The Times* (Business News) and *The Financial Times* dealing with topics such as unsatisfactory hedge fund valuation practices (e.g. mark to model rather than to market).

This is an area where few decided cases can be mentioned – by the time of reaching the court room (e.g. ISDA Master Agreements modified by Lehmans), attempts to navigate through uncharted legal and commercial waters will usually have failed.

### Insolvency

Lawrence Cohen QC has over his years in silk dealt with some spectacular insolvencies which have included BCCI and Maxwell and advising MG Rover in connection with transactions aimed at rescuing their business.

With the exceptions of the well known SphinX funds collapse in Cayman in the wake of the Refco fraud and advising the provisional liquidators in the BVI case allegedly concerning state assets of the Congo, few of the high-profile matters being dealt with can be discussed.