



Max Mallin QC

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“Approachable and client-focused, he is ferociously intelligent”

Chambers & Partners, 2017

Practice Overview

Max has a broad commercial practice covering a wide range of contractual and other business disputes (including commercial fraud) often with a significant international element. In recent years, he has acted on an increasing number of shareholder disputes (principally unfair prejudice petitions and derivative actions). Recognised as a **“tough opponent”** and a **“superb cross-examiner”** in Chambers & Partners, Max is highly valued by his clients as an extremely effective trial advocate.

Prior to coming to the Bar, Max had a successful career as an investment banker and trader which gives him a first-hand understanding of financial markets and products (including complex derivative instruments). This background has proved invaluable in the financial markets and related disputes for which Max is regularly instructed. A facility with numbers (Max has been described as having a **“tremendous head for figures”**) and a real understanding of finance has also proved of great benefit in other areas of his practice (e.g. claims for loss of profits and share valuation issues) and gives him a great advantage when cross-examining expert accounts in such areas.

Max has well-recognised experience and expertise in commercial fraud claims and specialises in obtaining and responding to freezing injunctions and all related pre-emptive remedies. In common with other areas of his practice, this frequently involves significant jurisdiction and applicable law issues. Max is also regularly instructed in relation to international arbitrations governed by bodies including the ICC, the LCIA and the LME.

Specific practice areas include: contractual disputes (including distributorship/agency agreements and guarantees/indemnities); company law disputes (including unfair prejudice petitions and derivative actions); financial markets disputes; commercial fraud; IT disputes; partnership claims; professional negligence (particularly in relation to accountants and financial advisers); jurisdiction and applicable law disputes; arbitration.

Recent significant cases include:

- **AC Scout v Ebullo & Ors** (Commercial Court) Max acts for the Claimant in this large claim for damages for conspiracy to injure arising out of wrongful trading in Tin futures on the London Metal Exchange. The case is set down for a 3 week trial in July 2017.



Practice Overview continued

- ***Phillip Ivey v Genting Casinos UK Limited*** Max acts for the Claimant in this claim for damages for breach of contract in refusing to pay the £7.7 million which the Claimant won gambling at the Defendant's casino. After a 6 day trial in October 2014, the Claimant's claim was dismissed but the Claimant was then granted permission to appeal. In October 2016, the Claimant lost the appeal by a majority of 2:1 but was granted permission to appeal to the Supreme Court in March 2016. The hearing of the Claimant's appeal to the Supreme Court is to be heard in July 2017.
- ***HTV Limited v ITV2 Limited*** Max acts for the Claimant in this claim for damages for breach of a TV Production Agreement. The Claimant was successful after a 3 week trial in July 2015 and was awarded about £4 million in damages for lost profits. The Defendant was refused permission to appeal on paper but obtained limited permission at an oral hearing in October 2016. The appeal is listed to be heard by the Court of Appeal in October 2017.
- ***Re TPD Investments*** [2017] EWHC 657 (Ch) Max acted for one of the principal respondents to this section 994 Petition. After a 5 week trial in February/March 2017 before Asplin J, the Petition was dismissed as against Max's client.
- ***Eminent Energy & Ors v Daxin Petroleum*** (Commercial Court) Max acted for the Claimant in a claim initially concerned with obtaining release of a cargo of Naphtha held in Latvia. In 2016, he successfully applied for a without notice injunction to prevent disposal of the naphtha by the Defendant (an Estonian company). The Defendant counterclaimed alleging widespread fraud on the part of the Claimant and others. The case settled after Max made a successful application for security for the Claimant's costs of the Defendant's counterclaim. The application was vigorously opposed and gave rise to an important judgment which is reported at [2016] EWHC 2585 (Comm).
- ***Natural Instinct Limited & Ors v Brock & Ors*** (QBD) Max acted for the Claimants in this claim for equitable compensation for fraudulent misappropriation of company funds by former directors which was set down for trial in 2017. There were also cross-994 Petitions. The claims settled at a mediation in March 2017.
- ***Re African Safari Club Limited*** (in liquidation) (Chancery Division) Max acted for the applicant liquidators in this claim for equitable compensation for fraudulent misappropriation of company funds by former directors (one of whom was out of the jurisdiction). The claim was set down for a 5 day trial in April 2017 but settled shortly before trial.
- ***Nextam v Mughal & Ors*** (QBD) Max acted for the Claimant in this substantial fraud claim against a former director of the Claimant. Max obtained a number of interlocutory orders including freezing injunctions and passport orders. The Claimant then instructed Max to apply to commit the Defendant for breach of the freezing injunction and the Defendant was committed to prison for 4 months in March 2016.
- ***Gigsky APS v Vodaphone Roaming Services Sarl*** Max acted for the Claimant in this substantial claim for specific performance (or damages for breach) of a telecommunications contract. In October 2015, Max obtained an urgent without notice injunction requiring the Defendant (domiciled out of the jurisdiction) to reinstate and maintain its network service to the Claimant. Max held onto the injunction after a significant challenge by the Defendant on the return date and the case settled shortly thereafter.



Civil Fraud

Max is a "*well regarded*" civil fraud practitioner whose financial background makes him an ideal choice for complicated asset tracing claims. He is recommended by both Chambers UK and The Legal 500 who refer to the fact that he has a "*very quick mind*" and "*gives clear directional guidance*".

Some of his recent work includes:

- *Eminent Energy v Daxin Baltic*. Max acts for the Claimant in this Commercial Court claim for damages and declarations arising out of the supply of Naphtha to the Claimant by the Defendant. The Defendant alleges fraud and conspiracy. In March 2016, Max obtained an urgent without notice injunction to prevent the Defendant from disposing of a quantity of Naphtha held at a storage facility in Latvia. The case will come to trial in 2017.
- *Nextam v Mughal*. Max acted for the Claimant in his claim for breach of fiduciary duty/fraud against a former director. Max obtained a number of urgent interlocutory orders (including freezing and disclosure orders) before obtaining judgment for about £2 million in October 2015. Max also represented the Claimant in its application to commit the Defendant to prison for contempt of Court. Following a 4 day hearing, Whipple J committed the Defendant to prison in March 2016 [2016] EWHC 367 (QB).
- *In the matter of African Safari Club Limited* (in liquidation). Max acts for the liquidators in this claim against ex-directors for fraud/breach of fiduciary duty and compensation under sections 212 and 214 of the Insolvency Act 1986. The case is set down for trial in March 2017.
- *ICF v Mistry*. Max acted for the Claimant in this claim for damages/equitable compensation against an ex-director of the claimant company. Max obtained a freezing injunction on very short notice in March 2016.
- *African Land Ltd v Haddow & others*: Max acted for the Claimant in this high value action for fraud and breach of contract in relation to investment in plots of land in Sierra Leone. Max obtained a number of interlocutor orders on behalf of the Claimant including freezing injunction prior to the settlement of the case.
- *NASS v Innospec* [2014] EWHC 3147 (comm): Max acted for the Claimant in this multi-million dollar claim for damages for conspiracy to bribe Iraqi officials to induce them to buy a competitor's petroleum products.