

## MARK HARPER QC

Year of call: 1993  
Year of silk: 2016

Clerked by: Gary Young Harry Young

**AREAS OF EXPERTISE:**

Banking & Finance Arbitration Company Commercial  
Litigation Insolvency Partnership Professional Negligence  
Real Estate Litigation Sport



## Insolvency

Mark regularly provides advice and representation in relation to all issues arising out of corporate and personal insolvency with particular emphasis on (a) contentious proceedings in relation to allegations of misfeasance, transactions at an undervalue, preference and transactions to defraud creditors; (b) challenges to the appointments and/or decisions of office holders; (c) income payments orders in the context of personal bankruptcy and (d) suspension of discharge in the context of personal bankruptcy. This aspect of Mark's practice also includes Company Director Disqualification and Public Interest Winding Up with him building on the experiences he had whilst acting for the Secretary of State for in excess of 12 years.

### Significant/Reported Cases

**Darren Neil Masters v Barclays Bank Plc** [2013] EWHC 2166(Ch) -jurisdiction to hear a bankruptcy petition under the Insolvency Act 1986 s265(1)(c)(ii) in respect of a debtor ordinarily resident in Florida in connection with aircraft financing agreed within the jurisdiction.

AG (Manchester) Ltd (formerly Accident Group Ltd) (In Liquidation), Re [2008] EWHC 64 (Ch); (acting for former Finance Director of the Accident Group in relation to Directors Disqualification Proceedings)

**Secretary of State for Trade & Industry v Thornbury** [2008] BCC 768 (Crown Debts allegation in Directors Disqualification Proceedings)

**Customs & Excise Commissioners v Anglo Overseas Ltd** [2004] EWHC (Ch) 2198 (disputed winding up petition in relation to unpaid excise duty claimed from innocent guarantor following "slaughtering" of consignments)

**Secretary of State for Trade & Industry v Gill & others** [2006] BCC 725 (Directors Disqualification Proceedings arising out of insolvency of World of Leather and Uno)

**Secretary of State for Trade & Industry v Gill & others** [2005] BCC 24 (amendments in Directors Disqualification Proceedings)

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### Profile

Mark is a member of the Business and Property team in Chambers. As evidenced by his ranking in Chambers & Partners as a leading silk across 6 practice areas, he is viewed (by peers, solicitors and clients) as the "complete all-rounder" being equally adept at all aspects of the advocate's role which he couples with tactical/strategical acumen and an affable and approachable style. His skills and reputation as a robust cross-examiner mean that he is particularly sought after for trial work.

Mark appears regularly in the Court of Appeal, High Court and in Arbitrations.

**Year of Call:** 1993

**Year of Silk:** 2016

**Areas of Expertise**

Arbitration

Banking & Finance

Commercial Litigation

Company

Insolvency

Partnership

Professional Negligence

Real Estate Litigation

Sport

### **Memberships**

Chancery Bar Association

Northern Chancery Bar Association

Northern Circuit Commercial Bar Association

### **Recent Reported Cases**

*Maheer v Maheer* - Chancery Division [2019] EWHC 3613 (Ch) 26 Nov 2019 - Civil evidence; Trusts - Bank statements; Removal; Specific disclosure; Trustees

*Robert Glew and Denton and Co Trustees Ltd v Matossian-Rogers* - Chancery Division [2019] EWHC 3183 (Ch) 22 Nov 2019 - Company law; Civil procedure - Breach of fiduciary duty; Derivative claims; Directors' powers and duties; Minority shareholders; Permission to issue

*Buckingham Homes Ltd v Rutter & Others* [2019] EWHC 1760 (Ch) - successfully acted for the defendant directors in defending a claim that they had breached their statutory duties by selling a property as opposed to retaining and developing it

*Re Audas Group Ltd* [2019] EWHC 2304 (Ch) - successfully acted for the petitioner in establishing that he had been unfairly prejudiced as the majority shareholders had dismissed him when acting in bad faith and/or for improper purpose, had not offered him fair value for his shares and had managed the company post his exclusion without complying with the terms of the Shareholders Agreement

*Zavarco Plc v Nasir* [2017] EWHC 2877 - requirement for subscriber shares of €36 million to be paid in cash and the interaction between sections 584, 593 and 594 CA 2006

*Philbin v Davies* [2018] EWHC 3472 - setting aside a statutory demand presented on the basis of the alleged shortfall debt under a consumer loan where the agreement was subject to an unfair relationship challenge and there was a claim that the security had been sold at an undervalue.

*Re Capital Funding One Limited (in Administration)* [2017] EWHC 3567 - issue as to what were the applicable repayment terms under a loan and therefore whether or not Administrators had been validly appointed

*Utilise TDS Ltd v Neil Davies & others* [2016] EWHC 2127 - whether or not an implied term reserving the Cs' rights to proceed with claims against other defendants was to be implied into a contract of settlement

### **Publications**

"Can I have my deposit back please" (insolvency position where consumer deposits are used to fund insolvent companies) [2014] 6 CRI 225

"Fiduciary Duties owed to the excluded shareholder" (with Lesley Anderson QC) *Law & Financial Market Review* January 2013

### **Qualifications and Awards**

Downing College, Cambridge - Law MA Hons (1989 - 1992)

Hardwicke Scholar (Lincoln's Inn)

### **Recommendations**

**Legal 500, 2020**

"Has excellent bedside manner with clients."

### **Chambers UK 2020**

"He turns work around very quickly and considers all aspects of a case. He doesn't get lost in the minutiae and gets immediately to the crux of the matter. He's very quick, bright, easy to work with and his written work is excellent." "He's very personable and approachable."

"Harper gives very concise, clear and firm advice. He is not afraid to express his opinion and most importantly he inspires confidence in his clients." "He has a good style and a very good grasp of the law. He is strong in court, has a persuasive advocacy style and judges listen to him."

"A brilliant barrister who is great on his feet and very good with judges. He's user-friendly and extremely responsive."

"He is a good team player. Clients like him and he is an intelligent, brilliant lawyer." "His oral advocacy is very smooth, very sweet and very persuasive."

"He is extremely good on his feet and has very good analytical sense." "He is clear and authoritative, has good legal knowledge and, most importantly, he inspires confidence in his clients."

"He prepares well and very quickly, and he's very client-friendly. His advice is easily understandable." "He is very good at cutting through detail to provide practical advice and develop successful strategy."

### **Chambers UK 2018**

"Mark is astute and commercial, as well as being dependable and widely admired."

"Very calm, level-headed, approachable and methodical. He's forceful without being aggressive."

"He has excellent commercial awareness and, having seen him in court, he is an exceptional advocate." "He is very organised, clear and a very nice chap."

"An impressive advocate who is highly approachable, very practical and structured in his thinking and gives sensible commercial advice with no waffle."

"He's very thorough, personable and incisive. An excellent advocate who focuses on the key issues."

### **Legal 500 2018**

'He has a great bedside manner with clients.'

### **Legal 500 2017**

'A team player throughout the litigation process.'

### **Chambers UK 2017**

"The speed at which he can turn things round is incredible. He is a great advocate who is quick at thinking on his feet, and his way with the judiciary is great." "He is fantastic."

"His reputation is excellent and he gives a first-rate service to clients." "He is very pragmatic, very user-friendly and very good on his feet."

"He's always a very safe pair of hands - excellent and good with clients, he is short and succinct in his advice, which goes down well." "He's a class above most and very good on his feet before a judge."

"An excellent trial advocate who excels at tough cross-examination." "He's always a very safe pair of hands. He's excellent, good with clients, and short and succinct in his advice which goes down well."

### **Chambers UK 2016**

"Technically excellent."

"A safe pair of hands and very commercial."

Recent work: Represented Travel Counsellors against Barclays Bank in claims alleging the mis-selling of an interest swap product and the improper deduction of 'fees' from accounts.

"An extremely capable lawyer and a very hard worker. He leaves no stone unturned in seeking out the detail of a matter and is confident in his own abilities. He has the hallmark of quality."

"Forthright, exceptionally commercial and gets straight to the nub of the issue - exactly what the clients want."

### Chambers UK 2015

"He's pragmatic and very user-friendly, and his advocacy is also excellent."

"When you see that you're against him your heart sinks." "He's an astute tactician. He doesn't sugar the pill, and clients certainly appreciate that."

"He is quietly and efficiently effective."

"He is very quick at spotting the issues and distilling them down into simple advice and action."

### Chambers UK 2014

"He always gives a consistent performance in court. He is softly spoken, measured and always gets on with judges - that's how he wins cases."-

"He provides a superb all-round service, combining strong technical skills with a personable approach. He is regarded as one of the best in his field in commercial litigation."

"He is very bright and effective - I would not hesitate to instruct him."

### Legal 500 2014

"A must-go-to junior counsel"

### Chambers UK 2013

"Mark Harper is a barrister with a strong commercial chancery practice. He focuses largely on unfair prejudice petitions. According to one interviewee: "You can drop him into any situation and he will rise to the challenge."

"Mark Harper receives praise for his "strong advocacy skills." He is especially adept at cross-examination as "he is able to identify and exploit weaknesses in his opponents to great effect. "He has notable expertise in matters such as shareholder and commercial disputes, professional negligence cases and restraint of trade matters"

"Mark Harper who is sought out by instructing solicitors for his experience in the asset finance sector. He is recommended "

