

# Marcus Haywood

Called to the Bar 2002

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Marcus specialises in domestic and cross-border insolvency/restructuring, banking and financial services, commercial litigation and company law.

In recent years, Marcus has appeared in many high profile cases including *Ahmad Hamad Algosaibi & Brothers v Saad Investment Company Ltd and Others* (see below), *Heis v Financial Services Compensation Scheme Ltd* (CA) (construction of a company voluntary arrangement relating to *MF Global UK Limited*), *Citibank NA v Oceanwood Opportunities Master Fund* (conflict of laws, construction of intercreditor agreement), *Re Olympic Airlines SA* (SC) (secondary insolvency proceedings in respect of former Greek national airline), *Brazzill v Willoughby*(CA) (status of monies deposited in an account with the Bank of England by *Kaupthing Singer & Friedlander*) and *HHY Luxembourg SARL v Barclays Bank* (CA) (construction of an inter-creditor agreement).

Marcus also has very significant offshore legal experience. Most recently in this regard, Marcus has been engaged in the trial and subsequent appeal of *Ahmad Hamad Algosaibi and Brothers Company's* US\$9bn claim in the Cayman Islands against various companies which previously formed part of the *Saad Group*. The trial was the largest which had ever taken place in the history of the Cayman Islands and one of the largest fraud claims ever litigated.

Marcus is recommended in the most recent edition of the Chambers & Partners UK Bar Guide for restructuring/insolvency and offshore, where he is described as “*very pleasant, hard-working and has a nice manner in front of the court*” and “*very astute, responsive and pragmatic.*” In previous editions of the Guide he has been described as “*an incredibly dependable and hard-working junior*”, “*pragmatic, exceptionally user-friendly and a compelling advocate*”, “*exceptionally bright, has great opinions and brings real value to a case*” and “*a strikingly pleasant person to deal with, but no less effective for being so*”.

Marcus was appointed to the Attorney General’s London B Panel in September 2020.

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## Insolvency and Restructuring

Recently instructed in connection with a variety of high-profile administrations and liquidations, including *Ahmad Hamad Algosaibi & Brothers v Saad Investments Company Ltd*, *MF Global*, *Lehman Brothers*, *Kaupthing*, *Parmalat* and *Olympic Airlines*.

Recent cases include:

- ***Ahmad Hamad Algosaibi & Brothers v Saad Investment*** From June 2016 to August 2017, Marcus was engaged in the trial of *Ahmad Hamad Algosaibi and Brothers Company's* US\$9bn claim in the Cayman Islands against various companies which previously formed part of the *Saad Group*. Marcus successfully acted for the liquidators of *Saad Investments Company Limited*. Marcus also appeared before the Cayman Islands Court of Appeal in the summer of

2019 on the hearing of AHAB's appeal in relation to the case.

- *Re Fortuna Fix Ltd (In Administration)* [2020] EWHC 2369 (Ch), administrators' application for directions following the rejection of their administration proposals.
- *Heis v Financial Services Compensation Scheme Ltd* [2018] EWCA Civ 1327 (CA), construction of company voluntary arrangement in relation to MF Global UK Limited
- *Re Watford Printers Ltd* [2018] EWHC 329 (Ch) application for directions by liquidator in relation a surplus that had arisen in the course of a co-operative societies' voluntary liquidation
- *Re Saad Investments Co Ltd* [2017] B.P.I.R. 1700, private examination in the context of a large international insolvency; costs
- *Re Olympic Airlines* [2015] 1 W.L.R. 2399 (SC), secondary insolvency proceedings in respect of former Greek national airline; meaning of "establishment" for the purposes of the EC Regulation on Insolvency Proceedings
- *Re Christophorus 3 Ltd* [2014] EWHC 1162 (Ch), application for administration order in relation to the restructuring and refinancing of the predominantly German-based Auto-Teile-Unger ("ATU") group, construction of inter-creditor agreement
- *Docker v Rose* [2014] B.P.I.R. 535, construction of consent order in relation to sale of property by trustee in bankruptcy
- *Bank of Ireland v Gill* [2013] EWHC 2996 (Ch), bankruptcy; application to set aside an order staying execution of a statutory demand
- *Re Olympic Airlines* [2013] EWCA Civ 218, security for costs of appeal
- *Re European Directories* [2012] BCC 46, administration orders; location of a company's centre of main interests
- *Re Rayford Homes* [2011] EWHC 1948 (Ch), construction of an inter-creditor agreement
- *In re Dairy Farmers of Britain* [2010] Ch 63, whether an industrial and provident society was a "company" for the purposes of Part III of the Insolvency Act 1986
- *Re Zenga III Holdings* [2010] BPIR 277, application for removal of an administrator
- *HHY Luxembourg SARL v Barclays Bank* [2010] EWCA Civ 1248, construction of an inter-creditor agreement
- *Re Capitol Films* [2010] EWHC 3223 (Ch), costs order against administrators
- *Re Capitol Films* [2010] EWHC 2240 (Ch), application by administrator for permission under the Insolvency Act 1986 Sch B1 para 71 to dispose of property subject to security
- *Re A Company* [2009] EWHC 387 (Ch), disputed winding up petitions
- *Butters (Joint Administrators of WW Realisation 8 and Woolworths Group v BBC Worldwide)* [2009] BPIR 1315 (CA), dispute relating to a joint venture agreement and the application of the anti-deprivation principle

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## Banking and Finance

Cases include:

- *Citibank NA, London Branch v Oceanwood Opportunities Master Fund* [2018] EWHC 448 (Ch), application by security trustee for directions in relation to the construction of an inter-

creditor agreement

- **Citibank NA, London Branch v Oceanwood Opportunities Master Fund** [2018] EWHC 305 (Ch), jurisdiction dispute in relation to application by security trustee for directions in relation to the construction of an inter-creditor agreement
- **Re Christophorus 3 Ltd** [2014] EWHC 1162 (Ch), construction of inter-creditor agreement
- **Brazzill v Willoughby** [2010] 2 BCLC 259 (CA), status of monies deposited in an account with the Bank of England by Kaupthing Singer & Friedlander Ltd prior to its collapse
- **National Westminster Bank v Spectrum Plus** [2005] 2 AC 680 (HL), charges over book debts

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## Commercial Litigation and Arbitration

Cases include:

- **Ahmad Hamad Algozaibi & Brothers v Saad Investment** year-long trial and subsequent appeal in the Cayman Islands of one of the largest banking fraud claims ever litigated
- **Citibank NA, London Branch v Oceanwood Opportunities Master Fund** [2018] EWHC 448 (Ch), application by security trustee for directions in relation to the construction of an inter-creditor agreement
- **Citibank NA, London Branch v Oceanwood Opportunities Master Fund** [2018] EWHC 305 (Ch), jurisdiction dispute in relation to application by security trustee for directions in relation to the construction of an inter-creditor agreement
- **ETI Euro Telecom International NV v Republic of Bolivia** [2008] EWCA Civ 880, ICSID arbitrations and injunctive relief

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## Company

Cases include:

- **Wilkinson v West Coast Capital** [2005] EWHC 1606 (Ch), unfair prejudice petition involving the Gadget Shop
- **Fidelity Investments International v My Travel Group** [2005] 2 BCLC 123 (CA), schemes of arrangement

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## Fraud

Cases include:

- **Ahmad Hamad Algozaibi & Brothers v Saad Investment** year-long trial and subsequent appeal in the Cayman Islands of one of the largest fraud claims ever litigated

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## Offshore

Marcus has very significant offshore legal experience. Most recently, Marcus has been engaged in the year-long trial and subsequent appeal in the Cayman Islands of Ahmad Hamad Alghosbi and Brothers Company's US\$9bn claim against various companies which previously formed part of the Saad Group. Prior to this, Marcus has worked on a number of significant offshore cases including:

- ***Parmalat***, advising the liquidators of various Cayman Islands companies including in connection with litigation in the Privy Council
  - ***Marrache & Co***, in connection with substantial litigation against, amongst others, Jyske Bank in Gibraltar
  - ***Rye Select Broad Market XL Portfolio Limited***, advising the liquidators of this Madoff related fund in connection with various aspects of the Cayman Islands liquidation
- Marcus has been called to the bar of the Cayman Islands and Gibraltar on case specific bases. Marcus also has experience advising in relation to cases in the British Virgin Islands.

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## Other

Other notable cases include:

- ***Regina v Attorney General***[2006] 1 AC 262, a case of major constitutional significance that involved a challenge to the validity of the Parliament Act 1949 and the Hunting Act 2004

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## Awards and Recommendations

Chambers & Partners 2019 Recommended in Restructuring / Insolvency and Offshore

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## Career

2013 Called to the Bar of the Cayman Islands (case specific)

2015 Called to the Bar of Gibraltar (case specific)

2002 Called to the Bar of England and Wales

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## Memberships

Insolvency Lawyers Association (Member of Technical Committee)  
Chancery Bar Association  
Commercial Bar Association

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## Publications

Editor of *Butterworths Insolvency Law Handbook* (Glen Davis QC, Marcus Haywood, LexisNexis)  
Contributor to *Company Directors: Duties, Liabilities and Remedies* (Simon Mortimore QC, OUP, 2017)  
Contributor to *European Cross Border Insolvency* (Marshall and Herrod, Sweet and Maxwell)  
Contributor to *Gore-Browne On Companies* (Jordans)  
Contributor to *EU Banking and Insurance Insolvency* (Moss and Wessels, OUP, 2006)

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## Education and Qualifications

2000 City University, Postgraduate Diploma in Law  
1999 Mansfield College, Oxford University, BA (Hons) Modern History

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## Prizes and Scholarships

Tancred Scholar (Lincoln's Inn)  
CPE Award (Lincoln's Inn)  
Hardwicke Scholarship (Lincoln's Inn)

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