

Mark Phillips KC

KC1999, Called to the Bar 1984

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Mark Phillips KC is an experienced Silk. A KC(QC) for 25 years (at the Bar for 40). Legal500 said: *'Vastly experienced, quite probably the most so in the insolvency and restructuring space. Pragmatic and no-nonsense barrister, comes to a clear view and gives advice rather than just pointing out risks.'* Mark has appeared in courts at every level and in several jurisdictions. He successfully represented liquidators in the Hong Kong Court of Appeal establishing that 'Keepwell Deeds', running into US\$ billions, gave rise to provable debts against Chinese entities.

His clients have included the Governor of the Bank of England, UEFA and the Football League as well as liquidators, directors, sportsmen (including Patrick Vieira, Thierry Henry and Lewis Hamilton) and premier sports clubs. He was named as Chancery Silk of the Year by Legal 500 in 2023 and Company/Insolvency Silk of the Year by Chambers and Partners in 2018. This year he was Highly Commended, runner up in the Lawyer Barrister of the Year.

In his autobiography "Calling the shots" David Dein, formerly the Vice Chairman of Arsenal, says of Mark "We retained the brilliant Mark Phillips QC. He really does have two brains! (As already mentioned, he went on to play a significant part in the legalities when we formed the Premier League.)"

Mark operates at the highest level, winning complex cases in the highest courts. His first appearance in the Court of Appeal was at the start of his practice in 1986 in the ground-breaking case, *West Mercia Safetywear v Dodd*. Subsequently, he has led or has appeared in many cases in the House of Lords and Supreme Court including the Lehman's Pensions appeal, *Toshoku Finance*, *Paramount Airways*, *Leyland Daf*, *Sher v Policyholders Protection Board* and *Three Rivers District Council v the Governor and Company of the Bank of England*.

Mark is especially well known for his tenacity in cross examination and resilience during long trials. He successfully defended the Bank of England in a two-year trial against the claim made arising out of its regulation of BCCI (which included the longest speech in English legal history) - the claim was dismissed with indemnity costs. He also defended the GT Liquidators in the Saad fraud trial that lasted for 129 days in Court over 12 months (the longest trial in Cayman history) - the claim against his clients was dismissed.

Mark also has a high-profile sports law practice. He was involved in the establishment of the Premier League for the "big 5 clubs". He has appeared at several disciplinary and regulatory hearings. He prosecuted Manchester City on behalf of UEFA, and Sheffield Wednesday and Derby County on behalf of the Football League and has appeared for Lewis Hamilton in relation to several matters including the "Ferrari Gate" hearing. He has assisted with the future of football regulation and the EFL's covid task force.

Insolvency, Restructuring and Chancery/Commercial litigation

Mark's reported cases include (in reverse chronological order):

- ***Nuoxi Capital Ltd and others (In Liquidation in the British Virgin Islands) v Peking University Founder Group Company Ltd***, [2024] HKCA 445; [2021] HKCU 6170, [2021] HKCFI 387, whether Keepwell Deeds give rise to a right to prove in a Mainland China reorganisation
- ***Re: Servis-Terminal Limited Liability -and- Mr Valeriy Ernestovich Drelle***, [2024] EWHC 521 (Ch), on appeal from [2023] EWHC 506 (Ch) [2023] All ER (D) 43 (Mar), for the petitioning creditor, Servis Terminal, on a petition founded on a Russian judgment debt.
- ***Re: Real Assets (RA) Global Opportunity Fund I Limited BVIHC (Com) 2024/0058***, for the Joint Provisional Liquidators on applications to remove them and on the approval of share transfers.
- ***Re: Sova Capital Limited (In special administration)***, [2023] EWHC 452 (Ch), [2023] All ER (D) 24 (Mar), special administration - approval of an unsecured credit bid for assets held in Russia
- ***Re: Petropavlovsk plc (in administration)*** [2022] EWHC 2097 (ch) [2022] AER (D) 63 (Dec), special administration of entity holding Russian gold mines
- ***Re: Sberbank CIB (UK) LTD***, [2022] EWHC 1059 (Ch) special administration of Russian bank
- ***Re: Utility Point Ltd and others*** [2022] EWHC 2826 (Ch), [2022] EWHC 2826 (Ch), [2022] 11 WLUK 142, rights of Ofgem and Suppliers of Last Resort to prove in administration of an energy company
- ***Re: Chu Kong and (1) Ocean Sino Limited (2) David Yen (3) Chan Pui Sze (Nicole) (4) Roy Bailey (5) John Greenwood (6) Lau Wing Yan***, [BVIHCMAP2021/0048], representing the Joint Liquidators on the removal application and appeal and investigating the alleged
- ***In the matter of LB Holdings Intermediate 2 Limited (in Administration); and in the matter of Lehman Brothers Holdings plc (In administration)*** [2020] EWHC 1681, ranking of subordinated debt Court of Appeal: [2021] EWCA Civ 1523, [2021] EWCA Civ 1523, [2022] L.R. 10, [2021] 10 WLUK 239, [2022] 2 B.C.L.C. 513, [2022] B.P.I.R. 459 [2021] All ER
- ***Re: Silentnight Ltd***, representing the administrators in proceedings before the (2021)
- ***Re: Moises Gertner & Laser Trust -v- CFL Finance Ltd***, [2020] EWHC 1241 (Ch), [2020] EWHC 1241 (Ch), [2019] 7 WLUK 918, [2020] P.I.R. 752, [2020] C.T.L.C. 241 [2020] All ER (D) 147
- ***Re: Cooper v VB Football Assets re Blackpool Football Club***, [2019] EWHC 1599 (Ch) [2019] All ER (D) 01 (Jul)[2019] EWHC 1599 (Ch), [2019] 4 L.R. 93
- ***Geoffrey Lambert Carton-Kelly (As Additional Liquidator of Comet Group Limited (In Liquidation)) v Hailey Acquisitions Limited*** [2019] EWHC 2697, successfully defending Harbinger against the claim of the liquidators of Comet Group
- ***Ahmad Hamad Algozaibi et al v Saad Investments Company Limited et al*** [2018] (3) CILR 1 [FSD 54 OF 2009 (ASCJ)], 12 month trial of fraud allegations against SICL (in liquidation), claim
- ***Re: Toys "R" Us Properties (UK) Limited***, [2018] EWHC 3848 (Ch) [2018] 12 WLUK 273
- ***Fibria Celulose S/A v PanOcean Co Ltd*** [2014] EWHC 2124 (Ch) recognition of the stay of termination provisions under a Korean insolvency process
- ***Re Lehman Brothers International (Europe)*** [2013] UKSC 52, ranking of Pensions Act 2004 claims
- ***Harbinger v Caldwell, Re Northern Rock*** [2013] EWCA Civ 492, acting for the

- shareholders of Northern Rock in their appeal against the nil valuation of their shares
- **Malcolm Cohen v Collyer Bristow LLP**, [2012] EWHC 1427 (Ch) representing the liquidators of Rangers FC football club in its fraud claim against Collyer Bristow and Craig Whyte arising out of the takeover and subsequent collapse of Rangers FC
 - **Britannia Bulk v Bulk Trading** [2012] EWCA Civ 419, [2011] 2 Lloyd's Rep 84, dispute over the construction of the ISDA Master Agreement
 - **Revenue & Customs Commissioners v Football League** [2012] EWHC 1372 (Ch), validity of the "football creditors rule"
 - **Re Maltby Investments** [2012] EWHC 4 (Ch), the EMI pre-pack
 - **Stephen John Akers, Mark McDonald (Joint Liquidators of Chesterfield United Inc and Partridge Management Group) v Deutsche Bank AG** [2012] EWHC 244 (Ch), representing the liquidators of Kaupthing in potential claims arising out of related SPVs
 - **Re Sphinx Group of Companies**, advising the Liquidation Committee over several years in relation to all aspects, including the issues of priority as between different classes of claim, the provisions that should be made for legal expenses and potential US claims, and the scheme of Several reports including [2010] (1) CILR 452
 - **Re Metronet Rail BCV** [2008] BCLC 760
 - **Re Cape** [2006] 3 All ER 1222, scheme of arrangement concerning asbestosis claims
 - **Three Rivers District Council v Bank of England** [2003] AC (HL), representing the Bank of England on the misfeasance claim brought by the liquidators of BCCI Several applications over a 10 year period (twice in the House of Lords and 2 year commercial trial)
 - **Re Toshoku Finance UK** [2002] 1 WLR 671 (HL), ranking of claims for corporation tax in a liquidation
 - **Sea Assets v Perusahaan Pereroan (Peroso) PT Perusahaan (Garuda Airlines)** [2001] EWCA 1696, established that in a scheme the same offer need not be made to all creditors, only to scheme creditors
 - **Somji v Cadbury Schweppes** [2001] 1 BCLC 498 (CA), collateral deal invalidating scheme of arrangement
 - **Re Galileo Group** [1999] Ch 100, production of documents by the Bank of England under the liquidator's powers of compulsion
 - **Re Ferranti International :Powdrill v Watson Re Leyland DAF;** [1995] 2 AC 394 (HL), liabilities to employees under adopted contracts
 - **Re Butlers Wharf** [1995] 2 BCLC 43, rights of subordination and the effect of suspense accounts
 - **Re Olympia & York Canary Wharf (No 3)** [1994] 1 BCLC 702, administration and restructuring of Canary Wharf
 - **Maxwell Communications Corporation** [1994] 1 All ER 737, subordinated debt was valid
 - **Scher v Policyholders Protection Board; Ackman v Policyholders Protection Board** [1993] 3 WLR 357 (HL), whether overseas insurance policies were caught by the Policyholders Protection Act 1975
 - **In re Hartlebury Printers** [1993] 1 All ER 470, administrator's duty to consult on redundancies
 - **Re Esal (Commodities), London and Overseas (Sugar) Co v Punjab National Bank** [1993] BCLC 872, claim against a bank for fraudulent trading arising out of the collapse of Esal (Commodities)
 - **Re Bank of Credit and Commerce International** [1992] BCLC 570, winding up of BCCI **Re Rafidain Bank** [1992] BCLC 301, provisional liquidators making payments out of the bank's assets
 - **Jokai Tea Holdings** [1992] 1 WLR 1196 (CA), strike out of fraudulent trading claim for late

filing of particulars

- **Re British and Commonwealth Holdings (No 3)** [1992] 1 WLR 672, subordinated creditors not entitled to vote
- **Re Barlow Claims Gilt Manager** [1992] Ch 208, whether transcripts of examinations could be used in criminal proceedings
- **ED & F Man (Coffee) v Miyazaki SA Commercial Agricola** [1991] Lloyd's Rep 154
- **Re Arrows (No 3)** [1992] BCLC 555, contested administration order
- **Re Atlantic Computer Systems (No 1)** [1992] Ch 505 (CA), criteria for leave to enforce rights
- **In re Lonrho plc (No 2)** [1990] Ch 695, representing Alan Bond in the trial of the action brought by *Lonrho*
- **Re Charnley Davies (No 2)** [1990] BCLC 760, administrator's duty of sale
- **Re Esal (Commodities)** [1989] BCC 784 (CA), disclosure by liquidators of information obtained under compulsion
- **Re Smallman Construction** [1989] BCLC 420, power to give directions to take steps other than those approved by creditors
- **West Mercia Safetywear v Dodd** [1988] BCLC 250 (CA), duty of directors where a company is insolvent or on the verge of insolvency

Sport

Mark's football practice includes acting for the FA, the Premier League, the Football League, Arsenal FC, Wimbledon FC, Tottenham Hotspur FC, Sunderland FC, Arsène Wenger and several Arsenal players. Mark advised the then first division clubs on the establishment of the Premier League.

- **FA v Wenger** (FA Disciplinary Appeals), appeal against 12 match ban
- **FA v Vieira** (FA Disciplinary Commission), use of lip reader to establish whether or not the player had sworn at an official
- **FA v Keown** (FA Disciplinary Commission)
- **FA v Henry** (FA Disciplinary Commission)
- **FA v Arsenal** (FA Disciplinary Commission), Arsenal and Manchester United failing to keep their players under control at the end of the derby at Old Trafford
- **FA v Adebayor** (FA Disciplinary Commission), Adebayor sent off against Chelsea in the Carling Cup Final
- **Wimbledon v Football League (FA Commission)**, re-location of Wimbledon FC to Milton Keynes
- **UEFA v Eduardo da Silva** (UEFA Appeals Body), appeal against sending off of Eduardo da Silva for diving in a Champions League qualifier against Celtic
- **UEFA v Manchester City FC** (CAS), prosecution under the Financial Fair Play
- **EFL v Sheffield Wednesday** (EFL Commission), prosecution under financial sustainability
- **EFL v Derby County** (EFL Commission), prosecution under financial sustainability

In Formula 1, Mark has appeared before the International Court of Appeal of the FIA, the Contract Recognition Board and the World Motor Sport Council.

- **FIA World Motorsport Council v McLaren** (FIA World Motorsport Council), appeared for Lewis Hamilton on the “FerrariGate” hearings
- **FIA v McLaren, Re Lewis Hamilton** (International Court of Appeal), appeal against disqualification of Lewis Hamilton from Spa 2008
- **FIA v Liuzzi** (International Court of Appeal), appeared for Adrian Sutil on appeal against penalty given to Liuzzi for overtaking under yellow flags
- **FIA v Toyota** (International Court of Appeal), challenge by manufacturers to the legality of Toyota’s diffuser
- **BMW v Timo Glock** (Contract Recognition Board), BMW seeking to stop Timo Glock signing for Toyota
- **FIA v Renault** (FIA), appeared for Nelson Piquet Jnr at the hearings following “crashgate” Mark has also advised or appeared in matters concerning cricket, Formula 3, Formula Ford and World Powerboat racing
- **RE: Abu Dhabi GP 2021**, representing Lewis Hamilton in relation to the final race of the 2021 season

Awards Ranking and Recommendations

Highly Commended, runner up: the Lawyer Barrister of the Year 2024

Legal500 Chancery Silk of the Year 2023

Chambers and Partners Insolvency Silk of the Year 2018

Awarded the R3 Presidents Award for contribution to insolvency 2022

Chambers & Partners	<p>Ranked in Insolvency/Restructuring, Chancery: Commercial and Sport. <i>“Mark is a great trial advocate.”</i> <i>“Mark Phillips KC brings dedication to cases. He deeply understands the cases he handles and the numbers involved in them.”</i> <i>“Mark is hugely respected by his fellow barristers: he has been in all of the main insolvency cases and he is a huge presence in court.”</i> <i>“A great trial advocate.”</i></p>
Legal 500	<p>Ranked in Insolvency, Banking and Finance, Commercial Litigation, Fraud Civil and Sport. <i>“Mark is an excellent trial lawyer and always relishes the challenge – exactly who you want acting for you when the rest of the courtroom is opposing you.”</i> <i>“Astute and incisive. A force to be reckoned with in court.”</i> <i>“The best there is in F1 regulatory. Elite status in motorsport.”</i></p>

Career

2024 Admitted to the Hong Kong Bar to appear before the Hong Kong Court of Appeal

2002-2003 President Insolvency Lawyers Association

2000-2008 Recorder

2000 Called to the Bar of the British Virgin Islands
1999 Appointed King's Counsel
1984 Called to the Bar of England and Wales

Memberships

International Insolvency Institute
Insolvency Lawyers Association (Past President)
Association of Business Recovery Professionals (Fellow and past Council Member)
INSOL International
INSOL Europe
Commercial Bar Association
Chancery Bar Association

Publications

Mark has written many articles and regularly talks on Brexit in the insolvency and restructuring context, the Corporate Insolvency and Governance Act 2020 and on the Football Governance Bill.

Education and Qualifications

Bristol University, LLM, Commercial Law
Bristol University, LLB