



Simon Oakes

Called: 2010

Email: simon.oakes@quadrantchambers.com

Simon practises in commercial law, with a particular focus on banking & financial services, and complex commercial fraud cases.

Simon has a wealth of experience in some of the most significant banking and financial services cases of recent years, from major interest rate hedging product litigation to regulatory investigations against individuals. He has a deep knowledge of the allegations of LIBOR misconduct against several major banks, a great deal of experience in misselling cases, and a wealth of experience of developing legal and tactical arguments in major commercial litigation.

Simon is recommended as a leading junior in the Legal 500.

Significant recent instructions include:

- **Three ongoing multi-million pound** deceit claims against Bank of Scotland and/or Lloyds Banking Group
- Providing expert advice in multiple, High Court cases as to the impact of Brexit on the security of European motor insurers, and FSCS protection.
- *Aldersgate & Ors v Bank of Scotland & Anor* [2018] EWHC 2601 (Comm): a Commercial Court claim in excess of £100 million, alleging fraudulent and negligent misrepresentation arising out of LIBOR manipulation. The case also involved a ground-breaking interlocutory application by the defendant, attempting to withdraw pleaded admissions of findings by global regulators.
- The LIBOR test case of *Graiseley Properties Ltd v Barclays Bank Plc, Deutsche Bank AG v Unitech Global Ltd* [2013] EWCA Civ 1372 (CA), in the Court of Appeal and in the High Court. One of *The Lawyer's* 'Top 20 cases' of 2013.
- *Hockin v Royal Bank of Scotland* in the High Court: a £55 million Financial List banking case concerning interest rate products and the bank's Global Recovery Group ('GRG'), and involving issues of misrepresentation, LIBOR manipulation, unlawful means conspiracy and implied duties of good faith.
- *Viavi v Shannan & Others* [2018] EWCA Civ 681: a significant dispute about the validity of deeds, the principle in *Re Duomatic*, and estoppel by deed.

Having been seconded to both the Financial Services Authority and the Pensions Regulator, Simon has an excellent understanding of how regulators approach cases. He has acted both for and against the targets of regulatory action, including in multi-jurisdictional cases.

Simon is frequently instructed as sole advocate in the High Court, County Court and Employment Tribunals. He also acts as part of larger counsel teams on long-running commercial litigation.

Appointed to the Attorney General's C Panel of London Counsel on 2 September 2019.

What the directories say

- *"An effective and valuable junior counsel, who is a very competent young barrister with the ability to think quickly"* (Legal 500, 2020)

Banking

Simon has been instructed in many of the most significant banking cases of recent years, and has a particular strength in cases involving allegations of interest rate benchmark manipulation.

Simon's recent work includes:

- Opining in a number of very high value High Court cases - for the benefit of the Court - as to the **impact of Brexit** on the reasonable security of periodical payments made by insurers based in Gibraltar or the EEA, with a particular emphasis on likely cover by the Financial Services Compensation Scheme (**FSCS**)
- Advising and conducting advocacy in an ongoing high-value Commercial Court dispute arising out of benchmark interest rate manipulation
- *Scarborough Group Developments Ltd v Bank of Scotland & Anor*: a very high value commercial dispute involving allegations of benchmark interest rate manipulation
- *Munroe K Limited & Anor v Bank of Scotland*: multi-million pound commercial fraud case, involving issues of fraudulent misrepresentation. With Alan Gourgey QC (Wilberforce Chambers)
- *City & Country Residential Limited v Lloyds Bank*: multi-million pound deceit and mis-selling case, in particular involving allegations of LIBOR manipulation.
- *Aldersgate & Ors v Bank of Scotland & Anor* [2018] EWHC 2601 (Comm): a Commercial Court claim in excess of £100 million, alleging allegations of fraudulent and negligent misrepresentation arising out of benchmark manipulation. The case also raised ancillary issues as to the status of findings by global regulators, and attempts to withdraw pleaded admissions. With Stephen Auld QC (One Essex Court).
- *Macdonald Hotels Limited v Bank of Scotland*: a very high-value, Financial List banking dispute involving allegations of breach of a shareholders' agreement. With Richard Lissack QC (Fountain Court). See <https://www.law360.com>.
- *Hockin v Royal Bank of Scotland*: a £55m Financial List banking case concerning interest rate products and the bank's Global Recovery Group ('GRG'), and involving issues of misrepresentation, LIBOR manipulation, unlawful means conspiracy and implied duties of good faith. With David Reade QC (Littleton Chambers).
- The LIBOR test case of *Graiseley Properties Ltd v Barclays Bank Plc, Deutsche Bank AG v Unitech Global Ltd* [2013] EWCA Civ 1372 (CA), in the Court of Appeal and in the High Court (with Stephen Auld QC). One of The Lawyer's 'Top 20 cases' of 2013.
- *Desiman Ltd v BOS, HBOS and Lloyds Bank*: a significant banking matter involving issues of mis-selling, LIBOR misrepresentation, appointment of administrative receivers and bad faith. The case also involved an examination of the Bank's Business Support Unit. With Stephen Auld QC.
- *Ford, Owen & Johnson v Financial Conduct Authority* [2016] UKUT 0041 (TCC): acting for the former compliance officer of Keydata (Johnson) in a reference to the Upper Tribunal.
- *Atwal v Bank of Scotland*: an High Court interest rate hedging dispute, involving allegations of mis-selling.
- **FOREX investigation**: acting for individuals under investigation by global regulators in relation to Forex matters.
- Advising and drafting pleadings across a range of high-value **interest rate swap claims**, including on matters arising out of the FCA Review into the mis-selling of Interest Rate Hedging Products ('IRHPs').
- Acting for a major international law firm conducting a **s.166 FSMA Skilled Person's review** into the mis-selling of IRHPs and consequential losses.

In 2012 Simon was seconded to the General Counsel's Division of the Financial Services Authority for 9 months, drafting Handbook rules and guidance in relation to Collective Investment Schemes. Simon's role included liaising with FSA policy-makers, advising on partnership law, and negotiating the drafting of legislation with HM Treasury and Parliamentary Counsel.

Fraud

- Advising and appearing as advocate in a number of ongoing Chancery Division **shareholder disputes**, involving allegations of deceit, unfair prejudice and forfeiture of shares.
- *Munroe K Limited & Anor v Bank of Scotland*: multi-million pound Commercial Court case, involving allegations of fraudulent misrepresentation. With Alan Gourgey QC (Wilberforce Chambers).
- *Aldersgate & Ors v Bank of Scotland & Anor* [2018] EWHC 2601 (Comm): a Commercial Court claim in excess of £100 million, alleging allegations of deceit and negligent misrepresentation arising out of benchmark manipulation. The case also raised ancillary issues as to the status of findings by global regulators, and attempts

to withdraw pleaded admissions. With Stephen Auld QC (One Essex Court).

- *Hermes Ors v Banco Espirito Santo*. Acting for investors in a civil fraud claim against the failed Portuguese bank and its former directors.

Commercial Dispute Resolution

Simon is instructed across the full range of commercial dispute resolution, with a particular emphasis on complex civil fraud cases:

- Successfully resisting CPR 31.16 application for pre-action disclosure in high-value dispute about a failed hotel sale.
- Advising as to conflict of laws and breach of warranty of authority in a complex wet shipping dispute.
- Advising as contractual interpretation and scope of duty in a commercial construction dispute.
- Advising and appearing as advocate in a number of ongoing Chancery Division **shareholder disputes**, involving allegations of deceit, unfair prejudice and forfeiture of shares.
- *Munroe K Limited & Anor v Bank of Scotland*. multi-million pound Commercial Court case, involving allegations of fraudulent misrepresentation. With Alan Gourgey QC (Wilberforce Chambers).
- *Aldersgate & Ors v Bank of Scotland & Anor* [2018] EWHC 2601 (Comm): a Commercial Court claim in excess of £100 million, alleging allegations of deceit and negligent misrepresentation arising out of benchmark manipulation. The case also raised ancillary issues as to the status of findings by global regulators, and attempts to withdraw pleaded admissions. With Stephen Auld QC (One Essex Court).
- Appearing for major hotel company in a series of **timeshare cases** involving contractual issues, the law of unincorporated associations, fundamental change to the purpose of a club, unfair terms, misrepresentation and conflict of laws.
- Currently instructed in a pre-employment **misrepresentation** claim, brought against a fund manager in the High Court.
- Representing the directors of an off-shore Investment Manager and off-shore Fund in a significant high-value **shareholder dispute**.
- *Hermes Ors v Banco Espirito Santo*. Acting for investors in a civil fraud claim against the failed Portuguese bank and its former directors.
- Advising on matters arising out of a film investment scheme.
- Simon also appears in the County Court in relation to general commercial / contractual disputes.

Chancery Commercial

Simon's current and recent work includes:

- *Viavi v Shannan & Others* [2018] EWCA Civ 681: Successfully resisting an appeal, as to the validity of the substitution a principal employer and consequent questions as to whether subsequent deeds were validly executed by the correct employer company. Also involved questions relating to the *Re Duomatic* principle, and estoppel by deed (led by Nicolas Stallworthy QC).
- *Viavi v Shannan & Others* [2016] EWHC 1530 (Ch) (led by Nicolas Stallworthy QC).
- Obtaining injunctive relief in the High Court, including restraining the presentation of a winding up petition.
- Successfully applying for annulment of bankruptcy petitions.
- Directors' disqualification hearings in the High Court.

Professional Negligence

- A professional negligence claim, arising out of an alleged failure to advise in relation to pension scheme amendments.
- A professional negligence claim, arising out of a failure to validly amend a scheme deed (with Nicolas Stallworthy QC).
- A professional negligence claim against the administrator of a personal pension scheme.

Aviation & Travel

Simon has experience of acting for airlines in passenger claims brought under Regulation (EC) No 261/2004. Simon is also regularly instructed on behalf of claimants in respect of accidents and illnesses suffered while on holiday abroad.

Simon has significant expertise in catastrophic multi-million pound personal injury cases, including advising and drafting complex Schedules of Loss.

Insurance

Opining in a number of very high value High Court cases - for the benefit of the Court - as to the **impact of Brexit** on the reasonable security of periodical payments made by insurers based in Gibraltar or the EEA, with a particular emphasis on likely cover by the Financial Services Compensation Scheme (FSCS)

Pensions

Simon was seconded to the Pensions Regulator in 2015, working across the Regulator's legal teams. He built up a good knowledge of the Regulator's approach, in particular whilst working on pensions liberation / scams, avoidance and scheme funding matters, as well as advising in relation to statutory interpretation and the exercise of the Regulator's powers.

- *Viavi v Shannan & Others* [2018] EWCA Civ 681: Successfully resisting an appeal, as to the validity of the substitution a principal employer and consequent questions as to whether subsequent deeds were validly executed by the correct employer company. Also involved questions relating to the Re Duomatic principle, and estoppel by deed (led by Nicolas Stallworthy QC).
- *Viavi v Shannan & Others* [2016] EWHC 1530 (Ch) (led by Nicolas Stallworthy QC).
- Acting for the Pensions Regulator on matters including prohibition of Scheme Trustees, and Auto-Enrolment penalties.
- Advising on the enforceability of non-pensionability agreements, and on proposed amalgamation of trustee boards of several different schemes.
- A professional negligence claim against the administrator of a personal pension scheme.

Advising members of various schemes on potential complaints to the Pensions Ombudsman

Employment

Simon regularly accepts instructions in the Employment Tribunal.

Academic

BA (Hons) Jurisprudence, Christ Church, Oxford University

Bar Vocational Course, BBP Law School, London

Awards

Winner, Sir Louis Gluckstein Advocacy Prize, Lincoln's Inn (2011)

Eastham Pupillage Scholarship, Lincoln's Inn (2011)

Lord Denning Scholarship, Lincoln's Inn (2010)

Hardwicke Entrance Award, Lincoln's Inn (2010)

Scholar, Christ Church, Oxford University (2008-2009)

Appointments

Appointed to the Attorney General's C Panel of London Counsel on 2 September 2019

Memberships

COMBAR

Financial Services Lawyers Association

Association of Pension Lawyers

Advocates for International Development