



Simon Oakes

Called: 2010

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

Simon represents international and domestic clients in the Business & Property Courts and has significant experience of a broad range of heavy commercial litigation, including conducting his own advocacy as sole counsel against more senior opponents. Simon has acted in some of the most significant banking and financial services cases of recent years, from major interest rate hedging product litigation to FOREX manipulation, and also regulatory investigations against individuals.

Simon is recommended as a leading junior in the Legal 500 and Chambers & Partners.

Significant recent instructions include:

- ***A v B*** (2023, LCIA) Acting for a multinational company in a €200 million international arbitration relating to an M&A transaction, involving allegations of market manipulation.
- ***Burges Salmon v Glass Wharf*** (2023) £15 million High Court engineering dispute about the condition and maintenance of a commercial heating & cooling system. With Julian Greenhill KC
- ***Devon and Somerset Fire & Rescue Authority v Howell & Anor*** [2023] EWHC 257 (Ch): Successfully defending HMRC's interpretation of the meaning of "actual or prospective right" to pension benefits under the Finance Act 2004, in the context of unauthorised payment charges
- Acting for a major bank in a case involving allegations of authorised push payment fraud case, and consideration of the *Quincecare* duty.
- ***A v B*** (2022): Successfully obtaining an injunction to restrain presentation of a winding-up petition, in connection with a very high-value disputed debt which is subject to arbitration. The case involved allegations of market distortion; ***Salford Estates (No.2) Ltd v Altomart Ltd*** [2014] EWCA Civ 1575 applied. With Paul Downes KC.
- ***ECU v Goldman Sachs & Others*** (2021). 'Forex Rigging' claims arising out of allegations of manipulation of the Foreign Exchange market (in particular, the 'spot' FX Rate), and sharing of confidential information.
- ***Circumference Investments (Europe) Ltd and others v Martin*** [2021] EWHC 2691 (Ch), a successful application to give effect to the legal and living expense exceptions in an English worldwide freezing order in preference to a competing Luxembourg freezing order, distinguishing ***Tidewater Marine v Phoenixtide Offshore*** [2015] EWHC 2748 (Comm).
- ***Lombard North Central v Airbus*** [2021] EWHC 2025 (Comm): a multi-million pound commercial dispute involving issues of alleged product liability, contractual construction and a novel issue of French limitation law. With Matthew Reeve KC.
- Appearing in the High Court in a director/shareholder derivative claim involving issues of injunctive relief and alleged breach of directors' duties.
- Acting in Upper Tribunal proceedings in respect of the validation and enforceability of timeshare loans (pursuant to s.28A FSMA 2000) entered into in breach of the FCA's 'general prohibition'.
- Appearing in shareholder/joint venture disputes with allegations of breach of fiduciary duty, deceit and unfair prejudice.

- Advising in a multi-million pound dispute about the appointment of administrators, in alleged breach of contract.
- Advising on conflict of laws, and implied warranties of authority in a high-value commercial dispute.
- 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): appearing in 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.
- *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.
- Providing employment law advice to well-known companies and conducting advocacy in the Employment Tribunal.

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.

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

What the directories say

- *"Confident, good with clients, works hard to find solutions, not afraid of a difficult case, and seeks to be creative with arguments - clear advice and drafting."* (Legal 500, 2024)
- *"An exceptionally intelligent individual who adopts a personable approach and can explain complex legal points clearly and simply to lay clients."* (Chambers UK, 2024)
- *"He is super present and great to work with, a real team player. Clients find him very impressive."* (Chambers UK, 2023)
- *"Simon is extremely hard working, an excellent support to his leader but also able to stand on his own two feet and argue very succinctly in court. He is always well-liked by clients, and is very user-friendly."* (Legal 500, 2023)
- *"Simon is unflappable; he is realistic; confident and self-assured beyond his years. He was a real asset to the team and much admired by the client."* (Legal 500, 2023)
- *"He is very reliable, very sensible and a future star. The quality of his work is impressive."* (Chambers UK, 2022)
- *"Simon has a very good brain and thinks outside of the box - one to watch."* (Legal 500, 2022)
- *"Simon has excellent technical expertise, is always up to date on case law in the area and is willing to think outside the box to push the boundaries of a case as far as legitimately possible."* (Legal 500, 2022)
- *"He's one to watch. Highly intelligent and always responsive."* (Chambers UK, 2021)
- *"Simon is all about the detail and he grapples with complex legal issues with ease. He is tenacious when dealing with an opponent, yet commercial when dealing with clients and their intended objectives."* (Chambers UK, 2021)
- *"An effective and valuable junior counsel, who is a very competent young barrister with the ability to think quickly."* (Legal 500, 2021)
- *"Miles above his call level when it comes to his experience and offering, both from a client perspective and from that as instructing solicitor."* (Legal 500, 2021)

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:

- Acting for a major bank in a case involving allegations of authorised push payment fraud case, and consideration of the Quincecare duty.
- *ECU v Goldman Sachs & Others* (2021). 'Forex Rigging' claims arising out of allegations of manipulation of the Foreign Exchange market (in particular, the 'spot' FX Rate), and sharing of confidential information.
- *Boyse (International) Ltd v Natwest Markets Plc* [2020] EWHC 1264 (Ch), where the Court considered limitation

principles (and in particular, reasonable diligence) in the context of allegations of commercial fraud. Permission to appeal has been granted.

- Advising in respect of the validation and enforceability of timeshare loans (pursuant to s.28A FSMA 2000) entered into in breach of the FCA's 'general prohibition'.
- Advising in respect of damage caused to a highly-successful business by a bank's appointment of administrators and receivers.
- 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 misselling 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 misselling.
- **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

- *A v B* (2023, LCIA) Acting for a multinational company in a €200 million international arbitration relating to an M&A transaction, involving allegations of market manipulation.
- 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:

- *A v B* (2023, LCIA) Acting for a multinational company in a €200 million international arbitration relating to an M&A transaction, involving allegations of market manipulation.
- *Burges Salmon LLP v Glass Wharf JV Ltd* (2023) £15 million High Court engineering dispute relating to the condition and maintenance of a heating and cooling system in commercial premises. With Julian Greenhill KC
- *Sonderwell v Diamond* (2022) Breach of warranty claim arising out of share purchase agreement
- Appearing in the High Court in a director/shareholder derivative claim involving issues of injunctive relief and alleged breach of directors' duties.
- *A v B* (2022): Successfully obtaining an injunction to restrain presentation of a winding-up petition, in connection with a very high-value disputed debt which is subject to arbitration. The case involved allegations of market distortion; *Salford Estates (No.2) Ltd v Altomart Ltd* [2014] EWCA Civ 1575 applied. With Paul Downes QC.
- *Circumference Investments (Europe) Ltd and others v Martin* [2021] EWHC 2691 (Ch), a successful application to give effect to the legal and living expense exceptions in an English worldwide freezing order in preference to a competing Luxembourg freezing order, distinguishing *Tidewater Marine v Phoenixtide Offshore* [2015] EWHC 2748 (Comm).
- *Lombard North Central v Airbus* [2021] EWHC 2025 (Comm): a multi-million pound commercial dispute involving issues of alleged product liability, contractual construction and a novel issue of French limitation law. With Matthew Reeve.
- Advising in multiple, high-value business cases as to whether negotiations had led to completed contracts, together with issues of estoppel, misrepresentation and unjust enrichment.
- Acting in an ongoing claim involving allegations of push payment fraud.
- *A v B* [2019] 10 WLUK 65: successfully resisting CPR 31.16 application for pre-action disclosure in high-value dispute about a failed hotel sale.
- Acting in a number of commercial contractual disputes arising out of the 2017 reorganisation of the wholesale water industry.
- Acting and appearing as sole advocate in several cases involving issues of corporate insolvency, preferential payments, equitable charges, and enforcement of personal guarantees.
- 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.

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.

Recent cases include:

- *Lombard North Central v Airbus* [2021] EWHC 2025 (Comm): a multi-million pound commercial dispute involving issues of alleged product liability, contractual construction and a novel issue of French limitation law. With Matthew Reeve.

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.

- *Devon and Somerset Fire & Rescue Authority v Howell & Anor* [2023] EWHC 257 (Ch): Successfully defending HMRC's interpretation of the meaning of "actual or prospective right" to pension benefits under the Finance Act 2004, in the context of unauthorised payment charges
- Advising as to the correct interpretation of a statutory pension schemes, and as to pension age entitlement in the context of unauthorised payment charges.
- *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)

Ranking



Appointments

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

Presentations

The end of LIBOR: issues arising from the transition (20 February 2022)

Recent developments in the law of mis-selling & misrepresentation (28 October 2021)

Recent developments in commercial cases (15 September 2021)

Memberships

COMBAR

Financial Services Lawyers Association

Association of Pension Lawyers

Advocates for International Development