



# David Railton KC

Call 1979 | Silk 1996

*"An absolutely stellar advocate. He is meticulous in his preparation. He also demonstrates a truly astonishing ability to make persuasive submissions on complex issues with extreme brevity."*

*Legal 500 (Banking & Finance)*

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David Railton KC has a broad commercial practice, having acted for and advised a wide range of commercial clients.

He has over 40 years' experience of commercial litigation and arbitration, including cases with international and multi-jurisdictional elements. He has extensive experience of substantial commercial litigation, having acted in a number of long-running and complex cases. His practice is primarily as an advocate in Court and arbitration proceedings (in London and abroad), but he also regularly advises clients on transactional and product issues. He also sits as an arbitrator (in London and abroad), and as a Deputy High Court Judge (in the Commercial Court and Chancery Division).

## Expertise

## Recommendations

David is recommended as a Leading Silk by *Chambers UK* (in the fields of Commercial Dispute Resolution, Banking & Finance, Insurance and International Arbitration), *The Legal 500* (Commercial Litigation, Banking & Finance, Insurance & Reinsurance and International Arbitration), and *Chambers Global* (Commercial Dispute Resolution and International Arbitration). He is ranked as a "Star Individual" by *Chambers UK* in Banking & Finance. Directory comments include:

- 'David is a phenomenon. Without doubt among the best at the Bar. He has a sparkling intellect and provides unrivalled advocacy and judgement. The most highly respected and feared opponent.' (*Legal 500 2023, Insurance & Reinsurance*)
- 'He's really clever, even-tempered. A classic banking silk. One of the best defence barristers, very thoughtful and articulate.' (*Chambers & Partners 2023, Banking & Finance*)
- 'David is a formidable advocate. His analysis is meticulous, his advocacy penetrating and persuasive. Unfailingly courteous and very measured in his submissions, he is a delight as well as a challenge to appear against as counsel, and a delight to have him appear before a tribunal.' (*Legal 500 2023, International Arbitration: Counsel*)
- 'David Railton is the consummate, well prepared KC. Sometimes silks delegate work to juniors but he really owns the matter and gets into the detail.' (*Chambers & Partners 2023, Commercial Dispute Resolution*)

### London

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- 'David Railton is extremely experienced, so he speaks with authority and gravitas on everything. He is extremely knowledgeable. He is very effective and thoughtful. He is a fantastic thinker.' (*Chambers & Partners 2023, Insurance*)
- 'He is one of the leading lawyers in the country.' (*Chambers & Partners 2023, International Arbitration: General Commercial & Insurance*)
- 'If you ever need a 'super advocate' for the biggest cases, he fits the bill.' (*Chambers & Partners 2022, Commercial Dispute Resolution*)
- 'In a league of his own in banking (and so much else); he is the master strategist, always five moves ahead of his opponents.' (*Legal 500 2022, Banking & Finance*)
- 'An outstanding senior silk and team leader for the largest cases. Makes submissions with real substance and credibility.' (*Legal 500 2022, Commercial Litigation*)
- 'Very knowledgeable, practical and presents with gravitas.' (*Legal 500 2022, Insurance & Reinsurance*)
- 'A very good advocate.' 'He tailors his submissions and is very effective at that.' (*Chambers & Partners 2022, Banking & Finance*)
- 'He is well regarded and hugely experienced.' (*Chambers & Partners 2022, Insurance*)
- 'An absolutely stellar advocate. He is meticulous in his preparation. He also demonstrates a truly astonishing ability to make persuasive submissions on complex issues with extreme brevity.' (*Legal 500 2021, Banking and Finance*)
- 'Vastly experienced advocate with a practice spanning the full range of disputes in banking and finance. 'David is excellent. He is a deep thinker and very strategic in the way that he thinks things through.' 'He is an extremely good advocate and someone who commands the respect of judges. His submissions are always very measured.' (*Chambers & Partners 2021, Banking & Finance – Star Individual*)
- 'An absolutely outstanding advocate, who also manages to have an extraordinary grip on the detail. Never wrong-footed, he provides cautious but firm advice.' (*Legal 500 2021, Commercial litigation*)
- 'He is very good with judges and very authoritative.' (*Chambers & Partners 2021, Commercial Dispute Resolution*)
- 'David is fantastic. He is extremely bright and phenomenally hard-working. He has the ear of the court.' 'He is an immensely accomplished advocate.' (*Chambers & Partners 2021, Insurance*)
- 'An outstanding advocate.' (*Legal 500 2021, Insurance and Reinsurance*)
- 'One of the most lucid thinkers I have ever encountered. David tests every argument and the strength of evidence from all possible angles.' (*Legal 500 2021, International arbitration*)
- 'He is an outstanding advocate and a real team player.' (*Chambers & Partners 2021, International arbitration*)
- 'He is an articulate, unflappable and exceptionally well-prepared advocate. He has a knack for anticipating questions from the Bench.' (*Chambers & Partners Global 2021, International Arbitration*)
- 'A true statesman of the Banking Bar, he is very good on his feet, has great judgement and is an excellent voice for the client.' 'He is extremely bright and commercial and is very good at simplifying complex issues.' (*Chambers & Partners 2020, Banking & Finance – Star Individual*)
- 'One of the best advocates I've seen in action. He's incredibly calm and unflappable when he's in front of the court.' 'You can feel the heat coming off his brain.' (*Chambers & Partners 2020, Insurance*)
- 'He has command of the courtroom, is flawless, articulate, and grapples with key commercial decisions quickly and intelligently.' (*Legal 500 2020, Commercial litigation*)
- 'Extremely bright, hugely experienced, and unflappable under pressure, as well as being very personable and client friendly.' (*Legal 500 2020, Banking and Finance*)
- 'A huge figure at the Commercial Bar,' 'he's a strong advocate for the bigger case.' (*Chambers & Partners 2020, Commercial Dispute Resolution*)
- 'He is meticulous in preparation, realistic in setting expectations and brilliant as an advocate.' (*Chambers &*

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*Partners 2020, International arbitration)*

- 'A real market leader.' *(Legal 500 2020, Insurance and Reinsurance)*
- 'Provides painstaking attention to detail and outstanding advocacy skills.' *(Legal 500 2020, International arbitration)*
- 'A very wise and highly experienced advocate who lends immense intellectual heft and proper gravitas to any case that he leads.' 'He has an incredibly unassuming, effective advocacy style.' *(Chambers & Partners 2019, Commercial Dispute Resolution)*
- 'David is superb. He prepares meticulously, is definitely one of the top silks intellectually, and is unfailingly polite. Judges always listen when he's on his feet.' 'David is a superb senior leader who fosters a cohesive and motivated team atmosphere. He has a calm but very persuasive approach in court, and his arguments and advice invariably are carefully thought through and well judged.' *(Chambers & Partners 2019, Banking & Finance – Star Individual)*
- 'Very good on his feet.' 'Very experienced and a real pleasure to work with.' *(Chambers & Partners 2019, Insurance)*
- 'Incredibly clever.' *(Chambers & Partners 2019, International arbitration)*
- 'An extremely experienced trial advocate whose cross-examination is superb.' *(Legal 500 2019, Commercial litigation)*
- 'He has a great strength for advocacy as well as being great with clients.' *(Legal 500 2019, Banking and Finance)*
- 'Extraordinary levels of preparation and skill ensure his performance is first rate.' *(Legal 500 2019, Insurance and Reinsurance)*
- 'A particularly impressive silk.' *(Legal 500 2019, International arbitration)*
- 'David is a very wise and highly experienced advocate'. 'He also has excellent client-handling skills.' *(Chambers & Partners 2018, Banking & Finance – Star Individual)*
- 'A master of cross-examination, who is calm and incisive.' *(Chambers & Partners 2018, Commercial Dispute Resolution)*
- 'An outstanding advocate.' *(Chambers & Partners 2018, International arbitration)*
- 'Thoughtful and strategic, one of the best commercial advocates at the Bar.' *(Legal 500 2018, Commercial litigation)*
- 'A very smooth advocate, who always has the ear of the court.' *(Legal 500 2018, Banking and Finance)*
- 'He is terrific. A fine advocate with meticulous attention to detail, he is very steady and robust under pressure.' 'Absolutely phenomenal. Quietly spoken but fantastically bright, a very clear thinker and a real delight to work with.' *(Chambers & Partners 2017, Banking & Finance – Star Individual)*
- 'Very eminent and incredibly accomplished.' *(Legal 500 2018, International arbitration)*
- 'Consistently impressive, particularly in financial insurance claims.' *(Legal 500 2018, Insurance and Reinsurance)*
- A highly respected silk with a fine commercial practice, who has handled a number of high-value and very important cases arising out of the 2008 financial crisis. 'He is a fine advocate who shows meticulous attention to detail.' 'He's extremely clever, exceptionally user-friendly and highly reliable.' *(Chambers & Partners 2017, Commercial Dispute Resolution)*
- Silk known for his 'top-level preparation and advocacy,' who is involved in a wide variety of complex insurance cases. 'He is meticulous in his planning, incredibly bright and a lovely man as well.' 'An excellent senior silk suited to the most complex cases.' *(Chambers & Partners 2017, Insurance)*
- 'A first-class insurance and general commercial barrister.' *(Chambers & Partners 2017, International arbitration)*
- 'An outstanding senior leader; intellectually incisive and an excellent advocate.' *(Legal 500 2017, Banking and*

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## Finance)

- 'An excellent senior silk, suited to the most complex cases.' (*Legal 500 2017, International Arbitration*)
- 'A standout QC who enjoys a stellar reputation. He is regularly sought out to act in high-profile, landmark cases.' 'He always produces an exceptional service. Not many counsel have his ability to take very complex legal matters and produce clear and appropriate advice in no time at all. He consistently wows clients.' 'He's an extremely effective, careful and thoughtful lawyer. He has an excellent court style.' (*Chambers & Partners 2016, Banking & Finance – Star Individual*)
- 'Incredibly able, and produces very succinct, very structured submissions. He has you following him every step of the way, and he uses cold, clinical logic to obtain the result he wants.' 'His performance was sensational; he pushed all the right buttons in cross-examination.' (*Chambers & Partners 2016, Commercial Dispute Resolution*)
- 'Adept at litigating insurance and reinsurance cases across a wide spectrum of areas, ranging from professional indemnity to complex coverage matters. He is particularly skilled at resolving cases with multi-jurisdictional aspects.' 'He has a beautifully poised, measured style and real strategic strength.' (*Chambers & Partners 2016, Insurance*)
- 'He is extremely impressive, as he is thoughtful, articulate and all over the detail in a case.' (*Chambers & Partners 2016, Professional Negligence*)
- 'Extremely clever, exceptionally user friendly and reliable. (*Legal 500 2016, International Arbitration: Counsel*)
- 'Combines intellectual strength with practicality and common sense.' (*Legal 500 2016, Insurance and reinsurance*)
- 'A very wise and highly experienced advocate with excellent client-handling skills.' (*Legal 500 2016, Commercial litigation*)
- 'A number-one choice for large cases, with excellent judgement.' (*Legal 500 2016, Banking and Finance*)
- 'Receives excellent market feedback for having a methodical and technically superior approach to advocacy that yields outstanding results in a broad range of commercial disputes. 'A well-established silk. He's very unshowy but incredibly effective and hard-working.' (*Chambers & Partners Global 2015, Commercial Dispute Resolution*)
- 'His submissions and cross-examination are both perfectly measured and pitched. He takes the judge with him in a very understated and irresistible way.' (*Chambers & Partners 2015, Banking & Finance*)
- 'David has a first-class brain, works incredibly hard and is a joy to work with. He is also incredibly busy, and the demand for his time illustrates the high regard in which he is held in the insurance and reinsurance market' (*Chambers & Partners 2015, Insurance*)
- 'An extremely experienced senior silk, who has fantastic judgement.' (*Chambers & Partners 2015, International Arbitration*)
- 'Just superb, he's charming and utterly reassuring in conference. He's skilled at making the client the centre of attention.' (*Chambers & Partners 2014, Professional Negligence*)
- 'David Railton QC's 'modern-style commercial approach' and 'impeccable client handling' earn him various admirers. He 'thinks several steps ahead of the opposition' and has 'an attention to detail that is second to none.' 'a fantastic advocate,' who is 'extremely persuasive in an understated way' (*Chambers & Partners 2014, Banking & Finance*)
- 'He provides clear, comprehensible advice on very complex issues and is an excellent strategist.' (*Chambers & Partners 2014, Insurance*)
- 'a brilliant advocate' who is 'fantastic in cross-examination.' (*Chambers & Partners 2014, International Arbitration*)
- 'a 'top-class advocate' who impresses clients with his 'ability to take things down to a simple level, making difficult legal concepts easily accessible.' (*Chambers & Partners 2013, Banking & Finance*)

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- Interviewees heap praise on the ‘hugely intelligent, respectful and easy to work with’ David Railton QC, who is considered an ‘integral part of any team.’ (*Chambers & Partners 2013, Insurance*)
- He is not only ‘smart, creative and good with clients,’ but also a ‘great advocate and a savvy strategist.’ (*Chambers & Partners 2013, Professional Negligence*)
- ‘inspires confidence with his cool head and superb eye for detail.’ Clients note his ‘commercial mindset and approachability,’ while he also attracts praise for his ‘smooth and persuasive courtroom manner.’ (*Chambers & Partners 2012, Banking & Finance*)
- Described variously as ‘a class act’ and a ‘top-flight insurance practitioner,’ David Railton QC is noted for his measured approach: ‘He is one of the calmest barristers, completely unruffled by anything.’ He maintains a formidable reputation as a go-to barrister for cases across the full spectrum of the insurance and reinsurance field. (*Chambers & Partners 2012, Insurance*)
- One commentator enthused: ‘I have rarely seen a commercial silk with such judgement and finesse. He’s beautiful to watch as an advocate’ (*Chambers & Partners 2011, Professional Negligence*)
- a particular favourite of many a barrister and solicitor alike, with many sources praising him as ‘an unshakable and extraordinarily successful opponent.’ (*Chambers & Partners 2011, Insurance*)

## Recent practice

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Examples of David’s practice in his main practice areas include the following:

### Banking & Finance

- Acting for and advising on claims relating to an insurance backed receivables financing programme
- Acting for and advising a bank on claims in debt and for deceit relating to loans to a sovereign state; issues of sovereign immunity
- Acting for and advising a sovereign investment authority in relation to recovery of misapplied funds
- Acting for and advising a collateral manager in relation to claims for management fees under the terms of structured notes
- Acting for and advising an Icelandic lawyer in relation to claims against him arising in connection with the winding-up of an Icelandic bank
- Acting for and advising a bank and some of its directors in relation to claims against them arising out of a Rights Issue
- Acting for and advising banks in relation to LIBOR issues
- Acting for and advising banks, building societies and customers in relation to swap mis-selling issues
- Acting for and advising a bank in connection with STCDOs entered into with a German municipal company, and back to back CDS
- Acting for and advising an investor in connection with losses suffered from trading in exotic foreign exchange derivatives, including issues relating to the margining and close out of FX and equity portfolios
- Acting for and advising a bank in connection with the construction of guarantees provided for regulatory capital purposes
- Acting for and advising a bank in relation to the 2002 ISDA Master Agreement close-out provisions
- Acting for and advising banks in relation to derivatives entered into with foreign (particularly Italian, German and Norwegian) municipal counterparties, and related issues of the power and authority of those counterparties

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- Acting for and advising banks, investors, issuers, insurers and Trustees in connection with issues arising out of note/bond issues (including Lehman notes)
- Acting for and advising banks, investors, and others in connection with swaps (including credit default, total return, interest rate, currency, variance, and dispersion swaps), futures, options, and other derivatives
- Acting for and advising investors, managers and insurers in connection with investment management and collateral management claims (including in respect of structured products)
- Acting for and advising banks and others in relation to claims on facility agreements, bills, promissory notes, and letters of credit
- Acting for and advising financial institutions and others on jurisdiction/conflicts issues, including applications to contest the jurisdiction, for stays, and anti-suit injunctions
- Acting for and advising banks and investors in relation to structured products
- Acting for and advising arrangers, agents, and others in connection with syndicated loans
- Acting for and advising banks in connection with personal and proprietary remedies (including injunctions), here and abroad, against defaulting customers/third parties
- Acting for and advising banks in recovery actions following insolvency of customers

## Insurance

- Acting for and advising war risks insurers in connection with claims relating to aircraft retained in Russia
- Acting for and advising on claims relating to an insurance backed receivables financing programme
- Acting for and advising insurers in arbitration proceedings concerning claims under a political risk policy relating to a business in west Africa
- Acting for and advising insureds in connection with claims under sovereign debt non-payment policies in southern Africa
- Acting for and advising insurers in respect of arbitration claims relating to products used in the construction and insulation of houses in the US
- Acting for and advising insurers in connection with claims under a banker's FI policy in relation to forged security documents
- Acting for and advising insurers in connection with claims by a bank for coverage in respect of mortgage frauds
- Acting for and advising insureds/insurers/reinsurers in connection with construction and coverage issues under various insurance policies, including all risks, business interruption, political risks, financial institution, bankers bond, credit risks, aviation, construction, theft, liability, product, Bermuda form, property, war risk, viatical, mortgage indemnity and professional indemnity policies
- Acting for and advising insureds/insurers/reinsurers in connection with issues relating to the aggregation of claims, including investment management, property, pension, endowment, split capital and other financial product claims
- Acting for and advising insurers/reinsurers in connection with construction and coverage issues under various proportional and non-proportional reinsurance policies, including risk transfer arrangements
- Acting for and advising insureds/insurers/reinsurers in connection with jurisdiction/conflicts issues, including applications to contest the jurisdiction, for stays, and anti-suit injunctions
- Acting for insurers in proceedings for the rectification of a slip and policy
- Acting for insurers in connection with the termination and run-off of an underwriting agency agreement
- Acting for insurers and banks in relation to issues arising out of insurance backed lending, including film finance, mortgage indemnity, and credit insurance
- Acting for brokers and insurers in connection with London market personal accident arbitrage underwriting





and PA LMX spiral issues

- Acting for insurers in the TAG Group litigation, and in connection with issues arising in relation to The Accident Group and Claims Direct
- Advising an insurer in relation to issues concerning syndicate funding, funds at Lloyds, and Lloyds premium trust deeds

## Commercial Disputes

- Acting for and advising a bank on claims in debt and for deceit relating to loans to a sovereign state; issues of sovereign immunity
- Acting for and advising a Russian oil company in connection with claims against individuals relating to the misappropriation of oil monies
- Acting for and advising a disclosed principal in relation to his rights to intervene in a shareholders agreement
- Acting for and advising successful litigants in relation to the enforcement of arbitral and court awards, including in the context of US Russian sanctions
- Acting for and advising companies and individuals in relation to claims by the Pensions Regulator that they should contribute to the pensions deficit of a failed joint venture
- Acting for and advising an Icelandic lawyer in relation to claims against him that he conspired to provide false information to the SFO
- Acting for and advising merchants in connection with competition law claims against credit card companies concerning interchange fees
- Acting for and advising target companies in connection with claims against them for Financial Support Directions by the Pensions Regulator
- Acting for and advising companies in relation to share purchase agreements
- Acting for and advising companies in connection with their contracts with service providers
- Acting for and advising the Nigerian Government in its action to recover stolen funds from the Abacha family
- Advising a major utility company in connection with options under a share sale agreement
- Advising companies in connection with the terms of oil and gas exploitation agreements
- Acting for and advising companies on claims against directors/employees who had diverted business opportunities

## International Arbitration

- Acting for and advising insurers in arbitration proceedings concerning claims under a political risk policy relating to a business in west Africa
- Acting for and advising insureds in connection with arbitration claims under sovereign debt non-payment policies in southern Africa
- Acting for and advising insurers in respect of arbitration claims relating to products used in the construction and insulation of houses in the US
- Acting for and advising insurers in connection with arbitration claims under a banker's FI policy in relation to forged security documents
- Acting for and advising insurers in connection with arbitration claims by a bank for coverage in respect of mortgage frauds
- Acting for and advising insurers in connection with Bermuda Form (or similar) wordings
- Acting as party appointed or third arbitrator/chair in Bermuda Form (or similar) arbitrations concerning insurance claims relating to pharma, medical, construction, and related products, and bodily injury claims



- Acting as party appointed or third arbitrator/chair in commercial disputes between international parties

## Professional Negligence

- Acting for and advising banks in connection with claims against overseas solicitors for negligent advice relating to financial transactions
- Acting for and advising investors, managers and insurers in connection with investment management and collateral management claims (including in respect of structured products)
- Acting for and advising directors and investment manager in connection with claims against them relating to transactions entered into by a Cayman fund
- Acting for insurers in their subrogated claims against solicitors relating to The Accident Group
- Acting for an insurer in its claims against brokers and solicitors relating to insurance backed film finance
- Acting for Wasps RFC in their claim against valuers for the negligent valuation of their ground
- Acting for insurers in their subrogated claims against administrators/forfeitors relating to securitised sovereign trade debts
- Acting for solicitors in claims against them relating to Formula One
- Acting for insureds/reinsureds and brokers in relation to claims against brokers in connection with the placing of various insurances/reinsurances

## Notable Cases

Examples of David's recent or notable Court cases include the following:

- ***Dubai Aerospace Enterprise (DAE) Ltd v. Lloyd's Insurance Company SA & related actions*** – claims under lessor contingent and possessed war risks insurance policies in relation to aircraft retained in Russia. 3 month Commercial Court trial listed for October 2024
- ***VTB Capital plc v Republic of Mozambique & others*** – claim under sovereign guarantees; related claims for damages for conspiracy; issues as to sovereign immunity, and the validity of guarantees as a result of alleged bribery of government officials. Interlocutory hearings (incl [2022] EWHC 429 Comm; [2022] EWHC 157 (Comm))
- ***PJSC Tatneft v Bogolyubov*** [2021] EWHC 411 (Comm) – claim in tort relating to diversion of oil monies; limitation issues under Russian law. 3 month Commercial Court trial
- ***PJSC Tatneft v Bogolyubov*** [2020] EWHC 3225 (Comm) – issues of legal advice privilege, and extent to which references to advice in evidence waives privilege
- ***Deutsche Trustee Company Ltd v Duchess VI CLO BV & Barings (UK) Ltd*** [2020] EWCA Civ 521 – claim by a collateral manager in relation to the management of securities comprising a collateral loan obligation; issues as to the proper construction of a note issue
- ***Filatona Trading & Deripaska v Navigator*** [2020] EWCA Civ 109 – dispute relating to the rights of a disclosed principal to intervene in a contract made by his agent; circumstances in which a claim should be struck out for abuse
- ***A v B*** [2019] EWHC 2604 (Comm) – worldwide freezing order; impact of US sanctions on obligations to disclose and sell assets pending determination by US Office of Foreign Assets Control
- ***Granada UK Rental and Retail Ltd v Pensions Regulator*** [2019] EWCA Civ 1032; [2018] 5 WLUK 368 – dispute relating to the issue of financial support directions by The Pensions Regulator under the Pensions Act against ITV in respect of the Box Clever joint venture





- ***Tchenguiz v Grant Thornton & Others*** – claim for damages as a result of an alleged conspiracy to provide false information to the SFO, leading to the arrest of one of the Claimants. 3 month trial started in October 2018. Claim abandoned by the Claimants shortly before cross-examination; indemnity costs ordered
- ***RBS Rights Issue litigation*** – group litigation claims by shareholders against RBS and some of its directors in respect of the Prospectus issued in connection with RBS's £12bn 2008 Rights Issue. Following numerous interlocutory hearings, including [2015] EWHC 3433 (admissibility of expert evidence; adjournment); [2017] EWHC 463 (disclosure of funding arrangements); [2017] EWHC 1217 (security for costs against funders), the case settled at the start of the 4-month first stage trial in June 2017
- ***Property Alliance Group v Royal Bank of Scotland*** – issues including swap mis-selling, and LIBOR. Numerous interlocutory hearings, including [2016] 1 WLR 361 (privilege attaching to documents relating to the settlement of regulatory proceedings); [2016] 1 WLR 992 (legal advice privilege in the context of regulatory investigations), and [2016] 4 WLR 3 (disclosure of secret recordings)
- ***Tesco v Mastercard*** [2015] EWHC 1145 – illegality defence in the context of competition law claims against a card scheme. The substantive action against Mastercard settled shortly afterwards; a parallel claim against Visa settled shortly before trial in 2016
- ***UBS v Kommunale Wasserwerke Leipzig GmbH & Depfa Bank Plc*** [2014] EWHC 3615 (Comm) – issues relating to validity of single tranche CDOs entered into by a German municipal company; cross-claims for damages; construction of back to back credit default swaps; 4 month Commercial Court trial
- ***Deutsche Bank v Sebastian Holdings Inc*** [2014] EWCA Civ 1100 – circumstances in which the court can make an appeal subject to conditions of paying the trial judgment and costs
- ***Barclays Bank Plc v UniCredit*** [2014] EWCA Civ 302; [2012] EWHC 3655 (Comm) – construction of termination provisions in guarantees provided for regulatory capital purposes; termination requiring the consent of the guarantor, to be determined in a “commercially reasonable manner”
- ***Heungkuk Insurance v Eurasia*** [2014] – reinsurance in respect of Korean shipbuilding guarantees (settled shortly before trial)
- ***Deutsche Bank v Sebastian Holdings Inc*** [2013] EWHC 3463 (Comm) – claims concerning foreign exchange and equity trading; cross claims for damages arising out of close-out of positions in October 2008; 4 month Commercial Court trial
- ***Valliance Special Opportunities Fund of Funds v Cheyne New Europe Fund Inc*** Cayman Islands [2013] – issues relating to investments by a fund of funds (settled at start of trial)
- ***Lehman Brothers International (Europe) (In Administration) v Lehman Brothers Finance SA*** [2013] EWCA Civ 188; [2012] EWHC 1072 (Ch) – construction of the close out provisions in the 2002 ISDA Master Agreement; application of the “value clean” principle to these provisions
- ***Merrill Lynch v Florence*** [2013] – validity of swaps entered into with Italian Regional authority (settled shortly before trial)
- ***Haugesund Kommune v Depfa ACS Bank & Wikborg Rein (No. 2)*** [2012] EWCA Civ 33; [2010] EWHC 227 (Comm Ct) – measure of damages payable by bank's negligent solicitors; relevance of claims against municipalities in restitution to damages recoverable from solicitors
- ***Fairfield Sentry Limited (in Liquidation)*** BVI Court of Appeal [2012] – issues relating to redemption price payable to shareholders in respect of shares in Madoff funds
- ***Haugesund Kommune v Depfa ACS Bank & Wikborg Rein (No. 1)*** [2010] EWCA Civ 579; [2009] EWHC 2227 (Comm Ct) – capacity of Norwegian municipalities to enter into zero coupon swaps; restitution counterclaim by bank; professional negligence claim against bank's solicitors
- ***Dunlop Haywards (DHL) Ltd v Erinaceous Insurance Services*** [2009] Lloyd's Rep. I.R. 464 (CA); [2009] EWHC 2900 (Comm Ct); [2009] EWHC 3479 (Comm Ct) – claim for rectification of a slip and policy
- ***Re BNY Corporate Trustee Ltd; Re Eurosail-UK 2007 3 BL Plc*** [2009] EWHC 513 (Ch) – construction of trust



deed/note conditions relating to priority of payments under note issue

- **UBS AG v HSH Nordbank AG** [2008] 2 Lloyd's Rep. 500 (Comm Ct); [2009] 2 Lloyd's Rep. 272 (CA) – allocation of jurisdiction between NY/London in connection with a dispute relating to an investment in a multiple tranche synthetic CDO
- **Financial Services Compensation Scheme v Abbey National Treasury Services** [2008] EWHC 1897 (Ch) – validity and effect of assignments taken by the FSCS
- **Standard Life v Oak Dedicated** [2008] 1 LRIR 552 (Comm Ct) – construction of Financial Institutions policy in relation to endowment claims
- **Tritton Development Fund v Fortis Cayman Islands** [2008] – issues relating to fund investment (settled shortly before trial)
- **Europ Assistance v Temple Legal Protection** [2007] EWHC 1785 (Comm Ct) – rights of insurer to terminate run-off by agent
- **Financial Services Compensation Scheme v Abbey National Treasury Services** [2007] EWHC 2868 (Ch) – legal professional privilege
- **Law Debenture v Elektrim** [2006] All ER(D) 97 (Ch) – construction of trust deeds and other agreements relating to a Eurobond issue
- **Euler Hermes v Apple Computer** [2006] LRIR 691 (CA) – construction of settlement of credit risk insurance claim
- **Tektrol v International Ins. Co. of Hannover** [2006] LRIR 38 (CA) – construction of combined all risks policy
- **Peekay Intermark v ANZ** [2006] 2 LLR 511 (CA) – misrepresentation relating to investment in a GKO derivative product; contractual estoppel
- **Tonicstar v American Home** [2005] LRIR 32 (Comm Ct) – anti-suit injunction to restrain motion to compel arbitration in New York
- **Banco Santander v JPMorgan** [2005] (Comm Ct) – claim under perpetual ISDA interest rate swap (settled shortly before trial)
- **Wasps v Lambert Smith Hampton** [2004] All ER (D) 61 (Comm Ct) – claim against valuers for negligent property valuation
- **Hollywood Realisation Trust v Lexington Insurance Co & Others** [2003] (Comm Ct) – Hollywood Funding 4&5 film finance litigation; acted for Lexington (6 month+ Commercial Court case; settled during trial)
- **Sphere Drake v Euro International Underwriting** [2003] All ER (D) 160 (Comm Ct) – PA reinsurance “arbitrage” dispute; PA LMX spiral (12 month Commercial Court trial)
- **Federal Government of Nigeria v Abacha; Compagnie Noga v Abacha** 1999-2003; [2001] 3 All ER 513; [2003] 2 All ER (Comm Ct) 915; 935 (CA) – dispute as to settlement of FGN's claims against former Nigerian regime (6 month+ Commercial Court trial)
- **ABCI v Banque Franco-Tunisienne** [2003] 2 LLR 146 (CA) – jurisdiction dispute; forum conveniens
- **Gan v Tai Ping (No. 3)** [2002] Lloyd's Rep. I.R. 612 (CA) – issues as to failure of co-operation in settlement by insurer of claim
- **Gan v Tai Ping (No. 2)** [2001] Lloyd's Rep. I.R. 291 (Comm Ct); [2001] LRIR 667 (CA) – insurance; construction of claims co-operation clause
- **Versailles Trade Finance v Clough** [2001] (CA) – banking; privilege against self-incrimination
- **Askin v ABSA** [1999] (CA) – jurisdiction dispute; forum conveniens
- **Manoukian v Prince Jefri of Brunei** [1998] – contractual dispute (6 month+ Commercial Court case; settled during trial)
- **Sumitomo v BBL** [1997] 1 LLR 487 (Comm Ct) – banking; syndicated loans; duties of arranging bank
- **Pointwest litigation** [1996] – banking, insurance and property litigation (6-9 month case; settled shortly before trial)



- *Investors Compensation Scheme v C&G* [1996] 2 BCLC 165 (Ch) – construction of assignment under Investors Compensation Scheme
- *BBL v Eagle Star* [1995] 1 LRLR 17 (Comm Ct) – mortgage indemnity insurance; banking; surveyors negligence; damages (9 month Commercial Court trial)
- *Bates v Barrow* [1995] 1 LLR 680 (Comm Ct) – stop loss reinsurance; illegality
- *Assitalia v OUI* [1995] 1 LRLR 76 (Comm Ct) – reinsurance/limitation periods in German law
- *O'Brien v Hughes Gibb* [1995] LRLR 90 (Ch) – insurance broking; bloodstock policies relating to Shergar
- *GE Capital v Bankers Trust* [1994] (Comm Ct) – takeover, banking, accountancy negligence litigation (9 month case; settled during trial)
- *Rafsanjan Pistachio Producers v Bank Leumi* [1992] 1 LLR 513 (Comm Ct) – letters of credit; UCP; fraud
- *Overseas Union v New Hampshire* [1992] QB 434 (ECJ) – stay under Article 21 Brussels Convention
- *OUI v Incorporated General Insurance* [1992] 1LLR 439 (CA) – jurisdiction dispute; appropriate forum; ICA illegality
- *Texas Eastern v Enterprise Oil* [1989] (CA) – pre-emption rights relating to North Sea syndicate
- *CTI v Oceanus* [1984] 1 LLR 476 (CA) – insurance; duty of disclosure

## Directory Quotes

*Vastly experienced advocate with a practice spanning the full range of disputes in banking and finance. "David is excellent. He is a deep thinker and very strategic in the way that he thinks things through". "He is an extremely good advocate and someone who commands the respect of judges. His submissions are always very measured".*

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Chambers & Partners (Banking & Finance)

*An absolutely outstanding advocate, who also manages to have an extraordinary grip on the detail. Never wrong-footed, he provides cautious but firm advice.*

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Legal 500 (Commercial Litigation)

*"He is very good with judges and very authoritative."*

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Chambers & Partners (Commercial Dispute Resolution)

*"David is fantastic. He is extremely bright and phenomenally hard-working. He has the ear of the court." 'He is an immensely accomplished advocate."*

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Chambers & Partners (Insurance)

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*"An outstanding advocate."*

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Legal 500 (Insurance and Reinsurance)

*"One of the most lucid thinkers I have ever encountered. David tests every argument and the strength of evidence from all possible angles."*

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Legal 500 (International Arbitration)

*"He is an outstanding advocate and a real team player."*

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Chambers & Partners (International Arbitration)

*"He is an articulate, unflappable and exceptionally well-prepared advocate. He has a knack for anticipating questions from the Bench."*

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Chambers & Partners Global (International Arbitration)

*"A true statesman of the Banking Bar, he is very good on his feet, has great judgement and is an excellent voice for the client." 'He is extremely bright and commercial and is very good at simplifying complex issues."*

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Chambers & Partners (Banking & Finance)

## Directory Rankings

### Chambers & Partners – Global

- Dispute Resolution: Commercial – UK (Band 1)
- International Arbitration – The English Bar – Global: Multi-Jurisdictional

### Chambers & Partners – UK

- Banking & Finance (Star Individual)
- Commercial Dispute Resolution (Band 1)
- Insurance
- International Arbitration: General Commercial & Insurance



## Legal 500

- Banking & Finance (Tier 1)
- Commercial Litigation (Tier 1)
- Insurance & Reinsurance (Tier 1)
- International Arbitration: Counsel

## Education

- Balliol College, Oxford
- Distinction in Moderations (1976)
- 1st Class Hons Jurisprudence (1978)

## International Bar / Court Appointments

- British Virgin Islands

## Appointments, Memberships and Prizes

- Balliol: *Gibbs Prize; Jenkyns Prize; Paton Studentship; Coolidge Pathfinder Award*
- Gray's Inn: *Holt Award; Birkenhead Award*
- Recorder; Bencher Gray's Inn
- Deputy High Court Judge (Commercial Court; Chancery Division)

## Awards

