



## David Blayney QC

Year of Silk: 2013

Year of Call: 1992

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### Overview

David has a commercial and chancery practice with a particular focus on disputes involving complex financial or quantum issues. He is often involved in large commercial matters, where he brings a rigorous and imaginative approach to finding the arguments most likely to prevail. Major cases in which David has been involved includes the litigation arising out of the collapse of Lehman Brothers, the test case on the fairness of bank charges and the group litigation relating to the RBS's £12bn rights issue in 2008. David also deals effectively with discrete arguments of law or construction, as in his representation of the successful appellant in Brightsea UK Ltd Drachs Investments No.3 Ltd [2012] EWCA Civ 516 (dealing with the construction of a Tax Deed). David's trial experience includes Singer v Beckett [2007] 2 BCLC 287, a 72 day wrongful trading trial at the end of which Park J described David as "remarkably gifted in relation to difficult financial and quantum issues" and commented "I can imagine how [the key witness on quantum] felt as Mr Blayney's (totally charming and courteous) cross-examination progressed, demolishing large tracts of his evidence..."

### Areas of expertise

- Commercial Litigation
- Professional Negligence
- Partnership and LLP
- Trusts and Probate
- Banking
- Company
- Charities
- Insolvency
- Chancery
- Offshore

### Recommendations

Banking and Finance (Legal 500, Who's Who Legal: UK Bar and Chambers & Partners - Winner of Chambers & Partners Banking and Finance Junior of the Year 2012)

Chancery: Commercial (Chambers & Partners, Legal 500)

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Company (Chambers & Partners)  
Company & Partnership (Who's Who Legal: UK Bar, Legal 500)  
Commercial Dispute Resolution (Chambers & Partners)  
Partnership (Legal 500)  
Private Client: Trusts and Probate (Legal 500)  
Professional Negligence (Legal 500)

## Quotes

*"a very intellectual barrister who is impressive on his feet"* (Chambers & Partners 2013)  
*"an excellent barrister who can turn his hand to absolutely anything"* (Chambers & Partners 2013)  
*"fabulously bright and produces brilliant paperwork." He receives many instructions due to the allure of his "gentle, reasonable style of advocacy," which gets results."* (Chambers & Partners 2013)  
*"combines an "exceptional grasp of complex issues" with an "ability to simplify," making him an attractive choice for clients and solicitors alike"* (Chambers & Partners 2012)  
*"credited as "an absolute lightning rod - one of the most creative and forward-thinking barristers one can ever have the pleasure of working with."* (Chambers & Partners 2012)  
*"extremely bright and user-friendly"* (Chambers & Partners 2012)

## Commercial Litigation

*Constantin Medien v Ecclestone and Others* – claim for damages relating to an alleged \$44m bribe paid by Bernie Ecclestone and his family trust upon the sale of commercial rights in Formula One. (Instructed by Peters and Peters)

*Re Lehman Brothers International (Europe) (In Administration)* [2011] EWHC 2022 - proceedings relating to the validity and effect of liens in Master Custody Agreements and Standard Terms & Conditions used between LBIE and other Lehman Brothers companies. (Instructed by Linklaters)

*Brightsea UK Ltd v Drachs Investments No.3* [2012] EWCA Civ 516; [2012] STC 1507 – instructed by the successful appellant in appeal to the Court of Appeal concerning the extent of the vendor's powers under a tax deed that formed part of a £200m company sale. (Instructed by Clifford Chance).

Bradford & Bingley valuation – instructed by the Independent Valuer of Bradford & Bingley in relation to more than 700 references to the Upper Tribunal arising out of his valuation. The references were all dismissed following a hearing in May 2012. (Instructed by Linklaters)

*Abbey National & Others v OFT* [2008] EWHC 2325, [2009] EWHC 36, [2009] EWCA 116, [2010] 1 AC 696 - the test case to establish whether the unarranged overdraft customers with the 67 million personal current account customers of the UK's 8 major banks were challengeable under the Unfair Terms in Consumer Contracts Regulations 1999 and/or under the common law penalty doctrine. (Instructed by Linklaters)

## Professional Negligence

David has considerable experience of professional negligence claims, particularly involving trustees, accountants, solicitors, company directors and valuers. Examples include:

*Lemos v Coutts* – Breach of trust claim brought against trustees of a Cayman based trust, concerning the trust's investment in ships. The case involved a mixture of trust, professional negligence and loss quantification issues.

*South Australia Asset Management Corp v York Montague* [1997] AC 191: Landmark decision in professional negligence and assessment of damages. (Instructed by Clifford Chance)

*Nykredit v Erdman* [1997] 1 WLR 1627: House of Lords decision on application of SAAMCO decision to questions of interest and limitation. (Instructed by Clifford Chance)

## Partnership and LLP

David has considerable experience in disputes relating to partnerships and joint ventures. Examples include:

*K v R* - dispute about issues of business valuation and legal argument about the effect of correspondence and meetings concerning proposed termination of the partnership. Settled shortly before trial in 2013. (Instructed by Marcus Sinclair)

*R v P* –dispute about partnership for operation of greyhound kennels. (Instructed by Goodman Derrick)

*K v B* – dispute about dissolution of solicitors' partnership. (Instructed by Fox Williams)

*Re L* – appointed by the Bar Council to act as arbitrator on dispute about termination of a solicitors' partnership.

## Trusts and Probate

*Lemos v CIBC* – claim against professional trustees in the Cayman Islands relating to the sale of shipping investments (instructed by Mourant).

*Lemos v Coutts* – claim against professional trustees in the Cayman Islands relating to the acquisition and retention of shipping investments (instructed by Maples & Calder and Linklaters)

*Trilogy Management Ltd v Cheung* [2012] JCA 152 – instructed (assisting Advocate Nicholas Journeaux) for the successful appellant to the Jersey Court of Appeal on a dispute as to the meaning of a provision in the Articles of Association of a company. (Instructed by Carey Olsen).

Instructed in 2012 to advise a former senior bank employee in a dispute relating to his entitlements under an employee benefit trust. (Instructed by Stewarts Law)

Instructed in 2012 to advise and represent the executor of a £10m estate in a series of claims under the Inheritance (Provision for Family and Dependents) Act 1975. (Instructed by Wall James Chappell)

Instructed in 2011 to advise beneficiaries in negotiations relating to division of valuable family trust. (Instructed by Marcus Sinclair)

*Re Seymour Settlement* [2002]: called to the Isle of Man Bar and represented the claimant beneficiary in proceedings seeking the removal of a Protector on the grounds of conflict of interest.

*Smith v Smith* [2001] 1 WLR 1937 – case about disputed disclaimer of interest under a will. (Instructed by Picton Smeathmans)

## Banking

*Re Lehman Brothers International (Europe) (In Administration)* [2011] EWHC 2022 - proceedings relating to the validity and effect of liens in Master Custody Agreements and Standard Terms & Conditions used between LBIE and other Lehman Brothers companies. (Instructed by Linklaters)

Bradford & Bingley valuation – instructed by the Independent Valuer of Bradford & Bingley in relation to more than 700 references to the Upper Tribunal arising out of his valuation. The references were all dismissed following a hearing in May 2012. (Instructed by Linklaters)

*Credit Suisse v Ramot Plana* [2010] EWHC 2759– €12 million banking and commercial dispute relating to a property development in Bulgaria. (Instructed by Asserson Law Offices)

*Abbey National & Others v OFT* [2008] EWHC 2325, [2009] EWHC 36, [2009] EWCA 116, [2010] 1 AC 696 - the test case (litigated all the way to the Supreme Court) to establish whether the unarranged overdraft customers with the 67 million personal current account customers of the UK's 8 major banks were challengeable under the Unfair Terms in Consumer Contracts Regulations 1999 and/or under the common law penalty doctrine. (Instructed by Linklaters)

## Company

*Re Lehman Brothers International (Europe) (In Administration)* [2011] EWHC 2022 - proceedings relating to the validity and effect of liens in Master Custody Agreements and Standard Terms & Conditions used between LBIE and other Lehman Brothers companies. (Instructed by Linklaters)

*Trilogy Management Ltd v Cheung* [2012] JCA 152 – instructed (assisting Advocate Nicholas Journeaux) for the successful appellant to the Jersey Court of Appeal on a dispute as to the meaning of a provision in the Articles of Association of a company. (Instructed by Carey Olsen).

*Centenary Holdings III Ltd (in liquidation) v Vivendi SA and Others* - £78m claim relating to allegedly unlawful financial assistance given upon sale of company. Includes claims against directors, advisors and parent company. Settled shortly before trial listed for January/February 2011. (Instructed by Lawrence Graham.)

*Singer v Beckett (Re Continental Assurance of London Plc)* [2007] 2 BCLC 287: 72 day trial of £5m wrongful trading/misfeasance claim against directors of an insurance company. (Instructed by Goodman Derrick)

*Atlasview v Reedbest, Re Brightview* [2004] 2 BCLC 191 - s.459 petition and related administration proceedings concerning a joint venture in the ISP business. (Instructed by Bird & Bird)

*Topham v Charles Topham Group Ltd* [2003] 1 BCLC 123: proceedings concerning the steps necessary to make an allotment of shares binding and effective, and other issues arising out of failure of tax planning arrangements. (Instructed by Graham Leigh Pfeffer & Co)

## Charities

David has considerable experience of partnership matters, including acting for a period as one of the Treasury Solicitor's panel counsel representing the Attorney-General. His charities cases include the following:

*Royal Merchant Navy School Foundation v Bearwood College Trustees* – Acting for a well-known school in contentious charity proceedings relating to the terms of its separation from its founding charity. Settled in 2012. (Instructed by Stone King Sewell)

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*Islamic Education Centre v Aziz* – Charity dispute relating to the control of a mosque in North London. Scheme ordered in 2010. (Instructed by Bindmans)

*Harwood v Harwood* [2005] EWHC 3019 – case about whether a gift of a collection for a museum gave rise to a valid charitable trust. (Instructed for HM Attorney-General)

*Manoogian v Sonsino* (2002) W.T.L.R. 989: charity proceedings concerning the validity of a gift "for the purpose of the education and advancement in life of Armenian children". (Instructed or HM Attorney-General)

## Insolvency

David has considerable experience in insolvency matters, particularly in cases involving banking or trust issues or claims against directors. Examples include:

*Re Lehman Brothers International (Europe) (In Administration)* [2011] EWHC 2022 - proceedings relating to the validity and effect of liens in Master Custody Agreements and Standard Terms & Conditions used between LBIE and other Lehman Brothers companies. (Instructed by Linklaters)

*Centenary Holdings III Ltd (in liquidation) v Vivendi SA and Others* - £78m claim relating to allegedly unlawful financial assistance given upon sale of company. Includes claims against directors, advisors and parent company. Settled shortly before trial listed for January/February 2011. (Instructed by Lawrence Graham.)

*Singer v Beckett (Re Continental Assurance of London Plc)* [2007] 2 BCLC 287: 72 day trial of £5m wrongful trading/misfeasance claim against directors of an insurance company. (Instructed by Goodman Derrick)

## Qualifications

BA Law (First Class), Lincoln College, Oxford

## Memberships

Chancery Bar Association

Commercial Bar Association

## Languages

English, French