



serle court

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David Blayney KC

Year of Silk: 2013 Year of Call: 1992

"One of the cleverest people you could hope to meet. He gets down into the tiniest details of a case and has a fantastic strategic overview."

Chambers & Partners

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Practice 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

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.

Private Client 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 and Financial Services

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)

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 for 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)

Chancery

International and Offshore

Telecommunications and Information Technology

Regulatory and Disciplinary

Group Litigation

Recommendations

Banking & Finance, Chancery: Commercial, Commercial Dispute Resolution, Company & Partnership (Chambers & Partners, 2019, 2018 & 2017)

Banking & Finance, Commercial Litigation, Company & Partnership, Private Client: Trusts & Probate, Professional Negligence (The Legal 500, 2019)

Banking and Finance (Who's Who Legal: UK Bar, 2019)

Quotes

"He is an extremely nice man and a very clever, thoughtful and original thinker." "He is very good and deals with the technical aspects of cases enormously impressively." (Chambers & Partners, 2020)

"Quickly earns the confidence of clients. He's very approachable, easy to get on with and happy to make himself available at short notice." (Chambers & Partners, 2020)

"He's very strong in technology and a very clever guy. He's also nice to work with." (Chambers & Partners, 2020)

"He's formidably and inventively clever, and he's also nice to work with." "One of the brightest at the Bar, he's a great team player and a deep thinker with an innovative approach." (Chambers & Partners, 2020)

"His intellect has truly frightening firepower, but he wears it lightly and is incredibly easy to work with." (The Legal 500, 2020)

"Exceptional – the best recommendation I have had in 30 years of practice." (The Legal 500, 2020)

"He is a fearsome lawyer; his capacity both to absorb and process information and turn that into a winning strategy is phenomenal." (The Legal 500, 2020)

"A very smart silk." (The Legal 500, 2020)

"Impressive on professional negligence cases." (The Legal 500, 2020)

"Technically unbelievably good." "David is analytically one of the best around and has extraordinary creativity. He's able to see lines of argument others don't, and is equally brilliant on the detail. He's also able to grind through complex factual material and master it." (Chambers & Partners, 2019)

"A great team player, who's a deep thinker with an innovative approach." (Chambers & Partners, 2019)

"One of the cleverest people you could hope to meet. He gets down into the tiniest details of a case and has a fantastic strategic overview." (Chambers & Partners, 2019)

"One of the brightest at the Bar, he's a deep thinker with an innovative approach." "He's unusual in that he can get down into the tiniest details of a case and give a strategic overview." (Chambers & Partners, 2019)

"Highly recommended for banking litigation." (The Legal 500, 2019)

"Very calm and considered, good on detail, and gives dispassionate advice." (The Legal 500, 2019)

"He is good on detail and gives dispassionate advice." (The Legal 500, 2019)

"Immensely clever." (The Legal 500, 2019)

"David has an extraordinarily creative and lateral mind. He's able to see lines of argument other miss." (Chambers & Partners, 2018)

"Extraordinarily creative and a great lateral thinker, he's able to see lines of argument others don't and he's equally brilliant on the detail." (Chambers & Partners, 2018)

"Extremely bright and a pleasure to work with." (Chambers & Partners, 2018)

"He is an unusually intelligent lawyer, excellent in terms of pulling out knotty, intricate problems." "He has the very

unusual combination of being fantastic on detail while being able to see the bigger picture. He has brilliant tactical judgement." (Chambers & Partners, 2018)

"He is incredibly lateral and creative in his thinking, and also has a mastery of detail. He is very calm, circumspect and wise." (Chambers & Partners, 2017)

"Extremely bright and a pleasure to work with." "He throws himself into the detail of a case and works really hard." (Chambers & Partners, 2017)

"A brain the size of a planet." "Superb on accounting issues." (Chambers & Partners, 2017)

"The consummate professional with a strong intellect." (The Legal 500, 2017)

"He is very bright, thorough and gets to the core issues quickly." (The Legal 500, 2017)

"He's outstandingly good and knows the area really well." "He is a really original thinker." (Chambers & Partners, 2016)

"He has an impressively sharp intellect, and this allows him to add tremendous value. He provides deep knowledge of the underlying issues of the case." (Chambers & Partners, 2016)

"Fearsomely clever and someone with a tremendously adroit mind, he is capable of dealing with the most internecine of cases." "Judges eat out of his hand. He has real charm and a smooth, silky quality about him." (Chambers & Partners, 2016)

"He's a very technically astute lawyer with an immense eye for the detail, so will pore over the spreadsheets of anything to do with figures and numbers." "He's a very considered and thoughtful barrister and constructs very good arguments in a very calm way." (Chambers & Partners, 2016)

"Clever, efficient and user-friendly, you really feel looked after when he's doing something for you." (Chambers & Partners, 2016)

"He's an out-of-the-box type thinker, who's not afraid to pose surprising questions." "He's very practical and he's intellectual in a very effective way. He found angles on problems no one else had come up with." (Chambers & Partners, 2015)

"He's immense brain power, and is focused and highly effective." (Chambers & Partners, 2015)

"He is an incredibly clever technical lawyer who is very understated but quite brilliant. He says little, but when he speaks he always says something that adds a new dimension to the way one is thinking about things." "Extremely bright and a pleasure to work with." (Chambers & Partners, 2015)

"An incredibly clever technical lawyer, who is very understated but quite brilliant." (Chambers & Partners, 2015)

"User-friendly and extremely bright." (Chambers & Partners, 2015)

Education & Qualifications

BA Law (First Class), Lincoln College, Oxford

Memberships

Chancery Bar Association

Commercial Bar Association
