



serle court

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## David Casement KC FCI Arb

Year of Silk: 2008 Year of Call: 1992

*The “eminent” David Casement KC wins  
plaudits for his work on company, commercial  
and trust litigation.*

Chambers and Partners

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## Practice Overview

David Casement KC FCIArb is a senior barrister with over thirty years' experience in chancery and commercial arbitration and litigation. He is a Fellow of the Chartered Institute of Arbitrators and had acted as an arbitrator in many domestic and international arbitrations over the decades. International arbitration and dispute resolution more generally are now the primary focus of David's practice.

David's experience in resolving disputes includes domestic and international arbitrations, regulatory proceedings and disciplinary proceedings. David was also appointed as a Part-time Judge (Recorder) in 2005, a Queen's Counsel (now King's Counsel) in 2008 and a Deputy High Court Judge in 2013. David is a member of the Bar of England and Wales, the Bar of Ireland and the Bar of Northern Ireland.

His experience includes company, LLP and partnership disputes advising and representing companies, directors, shareholders, members and partners. David has covered the full range of commercial disputes such as banking, finance and securities and professional negligence. He also specialised in all aspects of insolvency disputes and has acted for office-holders and third parties in corporate and personal insolvency disputes. David also acted for claimants and defendants in commercial fraud disputes and asset tracing across multiple jurisdictions including tracing illegally acquired assets.

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## Areas of Expertise

### Banking and Financial Services

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### ADR: Alternative Dispute Resolution

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### Chancery

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### Commercial Litigation

*Al Midani* (2013) Acting for the Trustee in bankruptcy tracing assets in France, Spain and the Middle East.

*Access Bank v Akinbola* (2011) Acting for off-shore trustee in proceedings alleging £1 billion fraud on a major Nigerian bank. The case involves alleged breaches of fiduciary duties by the bank's CEO and other employees and includes asset tracing and litigation across multiple jurisdictions.

*McKenna* (2010) Acting for innocent investor in fraudulent property scheme seeking to recover multi-million pound fund misappropriated by a fiduciary

*Barclay Pharmaceutical v Waypharm* (2010) - alleged £12 million pharmaceutical fraud with actions in multiple jurisdictions including Switzerland, Belgium, France and Panama.

*Davenham Trust v Homegold Limited and Costello* (2009) LTL 23 October 2009 -instructed by a second tier lender to enforce securities where the issues included analysis of the principal obligor clauses in a guarantee and whether the contractual increase in interest following default was void as a penalty.

*CEP v Steni* (2009) LTL 15 October 2009 - instructed for the claimants in respect of the alleged unlawful termination

of an exclusive, international distribution agreement. The case raised issues as to the validity of default notices and the obligations under an "all reasonable endeavours clause".

*Pen Associates (Europe) Limited v Cardpoint Services Limited* (2008) - instructed to defend a member of LINK (UK's national cash interchange network) in respect of a claim for £7 million for breach of contract in the supply of connectivity to the LINK network.

*Shaw v API and others* - LTL 11 June 2008 - successfully defended a claim for alleged breach of confidentiality and fraud brought against members of a management-buy-out team. The case raised important questions as to the quality of the information that was said to be confidential.

*Proform Sports Management Limited v Proactive Sports Management Limited* [2007] 1 All ER 542 - an important case concerning the voidability of Wayne Rooney's contract of representation with an agent and the liability of a third party for inducing breach of a voidable contract. The case is a leading case on minors' contracts.

*C plc v P (Attorney General and Home Secretary Intervening)* [2006] Ch 549 - instructed by P to defend claim to privilege against self-incrimination in the context of a search order in intellectual property proceedings. The case is a landmark decision in respect of the scope of the privilege against self-incrimination and the relationship between precedent under domestic law and the Human Rights Act.

*Baybut v Eccle Riggs Country Park Limited* - Times, 13 November 2006 -instructed to defend a class action brought by licensees of a caravan park alleging unlawful early termination of their licences. The case raised important issues regarding the effect of the Unfair Terms in Consumer Contracts Regulations 1999 on implied terms.

*Fitzgerald v Robinson* (2005) - instructed by the executrix and beneficiary in a trust case involving fraud and asset tracing in UK, Isle of Man and Cyprus against a trustee. The case included coordinated actions in different jurisdictions against fiduciaries, banks and corporate service providers - search orders at multiple premises worldwide freezing injunctions and examinations on affidavits.

*Sterling Travel Insurance Liquidation* (2003) - instructed by the Liquidator in the alleged "smash and grab" fraud by the director committed just prior to liquidation. The case involved a world wide freezing injunction, asset tracing and numerous transaction avoidance proceedings.

*Union Music Limited v Russell Watson* [2003] 1 BCLC 453 - instructed by Union Music in respect of a claim against Russell Watson for breach of contract. The case raised an important question as to the power of a court to order an extraordinary general meeting of shareholders to consider a resolution where the majority of the board were opposed to such a meeting and resolution.

*Union Music Limited v Russell Watson* (2002) LTL - instructed by Union Music in respect of a claim against Russell Watson for breach of contract. The Court of Appeal considered the true nature of common election in respect of an application to strike out which depended upon an agreement that was said to be voidable.

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## Civil Fraud

*Access Bank v Akinbola* (2011) Acting for off-shore trustee in proceedings alleging £1 billion fraud on a major Nigerian bank. The case involves alleged breaches of fiduciary duties by the bank's CEO and other employees and includes asset tracing and litigation across multiple jurisdictions.

*McKenna* (2010) Acting for innocent investor in fraudulent property scheme seeking to recover multi-million pound fund misappropriated by a fiduciary.

*Barclay Pharmaceutical v Waypharm* (2010) - alleged £12 million pharmaceutical fraud with actions in multiple jurisdictions including Switzerland, Belgium, France and Panama.

*Shaw v API and others* - LTL 11 June 2008 - successfully defended a claim for alleged breach of confidentiality and fraud brought against members of a management-buy-out team. The case raised important questions as to the quality of the information that was said to be confidential.

*Robin Clayton Partnership bankruptcy* (2005) - instructed by the trustee in bankruptcy of three architects to set aside transactions defrauding creditors entered into 20 years prior to bankruptcy. The case involved tracing assets in UK, Saudi Arabia and Spain.

*Sterling Travel Insurance Liquidation* (2003) - instructed by the Liquidator in the alleged "smash and grab" fraud by the director committed just prior to liquidation. The case involved a world wide freezing injunction, asset tracing and numerous transaction avoidance proceedings.

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## Insolvency

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### Company

*Beech v Probiz* (2013) multi-million pound claims including section 994 petition, personal claims and breach of intellectual property claims.

*Bamford v Harvey* [2012] WLR (D) 298 – important decision in respect of “wrongdoer control” and when permission will be refused if the shareholder has an alternative to a derivative claim.

*The Swift Litigation* (2012) – shareholder disputes and breach of fiduciary duty claims involving over thirty companies and involving allegations going back over twenty years.

*Shaw v API and others* - LTL 11 June 2008 - successfully defended a claim for alleged breach of confidentiality and fraud brought against members of a management-buy-out team. The case raised important questions as to the quality of the information that was said to be confidential.

*Bracegirdle v All Facility Services Limited* (2008) - s994 shareholders' petition, derivative claims and personal claims involving alleged breaches of fiduciary duties, shareholder agreements and statutory obligations. The case raised issues concerning the "no conflict rule" and the diversion of corporate opportunities and assets.

*Union Music Limited v Russell Watson* [2003] 1 BCLC 453 - instructed by Union Music in respect of a claim against Russell Watson for breach of contract. The case raised an important question as to the power of a court to order an extraordinary general meeting of shareholders to consider a resolution where the majority of the board were opposed to such a meeting and resolution.

*Larvin v Phoenix Office Supplies Limited* [2002] 2 BCLC 556 - company law dispute - unfair prejudice against minority shareholders.

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## Financial Services

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## Partnership and LLP

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## Administrative and Public Law

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## Professional Negligence

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## Sports, Entertainment & Media

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## Private Client Trusts and Probate

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## Human Rights

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## Private International Law

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## Regulatory and Disciplinary

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## Recommendations

Chancery, Commercial Dispute Resolution, Company, Restructuring/Insolvency, Sport (*Chambers & Partners*)  
Commercial, Banking and Insolvency (*The Legal 500*)  
Commercial (*Legal Experts*)

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## Quotes

*The "eminent" David Casement KC wins plaudits for his work on company, commercial and trust litigation.* (Chambers and Partners, 2013)

*"not just an excellent technical lawyer but also highly commercially oriented."* (Chambers and Partners, 2013)

*"authoritative and polite. He is persuasive and forceful when he needs to be and has an ability to adapt to circumstances." Peers further say that "his pleadings and written work are extremely good. He has an ability to pitch the document at the right level."* (Chambers and Partners, 2013)

*"an excellent technical lawyer who is not scared of getting stuck in," and instructing solicitors note that this "highly approachable, highly intelligent" lawyer is "a good guy to have on your side."* (Chambers and Partners, 2013)

*Is "Commercially Sound" and "a heavyweight Chancery and Commercial silk"* (The Legal 500 2012)

*"is an "excellent litigator" who impresses with his "bang-on-the-mark judgement." He is "splendid with clients, a team*

*player through and through, and very proactive.*" (Chambers and Partners, 2012)

*"a strong advocate with a brilliant approach to the judiciary."* (Chambers and Partners, 2012)

*"covers an impressively broad array of chancery-related matters. He bowls commentators over with his collected and well-judged opinions, and further impresses due to the "clever, cautious and effective approach he adopts".*" (Chambers and Partners, 2011)

*"He is a forceful advocate who connects well with judges."* (Chambers and Partners, 2010)

*"Tipped as a "star of his generation" for commercial litigation."* (Chambers and Partners, 2009)

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## **Appointments**

Fellow of the Chartered Institute of Arbitrators

Deputy High Court Judge

Bencher of the Honourable Society of the Middle Temple

Judge of the International Court of Appeal of the Fédération Internationale de L'Automobile

The Football Association Judicial Panel

Former Chairman (UK) of the British Irish Commercial Bar Association

## **Memberships**

Bars of England and Wales, Ireland and N Ireland

Chartered Institute of Arbitrators

London Court of International Arbitration

International Bar Association

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