

David Drake

Call: 1994

He's super-bright and you can absolutely rely on him. He's great to work with as he's user-friendly and really rolls his sleeves up.

CHAMBERS & PARTNERS

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David Drake has a broad commercial chancery practice, encompassing general commercial litigation, commercial fraud and breach of fiduciary duty, minority shareholder and other company work, corporate and personal insolvency, and professional negligence disputes.

David is often involved in cases with an international element, in matters arising from a complex or technical background, and in disputes featuring difficult issues of causation and quantum.

Expertise

Civil Fraud

David has considerable experience acting in and advising on high-value civil fraud litigation, including for the Government. His practical expertise includes disputes over Freezing Injunctions, the interaction of different remedies, the impact of parallel criminal proceedings and multi-jurisdictional disputes.

Recent Cases

- *Secretary of State for Health and Social Care v Servier Laboratories Ltd* (2011-present) – Acting for the English NHS in long-running litigation, arising from allegations that a French pharmaceutical company misleading the EPO, that has involved multiple judgments, including decisions by the Court of Appeal on issues including the impact of the French criminal law ([2014] 1 WLR 4383), and by the Supreme Court on res judicata erga omnes in EU law ([2022] AC 921), and the dealing requirement in the tort of causing loss by unlawful means ([2022] AC 959).
- *Kea Investments Ltd v Watson* (2022-2023) – Acting for Kea in long-running litigation against Eric Watson, following

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judgment against Watson for deceit and breach of fiduciary duty in 2018, and recoveries made against a variety of assets and defendants – including a detailed technical judgment from Miles J on the effect of historic recoveries, settlements, elections and allocations on the equitable compensation due from Watson ([2023] EWHC 1830 (Ch)), as well as a judgment on confidentiality protection for settlement terms, drawing on principles allowing such protection where there is a real risk of harm through harassment ([2023] EWHC 1768 (Ch)).

- *Bell v Singh* [2022] EWHC 3272 (Comm) – Acting for the defendant in the commercial court trial of a fraudulent misrepresentation claim arising from a multi-million-dollar fundraising round for a start-up company.
- *İşbilen v Turk* (2021-2024) – Acting for three of the defendants to a multi-million dollar international fraud claim involving investment vehicles and companies in jurisdictions including BVI, Cayman, Dubai and the USA, as well as (allegedly) substantial payments to the former Duke and Duchess of York.
- *Coll v Floreat Merchant Banking Ltd* [2014] EWHC 1741 (QB); (2014) 158 (24) SJLB 53 – Acting for the defendants in successful opposition to an attempt to bring a committal application against defendants and solicitors on the basis of inter partes correspondence in advance of an injunction application in a commercial fraud dispute.
- *Secretary of State for Health v Norton Healthcare Ltd* (2002-2010) – Acting for the English NHS in price-fixing claims against pharmaceutical companies, which ran in parallel with an SFO investigation and proceedings. The litigation gave rise to decisions on whether a parallel criminal investigation provides grounds for a stay of civil proceedings ([2004] Eu LR 12), and on compelling reasons for trial rather than summary determination where a covert conspiracy is alleged ([2005] Eu LR 135), and on freezing injunctions in support of claims under Insolvency Act 1986 s. 423 regarding dividend declarations ([2009] EWHC 1317 (Ch)).
- *Society of Lloyd's v Jaffray* (No 1), Times, 3 August 2000, and (No 2), 3 November 2000, Cresswell J – Trial of the Lloyd's names' allegations that the Society of Lloyd's made fraudulent misrepresentations as to rigour and reliability of its accounts, and the treatment of asbestosis risk underlying them.

Commercial Litigation

David has extensive experience in contractual and other commercial litigation, including disputes with an international element. His cases often involve the application of equity or tort in the commercial field, as well as defences such as mitigation and limitation.

Recent Cases

- *Lundbeck Ltd v Secretary of State for Health and Social Care* [2025] Bus LR 2610; [2024] Bus LR 1531 – Acting for the claimants, both in the Court of Appeal and in the Competition Appeal Tribunal below, in a dispute over the limitation rules applicable to cases transferred from the High Court to the Tribunal.
- *Secretary of State for Health v Servier Laboratories Ltd* [2023] EWCA Civ 763; [2022] EWHC 369 (Ch); [2016] 5 CMLR 25 – Acting for the English NHS in the Court of Appeal, in the 5-week preliminary issue trial that preceded it, and in an amendment dispute that gave rise to the issue in dispute, all concerned with a supplier's allegations that consumers had, in choosing the suppliers' products rather than alternatives, negligently contributed to or unreasonably failed to mitigate their loss.
- *SPI North Ltd v Swiss Post International (UK) Ltd* (2017-2022) – Acting for Swiss Post in a long-running claim for breach of contract and economic torts alleged to arise from the merger of the international operations of the Swiss Post and La Poste groups – involving, among other judgments, a Court of Appeal decision clarifying corporate defendants' obligations to make enquiries of ex-employees in pleading their defence ([2019] 1 WLR 2865).
- *Network Rail Infrastructure Ltd v Handy* [2015] EWHC 1175 (TCC), [2015] EWHC 1460 (TCC), [2015] 4 Costs LR 631 – Acting

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for Network Rail in test cases regarding who should bear economic losses arising from contracts with Train Operating Companies, where indemnity costs were sought against the insured defendants.

- *Lissack v Manhattan Loft Corporation Ltd* [2013] EWHC 128 (Ch) – Acting for the claimant in a profit-sharing dispute between a property consultant and the developers of St Pancras.
- *Varma v Mittal* (2011-2013) – Acting for Lakshmi Mittal in a claim in the Commercial Court for commission in relation to offshore oil exploration rights in Nigeria.
- *Overy v PayPal (Europe) Ltd* [2012] EWHC 2659 (QB), [2013] Bus LR D1 – Acting for PayPal in a dispute in the mercantile court over loss of putative profits from an e-commerce venture, involving the application of European consumer contract law to B2B services.
- *One2One Personal Communications Ltd v Jordan* [2002] EWCA Civ 644 – Acting for a telecoms group in its dispute with the then owner of Crystal Palace FC, over expert determination provisions in a share sale agreement's completion-accounts adjustment mechanism.

Company

David deals with company disputes, particularly involving unfair prejudice petitions and claims for breach of directors' duties – subjects on which he has for many years been a published author. His practice is broadly based, and includes expertise in related areas of constructive trusts, accessory liability, civil fraud and insolvency, as well as pure company issues.

Recent Cases

- *İşbilen v Turk* (2021-2024) – Acting for two corporate defendants and one individual defendant facing claims of accessory liability, involving issues of accessory liability and attribution of individuals' knowledge to corporate defendants.
- *In re Prime Atlantic Group Limited* (2020-2022) – Acting for the petitioner in a minority shareholder dispute involving allegations of diversion of corporate opportunity, exclusion from management and irregular corporate governance.
- *In re WR Refrigeration Limited* (2014-2018) – Acting for the liquidators in litigation involving claims for breach of directors' duties, arising from group accounting and cross-guarantee issues, including disputes as to the account records required for a fair trial of the misfeasance allegations ([2017] EWHC 3608 (Ch)).
- *Varma v Mittal* (2011-2013) – Acting for Lakshmi Mittal in a claim in the Commercial Court involving allegations that the corporate veil should be pierced in Mr Mittal's dealings on behalf of a family investment vehicle.
- *Team Relocations GmbH v Williamson & others* (2010-2011) – Acting for the claimant in litigation arising from alleged breaches of directors' duties under German law, by executives of a German subsidiary within an international group.
- *Sibir Energy plc v Tchigirinski & others* (2009) – Acting in a claim for hundreds of millions of US dollars arising from alleged corporate (mis)governance of a Russian energy company, the shares in which were listed in London.
- *Sisu Capital Fund v Tucker* (No 1) [2006] BCC 463 – Acting for office-holders facing an unfair prejudice challenge to the CVAs achieved in the multi-billion pound TXU energy group restructuring.
- *Re UOC Corp* [1998] BCC 191 – Acting for the petitioner seeking replacement of a provisional liquidator with a freezing injunction, and a dispute as to the provisional liquidator's remuneration.
- *David has been one of the authors of Minority Shareholders* – Law, Practice and Procedure, 7th ed., 2024, OUP since its first edition, and a contributor to *The Practice and Procedure of the Companies Court*, 1st ed., 1997, LLP.

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Insolvency & Restructuring

David acts and advises on corporate and personal insolvency matters, including disputes over security interests, challenges by dissentient creditors, wrongful trading and breach of directors' duties claims, and issues concerning insolvency practitioners' remuneration.

Recent Cases

- *In re WR Refrigeration Limited* (2014-2018) – Acting for the liquidators in litigation involving wrongful trading and misfeasance claims involving group accounting and cross-guarantee issues, including disputes as to the account records required for a fair trial of the liquidators' allegations ([2017] EWHC 3608 (Ch)).
- *Re Lapland (UK) Ltd* (2012-2013) – Acting for PayPal in a dispute over insurance funds held by the administrator of a Santa Claus theme park that failed because of too much snow at Christmas in 2009.
- *Secretary of State for Health v Norton Healthcare Ltd* [2009] EWHC 1317 – Acting for the English NHS in a dispute over a freezing injunction blocking declaration of dividends within a group structure, in support of claims under Insolvency Act 1986 s. 423 to set such declarations aside as transactions defrauding creditors.
- *Stow v Stow* [2008] Ch 461 – Acting for trustees of a fund, who anticipated facing claims brought for the benefit of an insolvent estate by a trustee appointed under an insolvency administration order following allegations of tax evasion by HMRC, on a jurisdiction challenge regarding their application for negative declaratory relief.
- *Stone v Vallance* [2008] BPIR – statutory demand set aside application relying on a cross-claim based on a right of indemnity arising under an arbitration award.
- *Sisu Capital Fund v Tucker* – Acting for insolvency practitioners facing a minority creditor unfair prejudice challenge to the CVAs achieved in the multi-billion pound TXU energy group insolvencies ([2006] BCC 463), which gave rise to a dispute over the insolvency practitioners' ability to recover as costs of litigation the expense of their staff undertaking litigation tasks ([2006] 1 All ER 167).
- *Re UOC Corp* [1998] BCC 191 – Acting for the petitioner seeking replacement of a provisional liquidator with a freezing injunction, and a dispute as to the provisional liquidator's remuneration.

Professional Negligence

David has extensive experience of professional negligence disputes, in particular in relation to solicitors and accountants. He has appeared in one of the leading appellate decisions on limitation in the professional negligence context and gives talks on limitation issues.

Recent Cases

- *Persimmon Homes Ltd v Hay & Kilner (a firm)* (2023-2025) – Acting for the claimant housebuilders in a professional negligence claim against the solicitors they had retained in relation to one of their housing developments.
- *In re WR Refrigeration Limited* (2014-2018) – Litigation involving breach of duty claims against company directors involving group accounting and cross-guarantee issues.
- *Cave v Robinson, Jarvis & Rolf* [2003] 1 AC 384 – Acting for the defendant solicitors in one of the leading cases on limitation periods for deliberate breach of duty, and their application in professional negligence cases.

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- *Gribbon v Lutton* [2002] QB 902 – Acting for the defendant solicitors in a Court of Appeal decision on abuse of process, issue estoppel and restitution in a professional negligence dispute over stakeholder arrangements and interpleader proceedings.

Testimonials

"He's super-bright and you can absolutely rely on him. He's great to work with as he's user-friendly and really rolls his sleeves up."

Chambers & Partners

"He is so bright; he has a banked up stash of legal knowledge and is the guy to bounce stuff off. He works in a team very easily, and his advocacy is excellent. He feels like a silk."

Chambers & Partners 2026

"David knows the law inside out and sees the complexities of a case. He thinks deeply and is a good written and oral advocate."

Chambers & Partners 2026

"He's highly regarded by the KCs he works with as his analysis of complex factual and legal situations is impressive."

Chambers & Partners 2026

"David Drake is really outstanding. He's very bright."

Chambers & Partners 2026

"David is very responsive and a pleasure to work with. His advice, both written and oral, is clear and to the point, and his analysis of complex factual and legal situations impresses."

Chambers & Partners 2025

"David is hyper analytical, very clever, very insightful and very industrious."

Chambers & Partners 2025

"David is down to earth, industrious, precise and helpful."

Chambers & Partners 2025

"A super nice guy and one of the smartest people around. He has a big brain and is excellent for tricky cases."

Chambers & Partners 2024

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Recommendations

- Chancery: Commercial, Company, Fraud: Civil (Chambers & Partners)
- Chancery: Commercial (Chambers Global)
- Commercial Litigation, Company & Partnership, Fraud: Civil, Professional Negligence (The Legal 500)
- Civil Fraud; Telecommunications (Best Lawyers)

Publications

- One of the authors of *Minority Shareholders: Law, Practice and Procedure*, 7th ed., 2024, OUP since its first edition.
- Contributor to *The Practice and Procedure of the Companies Court*, 1st ed., 1997, LLP.

Memberships

- Chancery Bar Association
- Commercial Bar Association

Education & Qualifications

- MA, Worcester College, Oxford
- BCL, Worcester College, Oxford

BSB Registration

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