

## Daniel Bayfield KC

KC 2016, Called to the Bar 1998

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Daniel specialises in business and finance law, with a strong emphasis on insolvency and restructuring, banking law and general commercial litigation.

In recent months, Daniel has been advising the administrators of VTB Capital plc, the UK arm of the sanctioned Russian bank, and involved in the restructurings of Adler, Vroon, McDermott, Aggregate, PlusServer, Atento and others.

Daniel is also regularly instructed in litigation, and insolvency and restructuring cases, in the Cayman Islands, the British Virgin Islands and Bermuda and has provided expert evidence (on English, Cayman Islands and BVI law issues) to courts and tribunals in the United States, Ireland, Scotland, Norway, the Netherlands, the Cayman Islands and Hong Kong.

Since 15 September 2008, Daniel has advised the administrators of the key UK Lehman Brothers companies, appearing for the administrators of LBIE in almost of all of the major Lehman proceedings.

Over the years, Daniel has also been heavily involved in numerous high-profile cases including: *Lehman Brothers*, *Debenhams*, *Ocean Rig*, *International Bank of Azerbaijan*, *MF Global*, *Game Group*, *Rangers FC*, *Portsmouth FC*, *Woolworths*, *HMV*, *Stanford International Bank*, *Kaupthing*, *Sigma*, *Hellas*, *XL Airways*, *Countrywide*, *Cheyne Finance*, *Eurosail*, *Belmont*, *MG Rover*, *TXU*, *T&N*, *Enron* and *Cenargo*.

Beyond South Square's core practice areas, Daniel also specialises in sports law. His clients include the FA Premier League and the Football League and he has appeared for a large number of well-known football clubs, footballers and boxers.

The legal directories have described Daniel as having "*a first-rate mind*" and as being "*thoroughly user-friendly*", "*robustly commercial*", "*frighteningly good*", "*a heavyweight advocate*" and "*a credit to both his set and to the Bar as a whole*".

Daniel is a former President of the Insolvency Lawyers' Association.

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## Insolvency and Restructuring

### • *Lehman Brothers*

- ***Grant v FR Acquisitions Corporation (Europe) Ltd*** [2022] Bus LR 1288 - concerned the construction and effect of various standard form Events of Default provisions which typically are included in the 1992 and 2002 versions of the ISDA Master Agreements and whether LBIE will be entitled to recover from swap counterparties on its emergence from administration as a solvent entity

- ***Grant v FR Acquisitions Corporation (Europe) Ltd*** [2022] EWHC 3366 (Ch) – a successful application for interest on costs and other consequences in circumstances in which the LBIE administrators had made a Part 36 offer in the context of a directions application for declaratory relief
- ***Lehman Brothers Australia Ltd v Manamara*** [2021] Ch 1 – now the leading authority on the rule in *ex parte James* and paragraph 74 of Schedule B1 to the Insolvency Act 1986
- an application for directions to consent to a request from the directors of LBIE to distribute surplus funds to LBIE’s sole shareholder – ***Re Lehman Brothers International (Europe)*** [2020] Bus LR 1875
- ***Lehman Brothers International (Europe) v Exotix Partners LLP*** [2020] Bus LR 67 – a successful claim against a broker to which an over-delivery of securities had been made
- the scheme of arrangement for the distribution of statutory interest – ***Re Lehman Brothers International (Europe)*** [2019] Bus. L.R. 1012
- the *Withholding Tax application* – ***Lomas and Ors v Revenue and Customs Commissioners*** [2019] 1 WLR 2173
- the *Waterfall litigation* – ***Re Lehman Brothers International (Europe)*** [2017] UKSC 38 (Waterfall I); ***Burlington Loan Management Limited and Ors v Lomas and Ors*** [2017] BCC 759 (Waterfall IIA); ***Burlington Loan Management Limited and Ors v Lomas and Ors*** [2015] BPIR 1162 (Waterfall IIB) and ***Burlington Loan Management Limited and Ors v Lomas and Ors*** [2017] 2 All ER (Comm) 275 (Waterfall IIC)
- the *Olivant proof challenge* – ***Wentworth Sons Sub-Debt A.R.L. v Lomas*** [2017] EWHC 3158 (Ch)
- the *Pensions case* – ***Re the Nortel Companies*** and ***Re the Lehman Companies*** [2013] 3 WLR 504 (SC)
- the *Scheme preliminary issue* – ***Re Lehman Brothers International (Europe)*** [2010] 1 BCLC 496 (CA)
- two applications pursuant to which counterparties sought to lift the statutory stay on proceedings – ***Re Lehman Brothers International (Europe): Four Private Investment Funds v Lomas*** [2009] 1 BCLC 161 and ***RAB Capital v Lomas*** [2008] BCC 915
- an application to extend time for appealing against the rejection of a proof ***Contrarian Funds LLC v Lomas*** [2014] EWHC 1687 (Ch)

#### • ***MF Global***

- Advising and acting for the administrators of *MF Global UK* in the first special administration under The Investment Bank Special Administration Regulations 2011
- Appearing for the administrators on numerous applications including:
  - on appeals against the rejection of proofs relating to alleged cum/ex trading – ***Bundeszentralamt v Heis*** [2019] EWHC 705 (Ch)
  - seeking directions regarding the implementation of a CVA – ***Heis v Financial Services Compensation Scheme Ltd*** [2019] Bus. LR 40
  - seeking the Court’s permission to enter into a settlement agreement between the general estate and the Client Money Pool – ***Re MF Global UK Limited*** [2014] LR 1156
  - seeking the approval of a client asset distribution plan (the first ever)
  - seeking the determination of which of MF Global UK and MF Global was the Defaulting Party under a Global Master Repurchase Agreement – ***Heis v MF***

- **Re Aartee Bright Bar Ltd** [2023] EWHC 606 (Ch), an application under paragraph 81 of Schedule B1 for the appointment of administrators, said to have been appointed pursuant to an improper motive, to cease to have effect
- **Re Galapagos SA** [2022] EWHC 1633 (Ch), an application for a winding-up order made against a company subject to winding-up proceedings in Germany which the CJEU had held were invalidly opened
- **Counsel General for Wales v Allen** [2022] EWHC 647 (Ch), acting for the Official Receiver and special managers on an application to prevent them from completing the winding up of Baglan Operations Ltd until such time as the applicants had managed to secure the provision of an electricity supply to premises at Baglan
- **Emerald Pasture Designated Activity Company v Cassini SAS** [2022] EWCA Civ 102, resisting an appeal against findings made following an expedited trial ([2021] EWHC 2443 (Ch)) that various covenants in a loan agreement remained enforceable notwithstanding that the borrower had entered a French *sauvegarde* proceeding
- **Emerald Pasture Designated Activity Company v Cassini SAS** [2021] EWHC 2010 (Ch), acting for the Claimants in opposing a jurisdiction challenge based on Article 6(1) of the Recast Insolvency Regulation
- **Discovery Northampton Ltd v Debenhams Retail Ltd** [2019] EWHC 2441 (Ch), acting for landlords challenging the Debenhams CVA
- **Fraser Turner Ltd v PricewaterhouseCoopers LLP** [2019] EWCA Civ 1290, striking out a claim against receivers against which allegations of breach of duty had been made
- **Bakhshiyeva v Sberbank of Russia** [2019] 2 All ER 713, acting for the foreign representative of International Bank of Azerbaijan on her application for a continuing moratorium under the CBIR
- **Pillar Denton Ltd v Jervis** [2014] EWCA (Civ) 180, the recent Court of Appeal decision dealing with when rent will be payable as an administration expense
- **HMRC v The Football League** [2012] Bus LR 1539, defending the FA Premier League and the Football League against HMRC's challenge to the so-called Football Creditors Rule
- **Belmont Park Investments PTY v BNY Corporate Trustee Services** [2012] 1 AC 383 (SC), appearing for the FA Premier League (which intervened before the Supreme Court) in the leading case on the "anti-deprivation rule"
- **BNY Corporate Trustee Services v Eurosail-UK 2007-3BL** [2011] 1 WLR 2524 (CA), acting for the A2 Noteholders in the *Eurosail* litigation
- **Re Stanford International Bank** [2010] 3 WLR 941 (CA), acting for the Antiguan liquidators of *Stanford International Bank* in their recognition proceedings (under the Cross Border Insolvency Regulations 2006) and proceedings relating to a restraint order made against the bank under the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005
- **Re Sigma Finance Corporation** [2009] UKSC 2 (SC), acting for Interested Party C
- **Re Cheyne Finance** [2008] 2 All ER 987, acting for Interested Party D

Schemes of arrangement / restructuring plans include:

- **Re Atento UK Ltd** [2023] EWHC 3076 (Ch)
- **Re Plusholding GmbH** [2023] EWHC 2915 (Ch)
- **Re CB&I UK Ltd** [2023] EWHC 2497 (Ch)
- **Re Lamo Holding BV** [2023] EWHC 1558 (Ch)
- **Re AGPS Bondco plc** [2023] EWHC 916 (Ch)
- **Re Haya Holdco 2 plc** [2022] EWHC 1079 (Ch); [2022] EWHC 2732 (Ch)

- **Re Obrascon Huarte Lain SAV** [2021] EWHC 859 (Ch); [2021] EWHC 1431 (Ch)
- **Re Arctic Aviation Assets Designated Activity Company** [2021] IEHC 268, 272 (and 2020 IEHC 664) (acted as expert witness on English law before (Irish) High Court)
- **Re Selecta Finance UK Ltd** [2021] BCC 168
- **Re Colouroz Investment 2 LLC** [2020] BCC 926; [2020] EWHC 2464 (Ch)
- **Re Swissport Fuelling Ltd** [2020] EWHC 1773 (Ch); [2020] EWHC 3064 (Ch); [2021] 1 C.L.C. 527
- **Re Premier Oil plc** [2020] ScotCS CSOH 39 (acted as expert witness on English law before the Outer House of the (Scottish) Court of Session)
- **Re Lecta Paper UK Ltd** [2021] 1 BCLC 511
- **Re NN2 Newco Ltd** [2019] EWHC 1917 (Ch)
- **Re Lehman Brothers International (Europe)** [2019] L.R. 1012
- **Re Ocean Rig UDW Inc** (2017, Cayman Islands)
- **Re DTEK Finance Plc** [2017] BCC 165
- **Re Hibu Group Ltd** [2016] EWHC 1921 (Ch); [2016] EWHC 2222 (Ch)
- **Re Apcoa Parking Holdings GmbH** [2015] 4 All ER 572
- **Re Magyar Telecom BV** [2014] BCC 448
- **Re Zlomrex International Finance SA** [2014] BCC 440
- **Re Gallery Capital SA** [2010] 4 WLUK 287
- **Re Castle Holdco 4 Ltd** [2009] EWHC 1347 (Ch); [2009] EWHC 3919 (Ch)
- **Re Sovereign Marine & General Insurance Company** [2007] 1 BCLC 228
- **Re DAP Holding NV** [2006] BCC 48
- **Re The British Aviation Insurance Company** [2006] BCC 14

Other reported cases include:

- **Re Powertrain** [2017] 1 BCLC 95
- **Re Dalnyaya Step LLC** [2017] 1 WLR 4264 and [2017] EWHC 3153 (Ch)
- **Macrae v KPMG** [2017] LR 726
- **Re Agrenco Madeira** [2015] BCC 300
- **Re WW Realisation** [2011] BCC 382
- **Prudential Assurance Co v PRG Powerhouse** [2008] 1 BCLC 289
- **Re T&N** [2006] 1 WLR 1728
- **Re British American Racing (Holdings)** [2005] 2 BCLC 234
- **Thornhill v Atherton** [2005] BPIR 437 (CA)
- **Silven Properties v Royal Bank of Scotland** [2004] 1 WLR 997 (CA)

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## Banking and Finance

Cases include:

- **Lehman Brothers International (Europe) v Exotix Partners LLP** [2020] L.R. 67
- **Winterbrook Global Opportunities Fund v NB Finance Ltd** [2019] EWHC 737 (Ch)
- **BNY Mellon Corporate Trustee Services Ltd v Taberna Europe CDO I Plc** [2016] EWHC 781 (Ch)
- **Lehman Brothers Finance SA v Sal Oppenheim & Cie, KGaA** [2014] EWHC 2627 (Comm)
- **Heis v MF Global** [2013] 1 WLR 903

- **Re Lehman Brothers International (Europe)** [2012] EWHC 2997 (Ch) (the “Extended Liens” litigation)
- **Pearson v Lehman Brothers Finance SA** [2012] 2 BCLC 151 (the “RASCALS” litigation)
- **Lomas v JFB Firth Rixson** [2012] Lloyd’s Rep 548 (the “ISDA Section 2(a)(iii)” application)
- **Lomas v RAB Market Cycles** [2009] EWHC 2545 (Ch) (the “Charge IPBA” application)

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## Sport

Cases include:

- Acting as an expert witness instructed by an FA Premier League football club in relation to issues arising out of The Russia (Sanctions) (EU Exit) Regulations 2019
- Acting for the Football League in relation to issues arising out of the insolvency of a member club
- Acting for Birmingham City FC in relation to its breach of the Football League’s Championship Profitability and Sustainability Rules
- Acted for the FA Premier League in defending a claim (brought by way of a Football Association Rule K arbitration) made against it by Leyton Orient FC claiming that the PL’s consent to West Ham United FC moving to the Olympic Stadium was unlawful and should be quashed
- Defending the FA Premier League and the Football League against HMRC’s challenge to the so-called Football Creditors Rule: **HMRC v The Football League** [2012] Bus LR 1539
- Acting for the Premier League in relation to an arbitration brought against it by a former manager of a former Premier League club who contended that he was entitled to be paid by the Premier League as a “Football Creditor” of that club
- Advising Sunderland AFC in relation to a compensation claim brought by the club against Manchester United FC following the signing by United of the former Sunderland forward, David Bellion
- Acting for Arsenal FC, Patrick Vieira, Martin Keown, Ashley Cole, Ray Parlour, Lauren and Jens Lehmann in relation to charges brought against the Club and the players following Manchester United v Arsenal, 21 September 2003
- Representing Patrick Vieira (twice), Martin Keown and Thierry Henry before FA Disciplinary Commissions on earlier charges of violent and/or improper conduct
- Representing Arsène Wenger on his appeal (before the Football Association Appeal Board) against a decision of an FA Disciplinary Commission to ban him from the touchline for 12 games

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## Awards and Recommendations

Chambers & Partners 2023

### Banking and Finance

*“Daniel is brilliant to work with. He is prepared to offer a view on things which is helpful and he is always available.”*

## **Chancery: Commercial**

*"Daniel presented very well on the advice he was given and was really good with the client. He explained issues clearly and provided cogent advice on what things might look like going forward. The strategic advice and guidance were very helpful."*

*"Daniel has superb technical knowledge, having worked on many highly complex and novel cases. He's an extremely effective communicator, who is both practical and commercial; he understands the needs of the client and puts legal arguments and solutions into a commercial context. Overall, he is extremely smart, great to work with and a go to silk for any restructuring and insolvency situation."*

## **Commercial Dispute Resolution**

*"He is an extremely effective communicator, who has the ability to identify the key points and arguments in a case without hesitation."*

## **Company**

*"Highly technical and focussed on the detail, but is able to combine that with a commercial view and great client manner."*

*"Daniel is an extremely effective communicator who has the ability to distil down the key points and arguments in a case without a single hesitation in his delivery."*

## **Restructuring/Insolvency**

*"Daniel is helpful, thoughtful and commercial."*

*"He is as good as it gets on company-side scheme representations."*

*"Daniel has superb technical knowledge, having worked on many highly complex, novel cases."*

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Legal 500 2021-2023

## **Banking and Finance**

*"User-friendly, operates as part of the team, committed and hard-working, intelligent, excellent judgement and an outstanding advocate."*

## **Company and Partnership**

*"Head and shoulders above most of his peers in terms of quality of service."*

## **Insolvency**

*"Daniel has unparalleled experience of investment bank insolvencies and is one of the stars of the insolvency Bar. He is excellent on his feet and is able to deal with difficult points when they arise."*

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## Career

2021	Called to the Bar of Bermuda
2019	Called to the Bar of the British Virgin Islands
2017	Called to the Bar of the Cayman Islands
2016	Appointed King's Counsel
1998	Called to the Bar of England and Wales

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## Publications

Former contributor to ***The Law of Receivers and Administrators of Companies*** (Lightman and Moss, Sweet and Maxwell); ***The EC Regulation on Insolvency Proceedings*** (Moss, Isaacs and Fletcher, OUP); and ***Rowlatt on Principal and Surety*** (Marks and Moss, Sweet and Maxwell).

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## Education and Qualifications

1994/7 Magdalene College, Cambridge University, MA Law

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## Prizes and Scholarships

Major Scholarship (Inner Temple)  
Duke of Edinburgh Award (Inner Temple)