

Daniel Bayfield QC

QC 2016, Called to the Bar 1998

+44 (0)20 7696 9900

danielbayfield@southsquare.com



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

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

Daniel has also been heavily involved in other high-profile cases including: *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 footballers and boxers.

The latest editions of the legal directories describe 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*".

Insolvency and Restructuring

• *Lehman Brothers*

- 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 S.A.R.L. v Lomas*** [2017] EWHC 3158 (Ch)
- the *Withholding Tax application* - ***Lomas and Ors v Revenue and Customs Commissioners*** [2018] S.T.C. 385
- 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)
- (See further cases below under *Banking & Finance*)

- **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 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] Bus. LR 1156
 - the approval of a client asset distribution plan (the first ever)
 - the determination of which of MF Global UK and MF Global was the Defaulting Party under a Global Master Repurchase Agreement - **Heis v MF Global Inc.** [2013] 1 WLR 903
- **Bakhshiyeva v Sberbank of Russia** [2018] EWHC 59 (Ch), acting for the foreign representative of International Bank of Azerbaijan on her application for a continuing moratorium under the CBIR (appeal listed for October 2018)
- **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:

- **Re Ocean Rig UDW Inc** (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 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:

- **Re Powertrain** [2017] 1 BCLC 95
- **Re Dalnyaya Step LLC** [2017] 1 WLR 4264 and [2017] EWHC 3153 (Ch)
- **Macrae v KPMG** [2017] Bus. 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)

Banking and Finance

Cases include:

- **BNY Mellon Corporate Trustee Services Ltd v Taberna Europe CDO I Plc** [2016] EWHC 781 (Ch)
- **Lehman Brothers Finance SA v Sal Oppenheim Jr. & Cie, KGaA** [2014] EWHC 2627 (Comm)
- **Heis v MF Global Inc.** [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)

Sport

Cases include:

- 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

Awards and Recommendations

Chambers & Partners 2018

Banking and Finance

“Very bright and able, he combines a sound legal approach with pragmatic advice.”

“He’s responsive, highly diligent, particularly good on paper and robustly commercial.”

Chancery: Commercial

“Frighteningly good and a credit to both his set and the Bar as a whole.”

Restructuring/Insolvency

“He is always extraordinarily well prepared, and knows his case back to front.”

“He is a first-rate mind and is thoroughly user-friendly.”

Legal 500 2018

Banking and Finance

“A young silk to watch – responsive, highly diligent and robustly commercial.”

Commercial Litigation

“Combines a sound legal approach with pragmatic advice.”

Company and Partnership

“A heavyweight advocate.”

Insolvency

“A heavyweight advocate with encyclopaedic knowledge of insolvency.”

Career

2016 Appointed Queen’s Counsel

1998 Called to the Bar of England and Wales

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).

Education and Qualifications

1994/7 Magdalene College, Cambridge University, MA Law

Prizes and Scholarships

Major Scholarship (Inner Temple)

Duke of Edinburgh Award (Inner Temple)