

Daniel Bayfield QC

QC 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.

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: *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 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".

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)
- *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
- *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 *Olivant proof challenge - Wentworth Sons Sub-Debt S.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)
- 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

- **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] Bus. 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 Global Inc.** [2013] 1 WLR 903
- **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 include:

- **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 B.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 Lecter Paper UK Ltd** [2021] 1 BCLC 511
- **Re NN2 Newco Ltd** [2019] EWHC 1917 (Ch)
- **Re Lehman Brothers International (Europe)** [2019] Bus. 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] 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:

- **Lehman Brothers International (Europe) v Exotix Partners LLP** [2020] Bus. 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 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:

- 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 2021

Banking and Finance

"He is excellent in financial services, particularly on challenging, time-compressed cases."

"He is an exceptional advocate."

Chancery: Commercial

"Practical and down to earth in his approach."

"He is very confident, robust and technically impressive."

Commercial Dispute Resolution

"Combines a sound legal approach with pragmatic advice and is user-friendly and responsive."

"He is incredibly diligent and commercially minded."

Company

"Hard-working and extremely clever."

Restructuring/Insolvency

"He is always on top of the details, very approachable and very effective."

"He's very good and very capable - an excellent technical barrister."

"He's understated and sensible but delivers word-perfect performances - he's uber-popular and totally brilliant."

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Legal 500 2021

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

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)