David Allison KC

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David specialises in business, commercial and financial law, with a particular emphasis on corporate restructuring (both domestic and cross-border), sovereign debt restructuring, banking and financial services, structured finance, commercial litigation and company matters. He has an extensive overseas practice which includes Cayman, BVI, Dubai, Jersey and Guernsey. He has acted as an expert witness in proceedings in a number of overseas jurisdictions.

Recent cases include McDermott, Greensill Capital, FTX, Hurtigruten, Adler, Galapagos, Chaptre Finance, Praesidad, Avanti Communications, Veon, Nostrum, Hong Kong Airlines, ED&F Man, Cassini, Virgin Atlantic, Pizza Express, KCA Deutag, Malaysian Airlines, Port Fund, Virgin Active, DTEK, Premier Oil, Arcadia, Carillion, Interserve, Thomas Cook, Debenhams, British Steel, Lehman Waterfall, Metinvest, Syncreon, Monarch Airlines, Noble, House of Fraser, BHS, Agrokor, Codere, Abengoa, Russian Standard Bank, APCOA, ATU, Airwave, Stemcor, MF Global, Nortel, Bank of Ireland, European Directories, Stanford International Bank, Madoff, Landsbanki, Glitnir, Kaupthing, Deutsche Annington, PrimaCom, Nef Telecom, Biffa, Fitness First, NCP, Monier, Tele Columbus and Cattles.

David is ranked as a leading KC in seven practice areas by Chambers UK: (1) Banking & Finance; (2) Insolvency & Restructuring; (3) Company; (4) Commercial Dispute Resolution; (5) Chancery: Commercial; (6) Financial Services; (7) Offshore.

David is ranked in the Chambers UK 100. He has also been recognised in the annual awards of Chambers and Partners as the winner of the Insolvency/Restructuring Award and as a nominee for the Banking & Finance Award.

Insolvency and Restructuring

David has acted in relation to the vast majority of significant insolvencies, corporate restructurings and sovereign debt restructurings in recent years.

Significant reported cases include:

- ***Heis v Financial Services Compensation Scheme Ltd*** [2018] EWCA Civ 1327, whether the MF Global CVA should come into effect.
- ***Re Maud*** [2018] EWHC (Ch), consideration of whether a bankruptcy petition constituted an abuse of process
- ***Lehman Waterfall ISDA Application*** [2018] EWHC 924 (Ch), whether the administration estate should bear the costs of the proceedings
- ***Re Agrokor DD*** [2018] EWHC 348 (Ch), effect of undertaking not to continue an arbitration pending final determination of the CBIR recognition proceedings.
- ***Re Agrokor DD*** [2018] Bus LR 64, recognition of Croatian Extraordinary Administration proceeding
- ***Wentworth v Lomas*** [2017] EWHC 3158 (Ch), application to challenge the admission of a proof

of debt in the Lehman administration

- ***Thomas v Frogmore Real Estate*** [2017] Bus LR 1117, validity of appointment of administrators over a Jersey registered company raising issues of improper motive and COMI
- ***Re BHS*** [2016] BCC 609, appointment of concurrent administrators to investigate claims against the former and current directors
- ***Lehman Waterfall IIA Application*** [2016] Bus LR 17, approach to calculation of statutory interest entitlements to the surplus in the Lehman administration
- ***Lehman Waterfall IIB Application*** [2015] EWHC 2151 (Ch), release of currency conversion claims and non-provable interest claims by post-administration contracts
- ***Lehman Waterfall Supplemental Issues Application*** [2017] BCC 1, statutory interest on contingent debts and set-off issues in relation to statutory interest
- ***Lehman Waterfall I Application*** [2015] Ch 1, ranking of subordinated debt, the contributory rule, set-off and currency conversion claims in the Lehman administration
- ***Re Christophorus 3 Ltd*** [2014] EWHC 1162 (Ch), pre-pack administration to effect a restructuring of the debt of the ATU group
- ***Re Nortel; Re Lehman Brothers International (Europe)***[2014] AC 209 (SC), ranking of claims in respect of FSDs and CNs in insolvencies
- ***Eurosail***[2013] 1 WLR 1408 (SC), meaning of section 123(2) Insolvency Act 1986
- ***Re TXU Europe Group***[2012] BCC 363, whether a distribution to a member under a CVA would represent an unlawful return of capital
- ***Barclays Bank v Choicezone***[2012] BCC 767, whether cross-claims against the holder of a floating charge would preclude an administration order
- ***Re European Directories (DH6) BV***[2012] BCC 46, pre-pack administration application following a COMI shift
- ***Re Cosco Bulk Carrier v Armada Shipping***[2011] 2 All ER (Comm) 481, principles to be applied on an application to lift the moratorium under the CBIR
- ***Belmont v BNY Trustee***[2010] Ch 347, anti-deprivation principle and 'flip clauses'
- ***Goldacre v Nortel***[2010] Ch 455, rent as an administration expense
- ***Unite the Union v Nortel***[2010] BCC 706, unfair dismissal claims as provable debts
- ***Re Schweizerische Luftverkehr-Aktiengesellschaft***[2010] BCC 677, power to remit assets under the CBIR and at common law
- ***Re Nortel***[2009] BCC 343, letters of request to courts of other EC Regulation states
- ***Tucker v Gold Fields Mining LLC*** [2009] 1 BCLC 567, effectiveness of bar date clauses in CVAs
- ***Re Courts*** [2009] 1 WLR 1499, whether prescribed part under section 176A Insolvency Act 1986 can be disapplied in part
- ***Re Newscreen Media Group*** [2009] 2 BCLC 353, application to vary an order discharging former administrators from liability
- ***SV Special Situations Fund v Headstart Class F Holdings,*** British Virgin Islands, 21 November 2008, ability to petition for the winding-up of a hedge fund based upon an unpaid redemption request
- ***Metronet Rail BCV***[2008] 2 All ER 75, rights of veto in relation to a transfer of the undertakings of PPP companies to a new operator
- ***Re Cheyne Finance*** [2008] 2 All ER 987, meaning of section 123(1)(e) Insolvency Act 1986

- ***Sisu Capital Fund v Tucker***[2006] BCC 463, unfair prejudice challenge to TXU CVAs

Banking and Finance

David's banking and financial services work spans a large range of subject areas, including general banking disputes, mis-selling claims, derivatives, structured finance, hedge fund litigation, client money and client asset rules and regulatory investigations.

Significant reported cases include:

- ***Dana Gas v Dana Gas Sukuk*** [2018] EWCH 278 (Comm), trial of preliminary issue of concerning the inter-relationship between UAE law governed documents and English law documents in a large banking transaction
- ***Lehman Waterfall IIC Application*** [2017] Bus LR 1475, interpretation of the meaning of "default Rate" under the ISDA Master Agreement
- ***Napier Park v Harbourmaster Pro-rata CLO***[2014] EWCA Civ 984 (CA), interpretation of reinvestment criteria in CLO transaction
- ***LBI hf v Stanford*** [2014] EWHC 3921 (Ch), set-off under the Credit Institutions Reorganisation and Winding-Up of Credit Institutions Directive
- ***Citicorp International v Shiv-Vani Oil & Gas*** [2014] EWHC 245 (Comm), claim by trustee for payment on an Indian FCCB issue and request for a stay in favour of proceedings pending in India
- ***Citibank v Geodesic*** [2014] EWHC 306 (Comm), application for summary judgment by trustee of an Indian FCCB issue
- ***Re MF Global*** [2013] Bus LR 1030, application of liquidation hindsight principle to client money rules
- ***Harbinger Capital v Caldwell; HM Treasury***[2013] EWCA Civ 429, compensation payable to shareholders on nationalisation of Northern Rock
- ***Lehman Brothers International (Europe) v CRC CreditFund*** [2012] 3 All ER 1 (SC), interpretation of client money rules
- ***Re MF Global*** [2012] EWHC 3415 (Ch), joinder of clearing houses to claim to ownership of T-bills
- ***Citigroup Global Markets v Amatra Leveraged Feeder Holdings*** [2012] 2 CLC 279, challenge to order for service out and request for a stay of proceedings in favour of an arbitration in NY
- ***Barclays Bank v HHY Luxembourg SARL***[2011] 1 BCLC 336 (CA), interpretation of the release provisions in the European Directories group inter-creditor agreement
- ***Cattles v Welcome Financial Services***[2010] 2 BCLC 712 (CA), effectiveness of RBS standard form subordination agreement
- ***Bank of New York v Montana Board of Investments***[2009] 1 All ER (Comm) 1081, interpretation of SIV documentation

Commercial Litigation and Arbitration

David acts in a wide range of commercial business disputes, including those arising out of the insolvency, banking and company matters outlined above.

Significant reported cases include:

- ***Dana Gas v Dana Gas Sukuk*** [2018] EWCH 277 (Comm), rejection of a request for a stay of English proceedings and grant of an anti-suit injunction restraining the pursuit of concurrent proceedings in the UAE courts
- ***Phones 4 U v EE*** [2018] Bus LR 574, no claim for loss of bargain damages for repudiatory breach where the contract is terminated in reliance on right to terminate on insolvency of counterparty
- ***Murray Holdings v Oscatello Investments*** [2018] EWHC 162 (Ch), claim for rectification of a commercial agreement dealing with share and loan proceeds derived from an interested in a supermarket chain
- ***R (on the application of Monarch Airlines) v Airport Co-ordination*** [2017] EWHC 2896 (Admin), judicial review of decision of airline slots co-ordinator not to allocate summer 2018 slots to Monarch in view of its administration
- ***Welcome Financial Services Ltd***[2015] 2 All ER (Comm) 992, consideration of claims under the Consumer Credit Act 1974
- ***LBI hf v Stanford*** [2014] EWHC 3921 (Ch), trial of claims of misrepresentation and fraud in relation to funds advanced for joint venture in India
- ***Tchenguiz v Director of Serious Fraud Office***[2014] 4 All ER 627 (CA), third party disclosure and litigation privilege
- ***Isis Investments v Oscatello Investments***[2013] EWHC 7 (Ch), refusal of case management stay in favour of parallel proceedings in the Isle of Man
- ***Fortress v Blue Skye***,claim that reorganisation of a hedge fund structure was part of a conspiracy to prejudice the rights of investors
- ***Isis Investments v Oscatello Investments***[2012] EWHC 745 (Ch), amendment of fraud claim to avoid banking and trust agreements
- ***HSH Nordbank***,dispute arising from the purchase of a large stake in a German bank
- ***IPOC***,dispute in relation to ownership of a mobile telecommunications company
- ***Dutch Equity Partners v Daman Real Estate Capital Partners***, first trial to come before the DIFC Courts in a dispute arising in relation to the construction of a building in the DIFC

Company

David's practice covers a broad spectrum of company law, including schemes of arrangement, mergers, reductions of capital, directors' duties, shareholders' agreements, joint venture agreements, and technical issues of statutory interpretation arising under the Companies Act 2006.

Significant reported cases include:

- ***Algeco Scotsman*** [2018] BCC 82, scheme of arrangement to compromise PIK loans of a Luxembourg financing vehicle
- ***Metinvest*** [2016] EWHC 79 (Ch), [2016] EWHC 372 (Ch); [2016] EWHC 1531 (Ch); [2016] EWCH 1868 (Ch), series of schemes of arrangement to compromise the financial liabilities of a Ukrainian mining group
- ***Codere Finance*** [2015] EWHC 3778 (Ch), scheme of arrangement to compromise NY law note liabilities of a worldwide gaming group
- Van Gansewinkel Groep [2015] 2 BCLC 141, schemes of arrangement in respect of Dutch and Belgian companies to restructure the financial indebtedness of the group
- ***Welcome Financial Services Ltd***[2015] 2 BCLC 141, interpretation of scheme of arrangement to determine whether claims of a bank's customers were subject to the scheme
- ***Apcoa*** [2015] Bus LR 374, opposed scheme of arrangement to restructure banking debt of European group of companies
- ***New World Resources*** [2015] BCC 47, scheme of arrangement to restructure New York law governed bonds issued by foreign companies
- ***Stemcor*** [2014] 2 BCLC 373, scheme of arrangement to restructure debt of worldwide steel group
- ***Tele Columbus*** [2014] EWHC249 (Ch), jurisdiction of court to sanction schemes of arrangement in respect of foreign companies
- ***NEF Telecom*** [2014] BCC 417, jurisdiction of court to sanction schemes of arrangement in respect of foreign companies
- ***PrimaCom Holding***[2013] BCC 201, jurisdiction of court to sanction schemes of arrangement in respect of foreign companies
- ***Monier Group Services*** [2013] EWHC 3406 (Ch), schemes of arrangement in respect of foreign companies
- ***Marconi Corp*** [2013] EWHC 324 (Ch), interpretation of scheme of arrangement for purpose of final distribution
- ***Macquarie Motorways Group*** [2013] EWHC 4562 (Ch), [2014] EWHC 4562 (Ch), scheme of arrangement to restructure debt of M6 toll road operator
- ***Fitness First***[2012] EWHC 2255 (Ch), scheme of arrangement in respect of gym operator
- ***NCP group***,scheme of arrangement in respect of car park operator
- ***Re Cattles*** [2010] EWHC 3611 (Ch), scheme of arrangement in respect of banking group
- ***Lovett v Carson Country Homes***[2009] 2 BCLC 916, scope of section 44 of The Companies Act 2006 and its application to forged documents
- ***McCarthy & Stone*** [2009] EWHC 712 (Ch),scheme of arrangement in respect of building group

Offshore

David has an extensive overseas practice which includes Cayman, BVI, Dubai, Jersey and Guernsey. Recent offshore matters include:

BVI
Tchenguiz, claims for inspection of documents on the court file
Re *Chesterfield*, challenge to decision of the liquidators to settle claims by and against the company
Oscatello Investments, ranking of claims under IA 2003
Asia Coal Energy, disputed winding-up petition

Cayman
Re Primeo Fund CICA 8 of 2016, liquidators' statutory powers could not be used to obtain extraterritorial non-party disclosure
Mongolian Mining, appointment of provisional liquidators and scheme of arrangement

Dubai
Oger v Daman, enforcement of a DIAC Tribunal award and the inter-relationship between the jurisdiction of the DIFC Court and the Dubai courts.
NBD Sana Capital, dispute before DIFC Court in relation to directors' duties
Bank Sarasin Alpen, winding-up petition against DIFC subsidiary of Swiss private bank
Daman RECAP, *locus standi* of minority shareholders to bring proceedings under the DIFC Companies law

David has acted as an expert witness in proceedings in a number of overseas jurisdictions.

Awards and Recommendations

Recommended as a leading barrister in seven practice areas by the legal directories: (1) Banking & Finance, (2) Insolvency & Restructuring; (3) Company; (4) Commercial Dispute Resolution; (5) Chancery: Commercial; (6) Financial Services; (7) Offshore

Winner of the Chambers and Partners UK Bar Award for Insolvency/Restructuring and nominee for the Banking & Finance Award

Ranked in Chambers UK 100

Chambers & Partners	*"Always impressive, he's a very smooth operator"* *"He always adds value to a case"* *"In terms of his ability to draft, his advocacy skills, his analysis, and his availability day or night, he is the all-round package"* *"He has an extremely commercial head on his shoulders"* *"He's very good with his knowledge of the law and the courts, and gives very practical advice as well as pure legal advice"* *"He is focused on client delivery and he understands where we and the client need to get to on a transaction or court process"*
Legal 500	"A shining light, very commercial and hugely intelligent" "A star in the making. David is extremely bright, has great commercial instincts and emotional intelligence"

Career

2014 Appointed King's Counsel
Called to the Bar of the Cayman Islands
2007 Called to the Bar of the Eastern Caribbean
2006 Full registration under Part II of the DIFC Courts' Register of Legal Practitioners
1998 Called to the Bar of England and Wales

Publications

Contributor to ***Gore-Browne on Companies***

Education and Qualifications

1994 Downing College, Cambridge University, MA, First Class

Prizes and Scholarships

Queen Mother Scholarship (Middle Temple)
George Long Scholarship (Cambridge University)
Senior Harris Scholarship (Cambridge University)