

# David Lascelles

Call: 2003

## Barrister

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David Lascelles is a highly-regarded commercial litigator. He brings a wealth of experience to resolving disputes successfully.

David specialises in litigation arising from high-value commercial contracts, the sale of shares and businesses, shareholder and LLP membership, commercial fraud, and director and senior employee relations. His cases are often multi-party and multi-jurisdictional.

David heads Littleton's company law group. He is also Littleton's Commercial Bar Association representative.

Examples of cases in which he has been instructed are set out under specialism headings below.

David has been recognised for many years by both Chambers & Partners and Legal 500 independent guides to the legal professions as one of the UK's leading barristers in both commercial and company law litigation. He is 1 of only 6 junior barristers in the UK to be recommended in both fields in the 2020 edition of both independent guides.

David has also been identified in Legal Week's junior "Stars at the Bar" feature for his exceptional skill in litigating commercial and corporate disputes.

Market feedback from the guides in recent years includes:

**"Very clever, very clear in his advice and willing to go the extra mile. He's superb"** (Chambers & Partners)

**"A brilliant barrister and rising star"** (Legal 500)

**"Handles complex issues with effortless ease"** (Chambers & Partners)

**"Excellent to work with, David always provides clear and commercial advice"** (Chambers & Partners)

**"Impressive in court, extremely bright and very user friendly"** (Chambers & Partners)

**"A great communicator, David is very good with clients and very down to earth"** (Chambers & Partners)

**"Exceptionally analytical with a great eye for detail, his memory is astonishing"** (Legal 500)

**"Definitely someone you want on your team"** (Chambers & Partners)

## RECOMMENDATIONS

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"A brilliant barrister and rising star"

(Legal 500 2019)

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"Handles complex issues with effortless ease"

(Chambers & Partners 2019)

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## AREAS OF LAW

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### Commercial Contract Disputes

David advises domestic and international clients on their rights and obligations under commercial contracts. He regularly acts in claims relating to distribution, franchise and joint venture agreements as well as claims for commission and finders' fees.

Examples include David representing:

- Well-known property entrepreneur, Nick Candy, in successfully striking out £1.5billion claim relating to UK's most expensive residential property – **Brown v Candy**;
- High net worth investors in multi-jurisdictional dispute arising from the sale of Somerfield plc and the collapse of Kaupthing Bank. Successes in this litigation included: resisting a £72million summary judgment application; obtaining a £2.8million summary judgment on one claim; obtaining permission (upheld by the Court of Appeal and Supreme Court) to bring conspiracy claims against Kaupthing Bank despite the latter's insolvency – **Isis v Investec** (led by Charles Samek QC);
- Nuffield Health in defending multi-million pound claims arising from a failed joint venture with a laser and cosmetic surgery provider. David succeeded in having the proceedings struck out just prior to the adjourned trial coming on for hearing – **SLC v Nuffield Health**;
- Mercedes-Benz in a claim for a declaration that it validly terminated 18 dealerships – **Mercedes-Benz v Derwent Vehicles**;
- Property investment firm on commission claim relating to the purchase of a £76million development at Brighton marina – **BMOR v GRE Assets**;
- International pharmaceutical company claiming injunctive relief to prevent wrongful termination of a distribution agreement – **Ranbaxy v Flynn Pharma** (led by Clive Freedman QC);
- Russian oligarch successfully contesting jurisdiction and defeating claim for over US\$50million arising from proposed development of Italian resort – **Sax v Tchernoy** (led by Clive Freedman QC).

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### Share and Business Sale Disputes

David is regularly instructed in share and business sale disputes.

This includes earn-out and deferred consideration claims by vendors and breach of warranty, misrepresentation, indemnification and breach of restrictive covenant claims by purchasers. He has also acted on numerous commission claims in respect of such sales. In addition, David has represented clients obtaining redress for breach of heads of terms and non-disclosure agreements.

Examples include David representing:

- Vendors of multi-national group in a £13million claim for breach of accounting and other warranties – **Constructor v Delap**;
- Leading car manufacturers Daimler in a claim for non-payment of deferred consideration in respect of its purchase of a high-performance engine business – **Illien & Morgan v Daimler UK PLC & Daimler AG**;
- Vendors of an alternative energy business in a €40 million share sale dispute in the Commercial Court and Court of

Appeal – **FKI Engineering Ltd v DeWind GmbH** (led by Charles Samek QC);

- Major international food manufacturer in £19m claims for breach of share sales warranties and fraud on purchase of UK's leading cake manufacturer – **Financiere Mademoiselle Desserts v Ormrod** (led by Charles Samek QC);
- Purchasers of telecoms business on £2million claim for breach of accounting warranties (names confidential);
- Vendors of 2 large scale recycling plants in multi-million pound claims for alleged breach of warranties in share sale agreement. David successfully obtained the strike out of the purchasers' claims due to time-bar provisions as well as summary judgment on his clients' £1.2million additional consideration claim – **Pennon PLC v Cutts**;
- The bidder for a nationwide care homes business in a claim against corporate financiers for taking a co-investment opportunity in breach of a non-disclosure agreement (names confidential);
- Vendors of an engineering company in a fraud claim relating to the provision of financial information prior to the sale – **Buffalo Evridge v Evans**;
- Private equity purchasers of substantial care homes group in breach of warranties claim arising from conduct of business pre-sale (names confidential);
- Vendors of road-markings company in high-value commission claim arising from the share-sale – **de Mendonca v Phippen**.

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## Shareholder and LLP Disputes

David has extensive experience of litigating unfair prejudice petitions as well as claims for breaches of articles of association, shareholder and LLP agreements.

He is also frequently instructed in claims relating to good leaver / bad leaver, drag-along / tag-along and other compulsory transfer provisions.

Examples include David representing:

- Minority shareholder in hedge-fund management company with US\$3billion assets under management alleging misuse of drag-along provisions – **Pamplona Strategic Investments v ISAM** (led by Stuart Ritchie QC);
- Majority shareholder in high-street department store chain in unfair prejudice petition – **Sports Direct v House of Fraser** (led by Philip Jones QC)
- FTSE-listed house-builder, Berkeley Group PLC, in high-value challenge to Board's exercise of discretion not to permit leaver's options to vest under share option and bonus schemes – **Simpkin v Berkeley Group PLC** (led by Andrew Clarke QC, John Cavanagh QC and Richard Gordon QC);
- Minority shareholder in a care homes group in a complex multi-million-pound unfair prejudice petition against his fellow shareholders and the group's directors. The case settled on the first day of a 10-day trial – **Re: Gold Care Group Limited**;
- Majority shareholders in a major tourist attraction in successfully overturning an interim injunction preventing completion of a \$100million share sale – **A Co v B Co & C shareholder** - (led by Ian Mayes QC);
- The former CEO and MD of a professional services PLC in multi-million pound claims relating to mandatory transfer provisions in the shareholders' agreements – **Knott & oths v Watts PLC**;
- Member of an LLP challenging expulsion from property development business – **Re: Red Lion LLP**;
- Founder and major shareholder of management consultancy challenging the application of bad leaver provisions in the articles after being forced out of the business (details confidential);
- Majority shareholders of a leisure boat business in a multi-million-pound unfair prejudice petition, a claim in respect of unauthorised takings and a related partnership dispute (led by Adam Solomon) – **Re French Brothers Ltd**;
- Majority shareholders in a Royal Warrant holding furniture manufacturer in defending a multi-million-pound unfair prejudice petition – **Re K & T Partnership**.

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## Director and Senior Employee Disputes

David has a particular expertise in senior executive disputes involving commercial or company law aspects.

He has acted in many hotly-contested claims of breach of contractual and fiduciary duties against directors and senior employees.

David has also acted in a number of extremely high-value bonus and wrongful dismissal disputes. These have frequently involved issues relating to the forfeiture of shares and share options upon termination (as to which see also above under shareholder disputes) and the exercise of contractual discretions.

Examples of recent / significant cases include David representing:

- CEO of a litigation funding business in wrongful dismissal and bonus claim in obtaining judgment for over US\$40million (*Goodman v TIM*);
- FTSE-listed house-builder, Berkeley Group PLC, in high-value challenge to Board's exercise of discretion not to permit leaver's options to vest under share option and bonus schemes – ***Simpkin v Berkeley Group PLC*** (led by Andrew Clarke QC, John Cavanagh QC and Richard Gordon QC);
- Leading publisher successfully obtaining injunctive and financial relief against former directors arising from the operation of a competing business – ***Publications UK Limited v Hussain***;
- CEO of a financial institution at the Commercial Court trial and then in the Court of Appeal in one of the highest-value wrongful dismissal and bonus disputes ever litigated – ***Huntington v Imagine Group*** (led by Andrew Clarke QC);
- Trader in claims against his former employer relating to rights to shares upon its floatation (***Richardson v Glencore PLC***; led by Selwyn Bloch QC);
- CEO in ***ERT Plc v Daley*** where the Court of Appeal considered the scope of contractual and fiduciary duties (led by Sam Neaman).

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## Commercial Fraud

David frequently acts as an adviser and advocate in commercial fraud disputes.

In addition to the many share and business sale disputes he has litigated which involve allegations of fraud (see examples above), David has represented:

- High-profile global fast-food franchisor defending multi-million pound Mercantile Court proceedings by 7 former franchisees alleging fraudulent and negligent misrepresentations (names confidential);
- MD of corporate finance company in £130million claims of fraud, bribery and conspiracy in relation to an alleged Ponzi scheme – ***KBC Lease (UK) Ltd v Total Asset Limited*** (led by Charles Samek QC);
- Vendor of shares in a US\$31million fraud claim relating to Iraqi mobile phone licence including at successful summary judgment application and 5-day trial – ***Arab v Merchantbridge*** (led by Ali Malek QC and Stuart Ritchie QC);
- Former partners of major regional solicitors' firm bringing multi-million pound claims of fraud, breach of fiduciary and contractual duties, conspiracy and dishonest assistance against their former partner and his business associates in relation to his other secret and conflicting business interests – ***Cohen v Dennison*** (led by Clive Freedman QC);
- CEO of group operating in the former Soviet Union in related fraud and breach of fiduciary duty claims including (led by Sam Neaman) in ***ERT Plc v Daley*** where the Court of Appeal considered the scope of contractual and fiduciary duties;
- Purchaser of block of 11 residential properties avoiding the contracts for payment of secret commission to his agent – ***Galliard Homes v Cassells***;
- Insurance broker in multi-million pound claims of conspiracy, dishonest assistance, knowing receipt and fraud in the insurance industry – ***Markel International Insurance v SGC & Oths*** (led by Robert Hildyard QC);
- Leading insurance company against its former CEO and 7 co-defendants in £10m fraud dispute– ***DAS UK v Asplin*** (led by Jonathan Cohen QC).

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## Arbitration

David acts as Counsel in arbitrations as well as advising on the scope, extent and enforceability of arbitration agreements and awards.

Examples of cases include:

- Acting for the Claimant partner of a top international law practice in an arbitration against the practice under the ICC rules relating to breaches of the LLP Agreement;
- Acting for the Respondent in an arbitration under the LCIA rules for breaches of a consultancy agreement relating to the provision of corporate finance services;
- Acting for the Claimant in ad hoc arbitration in relation to very substantial losses suffered as a result of the negligent provision of professional services.

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### **Academic Background and Prizes**

Prior to coming to the Bar, David read law at Cambridge and Oxford Universities.

David took a Double First from Cambridge, in each year obtaining the highest grades in his college (Peterhouse) and winning prizes from his college and the University.

David next took a Masters in Law from Oxford, winning a scholarship from the national Arts and Humanities Research Board (BCL, 2002, Brasenose College).

David was then awarded a major scholarship by Lincoln's Inn to study for the Bar (BVC, Inns of Court School of Law, 2003).

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