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Daniel Toledano KC

Barrister
Call 1993 Silk 2009



Scope of Practice

• Arbitration • Banking and Financial Services • Commercial Litigation • Civil Fraud and Investigations • Company and Insolvency • Commodity Trading • Derivative Actions • Energy and Natural Resources • Group Litigation • Injunctions and Urgent Relief • Insurance and Reinsurance • Jurisdiction and Conflict of Laws • Professional Liability • Sports, Gaming and Licensing

Overview

Daniel Toledano KC is the Joint Head of Chambers of One Essex Court and a leading silk at the Commercial Bar. He is regularly instructed in large-scale, multi-party litigation and international arbitration across a broad spectrum of business and commerce. Daniel has expertise in banking and finance; civil fraud; company and insolvency, energy and natural resources, group litigation and professional negligence matters. He is also frequently instructed in cases involving foreign law and questions of jurisdiction and conflict of laws.

Daniel's recent work has included the following leading cases:

- ***Munícipio de Mariana v BHP*** - the largest ever group action before the English courts concerning environmental damage in Brazil.

- ***The Diesel Emissions Litigation*** - acting for a major motor manufacturer in response to claims involving over 1 million diesel vehicle owners.

- ***General Dynamics v Libya*** - in a UK Supreme Court appeal dealing with service in the context of state immunity.

- ***Manoukian v Soc Gen and Bank Audi*** - a groundbreaking dispute leading to the first full merits judgment in any jurisdiction on the international transfer rights of banking customers under Lebanese law.

- ***Hashwah v Qatar National Bank*** – an important case dealing with the principles on the scope of sovereign conduct, the interaction between State immunity and other obligations under international law, and the application of the exception to State immunity for commercial transactions.

Daniel also has considerable experience as counsel in international commercial arbitrations governed by a variety of rules, including: ICC, UNCITRAL, LCIA, SIAC, CAS, FIFA and LME. He has led and acted as co-counsel in a wide range of major arbitration matters, including in relation to the Panama Canal; a substantial shipbuilding contract; a satellite broadcasting business; the acquisition of an energy company; and a power station in Jordan.

The leading directories have for many years singled Daniel out as an outstanding choice in a wide range of practice areas. As well as commercial dispute resolution, international commercial arbitration, banking, energy and civil fraud, he has also been recognised for his sports law work. Chambers UK shortlisted Daniel for Commercial Litigation Silk of the Year in 2022, and Legal 500 shortlisted him for Banking and Finance Silk of the Year in 2023, and International Arbitration Silk of the Year in 2024.

Examples of Recent Cases

Commercial Litigation

Daniel has dealt with a wide range of contractual and other commercial disputes in a variety of industry settings. This has included share and asset sale and purchase agreements, joint venture arrangements, distribution and marketing agreements, management services agreements, agency agreements and trademark licenses. Daniel has acted in cases involving alleged breaches of confidentiality agreements, as well as alleged breaches of non-compete and non-solicitation clauses and in applications for springboard type relief.

- **The Fundao Dam litigation (Municipio de Mariana & ors v BHP Group (UK) Limited)**
  Acting on behalf of BHP in the largest ever group action before the English courts. The claim is estimated by the 720,000 claimants to be worth about £36 billion and relates to the collapse of an iron ore tailings dam in Brazil.
- **Virgin Enterprises Ltd v Brightline Holdings LLC**
  Acted for Virgin in a Commercial Court trial about Brightline's decision to terminate its agreement to rebrand as Virgin Trains USA. The case concerned the international reputation of the Virgin brand.
- **Rolls Royce Holdings plc v Goodrich Corp**
  Acted for Rolls Royce in a Commercial Court dispute with Goodrich about the validity of the exercise of a call option and a second dispute about the scope of Goodrich's exclusivity in respect of aftermarket services for controls systems used in aircraft engines.
- **Virgin Aviation TM Limited v Alaska Airlines Inc**
  Acted for Virgin in a Commercial Court trial relating to a dispute under a trademark licensing agreement. The issue before the court concerned whether Minimum Royalties continued to be payable by Alaska after it had ceased all use of the Virgin brand.
- **Rusal v (1) Crispian and (2) Whiteleave**
  Construction of a ROFR (Right of First Refusal) contained in a shareholders' agreement relating to the Russian mining company Norilsk Nickel
- **Takeda v Fougera**
  Decision of Arnold J in the Chancery Division that the seller was not subject to an express or implied obligation under the terms of an SPA to provide certain information to the buyer.
- **JPW Enterprises v British Gas Services**
  Decision of Knowles J in the commercial court on the meaning of the term "subject to contract" and on the admissibility of subjective intentions in the context of contractual negotiations.
- **Barclays Private Bank & Trust v Ernst & Young**
  Professional negligence claim against E&Y relating to due diligence reports prepared in the context of the £400m acquisition by the claimant of a group of health and leisure clubs.
- **Mercuria Energy Trading v Citibank**
  "Repo" Transaction, with a value of over US $270 million, between the claimant commodity traders and the defendant bank. The transactions involved metal stored in warehouses in the ports of Qingdao and Penglai in China. Evidence came to light of what appears to have been a significant fraud in connection with this metal. The issue was whether Citibank was able to meet its delivery obligations in these circumstances by delivery of endorsed warehouse receipts.
- **Merrill Lynch International v Amorim Partners Ltd**
  Summary Judgment obtained in favour of the investment bank relating to a client investor's failure to pay for a share placement. The client had relied on the fact that the company in which the shares were purchased had announced a profit warning the day after the placement, which had reduced the shares' value by one-third.

Hamblen J held that none of the investor's defences had any real prospect of success.

- **Les Laboratoires Servier v Apotex Inc**
  Important decision of the Supreme Court regarding the ambit of the illegality defence (the ex turpi causa rule). The illegality issues arose in the context of a claim on a cross-undertaking in damages in a patent dispute.
- **Combined Utilities Limited v British Gas Trading Limited**
  Claim by an agent for compensation arising from the termination of its agency including under the Commercial Agents Regulations.
- **Fortress Value Recovery Fund v Blue Skye**
  Special Opportunities Fund Case concerned Italian assets worth €200m held pursuant to a complex investment holding structure. Issues considered by the Commercial Court included the grant of an order freezing the structure as well as security for costs and disclosure.
- **Credit Agricole Cheuvreux v IFA Securities Brokerage**
  Dispute concerning the purchase of TNA shares by an Egyptian trading entity through the claimant equity broker.
- **Bikam OOD and Central Investment Group SA v Adria Cable SARL**
  Breach of warranty claim under a share purchase agreement relating to the sale of shares in a Bulgarian satellite broadcaster.
- **Livermore Investments Group v. Crown Solution Gaming and Uniplay International**
  Dispute concerning the transfer of the rights to the domain name monacogoldcasino.com.
- **Gallaher International Ltd v. Tlais Enterprises Ltd**
  For Gallaher, in major Commercial Court proceedings arising out of a cigarette distribution agreement. The allegations included breach of contract, complicity in smuggling and fraud.
- **Apple Corps Ltd v. Apple Computer Inc**
  For Apple Computer, in its dispute with The Beatles relating to the iTunes Music Store and the use of trademarks. The long running dispute settled immediately prior to an appeal by The Beatles.
- **Alexander Krasner v. Vitaly Machitski**
  For defendant in a dispute over the ownership of Romanian aluminium interests. The issue was whether a one page "Memorandum of Agreement" was a binding contract.
- **Sumitomo Corporation v. Credit Lyonnais Rouse Ltd**
  For Sumitomo, in a dishonest assistance claim arising out of the activities of the rogue trader Yasuo Hamanaka. The case involved a detailed examination of physical copper trades and derivative contracts (futures and options) as well as London Metal Exchange market practice.
- **Carlton Communications plc & Another v. The Football League**
  For Carlton and Granada, in the action that successfully established that neither of the claimants had guaranteed the liabilities of ON Digital (later known as ITV Digital) to the Football League.

Arbitration

Daniel has considerable experience as counsel in arbitrations governed by a variety of rules, including: ICC, UNCITRAL, LCIA, SIAC, CAS, FIFA and LME. He has also been involved in a number of proceedings for relief ancillary to arbitrations including freezing orders, other forms of injunctive relief relating to the preservation of assets and contractual rights, applications for a stay of court proceedings in favour of arbitration and applications relating to the international enforcement of awards. Daniel acted as sole counsel in a major arbitration held in Singapore.

- **General Dynamics United Kingdom Limited v The State of Libya (Comm)**
  Proceedings to enforce an arbitral award against the defendant state. The claim gives rise to issues of state immunity and, in particular, as to the service requirements under section 12 of the State Immunity Act 1978. The claimant was successful on the service point in the Court of Appeal but the Supreme Court allowed the defendant's appeal (by a 3:2 majority).
- **ICC Arbitration**
  Arbitration governed by Jordanian law relating to the pricing of electricity generated by a newly constructed facility in Jordan and supplied by the seller to the buyer under a power purchase agreement.
- **ICC Arbitration (venue Paris)**
  Jurisdiction issues relating to dispute between consortium partners in a major construction project.

- ICC Arbitration (venue Istanbul)
  Acted for a global energy company in a dispute concerning gas supplies and pricing.
- C1, C2, C3 v D
  Acted for the Defendant to resist a challenge brought under sections 67 (substantive jurisdiction) and 68 (serious irregularity) of the Arbitration Act 1996 against an LCIA award which had ordered C2 to pay more than $150m to the Defendant.
- Cruz City v Unitech Limited
  Commercial Court proceedings seeking orders in aid of enforcement of very substantial arbitral awards. Included world-wide freezing order, receivership order and various ancillary orders.
- ICC Arbitration
  Acted for the respondent in an ICC arbitration concerning an iron ore producing plant in India.
- ICC Arbitration
  Acted for the respondent in an ICC arbitration concerning the scope of pre-emption rights in a joint venture agreement.
- LCIA Arbitration
  Alleged fraud perpetrated on a bank in Central Asia. Award obtained in January 2014. Claims included dishonest assistance, knowing receipt, unjust enrichment and conspiracy.
- LCIA Arbitration relating to bulk liquid storage terminal
  Dispute concerning the termination of a long term storage agreement.
- LCIA Arbitration
  Allegations of fraud in connection with the conclusion of interest rate swap transactions in Bahrain.
- LCIA Arbitration
  Claim by a bank under several derivatives transactions concluded with an Indian client. Defences based on exchange control regulations and illegality.
- LCIA Arbitration
  Claim by a trader in dividend tax arbitrage against a hedge fund.
- Ad Hoc Arbitration
  Claim under a policy of insurance relating to the construction of a property in Greece. The issue was whether the costs incurred were reinstatement or betterment.
- LCIA Arbitration (venue Singapore)
  Supply of telecoms equipment manufactured in China, imported into India and financed by a Japanese corporation. Issues of English law as well as Indian law.
- LCIA Arbitration
  Claim under a Tax Deed entered into in connection with an SPA.
- ICC Arbitration
  Joint venture to carry out pharmaceutical research, development and manufacturing. Dispute about the impact of provisions in shareholder and subscription agreements.
- LCIA Arbitration
  For former shareholders of a major bank in the Ukraine, in a dispute relating to its ownership and control.
- UNCITRAL Arbitration
  For owner of power plants in Northern Europe in a construction dispute with a contractor.
- ICC Arbitration
  For Claimant pharmaceutical company, in proceedings concerning termination of a long-term clinical development, distribution and sale agreement.
- LCIA Arbitration
  For Claimant, in proceedings between an investment company and bank relating to an option to purchase shares in another bank.
- UNCITRAL Arbitration
  For Claimant bank in breach of warranty proceedings relating to purchase of shares in another bank. The arbitration concerned the interaction and application of banking regulations and international accounting standards.
- Ad Hoc Proceedings
  For major global accountancy firm in a dispute concerning wrongful diversion of commission payments in

respect of film partnership investments.

- CAS & FIFA Proceedings
  For a premiership club in a substantial number of proceedings relating to disputes over player transfers.
- Banco Nacional De Comercio Exterior SNC v. Empressa De Telecomuncaciones De Cuba SA
  For ETECSA, in proceedings to discharge worldwide freezing orders challenging the enforcement of a foreign judgment on the basis that it was inconsistent with the annulment of an arbitration award.
- DeTeAsia Holding v. Celcom (Malaysia)
  Commercial Court proceedings relating to worldwide freezing order in support of international arbitration award.
- Section 44 Arbitration Act 1996
  Confidential proceedings. Arbitration claim under section 44 of the Arbitration Act 1996 for injunction to restrain the release of shares from escrow.

Banking and Financial Services

Daniel acted in the Bank Charges test case in which the banks obtained judgment in their favour from the Supreme Court. Daniel has also acted in numerous Commercial Court and Chancery actions as well as in arbitrations. Daniel has advised on issues arising out of the collapse of Lehman Brothers and the Icelandic banks. Daniel's work in this sector is divided below into four sections: (i) General, (ii) Finance and Restructuring, (iii) Derivatives and (iv) Structured Finance.

- Manoukian v Soc Gen and Bank Audi
  One of The Lawyer's 'Top 20 Cases of 2022'. This case was concerned with the financial crisis in Lebanon. During this crisis, banks in Lebanon have refused to accede to demands by customers for international transfers of funds standing to the credit of their accounts for fear of causing a run on the banks. The issue raised by this case was whether the banks were entitled to do so, in circumstances where the Lebanese Parliament had not introduced any capital control laws.
- Dexia v Provincia di Brescia
  Acted for the Claimant bank. Declaratory and other relief granted by the Commercial Court in relation to interest rate swaps.
- Lehman Brothers International (Europe) v ExxonMobil Financial Services BV
  Claim under Global Master Repurchase Agreement relating to 181 debt and equity securities which had been sold for US$250m subject to an obligation to re-purchase. Following Lehman's administration, disputes arose as to the correct valuation of securities leading to Commercial Court proceedings.
- Bilta UK Limited v SVS & Others
  Acted for a major investment bank defending allegations of involvement in a Missing Trader Intra Community Fraud arising out of trading in European Union Emissions Trading Scheme Allowances (or carbon credits).
- Credit Suisse AG v Up Energy Group Ltd
  Claim for option consideration due under a put option which, upon exercise, required the buyer to repurchase certain convertible notes. Defence raised of alleged common mistake relating to the impact of the terms of the notes and the regulations of the Hong Kong Stock Exchange.
- Euroption Strategic Fund v Skandinaviska Enskilda Banken AB (SEB)
  For SEB. Close out of a large portfolio of put and call options on a number of share indices. Two week trial before Gloster J. Judgment given in favour of SEB on all issues and indemnity costs awarded.
- British Arab Commercial Bank v. Bank of Communications and Commercial Bank of Syria
  Dispute relating to a performance bond and counter-guarantees. The dispute raises issues of Syrian Law.
- Raiffeisen Zentralbank Ostereich AG v. J P Morgan Chase Bank NA
  Dispute relating to tripartite repo arrangements and agency services in the context of the devaluation of securities following the collapse of Lehman Brothers.
- Hogarth Davies and Lloyd Limited v. Nomura International Plc
  For Nomura against a recruitment agency in a dispute concerning Nomura's acquisition of parts of Lehman Brothers followings its collapse.
- OFT v. HSBC & Others
  For HSBC, in the bank charges test case and the related OFT investigation. The Supreme Court found in

favour of the banks.

- **FSCS Ltd v. Abbey & NDF Administration Ltd**
  For NDF, defending financial services miss-selling claim arising out of sales of Structured Capital at Risk Products (SCARPS) or precipice bonds. Also concerned issues of compliance with PIA and/or FSA rules.
- **Banco Nacional De Comercio Exterior SNC v. Empressa De Telecomuncaciones De Cuba SA**
  For ETECSA, in proceedings to discharge worldwide freezing orders and challenging the enforcement of a foreign judgment on the basis that it was inconsistent with the annulment of an arbitration award.
- **Fuji Finance Inc v. Aetna Life**
  The leading case on meaning of life insurance. The case considered whether an investment scheme based on a life assurance policy was a policy of insurance within section 1 of the Life Assurance Act 1774 or void under section 16 of the Insurance Companies Act 1982.
- Other work has also involved: mergers and acquisitions including fairness opinions; convertible arbitrage; foreign exchange transactions; securities; share pledges and charges; structured bonds; letters of credit and other types of trade finance; payment protection insurance.
- Daniel has also acted in FSA investigations into market abuse.

Finance & Restructuring
Finance including: senior bank and investment grade lending and the syndication of these facilities; syndicated loans including LMA debt arrangements; junior capital issues including intercreditor arrangements, ranking and subordination of debt and equity, PIK and mezzanine. Daniel also advises on amendments, covenant resettings, restructurings and buy-backs.

- **Re-financing of major construction project**
  Advised an international property company in relation to the proposed re-financing of its flagship redevelopment project. Issues related to the interaction of provisions in the investment agreement, the trust instrument, the mezzanine documents, the senior credit facility and the subordination agreement.
- **Investment in food group**
  Advised a leading private equity firm on issues arising out of its investment in one of Europe's largest food groups. The original transaction included vendor loan notes, equity contributions and debt in the form of senior and mezzanine loans. The transaction was subsequently restructured through new investments. The issues concerned ranking and subordination.
- **Investment in retailer**
  Advised in relation to an investment in an international retailer with a network of stores across Europe. The issues concerned an equity cure of the group's financial covenants, the operation of a "mulligan provision" relating to covenant breaches and events of default.
- **Syndication Letter and Facility Agreement**
  Advised on the meaning of a market flex provision in a Syndication Letter between a bank and a bidco. Syndication was executed in stages. Following the Initial Sell Down of the debt, the bank claimed to be entitled to increase the fees payable by operating the flex provisions.
- **Brandenburg Properties v. J P Morgan Markets Limited and Deutsche Pfandbriefbank AG**
  Construction issues concerning a Senior Term Facility Agreement.
- **JP Morgan Europe Ltd v. Primacom AG & Another**
  Dispute under a major facility agreement with a cable operator in Germany and the Netherlands.

Derivatives (including ISDA documentation)
Derivatives including interest rate swaps; currency swaps; barrier options; variance swaps and dispersion trades; total return swaps; range accrual transactions; many aspects of ISDA Master Agreements. Daniel has advised in relation to the mis-selling of interest rate swaps, including those with caps and top-up floors, and the associated FCA review.

- **Tuvana Overseas SA v Barclays Bank plc**
  Alleged mis-selling of interest rate hedging products and alleged misrepresentations relating to LIBOR. The dispute arises out of a series of transactions entered into in order to fund the purchase of two commercial

properties on Fleet Street, London. The action also raises issues relating to the novation of the loans and swaps.

- **Barclays Bank Plc v Svizera Holdings**
  Claim under a Facility Agreement. Defence of alleged misrepresentation in relation to a currency swap transaction.
- **Calculation of Close-out Amount under ISDA Master Agreements**
  Advised in relation to the calculation of Close-out Amounts under swaps entered into as part of investment structures constructed by Lehman Brothers known as Principal Protection Notes.
- **Kaupthing Bank HF v Exista HF**
  For Exista. Claim under an indemnity. The issue was whether losses of €550m arose from an Event of Default and an Early Termination under an ISDA Master Agreement. Judgment of Burton J in favour of Exista.
- **J P Morgan Chase Bank NA v. Wockhardt (EU) Operations (Swiss) AG**
  Dispute about range accrual transactions and interest rate swaps and the effect of non-reliance clauses.
- **Morgan Stanley & Co International Plc v China Haisheng Juice Holdings Co Ltd**
  Dispute arising out of currency swap transactions and involving a jurisdiction battle between England and the People's Republic of China.
- **BBM Bank Limited v. Morgan Stanley & Co International**
  Claim under a Knock-Out relating to Brazilian Real and US Dollar foreign exchange trading. Involved interpretation of the ISDA Master Agreement.

Structured Finance
Structured bonds and notes; Collateralised Debt Obligations; RMBS and CMBS matters; collateral management and administration; trust deeds.

- **BNY Mellon v Taberna Europe**
  Acted for the trustee in a dispute about notes issued under a CDO structure. The dispute concerned whether the Class A1 Noteholders were entitled to accelerate payment of the notes because of certain alleged events default.
- **Napier v Harbourmaster**
  Acted for the collateral Manager in a dispute about a collateralised loan obligation structure with 14 classes of notes. The issue was whether certain proceeds were available for reinvestment or were to be paid out to noteholders under the CLO waterfall provisions.
- **UBS AG v (1) Glas Trust corporation and (2) Fairhold Securitisation**
  Acting for the issuer in a securitisation transaction. The dispute concerns whether certain fees, costs and expenses can be paid out of funds within the securitisation.
- **Claim against ratings agency**
  Acting for investors in a claim against a ratings agency arising out of its AAA rating of note instruments known as Constant Proportion Debt Obligations created by one of the major banks.
- **Noteholder dispute**
  Advising the Collateral Manager in relation to a Noteholder dispute about whether reinvestment criteria have been met.
- **Mainfirst Austria GMBH v US Bank Trustees Limited and Carnuntum High Grade I Limited**
  Acting for the Issuer of Notes secured by a portfolio of assets acquired by the Issuer as part of a high grade collateralised debt obligation (CDO) transaction arranged by WestLB AG. The claimant investment advisor alleges that its appointment was wrongfully terminated by the Trustee.
- **NIIB Group Ltd v. Deutsche Bank AG**
  Claim for repayment of a fee paid to the Bank in connection with a tax-driven structured finance transaction pursuant to which equity-linked notes were sold and repurchased.
- **Advising a noteholder**
  Advising a holder of Class X notes in four separate structured finance transactions. The relevant issuer issued various classes of Commercial Mortgage Backed Floating Rate Notes – issues arising include calculation of interest on Class X notes.

Energy and Natural Resources

Daniel has a substantial energy practice in oil and gas and electricity supply and generation. He advises regularly in relation to joint operating agreements; exploration and production sharing agreements; farming agreements; production and exploration licenses; gas processing and transportation agreements; hydrocarbon allocation and lifting; drilling rig hire and operation; emission allowances; and CHP plants. Daniel has recent experience advising on concessions in, and exploration and production licenses and production sharing contracts relating to, a number of different jurisdictions including Thailand, Oman, Uganda, Ghana and Cameroon.

- Gas supplies and pricing
  Acted for a global energy company in a dispute concerning gas supplies and pricing.
- Pre-emption rights in Joint Venture Operating Agreement
  Acted for the respondent in a dispute concerning the scope of pre-emption rights and whether they had been triggered by particular transactions. Included analysis of the so-called "Texas two-step" and its compatibility with the contractual provisions.
- Dispute relating to a bulk liquid storage terminal
  Dispute concerning the termination of a long term storage agreement. The dispute concerns satisfaction of conditions subsequent, commissioning, practical completion and force majeure.
- Decommissioning Security Agreement
  Advising in relation to the calculation of the amount of security to be provided under a DSA following enactment of guaranteed tax relief in respect of decommissioning obligations.
- Capacity Reservation and Transportation Agreement
  Advising in relation to a dispute about fees payable for the reservation of capacity for the transportation of gas through a major pipeline system.
- Transportation and Processing Agreement and Transportation Allocation Agreement
  Advising joint venture partners in relation to their rights and obligations under a TPA and a TAA, Issues include compliance of the gas with the delivery specification.
- Sale of North Sea assets
  Advising a major US integrated energy company in relation to the sale of UK North Sea assets to another global group of energy and petrochemical companies.
- Floating Production Storage and Offtake Vessel
  Advising on the true construction of limitation and exclusion provisions in a contract for the provision of FPSO services.
- Sale of LNG
  Advising on the true construction of LNG sale and purchase agreements.
- Pre-emption Rights
  Advising in relation to the exercise of pre-emption rights under Joint Operating Agreements in respect of interests in portfolios of onshore and offshore assets.
- Pipeline Capacity
  Advising in relation to the booking of capacity by a number of major producers in a pipeline system.
- Gas Transportation
  Advising an owner and operator of gas transmission networks in relation to a dispute relating to the true construction of a Transportation Agreement.
- Centrica Plc v Medway Power Limited [2011] (Comm)
  Force majeure claims relating to steam and gas turbines.
- Ineos Manufacturing Scotland Ltd v. Grangemouth CHP Ltd & Others
  For Claimant company, in relation to the ownership of CO2 emission allowances allocated to the CHP Plant at Grangemouth under the EU Emissions Trading Scheme.
- Centrica & BGTL v. Premier Power
  For PPL, in relation to the construction of a Gas Supply Agreement in light of Network Code changes and postalisation in Northern Ireland.
- Rolls-Royce Plc v Alstom
  Acted for Rolls-Royce in a dispute concerning technology for gas turbines used in power generation.
- Electricity Market Regulation
  Advising international electricity generator on the effects of a new scheme of regulation for the electricity

market.

- **Amoco (UK) Exploration Co v. British American Offshore Ltd Main proceedings**
  For BAO in the successful £53m Rowan/Gorilla V jack up drilling rig claim. Successful 6-month trial in the Commercial Court.
- **Arbitration Proceedings**
  For the claimant in an arbitration concerning the proper construction of a generating unit agreement relating to a power station in Northern Ireland.
- **Scottish Power Plc v. Britoil (Exploration) Ltd**
  For Britoil (a subsidiary of BP) in a claim that concerned the proper construction of an agreement to supply natural gas. Also involved consideration of the ambit of admissible factual matrix material.
- **BGTL v. Data Protection Registrar (Data Protection Tribunal)**
  For BGTL in an appeal concerning the uses that could be made of the gas database.
- **R (Edison First Power Ltd) v. (1) Secretary of State for the Environment, Transport and the Regions (2) The Central Valuation Officer**
  For Powergen Plc (now E.ON), an interested party. The case concerned the rates payable at power stations and whether The Electricity Supply Industry (Rateable Values) Order 1994 SI 1994/3282 was properly made under the powers conferred by the Local Government Finance Act 1988.

Group Litigation

- **Municipio de Mariana & Ors v BHP**
  Acting for BHP in the largest opt-in group action to be brought before the English courts, with in excess of 720,000 claimants. The case concerns the collapse of the Fundão dam in Brazil.
- **Nissan/Renault emissions claims**
  Acting for the Nissan Group in a threatened major group action (36,000 + claimants) arising out of alleged breaches of emissions regulations in Nissan vehicles.
- **Josiya & Ors v BAT and Imperial Tobacco**
  Acted for BAT in claims by 7,263 Malawian tobacco farmers for damages for negligence and/or conversion and/or unjust enrichment.

Civil Fraud and Investigations

Daniel has acted in several major fraud and dishonesty cases. He acted for Sumitomo in its claim against a broker alleged to have dishonestly assisted a rogue trader who lost the corporation US$2.6 billion. Following Sumitomo, he was involved in major Commercial Court proceedings involving allegations of fraud, smuggling and product diversion in a tobacco context. VTB (Chancery Division), Alliance Bank (Commercial Court) and several arbitration claims have provided further significant experience in the field of civil fraud.

Daniel also has considerable experience of freezing injunctions and other asset preservation and tracing remedies.

- **Bilta UK Limited v SVS & Others**
  Acted for a major investment bank defending allegations of involvement in a Missing Trader Intra Community Fraud arising out of trading in European Union Emissions Trading Scheme Allowances (or carbon credits).
- **Dar Al Arkan Real Estate Development v Al-Refai, Kroll Associates and others**
  Acting for Mr Al-Refai who successfully set aside injunctive relief including a freezing injunction on the basis that the relief had been obtained by the claimants using deliberately untruthful evidence and in breach of their duty of full and frank disclosure
- **Alliance Bank JSC v Aquanta Corporation & Others**
  Claim arising out of an alleged conspiracy resulting in the loss to the claimant bank of $1.1billion worth of US Treasury Notes called STRIPS.
- **VTB Capital Plc v Nutritek International Corp & Others**
  Claim in deceit and conspiracy for €350m arising out of alleged fraud.
- **Gallaher International Ltd v. Tlais Enterprises Ltd**
  For Gallaher, in major Commercial Court proceedings arising out of a cigarette distribution agreement. The allegations included breach of contract, complicity in smuggling and fraud.

- **Sumitomo Corp v. Credit Lyonnais Rouse Ltd Privilege**
  For Sumitomo, in a dishonest assistance claim arising out of the activities of the rogue trader Yasuo Hamanaka. The case involved a detailed examination of a physical copper trades and derivative contracts (futures and options) as well as London Metal Exchange market practice.

Professional Negligence and Liability

Daniel Toledano KC has significant experience of professional negligence claims made against, amongst others, banks, investment managers and advisors, solicitors, accountants, valuers and brokers.

- **Barclays Trust Company v Ernst & Young LLP**
  Daniel successfully defended Ernst & Young against a professional negligence claim for £25m brought by the Bell Leisure Group, which purchased Esporta Health & Fitness Clubs in 2007 for £470m and later alleged that Ernst & Young had been negligent in carrying out financial and commercial due diligence work for them relating to the purchase. Ernst & Young prevailed at trial on all three issues of breach, causation and loss.

Rating agencies and banks

- **McGraw-Hill International (UK) Limited v Deutsche Apotheker-Und Artzebank EG & ORS.**
  Daniel acts for the defendant investors. The litigation concerns the duties owed by a rating agency (in this case, Standard & Poor's) when rating financial products, as well as the duties of the bank (ABN Amro, now RBS) that arranges and markets the products.

Investment managers

- **RREEF European Value Added Fund v Deutsche Alternative Asset Management.**
  This is a claim for substantial damages made by a real estate investment fund against its investment manager for breach of contract and negligence in causing the fund to invest in a particular large scale real estate transaction

Company and Insolvency

In the company law field, Daniel has acted and advised in shareholder disputes and in unfair prejudice cases. He has been involved in a number of cases concerning the application of the FCA Listing Rules. Daniel has advised and acted in a number of matters in an administration or insolvency context.

- **VTB Capital Plc v Nutritek International Corp & Others**
  Attempt to pierce the corporate veil to introduce a contract claim. The Alliance Bank case also raised the same issue.
- **Hutchinson Whampoa Ltd v. KPN Mobile NV**
  For the major Hong Kong conglomerate, Hutchinson Whampoa, in a shareholder dispute with the Dutch telecommunications company KPN relating to their joint venture in third generation (3G) mobile telecommunications.
- **TXU Europe Energy Trading Limited (In Admin)**
  For the administrators of TXU in relation to contractual claims.
- **Re Enron Direct Ltd; Pearson v. Albany Marketing Ltd**
  For the joint administrators of EDL, a supplier of gas and electricity to retail customers to the UK. Claim for compensation under the Commercial Agents (Council Directive) Regulations 1993.
- **Railtrack Plc**
  Advised the Joint Special Railway Administrators of the company on issues concerning the financial structure of the rail network.
- **Canary Wharf Contractors (DS6) Ltd v. Niagara Mechanical Services International Ltd (In Admin)**
  For Canary Wharf in proceedings brought to recover a payment made to a contractor in administration where the payment had been made for the specific purpose of securing the completion of essential work by a subcontractor and that purpose subsequently became incapable of fulfilment.

Jurisdiction and Conflict of Laws

Daniel has been involved in a number of jurisdiction challenges and applications for stays and anti-suit injunctions, including the leading House of Lords authority on injunctions in the context of exclusive jurisdiction clauses. He has considerable experience of forum non conveniens issues and issues arising under Regulation 44/2001 and under Regulation 1215/2012 (Recast Brussels Regulation). Daniel has also advised on other conflict of law issues including choice of law, the Rome Convention, the Private International Law (Miscellaneous Provisions) Act 1995 and the Rome Regulations on contractual and non-contractual obligations.

- **Municipio de Mariana & Ors v BHP** Abuse of process and jurisdiction issues decided by the High Court and by the Court of Appeal – the essential question being whether the claims could proceed in England or whether they should be heard in Brazil.
- **Hashwah v Qatar National Bank & Ors**
  State immunity claimed on behalf of alleged agents of a foreign state under the principle in Jones v Saudi Arabia.
- **Standard Bank Plc v Just Group LLC**
  Jurisdiction challenge raising issues of Mongolian law and Mongolian exclusive jurisdiction.
- **Alliance Bank JSC v Aquanta Corporation & Others**
  Jurisdiction appeal determined by the Court of Appeal. The issues included subrogation, piercing the corporate veil, the impact of exclusive jurisdiction clauses in the agreements that effected the alleged fraud and forum conveniens. Also involved objection to the continuation of a world-wide freezing order.
- **VTB Capital Plc v Nutritek International Corp & Others**
  Jurisdiction challenge involving consideration of the applicable law of the claims in deceit and conspiracy. Attempt to pierce the corporate veil to introduce a contract claim. Forum conveniens for claims in tort.
- **Morgan Stanley & Co International Plc v China Haisheng Juice Holdings Co Ltd**
  Dispute arising out of currency swap transactions and involving a jurisdiction battle between England and the People's Republic of China.
- **JP Morgan Europe Ltd v. Primacom AG & Another**
  Application of Regulation 44/2001, in particular Articles 27 and 28 concerning lis pendes and related actions and the court first seised.
- **Apple Corps Ltd v. Apple Computer Inc**
  Challenge to the jurisdiction by the defendant US Corporation. The issues included what law governed the contract applying the Rome Convention.
- **Ceskoslovenska Obchodni Banka v. Nomura International plc**
  Stay of English proceedings where the Czech Republic was clearly the appropriate forum.
- **Donohue v. Armco Inc**
  No anti-suit injunction against proceedings in New York despite the presence of an English exclusive jurisdiction clause. Decision of the Court of Appeal reversed by the House of Lords. Leading case on exclusive jurisdiction clauses and anti-suit injunctions.
- **Amoco (UK) Exploration Co v. British American Offshore Ltd**
  Permission to serve proceedings out of the jurisdiction set aside because the proceedings were not designed to adjudicate upon substantive rights.
- **Ursa Major Management Ltd v. United Utilities Electricity Plc**
  Breakdown of expert determination machinery in a contract.

Sports, Gaming and Licensing

Daniel has considerable experience in the sports law field and has been involved in several matters concerning football, motor racing and boxing. He has advised in a number of matters concerning Formula One.

- Advising in relation to Formula One issues including the Concorde Agreement and various race promotion contracts.
- **Force India Formula One Team v. Rodriguez**
  For the Sponsor in a sponsorship dispute involving one of the F1 racing teams. The sponsor was alleged to have owed €12m but claimed that the F1 team terminated an agreement with the sponsor's son which would have provided the son with an F1 driver seat for the 2008 season. Mr Justice Griffith found in favour of the Sponsor

on all allegations in dispute.

- PPGI v. British American Tobacco
  For BAT in a claim relating to BAT's sponsorship of television broadcasts of F1 races.
- Fulham Football Club
  For the club in player transfer disputes before FIFA and the Court of Arbitration for Sport.
- Fulham Football Club (1987) Ltd v Jean Tigana
  Breach of contract and fiduciary duty claim brought by FFC against its former manager, Jean Tigana, who was also a company director. Appeal dismissed by the Court of Appeal.
- British American Racing Limited
  For the F1 team on a variety of issues concerning the Concorde Agreement and the powers of the governing body (the FIA). Daniel also has experience of driver contracts in the context of both the F1 and World Rally Championship.
- Boxing
  Advice to a boxer's management company concerning the non-payment of a purse.

What the Directories Say

"Dan is fantastic across the board; he's commercial, client-friendly and always willing to make himself available." (Chambers UK 2027 – Commercial Dispute Resolution)

"Superb at getting across the detail, he really understands what matters and makes the complex simple and obvious." (Chambers UK 2027 – Commercial Dispute Resolution)

"He is an absolutely exceptional advocate." (Chambers UK 2027 – Commercial Dispute Resolution)

"He brings the best out of his teams and has great strategic sense when handling cases." (Chambers UK 2027 – Commercial Dispute Resolution)

"Daniel is one of the very best at the Commercial Bar, without any shadow of a doubt. His cross-examination is unparalleled and judges love him. He is a leading counsel for the most difficult and highest profile cases." (Chambers UK 2027 – Commercial Dispute Resolution)

"Dan Toledano is a pleasure to work with – very down to earth, clear-eyed about where things can and should go and and extremely persuasive." (Chambers UK 2027 – Fraud Civil)

"Daniel has an extreme work sophistication." (Chambers UK 2027 – Energy & Natural Resources)

"Daniel is good for commercial work; he is excellent." (Chambers UK 2027 – Energy & Natural Resources)

"Daniel is in a league of his own. He is one of the cleverest people you will ever meet and has this brilliant manner about him. He gets people on side because he just presents so well. He is wonderfully down-to-earth and humble." (Chambers UK 2027 – Energy & Natural Resources)

"Dan Toledano is great." (Chambers UK 2027 – Banking & Finance)

"Dan Toledano is a pleasure to work with. He is very down to earth, very clear-eyed about where things can and should go and extremely persuasive." (Chambers UK 2027 – Banking & Finance)

"Daniel is one of those that is in a league of his own; one of the cleverest people you will ever meet." (Chambers UK 2027 – Banking & Finance)

"He's a very good commercial practitioner." (Chambers UK 2027 – Group Litigation)

"Daniel is a very impressive advocate: he's incisive and agile." (Chambers UK 2027 – Group Litigation)

"He is an absolutely exceptional advocate. I very much look forward to working with him again." (Chambers UK 2027 – Group Litigation)

"He is excellent: he brings user-friendliness and commercial awareness to cases. He has done a good job on both. He will get on with clients and explain the case and strategy in a way that clients will understand. We have always been very happy with him." (Chambers UK 2027 – Group Litigation)

"Daniel was just excellent." (Chambers UK 2027 – International Arbitration)

"Daniel gets straight to the point and has a really nice manner about him." (Chambers UK 2027 – International Arbitration)

"Daniel is an exemplary court performer. He delivers advocacy in a measured but robust way, gives carefully considered advice and thinks deeply about cases from start to finish. He is incredibly user-friendly, a delight to work with and excels at working closely with solicitors to deliver as part of an integrated team." (Chambers UK 2027 – International Arbitration)

"Daniel is a complete superstar. He is all over the details and really approachable." (Chambers UK 2027 – International Arbitration)

"Daniel is a great leader with a real overview." (Chambers UK 2027 – International Arbitration)

"One of the top analytical brains at the Bar; never misses a good point and pitches his advocacy superbly." (Legal 500 2027 – Commercial Litigation)

"Daniel is one of the undisputed stars of the commercial Bar. He works incredibly hard and is always on top of all the details. He sees points that other people do not, and he is excellent with clients. In court, he is fantastic - clever, forceful submissions delivered with charm." (Legal 500 2027 – Energy)

"Dan is just brilliant. He is great to work with, immerses himself in the case, and is willing to get into the detail and fight. He is a highly accomplished advocate who combines warmth, charm, and excellent client handling skills with a formidable ability to land the decisive argument when it matters most." (Legal 500 2027 – International Arbitration)

Awards

2027 Chambers Top Ranked UK Bar

Daniel Toledano KC

Legal500 LEADING SILK 2026

ONE ESSEX COURT

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