E-mail: clerks@oeclaw.co.uk



David Caplan KC

Barrister
Call 2006 Silk 2026

Scope of Practice

• Arbitration • Banking and Financial Services • Civil Fraud and Investigations • Commercial Litigation • Company and Insolvency • Energy and Natural Resources • Injunctions (including freezing order and search orders) • Jurisdiction and Conflict of Laws • Technology and Construction

Overview

David undertakes a broad range of commercial work and has extensive experience of working in various forums, including the High Court (both led and unled), the Court of Appeal (again, both led and unled), the Supreme Court, the Privy Council, the Eastern Caribbean Supreme Court, the Competition Appeal Tribunal, and arbitrations. He is admitted as a member of the bar of the British Virgin Islands. David has also acted as an expert on English law in foreign proceedings.

David is described in Chambers & Partners' UK Bar Guide 2023 as *"KC material – his drafting is impeccable, he is calm under pressure and he has exceptional instincts"*.

In the past year, David has acted on, among other things: the sprawling *Koza* litigation, which has already generated numerous High Court judgments, four Court of Appeal judgments, and one Supreme Court judgment; *Rolls-Royce Holdings Plc v Goodrich Corporation*, a high-value case about whether Roll-Royce is entitled to acquire Goodrich's aircraft engine aftermarket services business; *Crane Bank Ltd v DFCU Bank Ltd*, a conspiracy case concerning the allegedly corrupt "resolution" of one of Uganda's leading banks; and the *Sodzawiczny* proceedings, a major fraud case which has spawned multiple disputes in multiple jurisdictions.

David has also acted on, amongst other things: the landmark *Cukurova* litigation about the ownership of the largest mobile network provider in Turkey; the *Peak Hotels* dispute over the ownership and control of the Aman Resorts hotel group; *Novatrust v Kea*, a dispute over a private equity investment vehicle and the first derivative action on behalf of a foreign company that was permitted to proceed before the English courts; and *Goldman Sachs v Novo Banco*, an $800m+ claim which raised issues under the European Banking Resolution and Recovery and Credit Institutions Winding Up Directives.

David also maintains a busy advisory practice, regularly advising on matters relating to banking, energy, the financial markets, civil fraud, arbitration enforcement and more, and is highly experienced when it comes to injunctions, freezing orders and search orders.

Examples of Recent Cases

Commercial Litigation

- **Koza Ltd v Koza Altin Isletmeleri AS**
  David acts, and has acted throughout, for the Defendants in this extraordinary claim which began in 2016. The claim, in essence, is a battle for control over Koza Ltd, an English company, between Koza Altin Isletmeleri AS, its 100% ordinary shareholder, and a Mr Akin Ipek, who is Koza Ltd's sole director and the purported owner of a "golden share" which entrenches him in that position. That simple summary however masks the complexity of the matter. The case has a highly political flavour, with Mr Ipek contending that the authority of those currently in control over Koza Altin to cause it to act as a shareholder of Koza Ltd should not be "recognised" in this jurisdiction. That contention was rejected by the Court of Appeal in its fourth judgment in the case (see [2022] EWCA Civ 1284). The case has also generated a significant Supreme Court judgment on jurisdiction ([2019] 1 WLR 4830), other judgments on the power to grant injunctions and abuse of process ([2021] 1 WLR 170), the extent to which company funds can legitimately be expended upon disputes between stakeholders ([2021] EWHC 786), and has involved numerous applications for injunctive relief, both *ex parte* and on notice.
- **Rolls-Royce Holdings Plc v Goodrich Corporation**
  A high value Commercial Court claim in which David acts for various Rolls-Royce entities. There are claims asserted both ways: Rolls-Royce claims a right to acquire Goodrich's aircraft engine aftermarket services business under a put and call option agreement, which is disputed by Goodrich; and Goodrich claims that Rolls-Royce has been breaching certain exclusivity provisions in relation to the provision of aftermarket services, which is disputed by Rolls-Royce. A trial of both claims took place in April-May 2023.
- **Crane Bank Ltd v DFCU Bank Ltd**
  A high-value Commercial Court conspiracy claim in which it is alleged that a number of defendants conspired with the Bank of Uganda in order to procure the "resolution" and sale at an undervalue of the assets of Crane Bank, which was one of Uganda's leading financial institutions. The claim raises difficult and novel issues relating to the foreign act of state doctrine, which have just been the subject of a three-day appeal before the Court of Appeal.
- **Alfa v Cukurova**
  A billion-dollar battle over control of Turkey's largest network phone operator, Turkcell. This landmark litigation generated two trials in the BVI, multiple hearings in the Privy Council, and an LCIA arbitration. The dispute is multifaceted, hard-fought and complex. The case, amongst other things: has confirmed the availability in principle of relief from forfeiture in relation to financial collateral which has been appropriated pursuant to the Financial Collateral Arrangements (No 2) Regulations 2003; is an extremely rare, if not unique, example of relief from forfeiture actually being granted in a wholesale commercial transaction of this magnitude; and involved the most detailed analysis of the principles underlying the jurisdiction to grant relief from forfeiture and the terms upon which such relief should be granted since at least the leading House of Lords decision of *Shiloh Spinners v Harding* in 1973 (see [2016] AC 923).
- **LIC Telecommunications Sarl v VTB Capital Plc**
  A £100m+ Commercial Court claim in which VTB Capital was accused of orchestrating a fraud involving the allegedly rigged auction of a Bulgarian telecoms business and its sale to a related party at an undervalue. The case let to two trials, which were both largely focused on issues of Luxembourg law (see [2018] EWHC 169 and [2019] EWHC 1747).
- **Ross River v Waveley Commercial**
  A dispute over a joint venture property development. Following a 17-day trial in the Chancery Division, David appeared unled in the Court of Appeal for the successful appellants, Ross River ([2014] BCLC 545). The Court of Appeal's judgment contains important decisions of principle on a number of topics, including: the circumstances in which fiduciary duties will arise in commercial (and in particular 'joint venture-like') contexts; the circumstances in which individuals who control companies will owe fiduciary duties to third parties with which those companies deal; the effect of a finding that one party owes fiduciary duties to another on the burden of proof as between those parties; and the circumstances in which causing a company to incur expense in defending a claim may itself amount to a breach of duty.

- **Peak Hotels v Tarek Investments**
  Extremely hard-fought proceedings over the ownership and control of the super-luxury Aman Resorts hotel group. The main proceedings took place in England, but related proceedings took place in New York and the

BVI.

- Novatrust v Kea
  A muti-jurisdictional (England and BVI) set of proceedings relating to a private equity investment vehicle. The proceedings involved contested winding up petitions, claims in fraud, and the first derivative claim on behalf of a foreign company that has been permitted to proceed before the English courts.

- Goldman Sachs v Novo Banco
  An $800m+ claim which raised complex issues of jurisdictional and European law. The case concerned the effect on English law obligations of various decisions of the Bank of Portugal, and raises issues as to the proper interpretation and application of the European Banking Resolution and Recovery and Credit Institutions Winding Up Directives, and went up to the Supreme Court (see [2018] 1 WLR 3683).
- Kazeminy v Siddiqi
  A high value claims claim in the Commercial Court relating to an investment in green automotive technology. The case generated two trials (both of which were settled part-way through), an appeal on the construction of a settlement agreement ([2012] EWCA Civ 416), an application for a conditional order ([2010] EWHC 201) and an unprecedented successful application for a second conditional order.
- Proxima v Merrill Lynch
  One of the highest value ($450m+) swaps claims. The case involved allegations of 'front-running', LIBOR manipulation, ISDAfix and swap pricing manipulation, and the omission of funding and credit valuation adjustments in swap close out calculations.

Arbitration

- Sodzawiczny v Smith
  David has acted for Franek Sodzawiczny in a series of arbitrations and related proceedings. They include: an LCIA arbitration in which David obtained an Award for over £6m in respect of a disputed settlement agreement; an LCIA arbitration in which David obtained Awards totalling over £30m for Mr Sodzawiczny in respect of fraudulent breaches of trust that had been perpetrated against him and dishonest assistance in those breaches; and enforcement proceedings in various jurisdictions (including England and the Isle of Man) in relation to those Awards.
- A v B (confidential)
  A US$750m+ arbitration for breach of a share purchase agreement.
- Sonera v Cukurova
  A multi-jurisdictional battle over the enforceability of a billion-dollar ICC arbitration award. The jurisdictions involved include the BVI, New York, England, Switzerland and the Netherlands. David was primarily involved in the BVI and English litigation, which generated a trial, anti-suit (and anti-anti-suit) injunctions, and multiple appeals (including at Privy Council level), and a second ICC arbitration, in which the Tribunal held that the first (billion-dollar) arbitration award had been issued by a Tribunal without jurisdiction.
- A v B (confidential)
  A high value ICC arbitration relating to claims for the return of shares under a total return swap and damages. The issues raised were extremely complex, and included issues of Bulgarian bank insolvency law and EU, Guernsey and US sanctions and money laundering laws.
- A v B (confidential)
  An LCIA arbitration relating to an oil rig drilling contract. David obtained a Partial Award of over US$6m for his client in an "early determination" procedure which was introduced in the 2020 version of the LCIA Rules.
- A v B (confidential)
  A PCA oil and gas arbitration, heard in the Peace Palace in the Hague.
- A v B (confidential)
  An LCIA arbitration concerning allegations of breach of non-compete obligations and fiduciary duty in relation to a foreign retail chain, where issues included what did and did not constitute competition and the availability of *Wrotham Park* (now "negotiating" damages).
- David has also advised and acted on numerous potential challenges to arbitration awards under the Arbitration Act 1996.

Civil Fraud and Investigations

- Sodzawiczny v Smith
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- Crane Bank Ltd v DFCU Bank Ltd
  A high-value Commercial Court conspiracy claim in which it is alleged that a number of defendants conspired with the Bank of Uganda in order to procure the "resolution" and sale at an undervalue of the assets of Crane Bank, which was one of Uganda's leading financial institutions. The claim raises difficult and novel issues relating to the foreign act of state doctrine, which have just been the subject of a three-day appeal before the Court of Appeal.
- LIC Telecommunications Sarl v VTB Capital Plc
  A £100m+ Commercial Court claim in which VTB Capital was accused of orchestrating a fraud involving the allegedly rigged auction of a Bulgarian telecoms business and its sale to a related party at an undervalue. The case let to two trials, which were both largely focused on issues of Luxembourg law (see [2018] EWHC 169 and [2019] EWHC 1747).
- Banque Cantonale de Geneve v Polevent
  Proceedings concerning multiple frauds committed against a Swiss bank and others. Issues include the law applicable under Rome II, and in particular the relationship between the rules for tort claims and the rules for unjust enrichment claims where both arise out of an underlying fraud. Again, the proceedings involved obtaining urgent without notice worldwide freezing orders.
- Holland v FCS
  Proceedings for the recovery of sums misappropriated in a major carbon credit investment scam. The case involved successful applications for worldwide freezing orders, search orders, summary judgment, and committal.
- Odyssey v Kamp
  Claim concerning allegations of breaches of fiduciary duty and accessory liability in the context of the film finance and sales agency markets.
- Proxima v Merrill Lynch
  One of the highest value ($450m+) of the recent crop of swaps claims. The case involved allegations of 'front-running', LIBOR manipulation, ISDAfix and swap pricing manipulation, and the omission of funding and credit valuation adjustments in swap close out calculations.
- Fitzpatrick v AIB
  Claims and a representative action based on an alleged securities market manipulation conspiracy.
- David has also advised and acted on numerous other fraud claims, often involving urgent interim relief, including freezing orders (including worldwide and *Chabra* orders), search orders, and *Norwich Pharmacal* orders.

Banking and Financial Services

- Crane Bank Ltd v DFCU Bank Ltd
  A high-value Commercial Court conspiracy claim in which it is alleged that a number of defendants conspired with the Bank of Uganda in order to procure the "resolution" and sale at an undervalue of the assets of Crane Bank, which was one of Uganda's leading financial institutions. The claim raises difficult and novel issues relating to the foreign act of state doctrine, which have just been the subject of a three-day appeal before the Court of Appeal.

- Goldman Sachs v Novo Banco
  An $800m+ claim which raised complex issues of jurisdictional and European law. The case concerned the effect on English law obligations of various decisions of the Bank of Portugal, and raises issues as to the proper interpretation and application of the European Banking Resolution and Recovery and Credit Institutions Winding Up Directives, and went up to the Supreme Court (see [2018] 1 WLR 3683).
- Proxima v Merrill Lynch
  One of the highest value ($450m+) of the recent crop of swaps claims. The case involved allegations of 'front-

running', LIBOR manipulation, ISDAfix and swap pricing manipulation, and the omission of funding and credit valuation adjustments in swap close out calculations. Settled on confidential terms.

- Fitzpatrick v AIB
  Claims and a representative action based on an alleged securities market manipulation conspiracy.

- David has also advised and acted on various claims arising out of syndicated loan agreements, security agreements, intercreditor deeds and other common financial instruments (including ISDA documentation), claims under the Financial Services and Markets Act 2000 (including section 90 claims), swaps mis-selling, and market manipulation.

Company and Insolvency

- Koza Ltd v Koza Altin Isletmeleri AS
  David acts, and has acted throughout, for the Defendants in this extraordinary claim which began in 2016. The claim, in essence, is a battle for control over Koza Ltd, an English company, between Koza Altin Isletmeleri AS, its 100% ordinary shareholder, and a Mr Akin Ipek, who is Koza Ltd's sole director and the purported owner of a "golden share" which entrenches him in that position. That simple summary however masks the complexity of the matter. The case has a highly political flavour, with Mr Ipek contending that the authority of those currently in control over Koza Altin to cause it to act as a shareholder of Koza Ltd should not be "recognised" in this jurisdiction. That contention was rejected by the Court of Appeal in its fourth judgment in the case (see [2022] EWCA Civ 1284). The case has also generated a significant Supreme Court judgment on jurisdiction ([2019] 1 WLR 4830), other judgments on the power to grant injunctions and abuse of process ([2021] 1 WLR 170), the extent to which company funds can legitimately be expended upon disputes between stakeholders ([2021] EWHC 786), and has involved numerous applications for injunctive relief, both *ex parte* and on notice.
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- Novatrust v Kea
  A muti-jurisdictional (England and BVI) set of proceedings relating to a private equity investment vehicle. The proceedings involved contested winding up petitions, claims in fraud, and the first derivative claim on behalf of a foreign company that has been permitted to proceed before the English courts.
- Advised on numerous issues relating to directors' duties, derivative claims, unfair prejudice petitions, bankruptcies, insolvencies, restructurings and administrations.

Technology and Construction

- TRW Systems Ltd v Kemet Electronics Corporation
  TCC claim by a manufacturer of airbag control units in cars against a sub-supplier for faults that were alleged to have resulted in inadvertent airbag deployments in the field and, ultimately, a number of vehicle recalls.
- Holbeck Ghyll Hotel v Nicholson
  TCC claim for breach of warranty relating to the sale of a hotel in the Lake District.

Jurisdiction and Conflict of Laws

- Many of the cases that David acts on involve jurisdictional and conflicts issues, and David has extensive experience in this area, including in the European, common law, arbitral, insolvency and banking contexts.
- Koza Ltd v Koza Altin Isletmeleri AS
  David acts, and has acted throughout, for the Defendants in this extraordinary claim which began in 2016. The claim, in essence, is a battle for control over Koza Ltd, an English company, between Koza Altin Isletmeleri AS, its 100% ordinary shareholder, and a Mr Akin Ipek, who is Koza Ltd's sole director and the purported owner of a "golden share" which entrenches him in that position. That simple summary however masks the complexity of the matter. The case has a highly political flavour, with Mr Ipek contending that the authority of those currently in control over Koza Altin to cause it to act as a shareholder of Koza Ltd should not be "recognised" in this jurisdiction. That contention was rejected by the Court of Appeal in its fourth judgment in the case (see [2022] EWCA Civ 1284). The case has also generated a significant Supreme Court

judgment on jurisdiction ([2019] 1 WLR 4830).

- **Crane Bank Ltd v DFCU Bank Ltd**
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- **Sonera v Cukurova**
  A multi-jurisdictional battle over the enforceability of a billion-dollar ICC arbitration award. The jurisdictions involved include the BVI, New York, England, Switzerland and the Netherlands. David was primarily involved in the BVI and English litigation, which generated a trial, anti-suit (and anti-anti-suit) injunctions, and multiple appeals (including at Privy Council level), and a second ICC arbitration, in which the Tribunal held that the first (billion-dollar) arbitration award had been issued by a Tribunal without jurisdiction.

Energy and Natural Resources

- **A v B (confidential)**
  An LCIA arbitration relating to an oil rig drilling contract. David obtained a Partial Award of over US$6m for his client in an "early determination" procedure which was introduced in the 2020 version of the LCIA Rules.
- **A v B (confidential)**
  A PCA oil and gas arbitration, heard in the Peace Palace in the Hague.
- Advised on various issues under Oil/Gas Supply Agreements and other agreements relating to the energy industry (including production sharing and joint operating agreements).

Competition

- Acted for and advised the Competition Commission throughout its determination of the first ever price control reference made to it under the Communications Act 2003.
- The reference related to two appeals (brought by BT and H3G) against Ofcom's 2007 decision on mobile termination rates and involved the determination of complex questions of economics and law in the context of large-scale, multi-party litigation.
- Acted for the Competition Commission in the subsequent challenge brought against its determination on judicial review grounds.
- Advised OFWAT on certain aspects of its PR09 price review.
- Assisted in the FSA's investigation into Payment Protection Insurance.

What the Directories Say

"David is a pleasure to work with. A brilliant strategist, he is precise and methodical in his advocacy." (Chambers and Partners 2026, Commercial Dispute Resolution)

"David is extremely responsive and makes himself available even if tight on time. Very knowledgeable and impressive on his feet, he's calm, persuasive and a man who packs the right amount of punch." (Chambers and Partners 2026, Commercial Dispute Resolution)

"David Caplan is calm under extreme pressure. He is hyper intelligent and deals with the most complicated issues with ease." (Chambers and Partners 2026, Commercial Dispute Resolution)

"A very persuasive advocate with an eye for detail." (Chambers and Partners 2026, Civil Fraud)

"David is precise and methodical in his advocacy and is a brilliant strategist." (Chambers and Partners 2026, Civil Fraud)

"David is an absolute star across all areas. His advocacy – oral and written – is fantastic." (Legal 500 2026, Commercial Litigation)

"David is calm, considered and easy to deal with." (Chambers and Partners 2025, Commercial Dispute Resolution)

"He is extremely experienced and very clever." (Chambers and Partners 2025, Commercial Dispute Resolution)

"David's speed of analysis is very impressive; he gets things and turns them around quickly. He is also a very good drafter." (Chambers and Partners 2025, Commercial Dispute Resolution)

"He has an infallible instinct, absolutely superb drafting skills, and is a highly capable advocate." (Legal 500 2025, Civil Fraud)

"He is exceptionally talented, a really gifted draftsman. His advocacy style is forensic and logical." (Chambers and Partners 2024, Civil Fraud)

"David is super intelligent and deals with real complex issues." (Chambers and Partners 2024, Civil Fraud)

"David is great on strategy – an asset to any team." (Chambers and Partners 2024, Civil Fraud)

"David Caplan is exceptional and trusted to deliver. He is super intelligent and able to deal with real complexity very well." (Chambers and Partners 2024, Commercial Dispute Resolution)

"David is academically bright, unflappable and very confident." (Chambers and Partners 2024, Commercial Dispute Resolution)

"David Caplan is an exceptional advocate. His written work is outstanding and his oral advocacy is highly persuasive." (Chambers and Partners 2024, Commercial Dispute Resolution)

"David is KC material – his drafting is impeccable, he is calm under pressure and he has exceptional instincts." (Chambers and Partners 2023, Commercial Dispute Resolution)

Education

[1999 - 2002] Clare College, Cambridge University: BA, Social and Political Sciences
(First Class)
[2004 - 2005] City University: CPE (Commendation)
[2005 - 2006] Inns of Court School of Law: BVC (Outstanding)

Other Academic Achievements

Inner Temple Exhibition and Duke of Edinburgh Entrance Scholarship [2005 - 2006]
Grand Finalist, Queen Mary LexisNexis Moot Competition [2006]
Represented the Inner Temple at the Willem C. Vis International Commercial Arbitration Moot in Vienna [2006]
Finalist and Runner-Up, Inner Temple Lawson Moot Competition [2006]

Awards

2027 Chambers Ranked in UK Bar

David Caplan KC

Legal500 INCLUDED NEW SILK 2027

Contact Clerks



Darren Burrows

Senior Clerk
+44 (0)20 7520 4611
dburrows@oeclaw.co.uk



Rob Smith

Deputy Senior Clerk
+44 (0)20 7520 4612
rsmith@oeclaw.co.uk



Jade Cassell

Deputy Team Leader
+44 (0)20 7520 4614
jcassell@oeclaw.co.uk



Ben O'Hanlon

Deputy Team Leader
+44 (0)20 7520 4604
bohanlon@oeclaw.co.uk



Jodie Ellerington

Team Leader's Assistant
+44 (0)20 7520 4620
JEllerington@oeclaw.co.uk



Calum Jenkins

Clerk
+44 (0)20 7520 4821
cjenkins@oeclaw.co.uk



Isabella Uzal

Clerk
+44 (0)20 7520 4780
iuzal@oeclaw.co.uk