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David Cavender KC

Barrister
Call 1993 Silk 2010

Scope of Practice

• Arbitration • Banking and Financial Services • Civil Fraud and Investigations • Company and Insolvency • Competition and EU Law • Group Litigation • Injunctions (including worldwide freezing orders, search orders and other interim relief) • Insurance and Reinsurance • Jurisdiction and Conflict of Laws • Professional Liability • Restitution • Sales of Goods - International and Domestic

Overview

David Cavender KC is a leading expert in commercial dispute resolution, both in litigation and international arbitration. He is an immensely experienced trial lawyer, having appeared in a significant number of High Court trials, in numerous appeals before the Court of Appeal and seven appeals before the Supreme Court.

He is currently acting for the many thousands of motor finance claimants for claims under s.140A Consumer Credit Act relating to discretionary commission payments in *Angel v. Black Horse Ltd* (this is the claim that survived the success of the finance companies in relation to the fiduciary duty claim which was dismissed by the Supreme Court in *Johnson v. First Rand Bank).* This is a groundbreaking claim seeking the right to bring the "discretionary" CCA claims against each of the numerous finance companies on a group basis by way of an "omnibus" single claim form – rather than having to issue many thousands of individual (small) claims. David won the point (on appeal) before Richie J., which the Court of Appeal recently upheld.

David's expertise covers the gamut of banking and financial services, commercial contracts (including agency), fraud, company law and insolvency, contractual building and engineering disputes, among other areas.

His precedent-setting and high-profile engagements include acting for Post Office in the Group litigation dealing with the fallout from the Horizon computer scandal (dealing with the interpretation of the postmasters contracts); Ocado Group in relation to a conspiracy claim against a senior IT manager and newco competitor set up by a former founder of Ocado (Ocado Group PLC & Anr v McKeeve); acting for Mike Ashley (Sports Direct/Newcastle United), successfully defending against claim by a consultant investment banker appointed by Sports Direct for a bonus of £14 million relating to company share price performance (Blue v Mike Ashley); and acting on behalf of a large group of Claimants involved in the Mercedes-Benz NOx Emissions Group Litigation against Mercedes in relation to damages claims for deceit, breach of statutory duty and against suppliers of vehicles in breach of contract, arising from defeat devices allegedly being introduced by manufacturers into diesel engines to enable them to pass emissions tests. oeclaw.co.uk David is regularly recognised as a top-tier disputes practitioner by third-party industry publications and directories, and has been ranked as a leader for commercial disputes in the Chambers UK Bar guide for many years. He has also been recognised in The Legal 500 UK Bar guide, in which

commentators praise his “great instincts and feel for how the court will receive a case” and his “gravitas to bring the bench with him."

Examples of Recent Cases

Arbitration

- **ICC Proceedings (2025)**
  For Claimants in relation to the telecoms market in Africa and disputed usage claims between operators and carriers.
- **ICC Proceedings (2023)**
  For Claimants in relation to disputed rights to participate as part of a consortium in a foreign telecoms market.
- **LCIA Proceedings**
  For Respondent Indian company involving a contractual dispute concerning the supply and installation of large electrical generators in India.
- **LCIA Proceedings**
  For Respondent large Indian garment manufacturer in an action by a Claimant company engaged in the business of providing “turn around” services which was engaged by the Respondent in relation to its acquisition of a large US based garment manufacture. Case involved claims for unpaid remuneration and rights to shares by the Claimant company and claims of repudiatory breach and misrepresentation by the Respondent company. [2012]
- **LCIA Proceedings**
  For Respondent manufacturer and vendor of stainless-steel products, defending claim for damages arising out of failure to complete on a FOB (free on board) Coking Coal Purchase & Sale Agreement. [2010]
- **Michael Wilson & Partners v. Emmott**
  For Appellant law firm on an application to appeal an award on the grounds of serious irregularity and error of law under s.68/69 Arbitration Act 1996.
- **Suzel-Suzer v. Ministry of Energy & Natural Resources of the Republic of Turkey (Comm)**
  For Claimant, seeking to enforce Turkish arbitration award in London. Freezing injunction obtained against money raised by Republic of Turkey on the London markets. Claim of State immunity.

Banking and Financial Services

- **Bates & Ors. v. Post Office (Common Issues) [2019] EWHC 606**
  Acted for Post Office in the “Common Issues” group litigation trial arising out of the Horizon computer scandal which determined the rights and obligations and legal relationship of the parties under the two standard form postmaster contracts.
- **Floreat Investment Management Ltd v Churchill [2022] EWHC 357**
  Acted on behalf of the five Defendants, including a director and employees of a financial advice company to claims bought by an investment fund (“the Fund”) in deceit, knowing receipt, knowing assistance and breach of fiduciary duty in relation to sums of money said to be due or payable to the Fund following the refinancing of a loan of US$22million made by the Fund to Reading Football Club. Two of the claims were defeated following a three week trial in the Commercial Court but one (a proprietary claim) succeeded on legal grounds. The Court of Appeal subsequently overturned the Claimants limited success on this point holding that the trial judge had misdirected himself on dishonesty [2023] EWCA Civ 440.
- **RP Explorer Master Fund v. Chilukuri & Anr (Ch) (2010); [2013] EWHC 103 (Ch); [2013] EWCA Civ 1307**
  For Defendant promoter in an action by the Claimant Fund alleging deceit in connection with the issue to them of US$81m of Global Depository Receipts (“GDR’s), and in the successful discharge of a worldwide freezing order obtained by the Fund on grounds of non-disclosure and misrepresentation. Also acted in subsequent trial (2012) of the Defendants liability for damages under an Escrow Deed provided as security for the GDR’s, and in the Court of Appeal which on appeal, reduced the damages awarded at first instance from US$6m to £1.
- **Alpha Overseas Investment Ltd v Deutsche Bank AG (Ch Div)**
  For Hedge Fund, seeking to restrain a bank from seeking to redeem a US$340m term loan on 5-days notice on

the basis of an alleged event of default resulting from turmoil in the financial markets.

Civil Fraud and Investigations

- **Floreat Investment Management Ltd v Churchill [2022] EWHC 357**
  Acted on behalf of the five Defendants, including a director and employees of a financial advice company to claims bought by an investment fund ("the Fund") in deceit, knowing receipt, knowing assistance and breach of fiduciary duty in relation to sums of money said to be due or payable to the Fund following the refinancing of a loan of US$22million made by the Fund to Reading Football Club. Two of the claims were defeated following a three week trial in the Commercial Court but one (a proprietary claim) succeeded on legal grounds. The Court of Appeal subsequently overturned the Claimants limited success on this point holding that the trial judge had misdirected himself on dishonesty **[2023] EWCA Civ 440**.
- **Isaacs v. Gala Coral Group Limited**
  Acted on behalf of the Gala Coral Group in relation to a claim brought by the wife of a problem gambler. Wife sought to claim back £1.6m from Coral. Issues involved knowing receipt, duty of care, restitution, causation and contributory negligence.
- **First Subsea Limited (formerly BSW Limited) v. Balltec Limited & Ors**
  For the appellant (with Tamara Kagan) on an important issue of limitation before the Supreme Court. The appeal flows from a very largely successful judgment at first instance ([2014] EWHC 866 (Ch)), following a five week trial) which saw Balltec etc defend claims for breaches of contract, unlawful means conspiracy and breaches of fiduciary duty, made against former directors, employees and/or subcontractors of the claimant who were alleged to have diverted business opportunities from it. A renewed application by the claimant seeking permission to essentially re-argue and/or bring new claims before the Court of Appeal court was also defeated ([2015] EWCA Civ 1240) Following 2-day appeal in 14 February 2017 (reported at [2018] Ch 25, [2017] 3 WLR 896 and [2017] EWCA Civ 186), this matter was elevated to the Supreme Court (where it settled shortly before the hearing).
- **03B Africa Ltd v Interactive E-Solutions JLT**
  Acted for the Claimant, at first instance and in the Court of Appeal. Claim was for the non-payment for services consisting of the supply of bandwidth to Pakistan from a fleet of satellites for onward sale to telecoms companies in Pakistan. Dispute centred on the requirements of the regulatory regime in Pakistan for the monitoring by the State of internet traffic. Counterclaim (for over US$50) alleged that Claimant sought to commence the contract and seek payment fraudulently, before regulatory approval was obtained. Summary judgment obtained against the Counterclaim, on a point of construction of an exclusion clause. Summary judgment was upheld by the Court of Appeal: [2018] EWCA Civ 62.
- **Blue v Mike Ashley**
  Acted on behalf of Mike Ashley (Sports Direct/Newcastle United) successfully defending a claim by a consultant investment banker appointed by Sports Direct (Mr. Blue) for a bonus of £14m which he claimed was payable pursuant to an oral agreement (alleged to have been reached with Mike Ashley in a London pub in January 2013). It was alleged that it was agreed that the sum was payable if Mr. Blue was able to get the share price of Sports Direct (a FTSE 100 company) from £4.00 to £8.00 in the following 3 years. The share price subsequently exceeded £8.00 within 3 years. Issues raised included, intention to create legal relations, certainty of contract, relevance of events post the date of the alleged oral contract, approach to oral evidence unsupported by documents and causation. Mike Ashely contended that Mr.Blue never actually thought that an agreement had been reached during the pub chat – and that it was all a joke. The Judge (Mr.Justice Leggatt) so held finding Mr.Blue had engaged in "wishful thinking" after the event.
- **Sloane House Limited v. Paul Fleury & Ors**
  Acted for the Claimant company (owned by the Ecclestone family) in a significant invoicing fraud claim arising out of a major construction project. Obtained summary judgment against the fraudster and an order imprisoning him for 9 months for contempt of court in relation to his flouting of the Claimants freezing order.

Commercial Litigation

"David Cavender is very user-friendly, great with clients and tough on his feet."

"Very savvy and great to work with." Commercial Disputes Resolution, Chambers UK 2024

"David has great instincts and feel for how the court will receive a case. Has the gravitas to bring the bench with him."
Commercial Disputes Resolution, Legal 500 2022

"*He is very hard-working, very fierce and tough at trial in particular*." Dispute Resolution: Commercial, Chambers UK 2022

"*An extremely capable commercial silk*." "*He is very approachable and he is good on his feet*." Dispute Resolution: Commercial, Chambers UK 2021

- **Slush Puppy (J&J Snacks Ford Corp) v. Ralph Peters & Sons Ltd [2025] EWHC 436 (Ch)**
  Acted for the Defendant company in successfully discharging a £20m ex-parte worldwide freezing order, access and imaging order on the basis of non-disclosure and misrepresentation including in relation to material factual, legal and procedural aspects of the case.
- **Stonegate Farmers Limited v. John Kent & Ors (2024)**
  Acting for one of the main Defendants to an action in which it is alleged that the Defendants combined in an unlawful means conspiracy to seek to breach undertakings given to the Competition and Markets Authority by secretly (through intermediaries and shadow directorships) continuing to run egg production and packing businesses which they had undertook to have no role in. Trial in February 2026.
- **Lenovo v Ericsson [2024] EWHC 2941**
  Acting for Lenovo against Ericsson in an action seeking an interim and a long term cross (FRAND) licence to use the Ericsson portfolio of telecommunication and associated patents worldwide. . Declaration was refused at first instance but later granted by the Court of Appeal [2025] EWCA Civ 182.
- **Looney v. Nomura Holdings Inc (2024)**
  Acted for the Defendant bank against claims made that a significant contract had been entered into by a senior UK director for the provision of coaching and mentoring services to senior employees of the bank.
- **Ocado Group Plc**
  For Ocado Group Plc in a high-profile claim against Project Today Holdings Limited (and against a former founder and former senior IT manager of Ocado) in relation to the taking and use of Ocado's confidential information in the setting up and operation of a rival company in the online supermarket arena. Project Today also brought an associated counterclaim (said to be worth 100's of £millions) alleging a conspiracy between Ocado and Marks & Spencer Plc to damage its business- in particular a contract it had entered into with Waitrose Limited in relation to an online delivery platform, from which Waitrose subsequently withdrew. The action commenced with Ocado simultaneously executing Search Orders granted in the Chancery Division against three locations occupied by the Defendants which revealed that they had in their possession large amounts of Ocado's confidential information. Proceedings for criminal contempt against a senior partner of the Defendants solicitors were subsequently successfully brought for the deliberate destruction of documents covered by the search order [2022] EWHC 2079 having been to the Court of Appeal - see: [2021] EWCA Civ 145.
- **Floreat Investment Management Ltd v Churchill [2022] EWHC 357**
  Acted on behalf of the five Defendants, including a director and employees of a financial advice company to claims bought by an investment fund ("the Fund") in deceit, knowing receipt, knowing assistance and breach of fiduciary duty in relation to sums of money said to be due or payable to the Fund following the refinancing of a loan of US$22million made by the Fund to Reading Football Club. Two of the claims were defeated following a three-week trial in the Commercial Court but one (a proprietary claim) succeeded on legal grounds. The Court of Appeal subsequently overturned the Claimants limited success on this point holding that the trial judge had misdirected himself on dishonesty [2023] EWCA Civ 440.
- **FMX/Sports Direct**
  Acted for importer against HMRC claim for substantial historic customs duties - successfully appealing the adverse decision of the Upper Tribunal before the Court of Appeal on limitation grounds [2018] EWCA Civ 2401; [2019] 1 WLR 2841. Subsequently represented the importer in the Supreme Court [2020] UKSC 1. Also acted for Sports Direct in relation to a similar claim relating to the import of bicycles from Sri Lanka.
- **O3B Africa Limited v. Interactive Solutions [2018] EWHC 2072 (Comm)**
  Acted for the Claimant in Commercial Court proceedings in a claim involving the international supply of bandwidth to Pakistan from a fleet of satellites for onward sale to fixed line and mobile telecoms companies in Pakistan. Dispute centred on whether the supply contract commenced/ was repudiated and the regulatory regime in Pakistan for the monitoring by the State of internet traffic. Claim for non-payment for services – and significant (£50m) claim for damages by the Defendant. Counterclaim alleged that Claimant sought to commence the contract and seek payment under it fraudulently – before regulatory approval had been obtained. The Counterclaim was struck out at first instance (for being subject to an exclusion clause) - and upheld by Court of Appeal [2018] EWHC 186; [2018] 1 WLUK 476. Claim subsequently dismissed following trial [2018] EWHC 2072 Comm; [2018] 8 WLUK 4.

- Blue v Mike Ashley [2017] EWHC 1928 (Comm); [2017] 7 WLUK 593
  Acted on behalf of Mike Ashley (Sports Direct/Newcastle United) successfully defending a claim by a consultant investment banker appointed by Sports Direct (Mr. Blue) for a bonus of £14m which he claimed was payable pursuant to an oral agreement (alleged to have been reached with Mike Ashley in a London pub in January 2013) if Mr. Blue was able to get the share price of Sports Direct (a FTSE 100 company) from £4.00 to £8.00 in the following 3 years. The share price subsequently exceeded £8.00 within 3 years. Issues raised included, intention to create legal relations, certainty of contract, relevance of events post the date of the alleged oral contract, approach to oral evidence unsupported by documents and causation.
- Isaacs v Gala Coral Group Limited (2017)
  Acted on behalf of the Gala Coral Group in relation to a claim brought by the wife of a problem gambler. Wife sought to claim back £1.6m from Coral. Issues involved knowing receipt, duty of care, restitution, causation and contributory negligence.
- Claimants v. Sir Robert McAlpine Limited & Ors (2016)
  Acted on behalf of a consortium of the major UK construction companies (including McAlpine and Balfour Beatty) in the "Construction Industry Vetting Information Group Litigation" arising out of the alleged creation and use of a "blacklist" of construction workers said to have been used by major construction companies when choosing staff in relation to significant projects. Up to 2,000 claimants. Issues included unlawful means conspiracy, data protection, confidential information, and defamation.
- Global Energy Corp v Gray [2015] EWHC 2232 (Ch) Concerning an enquiry into an account of profits arising out of a breach of fiduciary duty related to the alleged commercialisation of ultrasound technology for application to oilfields worldwide, which culminated in a six-week trial before Asplin J in 2015.
- First Subsea Limited v (1) Balltec Limited (2) Robert Emmett (3) Richard Taylor (4) Russell Benson (5) Roger Bacon [2014] EWHC; [2017] EWCA Civ 186; [2017] 3 WLR 896
  Acting for Defendant company (and a number of individuals) against claim for breach of fiduciary duty, dishonest assistance, unlawful means conspiracy, inducing breach of contract and breach of copyright, arising out of the Defendant company setting up a competing business in the field of highly specialised deep sea engineering connected to the oil industry. The 5-week trial Involved voluminous engineering evidence going to the issue of the design, development and performance of connectors used to connect FPSO's, rigs and other vessels to the sea floor. Defendants largely successful. Aspects of Judgment on limitation were being appealed to the Court of Appeal [2017] EWCA Civ 186; [2017] 3 WLR 896. Permission was granted to Defendants to take the matter to the Supreme Court but the whole matter settled shortly before that hearing.
- Sloane House Limited v. Paul Fleury & Ors (2014)
  Acted for the Claimant company (owned by the Ecclestone family) in a significant invoicing fraud claim arising out of a major construction project. Obtained summary judgment against the fraudster and an order imprisoning him for 9 months for contempt of court in relation to his flouting of the Claimants freezing order.
- Raphael Geys v. Société Generale [Supreme Court, Oct 2012 UKSC 63] [2013] 1 AC 523
  For Claimant and former MD, European Fixed Income Sales in Chancery Division proceedings brought before the Supreme Court arising out of the termination of his employment contract by the Defendant Bank. The matter raised a fundamental issue of contract law as to the necessity for a repudiatory breach of contract to be accepted to constitute a termination. The matter also raised a number of important employment related issues including the construction of a clause requiring the employee to enter into a settlement agreement on termination and his entitlement to a substantial (£10m) bonus based on profitable trades undertaken by his team in the years prior to termination and the deductions the bank was entitled to make from such bonus in relation to losses sustained by it.
- Gibson & Ors v HMRC (ROSSIP Group Litigation) Administrative Court 2013
  Acted under a Group Litigation Order for in excess of 30 Claimants against HMRC for judicial review of assessments to tax resulting from a decision by HMRC to retrospectively remove a foreign pension fund which had previously been contained on a list of pension funds published on the HMRC website as being "Qualifying Recognised Overseas Pension Schemes" (under Part 4 Finance Act 2004), with the result that transfers into such foreign pension fund made by a large number of individuals (relying on the HMRC representation) have been assessed to tax at a penal rate together with a surcharge. Consequent upon this successful challenge, tax assessments for some £60m in tax were withdrawn by HMRC.
- Franked Income Investment Group Litigation (Court of Appeal, Feb 2010 ECJ, Supreme Court Feb 2012)
  BAT Industries Plc & Ors v. HMRC ECJ Case No. C-446/04; [2008] EWHC 2893 (Ch); [2008] STC 254; [2010] EWCA Civ 103; [2012] UKSC 19; [2012] 2 AC 337; [2013] Ch 431
  Acting under a Group Litigation order for a large group of companies seeking up to £5billion in the repayment of corporation tax and interest resulting from double taxation of dividends since 1973 received into the UK from subsidiaries in other EU states where such dividends had already been taxed in that other EU state. The

case raises fundamental issues of EU law including the requirement to give an “effective remedy” and issues in the English law of restitution relating to unjust enrichment and change of position.

- Ross River Ltd v. WCL & Ors [2012] EWHC 81 (Ch)
  For party to a property joint venture (JV) carried out through a newco. Assets of newco subsequently paid away to third parties connected to co-joint venturer by way of 'loans', 'management' and other charges resulting in no funds being available in newco to share between JV parties. Damages awarded against the shadow director of newco (and joint venturer) on the basis of, inter alia, breach of fiduciary duty. The case also involved allegations of dishonest assistance, unlawful means conspiracy mortgage fraud and fraudulent misrepresentation.. See also [2011] EWHC 1198 (Ch), on specific disclosure.
- Revenue & Comrs v. GKN Group [2012] 1 WLR 2375 CA
  For Claimants seeking substantial interim payments against HMRC under CPR 25.7(1)(c). Court of Appeal upheld the payments ordered by Judge at first instance, despite the fact that difficult issues of law were involved and the claimants were not themselves “test claimants”.
- Seven Licensing Co SARL & Anr v. FFG-Platinum SA & Ors [2011] EWHC 2967 (Comm); [2012] ILPr 7
  For Respondents, in a case concerning conflicts of law, where the Court declined to stay proceedings under Reg 44/2001 Art 28 on the basis of related proceedings pending in Greece in favour of the English Courts.
- Esure Insurance Limited v. Sainsbury’s Bank Plc (Comm) (2011)
  For insurers against the bank concerning the meaning of a no dealing restriction placed on the bank contained in a 5 year 'affinity agreement' as it related to existing policy holders on termination of that agreement with the bank.
- Persimmon Homes Ltd v. Great Lakes Reinsurance (UK) Plc [2010] EWHC 1705] (Comm) [2011] Lloyds Rep I.R.101
  For the building company, (successful in the underlying action), seeking to get the unsuccessful Claimants legal expense insurers to pay out under the after the event policy. Issues included non-disclosure and material misrepresentation by the Claimant at inception of the ATE policy, following certain negative findings of fact concerning the Claimants, by the Judge in the underlying action.
- Meldex International Plc v. Trevellion [2010] EWHC 1342 (Ch)
  For the former managing director of pharmaceutical company in the successful discharge of a worldwide freezing order alleging fraud and breach of fiduciary duty, and the subsequent striking out of the action for non-compliance with a consent order for the provision of security for costs.
- Enigma Information Retrieval Systems Ltd v Satyam Computer Services Ltd [2010] EWHC 3097 (QB)
  Acted for Claimant in a dispute over the interpretation of a contract for the sale of software and related services.
- MoneyGram Payment Systems, Inc v. HMRC [2010] UKFTT 132 (TC)
  For appellant company, in First-Tier Tribunal proceedings to determine whether it or its agents, the Post Office and Thomas Cook, were required to register and pay the fee in relation to the MoneyGram business carried on at the branches of the Post Office and Thomas Cook under the terms of the Money Laundering Regulations 2003 (SI 2003 No. 3075).
- Croftcall Ltd v. Morgan & Anr[2008] EWHC 1622 (Ch); [2008] All ER (D) 152
  For the successful Claimant company (with indemnity costs) in a Chancery division contractual dispute, as to the meaning and effect to be given to a share purchase agreement.
- CPH Enterprises Ltd v. Persimmon (City Developments) Ltd[2008] EWHC 1618 (Ch); [2008] All ER (D) 254
  For the successful Defendant construction company (with indemnity costs)in Chancery division proceedings defending a claim for a £3m finders fee claimed on the basis of contract, equity and restitution for introducing Persimmon to a development site which they subsequently purchased and sold on at a significant profit.
- Shepherd Homes Ltd v Encia Group Ltd [2007] EWHC 1710 (TCC)
  Acted for the successful Claimant housebuilder in a 5 week TCC trial relating to damage to nearly 100 properties constructed on a new housing development near Hartlepool. The development was situated on a former landfill site and the houses had suffered damage owing to defective construction of the piled foundations. The trial involved consideration of extensive engineering and geological expert evidence going to the issue of the extent to which the piles had failed, the causes of the failure and the cause of the consequential delay, loss and damage to the housing development.
- Bluewater Operations (UK) Ltd v. Amerada Hess Ltd CA: (at first instance and in the Court of Appeal)
  Construction of a contract governing a FPSO facility in the Fife Field. The case involved the proper construction of a series of contracts whereby Bluewater undertook substantial works to the FPSO to enable it to be used in other oil fields, and in particular, how the charging regime (operating and facilities fees) applied

in circumstances where the FPSO suffered serious damage whilst operating, and had to be taken for an extended period to be repaired in dry dock in Rotterdam.

Competition and EU Law

A leading KC in commercial litigation with experience of competition and EU law disputes, his cases include:

- Acting in a damages claim relating to the UK poultry market.
- Acting for Group Claimants following the EC's decision on cartels and the diesel emissions scandal.
- Acting for Defendants in proceedings concerning competition issues relating to fair treatment.
- Appearing in the Court of Appeal concerning competition issues relating to franchises and dealerships and the ability to terminate certain dealerships in preference to others.
- Appearing in the Court of Appeal, ECJ and Supreme Court in the Franked Income Investment Group Litigation concerning a £5bn claim which raised fundamental issues of EU law.
- Appearing in Judicial Review proceedings concerning the removal of foreign pension funding.
- Appearing in the Court of Appeal and ECJ concerning the application of the arm's length test envisaged by the ECJ.

Employment

Employment including breach of confidence, contracts of employment, health and safety at work, trade unions, transfer of undertakings unfair and wrongful dismissal, restrictive covenants

- Geys v. Société Générale, London Branch [2010] EWHC 648 (Ch Div) [Supreme Court, Oct 2012 UKSC 63] [2013] 1 AC 523
  For Claimant and former MD, European Fixed Income Sales for the Defendant Bank, in proceedings arising out of the termination of his employment contract (See above under "Commercial")
- Personnel Hygiene Services Ltd v. Mitchell [2009] EWCA Civ 1047
  For PHS, appealing an Order made on the application for an injunction, that (short and narrow) restrictive covenants contained in a compromise agreement of the MD on termination of his employment discharged existing (wider and longer) restrictive covenants entered by him previously on the sale of his shares to the company.

Group Litigation

- The Mercedes-Benz NOx Emissions Group Litigation
  Acting on behalf of a large group of Claimants involved in this group litigation against Mercedes in relation to damages claims for deceit, breach of statutory duty and against suppliers of vehicles in breach of contract, arising from defeat devices allegedly being introduced by manufacturers into diesel engines to enable them to pass emissions tests.
- Claimants v. Sir Robert McAlpine Limited & Ors
  Acted on behalf of a consortium of the major UK construction companies in the "Construction Industry Vetting Information Group Litigation" arising out of the alleged creation and use of a "blacklist" of construction workers said to have been used by major construction companies when choosing staff in relation to significant projects. Up to 2,000 claimants (represented by 4 separate legal teams) - Issues included unlawful means conspiracy, data protection, confidential information, and defamation. The scale of the litigation required detailed case and costs management - with monthly CMC's to determine matters such as the list of issues, test claimants, scope of expert evidence among others.
- Gibson & Ors v HMRC (ROSSIP Group Litigation)
  Acted under a Group Litigation Order for in excess of 30 Claimants against HMRC for judicial review of assessments to tax resulting from a decision by HMRC to retrospectively remove a foreign pension fund which had previously been contained on a list of pension funds published on the HMRC website as being "Qualifying Recognised Overseas Pension Schemes" (under Part 4 Finance Act 2004), with the result that transfers into such foreign pension fund made by a large number of individuals (relying on the HMRC representation) have been assessed to tax at a penal rate together with a surcharge. Consequent upon this successful challenge, tax assessments for some £60m in tax were withdrawn by HMRC. This is thought to be the first GLO granted in the Administrative Court.

- **Franked Income Investment Group Litigation (Court of Appeal; ECJ; and Supreme Court)**
  Acting under a Group Litigation order for a large group of companies seeking up to £5billion in the repayment of corporation tax and interest resulting from double taxation of dividends since 1973 received into the UK from subsidiaries in other EU states where such dividends had already been taxed in that other EU state. The case raises fundamental issues of EU law including the requirement to give an "effective remedy" and issues in the English law of restitution relating to unjust enrichment and change of position.

Other significant Group Litigation matters

- **CFC & EU Dividend Group Litigation:**
  The Prudential Assurance Co Ltd v. HMRC [2010] EWHC 2811 - Please see for further information.
- **Thin Capitalisation Group Litigation:**
  Bank of Ireland UK Holdings Plc & Ors v. HMRC ECJ Case No. C-524/04; [2009] EWHC 2908 (Ch); [2011] EWCA Civ 127 - Please see for further information.The United Kingdom thin capitalisation tax legislation, which involved the application of the arm's length test envisaged by the European Court of Justice in Test Claimants in the Thin Cap Group Litigation v Inland Revenue Commissioners (C-524/04) EU:C:2007:161 and subsequent judgments, did not unlawfully interfere with taxpayers' rights under EC Treaty
- **Loss Relief Group Litigation:**
  Autologic Holdings Plc & Ors v. HMRC [2004] STC 594; [2004] 3 All ER 957; [2004] BTC 255; [2005] UKHL 54; [2005] 3 WLR 339
- **ACT Class 1 Group Litigation:**
  Europcar UK Ltd & Ors v. HMRC [2008] EWHC 1363 (Ch); [2008] STC 2751
- **ACT Class 2 Group Litigation:**
  Pirelli Cable Holdings NV & Ors v. HMRC [2003] STC 250; [2004] STC 130; [2006]; UKHL 4; [2006] 1 WLR 400; [2007] EWHC 583 (Ch); [2008] EWCA Civ 70
- **ACT Class 3 Group Litigation:**
  Boake Allen Ltd & Ors v. HMRC [2004] STC 489; [2006] EWCA Civ 25; [2007] UKHL 25; [2007] 1WLR 1386
- **ACT Class 4 & 2 Group Litigations:**
  [2010] EWHC 359 (Ch)

Professional Liability

Including auditors / accountants, financial advisors, investment bankers, solicitors, surveyors and valuers

- **Hamble Fisheries Ltd v. Gardner & Sons Ltd ('The Rebecca Elaine') [1999] 2 Lloyd's Rep 1; Times 5 Jan 1999**
  Professional Negligence / duty of care for pure economic loss

Tax and Revenue

In addition to David's broader litigation experience, he also appeared as commercial counsel for some years in a team instructed by claimant syndicates operating under Group Litigation Orders, in a number of high profile tax test cases being brought seeking restitution of taxes (and associated benefits) unlawfully demanded following the decision of the European Court in Hoechst. Relevant commercial issues include the setting up and running of Group Litigation Orders involving multiple corporate claimants, jurisdiction, limitation and entitlement to restitution.

- **Franked Income Investment Group Litigation:**
  BAT Industries Plc & Ors v. HMRC ECJ Case No. C-446/04; [2008] EWHC 2893 (Ch); [2008] STC 254; [2010] EWCA Civ 103; [2012] UKSC 19
- **CFC & EU Dividend Group Litigation:**
  The Prudential Assurance Co Ltd v. HMRC [2010] EWHC 2811
- **Thin Capitalisation Group Litigation:**
  Bank of Ireland UK Holdings Plc & Ors v. HMRC ECJ Case No. C-524/04; [2009] EWHC 2908 (Ch); [2011] EWCA Civ 127
- **Loss Relief Group Litigation**
  Autologic Holdings Plc & Ors v. HMRC [2004] STC 594; [2004] 3 All ER 957; [2004] BTC 255; [2005] UKHL 54; [2005] 3 WLR 339

- **ACT Class 1 Group Litigation:**
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- **ACT Class 2 Group Litigation:**
  Pirelli Cable Holdings NV & Ors v. HMRC [2003] STC 250; [2004] STC 130; [2006]; UKHL 4; [2006] 1 WLR 400; [2007] EWHC 583 (Ch); [2008] EWCA Civ 70
- **ACT Class 3 Group Litigation:**
  Boake Allen Ltd & Ors v. HMRC [2004] STC 489; [2006] EWCA Civ 25; [2007] UKHL 25; [2007] 1WLR 1386;
- **ACT Class 4 & 2 Group Litigations:**
  [2010] EWHC 359 (Ch)

What the Directories Say

"David pinpoints the exact weaknesses and knows what the judges need to hear and when they need to hear it. He is excellent." (Chambers UK 2026 - Commercial Dispute Resolution)

"He gives a masterclass in cross-examination." (Chambers UK 2026 - Commercial Dispute Resolution)

"David lasers in on the heart of the problem and cuts through the noise." (Chambers UK 2026 - Commercial Dispute Resolution)

"David has razor-sharp intelligence and identifies the key points in a case quickly, deploying an excellent eye for detail. He is a very assertive advocate who is very commercial and good with clients." (Chambers UK 2026 - Commercial Dispute Resolution)

"David Cavender is very user-friendly, great with clients and tough on his feet." (Chambers UK 2024 - Commercial Dispute Resolution)

"Very savvy and great to work with." (Chambers UK 2024 - Commercial Dispute Resolution)

"David has great instincts and feel for how the court will receive a case. Has the gravitas to bring the bench with him." (Commercial Disputes Resolution, Legal 500 2022)

"*He is very hard-working, very fierce and tough at trial in particular*." (Dispute Resolution: Commercial, Chambers UK 2022)

"*An extremely capable commercial silk*." "*He is very approachable and he is good on his feet*." (Dispute Resolution: Commercial, Chambers UK 2021)

"A great cross-examiner whose overall strategic view is great, and who's always calm and collected." "He's a good advocate who's understated and not given to histrionics." (Commercial Dispute Resolution, Chambers UK)

Highly regarded as an advocate, and praised by sources for his courtroom presentation and technical skill. "*He is a brilliant advocate who works his socks off, and knows every document in a case like the back of his hand*" (Chambers UK)

Education

Kings College (London) - First Class Bachelor of Laws Degree (LLB)

Awards

Chambers TOP RANKED UK Bar 2026 One Essex Court

LEADING SILK Legal500 UNITED KINGDOM 2026

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