



David Murray

Call 2004

"David has a real eye for technical detail but without losing focus on the overall picture."

The Legal 500

 dm@fountaincourt.co.uk  +44 (0)20 7583 3335

David Murray practises in all areas of commercial law.

He has particular experience in banking, financial services, aviation, insurance / reinsurance, sale of goods, conflict of laws, financial regulation, civil fraud and professional negligence. He has been consistently ranked as a leading junior by the professional directories and has been described by clients as "hugely talented", "phenomenally bright", and as having "everything it takes to be a future star".

Recent Highlights

Philipp v Barclays Bank UK PLC [2023] UKSC 25

Acting for Barclays in its successful appeal to the Supreme Court in this landmark banking law case concerning whether banks can be held liable when their customers fall victim to APP fraud.

AerCap Ireland Ltd v AIG Europe SA [2023] EWHC 96 (Comm)

Acting for AIG in one of the most substantial aviation cases in English legal history, brought by several aircraft lessors in relation to the alleged loss of hundreds of commercial aircraft leased to Russian airlines following the invasion of Ukraine.

Federal Republic of Nigeria v JPMorgan Chase Bank NA [2022] EWHC 1447 (Comm), [2019] EWCA Civ 1641

Acting for JPMorgan in a case worth over \$1.7 billion arising out of the allocation of an offshore deepwater oil prospecting licence alleged to have been procured by bribery and corruption.

Expertise

Aviation & Travel

David has extensive experience of aviation matters, ranging from small disputes concerning passenger claims and private aircraft to multi-billion-dollar claims relating to large commercial airliners. He also has substantial experience in the field of aviation regulation and insurance.

Notable Aviation & Travel cases

AerCap Ireland Ltd v AIG Europe SA [2023] EWHC 96 (Comm) (and related cases)

One of the most substantial aviation cases in English legal history, brought by several aircraft lessors in relation to the alleged loss of hundreds of commercial aircraft leased to Russian airlines following the invasion of Ukraine. 12-week trial listed for October 2024.

A substantial, complex and highly technical arbitration between various insurance interests concerning the loss of a commercial passenger jet.

A highly technical product liability claim for a manufacturer of aircraft engines following an in-flight fire.

A substantial Commercial Court dispute about the interpretation of a series of aircraft leases.

Monarch Airlines Ltd v Airport Coordination Ltd [2017] EWHC 2896 (Admin)

Several aspects of the fallout from the collapse of Monarch Airlines, including appearing in the judicial review proceedings concerning the allocation of Monarch's take-off and landing slots, and being involved in proceedings in the Commercial Court between Manchester Airport and the owner of one of Monarch's aircraft which raised issues as to the extent of the statutory lien available to airport operators to secure unpaid airport charges.

Tigris International NV v China Southern Airlines Co Ltd [2014] EWCA Civ 1649

A two-week Commercial Court trial (and subsequent appeal to the Court of Appeal) concerning the sale of six Airbus aircraft.

A Commercial Court claim arising out of alleged breach of a brokerage agreement for the sale of a number of Airbus A340 aircraft.

A High Court claim arising out of damage caused by a fighter jet sustained at a weapons testing facility operated by BAE Systems.

A substantial dispute in the Commercial Court concerning the sale of six Boeing 747 aircraft.

A High Court claim arising out of a helicopter crash.

A variety of other aviation-related disputes, for example disputes concerning security interests over aircraft, aircraft maintenance, and aircraft leasing. David has been instructed to provide expert evidence for foreign proceedings on the liability in English law of aircraft manufacturers for injuries suffered by passengers in air accidents.

Banking & Finance

David has substantial experience in all manner of banking and finance disputes. He regularly acts for retail, commercial and investment banks.

Notable Banking & Finance cases

Philipp v Barclays Bank UK PLC [2023] UKSC 25

Acting for Barclays in its successful appeal to the Supreme Court in this landmark banking law case concerning whether banks can be held liable when their customers fall victim to APP fraud.

Federal Republic of Nigeria v JPMorgan Chase Bank NA [2022] EWHC 1447

Recently acted for JPMorgan in the successful defence of Commercial Court proceedings brought by the Federal Republic of Nigeria worth over \$1.7 billion, arising out of the allocation of an offshore deepwater oil prospecting licence alleged to have been procured by bribery and corruption.

AXA France IARD SA v Santander Cards UK Ltd [2022] EWHC 1776 (Comm)

Acting for the Defendant bank in this very substantial dispute about the allocation of hundreds of millions of pounds of liability for PPI mis-selling losses. Trial listed for 2025.

Byers v Saudi National Bank [2022] EWCA Civ 43

Acting for the Claimant liquidators in this significant case about the requirements of claims in knowing receipt.

The long-running RBS Rights Issue Litigation, in which David was instructed by RBS and four of its former directors and which settled on the eve of what would have been a trial lasting several months. The claim arose out of the £12

billion rights issue that RBS conducted in 2008 and raised myriad issues of great factual and legal complexity.

A number of very substantial Commercial Court disputes between investment banks and European public institutions concerning a range of derivative transactions, including synthetic CDOs.

A series of substantial Commercial Court disputes concerning the trading of freight derivatives and commodity financing transactions.

A large Commercial Court claim involving a complex securitisation transaction.

Cases involving derivatives of various kinds, including several cases which raise issues of the construction or effect of documentation such as the ISDA Master Agreement.

Thornbridge Ltd v Barclays Bank Plc[2015] EWHC 3430 (QB)

Acting for a number of major banks in relation to alleged mis-selling of interest-rate derivative contracts. David was instructed by Barclays in its successful defence in one of the leading cases in this field.

Civil claims arising out of the alleged manipulation of LIBOR, in which David has frequently been instructed to act for banks.

Claims on the retail/commercial side concerning loans, guarantees, mortgages and other security interests, fraud, breach of mandate, mistaken payments and negligence. David has extensive experience of bringing and defending these cases.

Claims brought against banks under legislation such as the Unfair Terms in Consumer Contracts Regulations 1999 and the Consumer Credit Act 1974, which David has extensive experience of defending.

Banking regulation and disputes concerning the application of rules imposed by the Financial Conduct Authority and other regulators, including the European Central Bank.

Civil Fraud

David has extensive experience bringing and defending claims involving allegations of fraud, dishonesty and conspiracy.

Notable Civil Fraud cases

Federal Republic of Nigeria v JPMorgan Chase Bank NA [2019] EWCA Civ 1641

Acting for JPMorgan in a case worth over \$1.7 billion arising out of the allocation of an offshore deepwater oil prospecting licence alleged to have been procured by bribery and corruption.

Byers v Saudi National Bank [2022] EWCA Civ 43

Acting for the Claimant liquidators in this significant case about the requirements of claims in knowing receipt.

Nest Investments v Deloitte and Touche (DIFC)

Acting for Deloitte in its successful defence of claims of dishonesty and negligence arising out of the audit of a Lebanese bank which was found to have been involved in terrorist financing.

Commercial Disputes

David is regularly instructed in all types of commercial and contractual disputes in a wide range of fields, in addition to the aviation, banking and finance and civil fraud experience listed above.

David has been involved in several international commercial disputes raising issues of jurisdiction and/or choice of law. Many of the cases mentioned above featured jurisdiction and/or choice of law issues.

Notable Commercial Disputes cases

A Commercial Court dispute concerning the alleged breach of a licence agreement.

AH Baldwin & Sons Ltd v Sheikh Saud Ali Al-Thani [2012] EWHC 3156 (QB)

A series of related proceedings concerning auction sales and worldwide freezing injunctions.

Various disputes involving agency, including the rules which apply to commercial agents.

Safeway Stores Ltd v Twigger [2010] EWCA Civ 1472, [2011] 2 All ER 841

Raised for the first time the issue of whether a company which has been fined for breaking the law can claim an indemnity for the fine from the employees allegedly responsible for the infringement. David was part of the team that successfully applied to have the claim struck out on the basis of the illegality defence.

A substantial dispute in the British Virgin Islands concerning the ownership of shares in a large mobile phone operator.

A Commercial Court dispute concerning the sale and financing of a cargo ship.

A High Court dispute concerning a gold mine in Ukraine.

An application to the English court for a stay of proceedings in favour of the courts of Uganda on *forum non conveniens*.

An application to the Commercial Court for a stay of proceedings brought in England in breach of an exclusive jurisdiction clause.

Deutsche Bank AG v Petromena ASA [2015] EWCA Civ 226, [2015] 1 WLR 4225

A number of applications to the Commercial Court for a stay of proceedings under the European judgments regulation and/or the Lugano Convention in favour of the courts of other European states.

Disputes involving significant elements of foreign law. David has plenty of experience in this regard and is used to working with experts on foreign law.

Insurance

David is regularly instructed to advise on a range of insurance issues, such as coverage disputes and aggregation clauses.

Notable Insurance cases

AerCap Ireland Ltd v AIG Europe SA [2023] EWHC 96 (Comm) (and related cases)

The most substantial aviation insurance case in English legal history, brought by several aircraft lessors in relation to the alleged loss of hundreds of commercial aircraft leased to Russian airlines following the invasion of Ukraine. 12-week trial listed for October 2024.

A very substantial dispute, which raises a number of complex coverage points, concerning claims arising out of the collapse of a major European corporation.

A dispute concerning the effect on an ATE policy of a finding of fraud against the insured.

A substantial, complex and highly technical arbitration between various insurance interests concerning the loss of a commercial passenger jet.

Commercial Court proceedings concerning the allocation of c.£600 million of PPI losses.

International Arbitration

David has considerable experience in both institutional (ICC, LCIA) and ad hoc arbitrations, both as sole advocate and as a junior member of a team. He also has experience of arbitrations under bilateral investment treaties.

Notable International Arbitration cases

Acting as sole counsel in two ICC arbitrations – one, in London, concerning the breach of a share sale agreement relating to a joint venture company in Dubai; and one, in Paris, concerning the design and manufacture of a grand prix racing motorcycle.

Acting in an ICC arbitration concerning a joint venture to design and manufacture gas turbines; the case involved issues of the Tribunal's jurisdiction as well as the underlying dispute.

Appearing in arbitration-related court proceedings. Recent examples include a substantial application to the Commercial Court for a stay of English proceedings in favour of a foreign arbitration, and an application before the courts of the Dubai International Financial Centre to have DIFC court proceedings dismissed in favour of LCIA arbitration.

Obtaining and resisting anti-arbitration injunctions from the Commercial Court (again as sole counsel).

Professional Negligence

David has extensive experience of professional negligence claims, particularly in the financial sector.

Notable Professional Negligence cases

Nest Investments v Deloitte and Touche (DIFC)

A very substantial claim in the DIFC Courts on behalf of Deloitte arising out of the collapse of a Lebanese bank.

Stone & Rolls Limited v Moore Stephens (House of Lords: [2009] UKHL 39, [2009] 1 AC 1391)

A number of claims against auditors, including the now-infamous case of Stone & Rolls Limited v Moore Stephens which raised for the first time the question whether an auditor can rely on the defence of illegality when sued for failing to detect fraud in the audited company.

Williams v Lishman, Sidwell, Campbell & Price Ltd (Court of Appeal: [2010] EWCA Civ 418)

Acting (with Mark Simpson KC) in this case which concerned numerous points under the Limitation Act 1980.

Acting on numerous occasions for the "Big Four" accountancy practices in claims for alleged negligence in the conduct of financial due diligence exercises.

Acting recently in relation to an auditors' negligence dispute in Hong Kong, and a solicitors' negligence claim in the courts of the Dubai International Financial Centre.

Acting recently for a large bank in relation to a very substantial claim for negligent investment advice.

Pursuing and defending solicitors' negligence claims in a range of fields, including negligent drafting of agreements and negligent conduct of proceedings.

Directory Quotes

"Provides good, sensible advice, is a really nice chap to deal with and is someone who's prepared to work hard to get the right answer for the client."

Chambers & Partners

"Experienced beyond his years, he is highly knowledgeable and always delivers advice with the client's commercial objectives in mind." "His cross examination is excellent and astute, and he has a good grasp of the technical side of the law."

Chambers & Partners

"Extremely bright, very confident and someone who produces good paperwork." "He is really fantastic."

Chambers & Partners

"A hugely talented junior with great attention-to-detail and he displays sober, sensible judgement at all times."

The Legal 500

"He is excellent to deal with, and has a good, user-friendly manner which appeals to clients and solicitors alike."

The Legal 500

"He is noted for financial-sector claims."

The Legal 500

"Extremely bright and able."

Chambers & Partners

"Everything it takes to be a future star."

Chambers & Partners

"Astute, on the ball, excellent technical skills."

The Legal 500

Directory Rankings

Chambers & Partners

- Aviation
- Banking & Finance
- Commercial Dispute Resolution
- Dispute Resolution: Commercial – UK (Global Guide)

The Legal 500

- Aviation
- Banking & Finance (including Consumer Credit)
- Commercial Litigation

Education

- BVC (Very Competent), Inns of Court School of Law
- BCL (Distinction – highest mark in the University), Christ Church, Oxford
- MA (Law) (First Class), Christ Church, Oxford

International Bar / Court Appointments

- Called to the Bar of the Dubai International Financial Centre (DIFC)
- Ad hoc admission to the Gibraltar Bar

Appointments, Memberships and Prizes

- Vinerian Scholarship, Oxford University
- Eldon Scholarship, Oxford University
- Mansfield Scholarship, Lincoln's Inn
- Prize for best performance in Restitution BCL paper, Oxford University
- Prize for best performance in Commercial Law Finals paper, Oxford University
- Tutor in law, Christ Church, Oxford (2004-2005)
- Internship at the ICC International Court of Arbitration, Paris (2005)
- Pegasus Scholarship, Hong Kong (2007)

Languages

- French (working knowledge)

Awards

