



Derrick Dale QC

Call 1990 | Silk 2010

"He has a natural authority in the court room. A very effective advocate, who is composed, conscientious and on top of all the detail. He manages to steer the court with a silver tongue."

Chambers & Partners

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

Derrick Dale QC is an experienced commercial advocate – described variously as “a very talented and effective advocate”, “an obvious choice for complex disputes” and having “a natural authority in the court room”.

Derrick specialises in wide-ranging commercial litigation and arbitration, in both a domestic and an international context, and is instructed as lead counsel or sitting as an appointed arbitrator (including as sole arbitrator and on panels).

His experience covers many areas, principally banking and finance, commercial disputes, insurance, professional negligence, civil fraud, asset tracing, financial services, insolvency and restructuring, regulatory and corporate crime. He is frequently instructed in cases requiring urgent injunctions, freezing and search orders and he is well versed in conducting group litigation.

The directories describe him as “very smart” and “steely”, “great at seeing the key issues”, “having a speedy mind”, “able to adjust on his feet to changes” and “giving us exactly what we need in terms of legal, tactical and commercial input in order to put our client in the strongest position”. The directories note that key to his approach is that he is “very good at engaging and creating rapport with clients” and that he “gets to the realities behind disputes”.

Since 2004, Derrick has been the joint editor of the damages section in *Simpson on Professional Negligence*. He is a Bencher of Middle Temple and has also been a member of the Bar Standards Board (Rule Committee).

Recent Highlights

Investors v Link Funds Solutions Ltd

Acting for investors bringing GLO proceedings against Link for its alleged failure as the ACD to supervise Neil Woodford’s fund (WEIF) and its alleged failure in breach of the COLL Rules to achieve a prudent spread of risk and/or to maintain adequate liquidity at all or in the face of the number of redemption requests from 2017 until the suspension of the fund in June 2019.

Swiss Cottage v Deloitte

Acting for Deloitte defending a claim brought by investors alleging that the administration conducted in the respect of the sale of two “iceberg” houses in St John’s Wood were negligently sold at an undervalue by Deloitte as the administrators.

Kuwait Ports Authority v Walkers

Acting for partners of the KPA bringing a \$70 million claim for alleged breach of fiduciary duty and negligence on the part of the Walkers for allegedly preferring the interest of one client over another in a piece of DIFC litigation.

A Malaysian telecoms operator v a Middle Eastern lobby company

Acting in an arbitration between an acquirer of telecom towers in Pakistan and a lobby firm relating to whether there was an agreement (oral or by conduct) to pay a reasonable fee for obtaining Pakistan security clearance for the contemplated transaction to acquire the telecom towers and, if so, what was the reasonable sum payable for the service provided.

DPA related cases

(i) Advising Serco in respect of its DPA; (i) Acting for a whistle-blower bringing a claim against GPT on the back of GPT’s DPA; and (iii) Advising on a market abuse claim arising out of the FCA’s Final Notice issued to Redcentric Plc.

Expertise

Banking & Finance

Notable Banking & Finance cases

McDonagh v Bank of Scotland

Acting for Bank of Scotland in respect of a dispute with a former customer of the bank over the construction of the terms of the loan agreement (including whether the loan was repayable in sterling or euros).

Calyon & FGIC v IKB

Acting in a \$1 billion action brought by FGIC and Calyon against the German Bank in which it is alleged that IKB wrongly diverted profits from one segment of its business to another in order to induce investors to invest in the Rhineland programme and other banks to provide liquidity facilities.

O’Driscoll v IBRC

Acting for IBRC in respect of mis-selling/misrepresentation claims against the bank brought by investors in respect of their introduction to an investment in Somerston, the property/hotel chain.

BOS v Pickenham Estates Ltd

Acting for BOS in a complex claim to realise the security where the bank's legal rights were allegedly subject to: (i) certain beneficial interests of the investors; and (ii) rights of subrogation.

The Bird Group v Barclays Bank

Acting in a dispute involving swaps mis-selling and the alleged rigging of Libor by Barclays Bank. Derrick has advised and acted in various swap mis-selling cases.

Investors v ANZ

Acting for an extensive group of Chilean and Mexican investors in group litigation bringing a mis-selling claim against ANZ Bank in London.

Deutsche Bank v APBW

Acting in the DB suit against a Taiwanese telecommunications company for breach of a Credit Agreement and counterclaim by the Taiwanese Company that DB knowingly participated in a fraud committed by the Chairman of the companies. The Court of Appeal found that under Brussels Regulation DB could also bring alternative claims against the Taiwanese companies for restitution and misrepresentation.

Mahonia v WestLB

Acting in a dispute between JP Morgan Chase and WestLB as to whether JPMorgan Chase had conspired with Enron to obtain a letter of credit from WestLB in support of a disguised loan in the form of three swaps from JP Morgan Chase to Mahonia, a special purpose vehicle incorporated in Jersey.

New Media v Capita Fiduciary Group

Acting for Capita in a claim brought by New Media for fraudulent conduct and breach of contract/duty in relation to the performance of their duties in allegedly preferring the interests of one partner/shareholder over another and the failure to disclose information to the other partner/shareholder.

Re FCA investigation of investment house

Acting for and advising an investment house in respect of the activities of an allegedly fraudulent broker/employee.

Brewin Dolphin v FSCS

Advising on liability/quantum in respect of Keydata claims.

Civil Fraud

Notable Civil Fraud cases

Suppipat v Narongdej, Collins, Reansuwan and Lakhaney

Acting for three defendants in a \$2 billion unlawful means conspiracy claim brought by the Claimant (the former majority shareholder of a wind farm company in Thailand) against the purchaser of his shares and the managers of the business.

Kingsmead v Powis and Others

Acting in a Fraud Misrepresentation arising out of the purchase by Kingfisher of an insurance broker called Fresh, where Kingfisher alleged fraudulent misrepresentation by the former management in their processing of clients' insurance data in breach of the MIB My Licence Agreement with a view to inflate the success and profitability of the business and to wrongfully manipulate the figures prior to the sale of the business to Kingfisher.

Panasonic Europe (BV) v Core

Acting for former individual warrantors defending application to amend warranty claim to allege fraudulent misrepresentation and manipulation of the statutory and management accounts in lead up to sale of business to Panasonic.

Standard Bank v EFAD

Acting in an action brought by Standard Bank alleging deceit, conspiracy and procuring breach of contract on the part of two employees of EFAD in obtaining a loan on its behalf from Standard Bank.

Samara v MBI & Partners

Acting for MBI in defending a claim brought by an employee alleged by MBI to be a fraudulent claim in circumstances where MBI had allowed a default judgment to be entered against it and had failed to raise its fraud defence when seeking to set aside the default judgment.

Markel and QBE v SGC and others

Acting for the insurer QBE bringing a claim against its former brokers, SGC, and other individuals, who had been under-declaring the size of the book written and not accounting to QBE for premium.

Trebisol Sud Quest and Soldefi v Berkley Finance Limited

Acting for Trebisol in relation to the recovery of monies advanced in respect of a bogus investment scheme.

Strive Shipping Corporation v Hellenic Mutual War Risks Association (Bermuda) Ltd, the Grecia Express

Acting in a case concerning the alleged scuttling of a Greek passenger ferry by its owner, involving an important analysis of marine perils, policy coverage, the burden of proof in cases of malicious acts and scuttling or barratry, the scope of moral hazard as regards the duty of disclosure and the duty of good faith.

Commercial Crime

Notable Commercial Crime cases

Acting for Mr Foxley (a former whistleblower employee of GPT) in respect of the DPAs entered into in 2020 by Airbus and by GPT in 2021 in respect of corrupt payments to high-ranking officials in Saudi Arabia and the failure to provide a safe working environment.

Serco and a Deferred Prosecution Agreement (the DPA)

Advising the Board of Serco on: (i) the prosecution by the SFO of group companies in respect of an accounting fraud in a prison service contract with the MoJ; and (ii) entering into the DPA and the level of fine/redress. DPA entered into by Serco and approved by High Court in June 2019.

Advising in relation to the FCA's Final Notice dated 26 June against Redcentric PLC for market abuse requiring Redcentric to initiate a compensation scheme for the benefit of all net purchasers of Redcentric shares during the period between 2015 and 2016.

Commercial Disputes

Notable Commercial Disputes cases

Coward v Ambrosiadou

Acting in a \$100 million dispute between a former husband and wife who owned and ran one of the largest hedge funds in London and Cyprus. The dispute related to the terms of agreement between the various partners, the division of funds, trust structures, alleged fraudulent divergence of funds and tracing.

TPI v United Learning

Acting for TPI (an introducer) in a breach of confidence case in respect of a loss of a chance claim in relation to

being cut out of a maturing business opportunity to purchase and develop a site for a 1000 pupil school.

Capstan Capital Partners LLP v Rickmers Holdings

Acting for brokers in a dispute over the contractual construction of a long tail commission fee provision payable in the light of an introduction of a third-party investor leading to a strategic partnership between Rickmers and the third party.

Fentimans North America v Fentimans UK Limited

Acting in a dispute relating to the terms of a franchise agreement between the UK parent company and its North American manufacturer and distributor in respect of the terms of manufacture, sale, marketing and profit distribution.

Bibby v Nisa & DHL

Acting for DHL in a £74 million claim brought for alleged breach of confidence, conspiracy and an account of profits in respect of the transitioning of warehouse/logistic services from one service provider to another.

Harmsworth v Polestar

Acting in a series contractual disputes between the Daily Mail and its printers involving the construction of the terms of printing agreements and when and how the agreement could be terminated and technical issues relating to the quality of the print copy supplied to the printers and the problems associated with the printing process.

Calyon & FGIC v IKB

Acting in an action brought by FGIC and Calyon against the German Bank in which it is alleged that IKB wrongly diverted profits from one segment of its business to another in order to induce investors to invest in the Rhineland programme and other banks to provide liquidity facilities.

Amiri Capital v Rassmal Investments Ltd

Acting in a large dispute between the owners and investors of a development of the Nash facade terrace Portland Place on the agreed terms between the parties.

BDT v John Lewis

Acting in a dispute between John Lewis and a supplier over a travel business contract, the tendering process and whether the supplier “won” the process and there was a contract implied by conduct of carrying out the services tendered for.

Company, Restructuring & Insolvency

Notable Company, Restructuring & Insolvency cases

Re Galapagos Holdings SA

Acting for loan note holders to oppose the application of the administrators for administration orders under S.12(1) of the IA 1986 on the basis that the court did not have jurisdiction to open proceedings because England was not the companies main centre of interests.

Re Swiss Cottage, No 38&40 Avenue Road

Acting for Deloitte (the Administrators) in respect of a S.75(6) Schedule B1 Insolvency Act claim for equitable compensation arising from the diminution in the value of the fund ad/unlawful disposal of the properties at an undervalue.

Bank of Scotland v JLL

Acting in a cross-claim between receivers and the bank in respect of the marketing and sale of a portfolio of properties at an undervalue and the ascription of value to a specific property within the portfolio.

Re: Kaupthing Singer & Friedlander (Isle of Man) Limited (in liquidation)

Advising Liquidators of a bank on effect of Scottish Restraint and Confiscation orders in respect of two account holders final date for proof of debt and POCA and POCERA.

WWT v MF Global

Acting in respect of claims relating to monies held on trust arising out of the bankruptcy of MF Global.

Nightingale Lane Investment Company Ltd v Apache Capital Partners Limited and Red & Yellow Limited

Acting for investors who terminated a joint venture in respect of the construction and operation of a care home.

Fresh v Powis and others

Acting for the Claimant in a breach of warranty claim relating to the vendor's representations and warranties in respect of processing of drivers' insurance data in breach of the MIB My Licence Agreement.

Advina Care Homes Ltd v Bupa

Acting for Advina who acquired care homes from Bupa in a dispute with Bupa as to the terms of the SPA, the Business Transfer Agreements and whether monies relating to patient's fees were held on a special purpose trust or susceptible to set off claims.

Panasonic Europe (BV) v Core

Acting for former individual warrantors defending application to amend warranty claim to allege fraudulent misrepresentation and manipulation of the statutory and management accounts in lead up to sale of business to Panasonic.

Boettcher v XIO (UK) LLP

Acting for an employee in a dispute brought against owners of a business in relation to misrepresentations and breach of warranties made by the owners in the course of their business and in their accounts.

Bidco v Hamilton

Acting for vendors of property management company sued for breach of warranty by Bidco purchasers – with particular emphasis on notice provisions, quantum and adjusted balance sheet calculations.

Re University of Cambridge

Acting on a matter relating to the breach of a negative pledge.

Elul v Paediatric Nursing Link Limited

Advising on effect of two successive sale agreements and liability for partial disclosures and non-disclosures of personal injury claims.

Competition

Notable Competition cases

WH Newson v IMI & Rangemaster

Acting for Aga in a contribution claim brought by members of a cartel against Aga arising out of an EU Commission decision and advising on a follow-on claim for conspiracy to injure Aga indirectly arising from the conduct of members of the cartel against Aga.

Sintesi & Ricerca S.p.A v Royal Dutch Shell & Others

Acting for a third party in respect of the claims for compensation for unlawful agreements and concerted practices infringing Article 81(1) of EC Treaty.

Ineos v Huntsman

Acting in a large commercial dispute between two chemical companies involving the UK gas pipelines and the construction of various agreements and whether such agreements were in breach of Competition Acts and EU treaties.

Construction, Energy & Infrastructure

Notable Construction, Energy & Infrastructure cases

Sul America v Enesa

Acting for insurers in respect of a \$450 million claim concerning the interpretation of a political risk clause and a delay claim in respect of the construction of a hydro-electricity plant in Brazil arising out of riots and the burning down of worker's facilities.

Deminor Recovery v BP

Advising on claims arising from the Deepwater Horizon disaster.

Ineos v Huntsman

Acting in a large commercial dispute between two chemical companies involving the UK gas pipelines and the construction of various agreements and whether such agreements were in breach of Competition Acts and EU treaties.

Nuwaila v BIIG Holdings LLC

Acting in a dispute over the construction of properties in Dubai.

KP&P Africa & Turkana Windpower v Aldwych International

Acting in a dispute relating to the construction and finance of power plants.

Financial Services

Notable Financial Services cases

Acting for investors bringing GLO proceedings against Link Fund Solutions Limited for its alleged failure as the ACD to supervise Neil Woodford's fund (Woodford Equity Income Fund) and its alleged failure to comply with the COLL Rules in respect of the investment of the funds and in particular its failure to achieve a prudent spread of risk and/or to maintain adequate liquidity at all or in the face of the number of redemption requests from 2017 until the suspension of the Fund in June 2019.

Acting for MXC in respect of matters arising out the FCA's Final Notice dated 26 June against Redcentric PLC for market abuse requiring Redcentric to initiate a compensation scheme for the benefit of all net purchasers of Redcentric shares during the period between 2015 and 2016.

Van Zuylen v Whiston-Dew & GBT

Acting for the Claimant bringing a claim for breach of FSMA, deceit and breach of fiduciary duty by her former financial adviser.

Project Walnut

Acting for an investment house in a series of investor claims brought about by the activities of a self-employed stockbroker in breach of FSMA acting under the umbrella of the investment house.

Insurance

Notable Insurance cases

Re Grenfell

Advising primary insurers on their potential liability to indemnify for the fire and the costs relating to the public inquiry.

Sul America v Enesa

Acting for insurers in respect of a \$450 million insurance claim concerning the interpretation of a political risk clause and a delay claim in respect of the construction of a hydro-electricity plant in Brazil arising out of riots and the burning down of worker's facilities.

Shaheen Air International v Ingosstrakh Insurance Company

Acting in an insurance/reinsurance claim arising out of the crash of a Boeing 737 in Pakistan, where the key is issue

is whether the Russian reinsurer is required directly to cover the total loss of aircraft in a claim made by the original insured against the reinsurer using a “cut-through” clause.

Godiva v Travelers

Acting for Travelers in respect of an aggregation claim arising out of the alleged participation in mortgage fraud of a partner in the firm of Willmetts.

United Biscuits UK Limited v Amcor Flexibles UK

Acting in respect of an insurance claim relating to the cause of the burning down of a factory and the effect of the force majeure clause.

An insurer v Another insurer

Acting in an arbitration between two insurers as to which insurer was the successor practice and which insurer was liable for losses falling between two years.

Coverage issues

Regularly acting for insurers in respect of coverage issues in respect of the conduct of directors, solicitors and other professionals.

International Arbitration

Notable International Arbitration cases

A Malaysian telecoms operator v a Middle Eastern lobby company

Acting in an arbitration between an acquirer of telecom towers in Pakistan and a lobby firm relating to whether there was an agreement (oral or by conduct) to pay a reasonable fee for obtaining Pakistan security clearance for the contemplated transaction to acquire the telecom towers and, if so, what was the reasonable sum payable for the service provided.

U&M v KCM

Acting in a dispute between a Zambian mine operator and a Zambian mine owner, leading to four arbitral awards and four court challenges before the Commercial Court. These raised points of law in the areas of: (i) whether an arbitral award with a “show cause” provision is sufficiently certain (*KCM v U&M* [2014] EWHC 2374); (ii) the circumstances in which the English Court will grant a worldwide freezing injunction notwithstanding the existence of an exclusive enforcement jurisdiction clause in favour of the Zambian courts (*U&M v KCM* [2014] EWHC 3250); and (iii) the test as to when a party making a court challenge to the arbitral award should be required to pay as

security the full amount due under the award as a condition of making the challenge to the award (*KCM v U&M* [2014] EWHC 2145).

A Mexican distributor v A Greek publisher

Acting in an arbitration between a Greek publisher and a Mexican distributor relating to the allegedly wrongful termination of a distribution agreement.

A coverholder dispute

Acting in relation to dispute between an insurer and cover holder relating to the terms of provisional and final payment obligations for profit commission.

An insurer v Another

Acting in an arbitration between two insurers as to which insurer was liable for losses falling between two years.

Another v A Law Firm

Acting in an arbitration between a magic circle firm and a former client in which the question was whether a solicitor who had previously acted under a joint retainer for two clients could, at the end of the joint retainer, act for one of the former clients against the other in other proceedings relating to the same subject matter.

Hellenic Mutual War Risk Association v Sea Trade Maritime "The Athena"

Acting in an arbitration concerning the exercise of the discretion by the Association to pay a claim involving extensive jurisdictional challenges to the jurisdiction of the arbitrators.

Professional Discipline

Notable Professional Discipline cases

Acting for a large financial institution and assisting on initial investigation and the drafting of reports in respect of compliance and compensation arising out of the fraudulent activities of a dishonest employee.

Acting for one of Big 4 accountancy firms in respect of the obligation to report misconduct to the regulator in respect of evidence given in court by a partner.

Advising a Jersey investment house on duty to report to the regulator having acted for two clients and knowingly preferred the instructions of one.

Advising law firm on risks and regulatory implications of findings made in High Court professional negligence proceedings.

Advising a law firm as to how to handle complaints made to the regulator about the conduct of the firm and senior individuals within it whilst litigation was ongoing.

Acting for an individual solicitor in respect of allegations of dishonesty, his position within firm and SDT proceedings.

Professional Negligence

Notable Professional Negligence cases

Swiss Cottage v Deloitte

Acting for Deloitte defending a claim brought against them by investors claiming that the administration conducted in the respect of the sale of two “iceberg” houses in St John’s Wood were negligently sold at an undervalue by Deloitte as the administrators.

Kuwait Ports Authority v Walkers

Acting for partners of the KPA bringing a \$70m claim for alleged breach of fiduciary duty and negligence on the part of the Walkers for preferring the interest of one client over another in a piece of DIFC litigation.

Investors v Graham Rosen & Scott Fowler

Acting for 150 Claimants in a group action for 150 property investors (who lost their deposits when the developers and bond holders went bust) against several firms of solicitors for failing to advise their clients on the solvency and the enforcement risk relating to the bond provider chosen by the developers.

Springdew v Fitzgerald

Acting for a barrister in a professional negligence claim brought by his former client in respect of the failure to advise correctly on the limitation period in respect of a swaps claim as a result of which the client lost the opportunity to sue Barclays and recover more than he had been offered to settle by Barclays under the FSA swap mis-selling review.

Partridge v Evans

Acting for a barrister in a professional negligence claim brought by a former client in respect of the barrister’s alleged failure to plead properly and advise upon a mis-selling claim brought against Barclays for mis-selling, for manipulating Euribor and the client’s alleged consequential losses.

Innovator litigation

Acting for the IFAs who were sought to be joined as third parties to the claims made by over 500 Claimants against Collyer Bristow and two of its former partners. The claims arose out of a series of tax efficient investment schemes relating to technology products – the Innovator Schemes. The majority of the tax relief claimed was disallowed by HMRC and extensive “class action” litigation ensued.

Langsam v Beachcrofts

Acting for Beachcrofts in a professional negligence action brought a former client alleging that Beachcrofts let him settle his claim against his former accountants (Hacker Young) at an undervalue. Judgment upheld by the Court of Appeal.

Levicom v Linklaters

Acting for Linklaters in professional negligence case on behalf of relating to the advice given by Linklaters to their clients on liability and quantum of that claim and the decision not to accept an offer to settle a dispute under a shareholders’ agreement and subsequent arbitration for the sum offered.

Levi Roots v Simons Muirhead & Burton

Acting for the firm and insurers on a wasted costs application against SMB arising out of the unsuccessful claim brought by Mr Bailey against Levi Roots concerning the commercial rights over Reggae Reggae sauce and whether the recipe was disclosed confidentially by Mr Bailey to Levi Roots.

Cabvision v Hills & a Barrister

Acting in a professional negligence action brought by Cabvision against the solicitors and barristers in respect of an unsuccessful action brought by Cabvision against FMS, the arrangers of a tax scheme.

Parker v Freeth Cartwright

Acting for Freeths in a professional negligence action brought against Freeth Cartwright for allegedly failing to plead appropriate loss and heads of damage in a professional negligence claim against SJ Berwin.

REO v Aberdeen & UBS

Acting in an action relating to the alleged failure of Aberdeen and UBS to advise on flotation the board of a company as to the inherent risks involved in split capital investment trusts and their propensity to systemic collapse by reason of their high gearing and cross holdings in other split capital companies.

Williams & McLaren v Linklaters & Baker & McKenzie

Acting in a dispute between two Formula One companies and their former legal advisers as to the drafting of an agreement with SLEC, a trust company set up by Bernie Ecclestone.

The Football League v Edge Ellison

Acting in an action brought by the Football League against its former legal advisers in respect of the alleged failure of Edge Ellison to seek and obtain a guarantee from the parent companies of OnDigital to support OnDigital's payment obligations under its TV rights contract with the Football League.

Directory Quotes

"Very smart and good with clients. Very good knowledge of the law and has good judgement."

The Legal 500

"Affable but steely and effective."

The Legal 500

"He is smooth, very calm and patient. He's very good at engaging and creating rapport with clients, and he's also great at seeing the key issues." "He is very bright and user-friendly, and clients always like him."

Chambers & Partners

"Derrick has both commercial and emotional intelligence, and senses the realities behind disputes." "He's amiable and pleasant, and his mind is very speedy."

Chambers & Partners

"Derrick is a very talented advocate, able to adjust on his feet to changes."

The Legal 500

"Exceptionally charming and on the ball, he also has a good way with clients."

The Legal 500

"An obvious choice for complex commercial and insurance and reinsurance disputes."

The Legal 500

"He has a lovely style and manages to steer the court with a silver tongue." "He's very bright, an accurate and concise drafter, and very personable with lay clients who all like him."

Chambers & Partners

"Gives us exactly what we need in terms of legal, tactical and commercial input in order to put our client in the strongest position."

Chambers & Partners

Directory Rankings

Chambers & Partners – Global

- Dispute Resolution: Commercial – UK

Chambers & Partners – UK

- Professional Negligence
- Commercial Dispute Resolution

The Legal 500

- Banking & Finance (including Consumer Credit)
- Commercial Litigation
- Insurance & Reinsurance
- Professional Negligence

Education

- MA (First Class), Cambridge University
- LLM, Harvard Law School
- New York Bar

Memberships

- LCIA Arbitrator
- COMBAR
- British Association for Sport & Law
- Associate Member of CI Arb

Awards



London

Fountain Court Chambers
Fountain Court
Temple
London EC4Y 9DH

T: +44 (0)20 7583 3335
F: +44 (0)20 7353 0329
E: chambers@fountaincourt.co.uk
DX: 5 LDE

Singapore

10 Collyer Quay
Ocean Financial Centre
#40-38
Singapore 049315

T: +65 6808 6611