

Overview

Commercial Disputes
Property
International

Mediation and
Arbitration

Profile: Overview

David practises in Commercial Law and Property Law. He is a Chartered Arbitrator, a Member of the Presidential Panel for Property Dispute Cases (CI Arb), and a Member of the Panel of Mediators of the Chartered Institute of Arbitrators. He is a Specialist Editor of Hill and Redman's Law of Landlord and Tenant, the Senior Contributing Editor to the Civil Court Practice, Editor in Chief of Bloomsbury's Law of Limitation and the Editor-in-Chief of Butterworths' The Caribbean Civil Court Practice.

Experience and Expertise

David practises in Chancery Commercial Law and Property Law

Chancery Commercial practice includes commercial contracts (particularly guarantees), interpretation of contracts (particular expertise and experience), jurisdictional and applicable law problems, confidentiality.

Property practice includes mortgages, landlord and tenant, easements, restrictive covenants, contracts for the sale of land and associated professional negligence, party wall disputes (member of Pyramus and Thisbe Club.) Particular expertise in interpretation of leases.

Mediation and Arbitration: David is a Chartered Arbitrator and is a Member of the Presidential Panel for Property Dispute Cases (CI Arb). He regularly advises or is briefed in relation to arbitrations both in England and in the Caribbean and in relation both to commercial and property disputes. He is a Member of the Panel of Mediators of the Chartered Institute of Arbitrators and frequently acts as mediator. Mediations as mediator have included disputes in relation to:

- Dissolution of partnership
- Joint venture disputes
Franchising
- Interpretation of contracts or leases
- Trusts for sale of land
- Rectification of leases
- Business tenancy renewal
- Service charges.

Recommendations

The Legal 500, Property:

"Highly knowledgeable on interpretation of leases."

"He has a great eye for a practical solution and for designing litigation to meet that end."

"David di Mambro is a gifted orator."

"Sound judgment and good value for money."

"Radcliffe Chambers is a customer-friendly set of chambers. David di Mambro is able to get to the root of the problem and is a useful mediator and a senior editor of the Green Book."

The Legal 500, Commercial Chancery:

"The set's intellectual acumen can be seen in the procedural knowledge of David di Mambro."

Qualifications and Appointments

- Read Law at King's College, University of London
- Called 1973: Barrister England and Wales; Blackstone (Major) Scholar Middle Temple;
- admitted to the Bar of The British Virgin Islands;
- admitted to the Bar of Saint Vincent and The Grenadines;
- Chartered Arbitrator
- Fellow of Chartered Institute of Arbitrators;
- Accredited Mediator (ADR Group) and Member of the Panel of Mediators of the Chartered Institute of Arbitrators
- Fellow of the Society for Advanced Legal Studies;
- Appointed to the Civil Procedure Rule Committee September 2004 and re-appointed by the Lord Chancellor for a further 3 year term with effect from September 2007; co-opted 2010 to 2013.

Cases and Work of Note

- *Smith v Molyneaux*: [2016]: appeal from BVI on adverse possession: *Pye v Graham* revisited; whether implied licence by acquiescence; due to be heard by Privy Council November 2016
- *Rolle family Company v Ena Rolle*: [2017]: Privy Council on appeal from The Bahamas: pre-incorporation contract; effect of section 22 Bahamas Company Act; to be heard 2017.
- *Gamma v Delta* [2015]: arbitrator: whether onerous planning conditions in conditional agreement for grant of lease for retail premises
- *Alpha v Beta* [2015]: Arbitration as arbitrator: appointment by President CI Arb; whether onerous planning conditions in conditional agreement for grant of lease for retail premises.
- *(1) The Central Tenders Board (2) The Attorney General v White* [2015]: Privy Council on appeal from East Caribbean Court of Appeal (Monserrat): alleged deficiency in tender document; judicial review of Board's decision to accept tender.
- *Waleed Aboura v Sigmund and Triangle Metals and Minerals Trading Limited* [2014] All ER (D) 208 (Feb): Company - Minority shareholder - whether the claimant would be allowed to continue an action against the first defendant as a derivative claim on behalf of company. The court held that the claimant had failed to satisfy it that the proposed derivative action fell within the exception to the rule in *Foss v Harbottle*
- *Elgin Wright v Building Heritage* (2012) appeal from Bahamas to Privy Council: fresh evidence on appeal concerning title to land
- *K v L* (2012): (BVI) advice re: arbitration clause in shareholders agreement; stay of proceedings; effect of arbitration agreement in BVI law in relation to (1) unfair prejudice claim (2) just and equitable to wind up application.
- *H v A* (2011) (Antigua) Advice in relation to construction of agreement for lease for 330 room hotel and arbitration proceedings.
- *Attorney General Trinidad v Universal* [2011]: appeal to Privy Council from Trinidad Court of Appeal: whether court has discretion to set aside judgment where rule apparently mandatory; heard July 2011; briefed by Attorney General.
- *Attorney General Trinidad v Matthews* [2011]: appeal to Privy Council from Trinidad Court of Appeal: discretion of Court when setting aside default judgment; briefed by Attorney General;
- *Z v W* [2011] (Moscow Court of Arbitration) produced expert report on English Law of Contract in relation to variation and sufficiency of consideration. *Edsger v Fordham* [2010]: equitable easement, proprietary estoppel and overriding interest; successfully opposed appeal from Chief Land registrar to The Chancellor.
- *Re: Bernard* [2010]: (Judicial Committee of Privy Council): conflict between CPR 20 of Trinidad and section 20 of the Supreme Court of Judicature Act of Trinidad in relation to restriction on amendment after first case management conference; meaning of "change of case" in TT CPR.
- *X v Y* [2008] (Moscow Court of Arbitration) produced expert report on applicable law in relation to sub-contract connected to \$600m construction contract in Middle East which was approved and followed by the Court.
- *East Caribbean Flour Mills v Boyea* (Civil Appeal 12 of 2006) (East Caribbean Court of Appeal) breach of fiduciary duty; use of witness statements to supply particulars of fraud.
- *Hinde House v Starclass* [2007] (Central London) notice provisions under LTA 1987 where complex sale of interests; discretion under s 19(1) and (3).

- *F v M* [2006] (Commercial Court) appeal in relation to arbitration award in respect of a \$33m claim concerning polyester plant in Russia.
- *Pearce v Elecheck* [2005] Ch D breach of confidentiality, infringement of copyright and database right.
- *Lloyds TSB Bank plc v Hayward* [2005] EWCA Civ 466 (CA) guarantee - discharge for variation of contract with principal debtor - on true construction of refinancing agreement principal debtor clause in existing guarantees varied so that rule in *Holme v Brunskill* applied - appeal court refused to interfere with trial judge's findings of fact.
- *Lloyds TSB Bank plc v Hayward* [2002] EWCA Civ 1813 (CA), LTL 12/12/02 guarantee - discharge for variation of contract with principal debtor - failure to make findings as to key fact.
- *Clinton Cards (Essex) Ltd v Sun Alliance and London Assurance Co Ltd* [2002] 29 EGCS 150; [2002] 37 EG 154 scope of landlord's duty under Landlord and Tenant Act 1988. In this case the Judge commented on counsel's penetrating cross examination.

Publications

Hill and Redman's Law of Landlord and Tenant: Specialist Editor

Civil Court Practice: Senior Contributing Editor

Tottel's Law of Limitation (published by Bloomsbury): Editor in Chief of

Butterworths: The Caribbean Civil Court Practice: Editor-in-Chief

Directors' Disqualification (Mithani) (Butterworths'): specialist editor: appeals division

Atkins Court Forms: CPR: Contributing Editor,

Atkins Court Forms: Appeals: Contributing Editor (High Court, Court of Appeal, Supreme Court and Privy Council),

Atkins Court Forms: Service of Documents: Contributing Editor

Seminars in England

- From 2000 onwards for Butterworths Lexis Nexis, CLT, Falconbury, MBL, Law Society and Radcliffe Chambers, seminars on:
 - Arbitration Clauses: when to use and drafting
 - Interpretation of contracts
 - Drafting a Commercial Contract
 - Interpretation of Leases
 - Jurisdiction and Proper Law
 - Repudiation of a Contract
 - Unjust Enrichment
 - CPR updates
 - Part 36
 - "Without Prejudice": true meaning and misconceptions
 - Injunctions
 - Specific Performance.

Caribbean: Work and Seminars

2011 to 2014: Consultant and sole draftsman: Commonwealth of Bahamas: new CPR due to come into force 2014/15.

2012 Honoree of the British Virgin Islands

September 2011: 2nd edition: The Caribbean Civil Court Practice.

Antigua September 2011: Eastern Caribbean Bar Association Bar Conference: Construction of Contracts.

Antigua September 2011: Eastern Caribbean Supreme Court: Judicial Education Institute: the 2011 revisions and Practice Directions.

St Lucia July 2009: revision of the ECSC CPR and drafting of new Practice Directions.

Barbados: May 2008 Seminars for Bar Association: appeals, privileged evidence and disputing jurisdiction.

Barbados: May 2008: Seminar for Judges only: case management.

BVI: May 2008: at invitation of BVI Bar Association: papers on disputing jurisdiction, grounds of appeal and recent developments on the CPR.

St Lucia September 2008: panel member in a symposium by the ECSC Judicial Education Institute.

Barbados September 2008: 1½ days of seminars: an Introduction to the CPR and Workshop.

OECS: Bar Conference September 2007: presented paper on use Of Practice Directions and Protocols and CPR generally with The Master of the Rolls.

Barbados: September 2007: Introduction to CPR Seminar and Workshop for Judiciary and Bar.

ECSC: Judges Conference: August 2007: presented a paper on pre-Action Protocols and Practice Directions and participated in the conference generally.

Offshore

David is regularly instructed in offshore matters from:

Antigua, Bahamas, Barbados, BVI, Grenada, Isle of Wight, Jamaica, St. Vincent and The Grenadines, Trinidad and Tobago

Languages

French: reasonable

Some Italian and some Spanish

Other Details

VAT Registration Number: 234470183

Bar Membership Number: 12079

For More Information

Please click on the links to the left or contact a member of the clerking team.