



Daniel Thorpe

Call: 2019 (England and Wales); 2022 (BVI)

Barrister

CONTACT

Email
dthorpe@radcliffechambers.com

Email Clerk
clerks@radcliffechambers.com

Telephone

ADDRESS

11 New Square
Lincoln's Inn
London WC2A 3QB

DX: 319 London
Telephone: 020 7831 0081
Fax: +44 (0)20 7405 2560

Praised by clients for his “*practical and commercial*” approach, Daniel’s practice focuses on private client, insolvency and commercial disputes in England and Wales and the British Virgin Islands.

Daniel has worked for a commercial litigation boutique and has also spent time on secondment at a leading offshore law firm. As a result, he readily appreciates the needs of his clients and prides himself on his user-friendly attitude and ability to work collaboratively with his solicitors and other barristers, as required.

His multidisciplinary approach across chambers’ core practice areas works to his clients’ advantage, particularly in complex cases involving several areas of law. In addition to private client, insolvency and commercial disputes, Daniel is experienced in property and professional liability matters and consequently is well-placed to offer holistic and pragmatic solutions.

PRIVATE CLIENT

Daniel accepts instructions across all aspects of contentious private client and trusts work, whether to advise, appear in court or assist with drafting.

He has broad experience of contentious probate and administration claims, including:

- Claims to remove trustees and personal representatives.
- Claims under the Inheritance (Provision for Family and Dependants) Act 1975.
- Challenges to the formal and substantial validity of wills.
- Professional negligence claims against solicitors, will draftsmen and personal representatives.
- Acting for charities in their capacity as beneficiaries and executors under wills.
- Advising in respect of testators who leave multiple wills in different jurisdictions and/or wills which cover assets in multiple jurisdictions.
- Infant settlement approval hearings.

He also has experience of trust litigation generally, such as:

- Acting in an ongoing matter, led by Christopher Boardman KC, claiming for the winding-up in the English court of a BVI company which holds assets subject to a multi-million pound trust, defended by the beneficiaries via a derivative (or double-derivative) action.

- Claims for personal and proprietary relief following breaches of trust.
- Claims under the Trusts of Land and Appointment of Trustees Act 1996.
- Applications to Court for approval of trustees' proposed actions.

Daniel has also appeared in the Court of Protection on the Property and Affairs Pathway, most recently representing a trust company in its capacity as attorney.

INSOLVENCY

Daniel accepts instructions across a range of personal and corporate insolvency cases and represents office-holders, directors, individuals and companies. As well as appearing in court, he is often instructed to assist with the drafting of proceedings and evidence.

Daniel is currently instructed on a matter involving the winding-up of a BVI company in the English court (led by [Christopher Boardman KC](#)) which also engages trusts law questions of derivative and double-derivative beneficiary actions.

Recently, Daniel appeared (with Andrew Brown) in the Court of Appeal successfully representing Habib Bank in *Khan v (1) Singh-Sall and (2) Habib Bank AG Zurich [2023] EWCA Civ 1119*. This was a case considering the proper interpretation of, and test under, section 282 of the Insolvency Act 1986 which provides for the Court's power to annul bankruptcy orders and was the first Court of Appeal decision on this question for some time.

In addition, Daniel's experience includes:

- Advising on and appearing in winding-up petitions and connected applications to restrain their presentation and advertisement.
- Applications for administrations and extensions to administrators' terms of office.
- Applications with respect to office-holders' remuneration.
- Applications concerning a range of matters where office-holders seek directions from the court.
- Claims to challenge antecedent transactions.
- Proceedings alleging misfeasance.
- Advising on and appearing in bankruptcy petitions.
- Applications to set aside statutory demands.
- Applications under section 335A of the Insolvency Act 1986 and section 14 of the Trusts of Land and Appointment of Trustees Act 1996 for orders for sale and related orders with respect to a bankrupt's home.
- Applications for private examinations.

COMMERCIAL DISPUTES AND COMPANY

Daniel's practice incorporates a range of commercial disputes, and he is regularly instructed in matters involving breach of contract, debt and the sale of goods and provision of services, as well as those involving misrepresentation and mistake.

Daniel's cases often involve elements of company law, including claims against directors, partners and shareholders. Most recently, Daniel was instructed as sole counsel on behalf of a petitioner on an interim application in unfair prejudice proceedings in the Commercial Division of the High Court of the BVI. The petitioner was seeking strike out and the entry of judgment for over US\$ 22 million in the face of the alleged dissipation of the company's substantial cryptocurrency assets.

In addition, Daniel's experience includes:

- Claims for breach of fiduciary duty and associated remedies.
- Claims involving civil fraud, including deceit, conspiracy, undue influence and related matters.
- Disputes between HMRC and taxpayers.
- Claims for breach of directors' duties and directors' disqualification

proceedings.

- Unfair prejudice and just-and-equitable winding-up petitions.
- Partnership disputes, including both traditional partnerships and LLPs.

INTERNATIONAL AND OFFSHORE

Daniel is called to the Bar in the British Virgin Islands and holds a current practising certificate. He therefore accepts instructions to appear in the British Virgin Islands, either as sole counsel or with a leader.

Daniel has appeared in the Commercial Division of the High Court of the BVI as sole counsel in applications for strike out and the entry of judgment in US\$ 22 million unfair prejudice proceedings, relating to the alleged dissipation of a company's substantial cryptocurrency assets, and he has appeared as sole counsel in an application brought by liquidators under the BVI Insolvency Act.

Daniel was seconded to the dispute resolution team of a leading offshore law firm in the British Virgin Islands. Whilst on secondment, he assisted on matters involving:

- Alleged misfeasance and the unravelling of antecedent transactions across multiple jurisdictions in the Caribbean, Europe, the Middle East and Africa.
- The status of shareholders following disputed allotments and/or allocations of shares, and those shareholders' liability for the price of those shares.
- A multi-million dollar dispute involving the unravelling of a fraudulent scheme designed to extract funds from a large commercial bank via BVI SPVs.
- The ending of a company's liquidation.
- Various challenges to the jurisdiction of the BVI courts.

Daniel remains engaged by his secondment firm on an ad-hoc consultancy basis.

OTHER PRACTICE AREAS

Daniel welcomes instructions across chambers' other areas of practice and has experience of disputes in the banking and financial services, pensions, charities, professional liability and real estate sectors.

In particular, Daniel has experience of residential and commercial possession claims, usually acting for lenders and landlords, in the county courts.

Recently, Daniel was instructed as sole counsel by a FTSE 100 sponsoring employer in relation to a dispute with a pension scheme member about the length of their pensionable service, and he has been instructed to attend CCMCs in pensions matters in the county court.

ALTERNATIVE DISPUTE RESOLUTION

Daniel frequently advises on settlement proposals and is happy to accept instructions to act in all forms of ADR within the areas of his practice.

QUALIFICATIONS

- Master of Arts in Law, Downing College, University of Cambridge
- LLM in International Commercial Law, University College London (first in year for Commercial Remedies)
- Bar Professional Training Course, BPP Law School

MEMBERSHIPS

- The Honourable Society of Lincoln's Inn
- The Contentious Trusts Association (ConTra)
- The Commercial Bar Association (Combar)
- The Chancery Bar Association (ChBA)

POLICIES

Unless otherwise agreed in writing, Daniel provides his services in accordance with the [Terms of Work](#) and [Client Due Diligence](#) policy as published on Radcliffe Chambers' website (as amended from time to time).

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