



David di Mambro

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Barrister

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David di Mambro practises in commercial law and property law. He is a Chartered Arbitrator. At the Chartered Institute of Arbitrators he is additionally a member of the Presidential Panel for arbitration in Property Dispute Cases and a member of the Panel of Mediators. He regularly advises or is briefed generally in relation to arbitrations both in England and in the Caribbean and in relation both to commercial and property disputes.

He is a specialist editor of Hill and Redman's *Law of Landlord and Tenant*, Editor in Chief of Bloomsbury's *Law of Limitation*, the Editor-in-Chief of Butterworths' *The Caribbean Civil Court Practice* and the senior contributing editor to the *Civil Court Practice*.

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.

Recent arbitrations (as an arbitrator) have included disputes in relation to whether onerous planning conditions in conditional agreement for grant of lease for retail premises, dispute in relation to interpretation and application of an arbitration

clause in conveyance of estate, arbitration for Pubs Code Adjudicator and K v L-arbitration clause in a shareholders agreement, stay of proceedings and effect of arbitration agreement in BVI law.

COMMERCIAL

David's commercial practice includes commercial contracts (particularly guarantees), interpretation of contracts (particular expertise and experience), jurisdictional and applicable law problems, joint ventures and confidentiality.

He is also regularly instructed in offshore matters from Antigua, Bahamas, Barbados, BVI (not currently licensed to practise there), Grenada, Jamaica, St. Vincent and The Grenadines, and Trinidad and Tobago.

Some David's cases of note include:

- (1) *The Central Tenders Board* (2) *The Attorney General v White* (2015) - Privy Council: Acting on appeal from East Caribbean Court of Appeal (Montserrat): 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) - Acting in a case concerning 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*
- *K v L* (2012) - Advising in relation to an arbitration clause in a shareholders agreement, stay of proceedings and effect of arbitration agreement in BVI law in relation to (1) unfair prejudice claim (2) just and equitable to wind up application
- *Attorney General Trinidad v Universal* (2011) - Advising in an appeal to Privy Council from Trinidad Court of Appeal determining whether the court has discretion to set aside judgment where rule apparently mandatory
- *Z v W* (2011) (Moscow Court of Arbitration) - Producing an expert report on English Law of Contract in relation to variation and sufficiency of consideration
- *X v Y* (2008) (Moscow Court of Arbitration) - Producing an expert report on applicable law in relation to sub-contract connected to \$600 million 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) - Acting in a case concerning breach of fiduciary duty and use of witness statements to supply particulars of fraud
- *F v M* (2006) - Acting in an appeal in relation to arbitration award in respect of a \$33m claim concerning polyester plant in Russia.

PROPERTY

David's property practice includes mortgages, landlord and tenant, easements, restrictive covenants, contracts for the sale of land and associated professional negligence and party wall disputes. He has particular expertise in interpretation of leases.

He is a member of the Presidential Panel of the Chartered Institute of Arbitrators in relation to property disputes.

David's significant cases in this area include:

- *Elgin Wright v Building Heritage* (2012) - Acting in an appeal from Bahamas to Privy Council: fresh evidence on appeal concerning title to land
- *H v A* (2011) (Antigua) - Advising in relation to construction of agreement for lease for 330 room hotel and arbitration proceedings
- *Edsger v Fordham* (2010) - Successfully opposing an appeal from the Chief Land Registrar to the Chancellor in relation to equitable easements,

proprietary estoppel and overriding interest

- *Hinde House v Starclass* (2007) – Acting in relation to notice provisions under the LTA 1987 where there was a complex sale of interests and discretion under s 19(1) and (3)
- *Clinton Cards (Essex) Ltd v Sun Alliance and London Assurance Co Ltd* [2002] 29 EGCS 150; [2002] 37 EG 154 – Acting in relation to the scope of a landlord’s duty under Landlord and Tenant Act 1988.

INTERNATIONAL

Consultant and sole draftsman: Commonwealth of Bahamas: new CPR due to come into force 2020.

He is regularly instructed in offshore matters from Antigua, Bahamas, Barbados, BVI, Grenada, Jamaica, St. Vincent and The Grenadines, and Trinidad and Tobago.

Some of David’s cases of note include:

- (1) *The Central Tenders Board* (2) *The Attorney General v White* (2015) – Acting as Privy Council on appeal from East Caribbean Court of Appeal (Montserrat): 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) – Acting in a case concerning 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*
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David is regularly instructed in offshore matters from Antigua, Bahamas, Barbados, BVI, Grenada, Isle of Wight, Jamaica, St. Vincent and The Grenadines, and Trinidad and Tobago.

He is admitted to the Bar of The British Virgin Islands (not currently licensed to practice there) and to the Bar of Saint Vincent and The Grenadines.

In Cyprus, David was the lead draftsman and a member of the expert panel reviewing and replacing the jurisdiction’s Civil Procedure Rules.

His recent offshore work includes:

- *Smith v Molyneaux* (2016) – Acting in an appeal from BVI on adverse possession, revisiting *Pye v Graham* revisited in relation to whether implied licence by acquiescence
- *Rolle family Company v Ena Rolle* (2017) – Appealing to the Privy Council from The Bahamas in a case concerning a pre-incorporation contract and the effect of section 22 Bahamas Company Act
- *Attorney General Trinidad v Universal* (2011) – Appealing to the Privy Council from the Trinidad Court of Appeal in relation to whether court has discretion to set aside judgment where rule apparently mandatory
- *Attorney General Trinidad v Matthews* [2011] – Appealing to the Privy Council from Trinidad Court of Appeal in relation to the discretion of court when setting aside default judgment
- *Re Bernard* (2010) (Judicial Committee of Privy Council) – Acting in relation to a 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
- *East Caribbean Flour Mills v Boyea* (Civil Appeal 12 of 2006) (East Caribbean Court of Appeal) – Acting in a case concerning breach of fiduciary duty and use of witness statements to supply particulars of fraud

His speaking and advisory work includes:

- 2011 to 2019: Consultant and sole draftsman: Commonwealth of Bahamas: new CPR due to come into force 2020
- 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.

QUALIFICATIONS

- 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 (not currently licensed to practise in BVI)
- 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.

PUBLICATIONS AND SPEAKING

David's publications include:

- 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

David regularly speaks on his areas of expertise. Seminars include:

- 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.

POLICIES AND OTHER DETAILS

- Read David's [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#)
- VAT Registration Number: 234470183
- Bar Membership Number: 12079