

David Eaton Turner

Called: 1984

"He is a details man but at the same time an extremely able and polished advocate in an understated manner which judges like." Company & Partnership - Legal 500 2020

"He is ferociously bright, charming and fantastically good with clients." Restructuring/Insolvency - Chambers UK Bar 2019



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Practice Overview

David Eaton Turner specialises in company law, corporate and personal insolvency, commercial fraud, banking, commercial litigation and related professional negligence matters.

He is regularly instructed in relation to shareholder disputes, and by liquidators, administrators and trustees in bankruptcy, and by banks and their customers in relation to securities, commercial fraud and asset recovery, and with regard to confidential information, partnership, sale of goods and other contractual and commercial matters.

He is listed as a leading junior in the current editions of Chambers & Partners (Chancery: Commercial; Company; Restructuring/Insolvency) and Legal 500 (Company; Insolvency).

He has been called to the Bar of Eastern Caribbean Supreme Court, in the territory of the British Virgin Islands, and has been appointed a Recorder (Civil).

Commercial Litigation

David regularly acts in commercial disputes, especially those involving company law aspects, and issues of fiduciary duties.

He recently acted in a case involving a long-term distribution agreement for fragrances produced by ITC bearing the name "*Manchester United*". The court adopted a fairly broad and purposive approach regarding the circumstances in which good faith obligations might be implied in long-term contractual relationships, raising expectations that the courts may be open to an overarching duty of good faith being implied more widely: *Yam Seng Pte Ltd v International Trade Corp Ltd* [2013] 1 Lloyd's Rep.526. The judgment has been the subject of numerous academic articles and seminars, and considered in a number of subsequent Court of Appeal cases.

Other recent experience includes:

- A dispute between BVI, Cayman and Jersey SPVs regarding investments in Offshore Funds, and the tracing of the proceeds of loans

- A dispute between a charitable foundation and its former Chief Executive over loans made to the foundation and payments out of charitable funds.

Directory acknowledgments include:

"He is the most charming and gentlemanly opponent, and is very clever and respectful"

Chambers Global 2017

"An exceptional junior, whose grasp of complex cases is very impressive."

Legal 500 2016 - Commercial Litigation - Leading Junior

"He is impeccable in his preparation, and has a sixth sense of what the court will require"

"When I have a horrible problem I will go to him";

"A superb advocate who tailors his style to meet the requirements of the judge"

Chambers UK and Global Bar - Restructuring/Insolvency - Leading Junior

"He is superb in terms of both written advice and advocacy. He can explain things simply to clients, and his advocacy is tailored to meet the requirements of the judge."

Chambers Global - Commercial Dispute Resolution

"Deep technical knowledge, allied to a calm and efficient manner"

Legal 500 - Commercial Litigation - Leading Junior

Company

David regularly acts in company matters, particularly including shareholder disputes, and in relation to allegations of breach of directors' fiduciary duties.

In 2012 - 2016 he has acted for a group of defendants to proceedings brought by the liquidators of Goldtrail against counterparties to transactions with the sole director and 100% shareholder of Goldtrail to recoup what were alleged to be company monies; allegations of dishonest assistance in breach of director's fiduciary duties: *Goldtrail Travel Limited v Black Pearl Investments Ltd* [2015] 1 BCLC 89.

In Shepherd v Williamson, Re Phoenix (Contracts) Leicester Limited [2010] EWHC 2375 (Ch) David acted for the successful Petitioner in a bitterly contested shareholders' dispute. By the time of the hearing the Company was in administration. As a result the date of valuation of the shares was of great importance. David succeeded in achieving an order that the Petitioner's shares should be purchased by the Respondent, and that the valuation of the shares should be back-dated by nearly three years: Further successful proceedings in bankruptcy against the Respondent followed: [2012] 1 WLR 3559.

Other recent experience includes:

- Acting in a dispute between shareholders as to the validity and effect of the issue of redeemable preference shares
- Advising on the effect of a deed of priorities entered into between a group of debenture holders

Directory acknowledgments include:

"He is extremely bright, excellent on his feet and he has a huge capacity to keep working which is very impressive." "The best compliment that can be paid is when an opponent tells you they envy your choice of counsel."

Chambers UK Bar 2016 - Company

"He provides wise judgment"

Legal 500 2016 - Company & Partnership - Leading Junior

"Deep technical knowledge allied to a calm and efficient manner."

Legal 500 - Company & Partnership

"He is technically strong, responsive and good on his feet, and has an excellent eye for detail" "

He is hugely knowledgeable on company disputes, always makes himself available and is generally a dream to work with."

Chambers UK Bar - Company - Leading Junior

Insolvency

David acts regularly in insolvency matters, instructed by liquidators, administrators and trustees in bankruptcy, by banks and their customers in relation to securities, and by directors and shareholders and other counterparties to proceedings by and against officeholders. In *Re Pioneer Iron & Steel Company Ltd* (2010 - 2011) David represented a group of creditors based in Hong Kong in the US\$ billion liquidation of a BVI company, with substantial interests in the iron ore business in China. Issues arose as to the lawfulness and priority of dividends under BVI company and insolvency law, interaction with Hong Kong courts and the removal of the liquidators for misconduct.

In *Re BCCI (No. 15), Morris & Ors (Liquidators of BCCI) v Bank of India* [2005] 2 BCLC 328, Times Law Reports, 19 July 2005, a fraudulent trading claim, David acted for the liquidators, obtaining judgment for US\$82m (2003-2004), and successfully opposing the Bank of India's appeal (2005).

Recent experience includes:

- Acting for defendants to proceedings brought by liquidators of Husky under s.238 (transactions at an undervalue) and s. 423 (transactions defrauding creditors) of the Insolvency Act 1986. An important decision on the relevance of hindsight in establishing solvency at the time of the relevant transaction: *Watchorn (Liquidator of Husky Group Limited) v Jupiter Industries Limited* [2015] BPIR 184 and (on costs, [2015] 3 Costs LO 337).
- An application for the appointment of provisional liquidators to protect company's main asset, being software worth some \$7m.

Directory acknowledgments include:

"A brilliant technical lawyer with a good understanding of insolvency matters. He reliably delivers results."

Chambers UK Bar & Chambers Global 2017 - Insolvency

"He has an excellent courtroom manner and works well under pressure and with difficult clients"

Legal 500 2016 - Insolvency - Leading Junior

"is a barrister of the highest quality... a careful and considered advocate, who succeeds through impeccable logic and development of an argument... he deals with difficult work promptly. Sophisticated clients respect him and accept his advice without question."

"One of the nicest people at the Bar and also an excellent advocate."

Legal 500 - Insolvency - Leading Junior

"The well known David Eaton Turner is totally charming and very clever".

Chambers UK and Global Bar - Restructuring/Insolvency

Offshore

David was called to the Bar of Eastern Caribbean Supreme Court, in the territory of the British Virgin Islands in 2010.

Re Pioneer Iron & Steel Company Ltd (2010 - 2011) David represented a group of creditors based in Hong Kong in the US\$ billion liquidation of a BVI company, with substantial interests in the iron ore business in China. Issues arose as to the lawfulness and priority of dividends under BVI company and insolvency law, interaction with Hong Kong courts and the removal of the liquidators for misconduct.

Offshore experience includes:

- Advising Hong Kong based companies in relation to contractual claims subject to a Singapore arbitration clause
- Advising a Gibraltar-based investor as to claims against a Gibraltar bank.
- Advising in relation to the liquidation of a group of Gibraltar-based insurance companies.

Cases

Name: Yam Seng Pte Ltd v International Trade Corp Ltd

Reference: [2013] 1 Lloyd's Rep. 526

Date: 1st February 2013

Court: High Court

Comment:

The court considered and explained the importance of recognising the doctrine of good faith and fair dealing in all contractual relationships, but especially those involving a longer-term relationship, such as joint venture agreements, franchise agreements and long-term distributorship agreements.

Practice Area: Company

Name: Raithatha v Williamson

Reference: [2012] EWHC 909 Ch

Date: 1st March 2012

Court: High Court

Comment:

A landmark decision on the ability of a trustee in bankruptcy to claim an income payments order by reference to a pension fund upon which the bankrupt is entitled, but has not yet elected, to draw.

Practice Area: Company

Name: Shepherd v Williamson, Re Phoenix (Contracts) Leicester Ltd

Reference: [2010] EWHC 2375 (Ch, Proudman J)

Date: 2nd January 2010

Court: High Court

Comment:

David acted for the petitioner in a shareholders' dispute, obtaining an order that the petitioner's shares should be purchased by the respondent, and that the valuation of the shares should be back-dated by nearly three years

Practice Area: Company

Name: Re BCCI (No. 15), Morris & Ors (Liquidators of BCCI) v Bank of India

Reference: [2005] 2 BCLC 328, Times Law Reports, 19 July 2005

Date: 22nd June 2005

Court: Court of Appeal

Comment:

Acting for the liquidators, obtaining judgment for US\$82m (2003-2004), and successfully opposing the Bank of India's appeal (2005).

Practice Area: Commercial Litigation

Name: Mumbray v Lapper

Reference: [2005] BCC 990, Times Law Reports, 31 May 2005

Date: 19th May 2005

Court: Court of Appeal

Comment:

Breach of fiduciary duties by director allegedly abstracting funds from company.
Successfully opposed application for permission to continue derivative proceedings.

Practice Area: Company

Name: Mumbray v Lapper

Reference: [2005] BCC 990, Times Law Reports, 31 May 2005

Date: 19th May 2005

Court: Court of Appeal

Comment:

Breach of fiduciary duties by director allegedly abstracting funds from company
Successfully opposed application for permission to continue derivative proceedings.

Practice Area: Company

Articles

Date	Title	Contributors
1st September 2012	The bankrupt pensioner Published In <i>New Square Chambers</i>	David Eaton Turner
31st March 2009	Appointing administrators: 'pre-packs' and procedural errors Published In <i>New Square Chambers</i>	David Eaton Turner
30th April 2008	The Companies Act 2006: Provisions coming into force on 6 April 2008 Published In <i>New Square Chambers</i>	David Eaton Turner