



DAVID SCOREY
Born 1973

Essex Court Chambers
24 Lincoln's Inn Fields
London WC2A 3EG
United Kingdom

Tel: 020 7813 8000
Fax: 020 7813 8080
Email: dscorey@essexcourt.net

Practice

- Administrative and Public Law
- Arbitration
- Art Litigation
- Banking, Securities, Derivatives
- Commercial Litigation
- Commercial Fraud and Asset Recovery
- Conflict of Laws
- European Law
- Insurance and Reinsurance
- International Commercial Arbitration
- VAT, IPT, Duties and Excise

David Scorey has a broad commercial litigation practice in international and domestic law, litigating in courts and international arbitrations. He has acted in a wide variety of commercial disputes, including insurance and reinsurance (particularly in respect of high level excess liability insurance on the Bermuda form), Lloyd's litigation, shipping and the carriage of goods, banking and civil fraud. He is accustomed to working with foreign lawyers and particularly US attorneys, both instructed directly and also in conjunction with English solicitors.

Most recently, he has acted on behalf of KAC in the long-running Kuwait Airways Corporation v Iraqi Airways Company litigation obtaining post-judgment freezing injunctions against IAC following the recommencement of its service to London in addition to orders detaining IAC's Director General within the jurisdiction pending disclosure of assets.

David is co-author of a forthcoming book on the Bermuda form, to be published by Oxford University Press.

In addition to his commercial practice, David also has considerable experience in VAT, Insurance Premium Tax and other duties, instructed by solicitors, accountants and other professionals under the direct access rules.

His tax practice includes both advisory work and litigation where he has appeared on behalf of taxpayers at all levels, from the tribunal to the House of Lords (as was) and the European Court of Justice, all without a leader.

What others say

David Scorey is consistently recommended in the Legal 500 and Chambers and Partners. The most recent comments include the following:

International Arbitration

- Recommended by Legal 500 – 2010 as “first rate in all respects.”

Insurance

- Recommended by Legal 500 – 2010 as “top-of-the-line insurance junior”.
- Nominated as Insurance Junior of the Year 2010 by Chambers & Partners.
- Recommended as a Leading Junior for Insurance in Chambers and Partners – 2010: “provides advice with ‘a perfect mix of legal expertise and sound commercial application,’ and also impresses sources with his authoritative representations in disputes.”
- Nominated as Insurance Junior of the Year 2009 by Chambers & Partners.
- Recommended by Legal 500 - 2009 as “ferociously bright”.
- Recommended as a Leading Junior for Insurance in Chambers and Partners - 2009: “David Scorey ‘has a gift for preparing documents of impeccable quality.’”

Commercial Litigation

- Recommended in Legal 500 – 2010 as a one of the “strong juniors who are good in any team”.
- Recommended in Legal 500 - 2009 as Leading Junior.

VAT

- Legal 500 – 2010: “David Scorey maintains an excellent reputation in the VAT field and continues to be a leading junior with a superb practice.”
- Recommended as a Leading Junior for VAT in Chambers & Partners 2010: “David Scorey impressed this year handling a successful High Court appeal on behalf of Livewire Telecom against HMRC in relation to an alleged missing trader intra-community (MTIC) fraud. He has considerable experience of VAT, insurance premium tax and other duties, and is lauded for his “technical ability, huge intellect, good judgement and great tactical nous.”
- “David Scorey is increasingly popular; clients say he performs well against more senior opponents, ‘is very sharp and on the ball’ and shows ‘excellent commercial awareness’.” Legal 500 - 2009
- Recommended as a Leading Junior for VAT in Chambers & Partners 2009: “David Scorey is ‘shrewd, smart and analytically strong’, according to his clients. He recently appeared without a leader in the Court of Appeal for Baxi Group.”
- Recommended as a Leading Junior for VAT in the Legal 500 - 2008: “David Scorey is ‘refreshingly dynamic, a very good lateral thinker. Fleet of foot and very responsive’ he is an ‘excellent-value junior, bright and commercial.’”
- Recommended for VAT in Chambers & Partners 2008: “David Scorey has proved himself to have ‘very strong technical skills’ and ‘clear and concise written opinions’. As an advocate, he ‘knows how to play the game and takes no prisoners.’ Recent high-profile cases he has conducted, without a leader, include Baxi, University of Arts, AGP, Alliance & Leicester and Alstom.”

Career

- 1998 Essex Court Chambers
- 1997 Stagiare in the cabinet of Judge Bellamy, Court of First Instance, Luxembourg
- 1997 Call: Lincoln's Inn

Education

- 1997 Inns of Court School of Law (graded very competent in Bar Finals)
- 1996 LLM (European Community Law), Leiden University, The Netherlands
- 1995 BA (Jurisprudence), St. John's College, Oxford University

Awards

- Honourable Society of Lincoln's Inn
- 1996 Major Award: Hubert Greenland Scholarship, Lincoln's Inn
- 1995 Wolfson Scholarship, Lincoln's Inn
- 1994 Hardwicke Scholarship, Lincoln's Inn

Languages

- French (working knowledge)

Member

- Bar European Group
- Commercial Bar Association (COMBAR)
- LCIA Young International Arbitrators Group
- London Common Law and Commercial Bar Association
- Revenue Bar Association
- Elected member of the American Law Institute (ALI)

Positions held

- 1996—97 Part-time lecturer in law at the London School of Economics, teaching European Community law.
- 1995—96
- Lecturer in law, Institute of Anglo-American Law,
- Leiden University, The Netherlands, teaching
- Contract and Tort.

Publications

- Bermuda Excess Liability Form, Oxford University Press (forthcoming).
- Contributor to De Voil's Indirect Tax Intelligence.
- Erstwhile Assistant Editor, European Human Rights Reports ('EHRR') Sweet & Maxwell.
- (with Tim Eicke) Human Rights Damages, Sweet & Maxwell loose-leaf, December 2001.

Specific Areas

Arbitration

Advised and acted (both alone and with leaders) in a wide range of arbitrations conducted both under the Arbitration Act 1996 and the previous legislation. Appeared before tribunals in a variety of hearings on a range of topics before domestic and international tribunals, both under institutional rules, including ICC, LMAA, LCIA, UNCITRAL, AAA and ad hoc arbitrations. David has particular expertise in insurance and reinsurance arbitration.

He has also appeared in the English Commercial Court in many arbitration applications ranging from anti-suit injunctions to issues concerning the bias of an arbitrator to anti-suit injunctions: see *AT&T v Saudi Cable Company* [2000] 2 Lloyd's Rep 127 (Court of Appeal); [2000] 1 Lloyd's Rep 22 (Longmore J).

Banking

Acted and advised in a wide range of international and domestic banking disputes on behalf of both corporate individuals and major clearing banks: guarantee disputes, letters of credit, documentary credits, bills of exchange, performance bonds, limited partnerships, injunctions and freezing orders. See *Bank of China v NBM LLC* [2002] 1 WLR 884; [2002] 1 Lloyd's Rep 62 (Court of Appeal), where he acted on behalf of the Bank concerning the extra-territorial effect of a world-wide freezing order in support of foreign proceedings.

Commercial litigation

Wide experience in commercial litigation in line with Chambers' profile: all aspects of advisory work and hearings in the Commercial Court, such as carriage of goods, sale of goods, insurance, contractual and non-contractual termination, jurisdictional disputes, worldwide and other freezing orders, arbitration disputes, service out of the jurisdiction, guarantee disputes, bills of exchange, documentary credits. He has considerable experience of freezing injunctions and other interim relief in support of domestic and foreign proceedings. David has recently acted for Kuwaiti Airways in its long running battle to enforce judgments of US\$1.2bn against Iraqi Airways. Obtained freezing order, including restraint order and seizure of Director General's passport pending disclosure of information: [2010] EWCA Civ 740.

Employment

Extensive experience in the field of employment disputes, both advising and appearing in employment tribunals, the Employment Appeal Tribunal and employment disputes in the High Court. Have acted and advised in respect of: redundancies, employees bonus schemes and employees shares option schemes, pensions, contractual commission payments, unfair dismissal, sex discrimination, race discrimination, application of Unfair Contract Terms Act to contracts of employment, restrictive covenants, injunctions and European law issues. Junior counsel in *R v Sec. of State for Defence ex p Perkins* (withdrawal of reference to ECJ regarding armed forces policy on homosexuality); *Neary v Dean of Westminster Abbey* [1999] IRLR 288 (secret profits taken by employee amounting to gross misconduct justifying summary dismissal); *Bridgen v American Express Bank Limited* [2000] IRLR 94 (application of the Unfair Contract Terms Act applied to contracts of employment). Counsel for American Express in fourteen day sex discrimination case (*Brennan v American Express*) concerning section 41(3) SDA defence.

European Community Law

Frequently advised and acted in cases involving European Community law issues including agriculture, commercial agent regulations, equality, free movement of goods, competition law and VAT. LLM in European Community Law from Leiden University, The Netherlands and erstwhile lecturer in European Law at L.S.E.

Insurance and Reinsurance

Acted and advised in all types of insurance and reinsurance disputes, both in the Commercial Court and in domestic and international arbitration. In particular, experience in disputes relating to avoidance for fraud, misrepresentation, non-disclosure, moral hazard and coverage disputes.

He has particular expertise in respect of the Bermuda excess liability form and has appeared in many arbitrations concerning coverage disputes in addition to advisory work on the Bermuda form. David is co-author of a book on the Bermuda form due to be published by Oxford University Press in Spring 2011. He also acted for the London market in the KNIC litigation in which the claim for an indemnity by the North Korean State insurer was resisted by reinsurers on grounds of alleged fraud.

Media, Entertainment & Art Law

Both advisory work and litigation in disputes concerning the entertainment industry, including film distribution, record contract disputes, film finance and production broadcasting rights in addition to agency and management agreements, many of which often include an international element.

David has acted in disputes involving the standard terms and conditions of all the major auction houses. Recent work involves: a contractual claim disputing the authenticity of a Picasso portrait and advising on potential 'Holocaust survivors' claims in respect of the sale of a significant Modigliani landscape.

Public Law

Have advised and acted in public law cases. For example: acted on behalf of Amnesty International intervening in House of Lords in General Pinochet Extradition (see R v Bow Street Magistrates ex parte Pinochet Ugarte (No.2) [2000] 1 AC 119 (House of Lords): challenge to House of Lords decision on the ground of bias alleged against Lord Hoffman; and see R v Bow Street Magistrates ex parte Pinochet Ugarte (No.3) [2000] 1 AC 147 (House of Lords): whether former head of state enjoyed immunity.) He also advised the National Lottery Commission regarding the grant of a new licence to Camelot or The People's Lottery. David also frequently acts and advised in respect of judicial review claims against HMRC.

Shipping

Instructed to advise and act in all aspects of shipping work: demise, time and voyage charter party disputes, cargo claims and associated injunctions and freezing orders, both domestic and worldwide.

VAT, IPT and Duties

All aspects of advisory work for indirect taxation, instructed by solicitors, accountants and other professionals under the direct access rules.

In addition to advice on VAT liability and planning, David regularly litigates for taxpayers and has appeared in courts at every level from the tribunal to the House of Lords and the European Court of Justice, all without a leader. Most recently, David represented the taxpayer in the reference to the ECJ in the Baxi case (joined with LMUK), again without a leader. He also acted in the Upper Tribunal (Briggs J) in ATEC, the first case to discuss the transitional arrangements between the old and new tribunal systems. In addition, David also regularly acts on behalf of taxpayers in judicial review claims against HMRC.

His experience in insurance and reinsurance provides considerable knowledge in respect of his advisory work for insurers in respect of IPT.

Reported cases include:

- **Chalke & Barnes v HMRC** [2009] STC 2023 (Henderson J); [2010] STC 1640 (Court of Appeal): GLO to determine whether HMRC liable to motor dealers for compound interest.
- **Livewire v HMRC** [2009] STC 643 (Lewison J): first successful MTIC case upheld in face of appeal by HMRC.
- **KNIC v Allianz & Others** [2009] Lloyd's Rep IR 480 (Court of Appeal): justiciability of allegations of wrongdoing against foreign state (North Korea).
- **Baxi v HMRC** [2009] STC 491 (Court of Appeal) upholding decision that input tax paid to loyalty scheme operator was recoverable and not third party consideration.
- **Baxi v HMRC** [2009] STC 42 (Lindsay J) holding that input tax paid to loyalty scheme operator was recoverable and not third party consideration.
- **KNIC v Allianz & Others** [2008] 2 CLC 825 (Field J).
- **KNIC v Allianz & Others** [2008] Lloyd's Rep IR 413 (Court of Appeal): appropriate test for summary judgment and evidence needed to withstand application.
- **KNIC v Allianz & Others** [2007] Lloyd's Rep IR Plus 47 (David Steele J).
- **Petromec v Petroleo & Others** [2006] 1 Lloyds Rep 121 (Court of Appeal): proper construction of securitisation documents surrounding the construction of world's largest off-shore oil rig that was lost at sea.
- **Courts v Customs & Excise** [2005] STC 27 (Court of Appeal): whether "protective assessments" are valid and when assessments are "made".
- **Azinas v Cyprus** (2005) 40 EHRR 8 (European Court of Human Rights, Grand Chamber): acted on behalf of Greek Cypriot in claim for damages against the State.
- **Courts v Customs & Excise** [2004] STC 690 (Blackburne J).
- **R (on the application of Cardiff County Council) v Customs & Excise** [2004] STC 356 (Court of Appeal): proper categorisation of Council's claim for section 33 refund and time limitations.
- **Customs & Excise v EDS** [2003] STC 688 (Court of Appeal): proper VAT treatment of financial services.

- **Colaingrove v Customs & Excise** [2004] STC 712 (Court of Appeal): scope of exemption from VAT under Article 13B(b) of Sixth Directive.
- **Customs & Excise v Blom-Cooper** [2003] STC 669 (Court of Appeal): whether conversion of public house amounted to a “dwelling” to obtain VAT refund.
- **Colaingrove v Customs & Excise** [2003] STC 680 (Jacob J).
- **R (on the application of DFS plc) v Customs & Excise** [2003] STC 1 (Court of Appeal): legality of “claw-back” assessments and effect of section 85 VATA agreements.
- **R (on the application of Cardiff County Council) v Customs & Excise** [2002] STC 1318 (Stanley Burnton J).
- **Taylor v Lawrence** [2002] 3 WLR 646 (Court of Appeal): instructed by Bar Pro Bono Unit in a novel case regarding the ability of Court of Appeal to reopen a previous appeal.
- **Customs & Excise v Blom-Cooper** [2002] 1061 (Peter Smith J).
- **Bank of China v NBM LLC** [2002] 1 Lloyd's Rep 62 (Court of Appeal): extra-territorial effect of world-wide freezing order.
- **R (on the application of DFS plc) v Customs & Excise** [2002] STC 760 (Moses J).
- **Fluff v Customs & Excise** [2001] STC 674 (Laddie J): whether bait proper classified as animal feeding stuffs.
- **AT&T v Saudi Cable Company** [2000] 2 Lloyd's Rep 127 (Court of Appeal): allegation of bias against a commercial arbitrator on the ground that he was a non-executive director of a competitor to one of the parties to the arbitration.
- **AT&T v Saudi Cable Company** [2000] 1 Lloyd's Rep 22 (Longmore J).
- **R v Bow Street Magistrates ex parte Pinochet Ugarte** (No.2) [2000] 1 AC 119 (House of Lords): challenge to House of Lords decision on the ground of bias alleged against Lord Hoffman.
- **R v Bow Street Magistrates ex parte Pinochet Ugarte** (No.3) [2000] 1 AC 147 (House of Lords): whether former head of state enjoyed immunity.
- **Bridgen v American Express Bank Limited** [2000] IRLR 94 (Moorland J): application of the Unfair Contract Terms Act applied to contracts of employment on the ground that an employee deals as a “consumer”.
- **Neary v Dean of Westminster Abbey** [1999] IRLR 288 (Lord Jauncey): instructed by Dean of Westminster Abbey in a sensitive case involving secret profits taken by employee amounting to gross misconduct justifying summary dismissal.

If you require further information, please contact clerksroom@essexcourt.net