



David Phillips

Call: 1976

QC: 1997

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*“A hardworking
and charming
individual”*

The Legal 500, 2014

Memberships

- Welsh Circuit
- Door tenant 30 Park Place, Cardiff
- Door tenant 20 The Sands Barristers Chambers, St Kitts
- Associated with Messrs Karam & Missick, Turks & Caicos Islands
- Chancery Bar Association
- COMBAR
- FAPL Board (Legal Member)
- FA (Legal Member)
- Professional Negligence Bar Association
- CIArb

Practice Overview

David advises and litigates in a broad range of commercial matters including professional liability, regulatory, sports related matters and EU transport regulation, as well as mainstream commercial litigation. Over the past fifteen years David's practice has developed to extend to a variety of overseas jurisdictions, most notably in a number of Caribbean countries (Anguilla, Antigua, BVI, St Lucia, St Vincent, Trinidad, Turks and Caicos Islands) but also Ireland, Bermuda, Gibraltar and Switzerland.

David has sat as a Recorder and a Deputy High Court Judge for more than twenty years. He is a Fellow of the Chartered Institute of Arbitrators, and regularly appears both as an advocate and legal chairman in domestic and international arbitrations. He is a legal member of the Football Association specialist panel, and of the FA Premier League panel. David is a Sport Resolutions appointed arbitrator, and a former tribunal chairman of the National Anti-Doping Panel.

In 2009 David was instructed by the Foreign and Commonwealth Office and the Governor of the Turks and Caicos Islands as leading counsel to head the Islands' Civil Recovery project. Since then David has been extensively involved in planning and executing the ensuing claims. Some have been resolved without litigation but many have been litigated. So far in excess of \$21 million in cash and more than 2,447 acres of land have been recovered. David has conducted a large number of trials in the Supreme Court, appeals to the Court of Appeal and the Privy Council, mostly in the field of civil fraud/asset recovery but also in relation to related issues such as land registration and stamp duty. Most recently David succeeded in the Privy Council in Attorney General of the Turks and Caicos Islands v Akita [2017] AC 590, a case which explores the extent to which an account of profits may be recovered in unconscionable receipt claims. The Akita litigation now continues in the Turks and Caicos Supreme Court.

David's years of experience with the Turks and Caicos Civil Recovery programme have developed his skills of working in a team. The Turks and Caicos team was made up of other counsel, London commercial litigation solicitors, members of the Attorney General's Chambers, as well as external advisors and experts (forensic accountants, surveyors, valuers, and others). David brings that experience to his more conventional commercial litigation, with positive effect.

Clerks' Details

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Andrew Barnes tcsqc@wilberforce.co.uk
Luke Farmer
Nick Redmond

Qualifications and Appointments

Appointments

- Deputy High Court Judge
- Recorder
- Sport Resolutions appointed arbitrator

Education

Balliol College, Oxford

- 1975 BA (Hons) Jurisprudence
- 1996 MA

Gray's Inn, London

- 1976 Called to the Bar
- 1977 Arden, Atkin, Mould & Reid prizewinner
- 1997 Appointed Queen's Counsel
- 2004 Elected Bencher of the Inn



Sports

David has had extensive involvement with sport related matters as an advisor, a litigator and an arbitrator for very many years. What is commonly referred to as "Sports Law" regularly involves substantial issues of commercial, financial, property and regulatory law – it is not all about the off-side rule. The sums of money involved are frequently significant: football, for example, (a field in which David is regularly instructed both as an advocate and as an arbitrator) is a multi-billion pound industry generating complex, high value claims. David has extensive experience both as an advocate and chairing arbitrations and similar tribunals; he is joint Legal Chairman of the Greyhound Board of Great Britain, a member of the FA judicial panel and the FA Premier League Panel, and is a Sport Resolutions arbitrator.

David has been involved in high profile sporting issues for a long time. In 2004 he was instructed in the *Tigana* litigation on behalf of Fulham FC – claims by Fulham against Jean *Tigana*, its former manager. The core allegations were of fraud, breach of fiduciary duty and dishonest receipt. The litigation included a three-week trial in the Queen's Bench Division, appearances before the Employment Tribunal and the Employment Appeal Tribunal, as well as appeals from FIFA rulings to the Court of Arbitration for Sport in Switzerland. The litigation is a clear example of the complexities and high value claims that Sports Law can generate. In 2007 David acted for Leeds United in the 15 Point controversy. Although the arbitration proceedings remain confidential, David's involvement is a matter of public record (<http://www.mightyleeds.co.uk/pdf/season200708paneldecision.pdf>). David represented Leeds at every stage of the matter – from a members' meeting of the Football League through to the final determination by the arbitration panel. Also in 2007 David represented Renault Formula 1 in proceedings before the World Motor Sport Council in Monaco, arising out of Renault's alleged misappropriation of confidential material from Vodafone McLaren Mercedes.

Most recently David has chaired a FA Regulatory Commission investigating regulatory breaches. The proceedings, and particularly the identity of the individuals and club, are confidential: no details that might enable them to be identified can be given. The issue before the Commission was the application of the regulatory regime created by the Rules. The question at the heart of the investigation was the concept of ownership of and control of a club. The eventual decision involved an examination of the operation of a creative ownership structure, including the practical implications of discretionary offshore trusts.

David is currently chairing a FA Appeal Board involving a challenge to a regulatory sanction. The issues concern the regulatory implications of company director disqualification.



Sports continued

Recent decisions that are in the public domain (<http://www.thefa.com/football-rules-governance/discipline/written-reasons>) include:

- The Appeal Board decision (chaired by David) in the appeal of Paul Bignot – a biting case.
- The Regulatory Commission (chaired by David) in the disciplinary hearing against Wayne Shaw (the "Roly-Poly Goalie") – a betting case.

Another (presently confidential) disciplinary matter concerned a player who was made the subject of an interim suspension for betting infringements: David dealt with the matter at short notice as the sole member of the Regulatory Commission.

David has chaired a large number of arbitrations and similar tribunals. They have involved disputes between players and clubs, players and agents, clubs and agent. Many have raised the type of issues conventionally seen in commercial litigation. One decision that is in the public domain is Fulham FC v West Ham United (<http://www.5rb.com/case/fulham-fc-v-west-ham-united/>). This was a claim arising out of the Tevez registration controversy. The issue before the Panel was whether, and if so to what extent, the decision of another Panel was admissible in the current arbitration.

David has chaired tribunals adjudicating on selection and funding challenges made by athletes against national bodies relating to Olympic and other competitions. The nature and detail of those decisions are confidential.

David has acted an advisor and has appeared as an advocate in a large number of arbitrations and related matters. The matters at issue have ranged across the full breadth of the sporting industry – regulatory, contractual, financial/insolvency, and property matters.