

## David Turner QC

Call: 1992

Silk: 2009

+442078222000

d.turner@4newsquare.com

**Clerk: Alex Dolby**

a.dolby@4newsquare.com

+442078222036

+447912405151



*A superb courtroom performer and deadly cross-examiner; he is very quick-thinking on his feet with a measured style which earns the court's trust.*

- Legal 500

**David Turner QC specialises in commercial insurance and reinsurance, professional liability (principally accountants (both complex tax planning and auditors' negligence), brokers and solicitors) and commercial product liability disputes.**

He has been described in the Directories as *"a superb courtroom performer and deadly cross-examiner"*, *"tactically astute with a forensic approach to detail"*, *"very quick thinking on his feet"*, *"there is no part of a case which he does not familiarise himself with. There are no corners cut, he has everything at his fingertips in court"*, *"an excellent QC - very meticulous, thorough and measured"*, having *"a measured style which earns the court's trust"* and *"great with clients"*.

David's practice has typically involved large-scale disputes in the Commercial Court, Chancery Division, the Technology and Construction Court and in arbitration both at home and overseas. He enjoys working as part of a large, multi-disciplinary team, and places great emphasis on identifying and pursuing a strategy which meets his client's commercial requirements.

David accepts appointments to serve as either a sole or a party-nominated arbitrator in disputes in the UK and internationally. He is a Fellow of the Dispute Board Federation.

David is a member of COMBAR, TECBAR and the Professional Negligence Bar Association. He is an advocacy trainer for Gray's Inn.

### **Publications:**

David is author of the chapter on Professional Indemnity Insurance in *Jackson & Powell on Professional Liability*, and a reasonably frequent contributor to *Insurance Law Monthly*.

### **Wider experience**

David was a non-executive board member of a national charity from 2013 until 2019, serving additionally on its finance and medical research grants committees. He has also been a lay member of a Clinical Reference Group for a national specialised service.

### **Privacy Policy**

Click here for a **Privacy Policy** for David Turner QC.

## **Areas of Expertise**

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## International Arbitration

David's experience in the field of international arbitration includes:

- Acting for insurers in an arbitration seated in Abu Dhabi under the ICC rules arising out of a group life etc policy
- Acting for the owner in an ICC arbitration concerning the entitlement of an international hotel chain to terminate its agreement to manage a UAE hotel
- Acting for the local cedant in an arbitration under DIFC-LCIA rules in a claim against the reinsurer of a medical insurance programme
- Chairing the tribunal in an arbitration arising out of a quota share reinsurance treaty between a GCC-based cedant and its reinsurer
- Acting for the Employer in an arbitration seated in Dubai under DIAC rules, defending claims (including claims for delay and disruption) from the Main Contractor with an overall value of approximately AED80m relating to the construction of a hotel under FIDIC Red Book (1977 Edition) conditions
- Acting for the reinsurers of a medical insurance programme in an international arbitration seated in the DIFC under the UNCITRAL Arbitration Rules
- Acting for excess layer underwriters in an arbitration seated in London in respect of claims by generic pharmaceutical manufacturers/distributors under various patent infringement liability policies
- Acting for project insurers in an arbitration seated in Mumbai under the IBA Rules, arising out of the construction of a 10.5 MMTPA oil refinery in Asia and involving claims totalling US\$800m for material damage and under an ALOP/DSU policy

## Commercial Dispute Resolution

David's experience in this field includes:

- Acting for a major public authority in a substantial dispute with a services outsourcing provider in relation to a strategic partnering agreement
- Acting for insurers in an arbitration concerning the construction of a 10.5 MMTPA oil refinery in Asia and involving claims for material damage and under an ALOP/DSU policy
- Advising in relation to the *Evangelos Florakis* naval base explosion in Cyprus
- Acting for the owner/operator of a PFI waste recycling facility in a claim arising from fire damage to the plant during the course of modifications
- Acting for the main group of property owner claimants in the Buncefield litigation

## Construction & Engineering

David's experience in the **construction** field includes:

- Acting for a PFI contractor in defending a claim by a waste disposal authority for declarations as to the authority's entitlement to terminate a contract for the construction and operation of a substantial Biological and Mechanical Treatment plant?.
- Representing the Employer in an arbitration seated in Dubai under DIAC rules, defending claims (including claims for delay and disruption) from the Main Contractor with an overall value of approximately AED80m relating to the construction of a hotel under FIDIC Red Book (1977 Edition) conditions.
- Acting for the supplier of aggregate used for the construction of motorway concrete safety barriers in a case raising issues as to the extent of remedial works necessary to address contamination of the aggregate, the incorporation and application of the ADR provisions contained within Clause 93 of the NEC 3 Supply Short Contract, the effect of the duty of mutual trust and co-operation imposed by Clause 10.1 of the NEC 3 suite of contracts and whether the parties' arbitration agreement was "*null and void, inoperative or incapable of being performed*" within the meaning of s.9(4) of the Arbitration Act 1996.
- Advising insurers for a major UK construction company as to coverage in relation to potential claims arising from the construction of a mechanical biological treatment plant under a major waste and recycling PFI contract in the North West of England.
- Acting for insurers in a mega-arbitration seated in Mumbai under the IBA Rules, arising out of the construction of a 10.5

MMTPA oil refinery in Asia and involving claims under both the material damage and ALOP (DSU) sections of the project all-risks policy. Part of a multinational team, David led on the extensive programming, project management, construction and associated procurement issues relating to almost every process unit, utility and offsite.

- Acting for property owners in Part 8 proceedings against a contractor's liability insurers concerning the scope of the contractor's obligation to provide collateral warranties and the interrelationship between that obligation and an exclusion in the contractor's policy.
- Advising professional indemnity insurers in relation to policy response to a claim alleging defects in the design/construction of a piled slab.
- Acting for the Employer in a dispute as to whether the terms of a final account settlement precluded further claims against a main contractor.
- Acting for defendant M&E contractors in a claim relating to corrosion of chilled water pipework.
- Acting for the owner/operator of a PFI waste recycling facility in a claim arising from fire damage to the plant during the course of modifications.
- Acting for M&E consultants/contractors in a £6M claim arising out of the design and construction of the London Fire Brigade's training facility.
- Acting for defendant structural engineers in defending a £15M claim by the operators and owners of a distribution warehouse alleging that negligent design had caused the spread of a catastrophic fire.
- Acting for design and build contractors on recovery claims against consultant engineers and specialist piling contractors in relation to a piling scheme in alluvial/running sands.
- Advising design and build contractors in relation to a recovery claim against consultant engineers concerning a housing development on built on compressible peat where the hard landscaping and services "sank" but the houses did not.
- Acting for claimant building owners in a claim against consulting building services engineers arising from a flood.
- Acting for specialist M&E consultants in a claim arising out of the refurbishment of the Berkeley Hotel.
- Acting for defendant site investigation consultants in the Panatown litigation.
- Acting for defendant design engineers in a claim arising out of the design and construction of a fabricated steel walkway at Pembroke docks.
- Acting for defendant design engineers in a claim arising out of the design of a coal injection plant installed at a major steel works.
- Acting for defendant consultant engineers in a claim arising from the design and construction of an amenity lake as part of a land reclamation project in the Welsh valleys.
- Acting for the defendant architects who had designed the Point West development.

## Cases

- David Turner QC

## Insurance & Reinsurance

**"His technical expertise in dealing with multi-jurisdictional issues, crafting strategy and executing the agreed plan of action with a focused result in mind is very impressive." "He's very nice to deal with, very experienced and has Supreme Court cases under his belt." – Chambers & Partners, 2021**

**"Advice is proffered in a confident, thoughtful and ordered manner. David is bright, thorough, commercially aware and strategic." – Legal 500, 2021**

**"He is intellectually first-class and has unrivalled knowledge of insurance law." – Legal 500, 2020**

**"Very pragmatic, technically brilliant and clients love him." "He has a beautifully strategic mind." – Chambers & Partners, 2020**

**"Very popular with clients and an absolute pleasure to work with." – Legal 500, 2019**

**"Incredibly quick to respond with crystal-clear, practical advice and very popular with clients." "Very user-friendly, clever**



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**and a pleasure to work with.”** – *Chambers & Partners, 2019*

**“Has an excellent analytical mind and is capable of dealing with intricate matters of detail and explaining them in a readily understandable form. He has an excellent grasp of the nuances of insurance law.”** – *Chambers & Partners, 2018*

David is regularly instructed in a wide range of insurance and reinsurance work, arising out of property, professional indemnity, public and product and most other forms of liability policies. He is the editor/author of the chapter on Professional Indemnity Insurance in the current edition of *Jackson & Powell on Professional Liability*. David’s experience in this area includes:

- Leading a team of counsel from 4 New Square for RSA in the FCA Test Case about the response of non-damage business interruption extensions to the COVID-19 pandemic
- Acting for reinsurers in an international arbitration seated in the DIFC under the UNCITRAL Arbitration Rules
- Advising an overseas insured on recovery of substantial Business Interruption losses following damage to gas pipelines
- Acting for excess layer underwriters in respect of claims by generic pharmaceutical manufacturers/distributors under various patent infringement liability policies
- Acting for insurers in a mega-arbitration seated in Mumbai under the IBA Rules, arising out of the construction of a 10.5 MMTPA oil refinery in Asia and involving claims for material damage and under an ALOP/DSU policy
- Advising insurers for a major UK construction company as to coverage in relation to potential claims arising from the construction of a mechanical biological treatment plant under a major waste and recycling PFI contract in the North West of England
- Advising a bank in relation to a claim under the Third Parties (Rights Against Insurers) Act 1930 arising out of an EPC sub-contract for a biomass fuelled power generation plant constructed pursuant to a PFI contract
- Acting for public & product liability insurers in a Commercial Court dispute arising out of damage to glass furnace refractories in Kentucky
- Acting for public liability insurers in defending a coverage claim arising out of a substantial fire in an aerospace factory
- Advising property insurers in respect of policy response following the explosion of a marine waste oil tank in an overseas port
- Acting for property owners in Part 8 proceedings against a contractor’s liability insurers concerning the scope of the contractor’s obligation to provide collateral warranties and the interrelationship between that obligation and an exclusion in the contractor’s policy
- Acting in various PI insurance arbitrations concerning notification of circumstances to particular years of cover
- Acting for insurers in an arbitration relating to the aggregation of 100s of claims under a PI policy
- Advising PI insurers as to the application of the Special Institute Condition in respect of a claim arising out of a substantial commercial mortgage fraud in which an employee of the insured had played a pivotal role
- Advising a major RTA insurer in relation to its motor accident recovery model
- Advising major EL insurers in relation to its entitlements under a premium adjustment clause
- Acting for property insurers in successfully defending a substantial claim in respect of the destruction of a domestic dwelling on grounds that the fire had been started at the direction of an insured and of breach of policy terms
- Advising major EL insurers in relation to policy triggers for mesothelioma claims
- Acting for Part 20 Claimant seeking contribution from Lloyd’s in Commercial Court litigation arising out of failure to include exclusion within a quotation for Italian medical malpractice cover
- Acting for fraudulent receivables insurers on a successful application for summary judgment in Commercial Court against Insured on limitation grounds, notwithstanding the Insured’s arguments as to waiver and estoppel
- Advising a firm of accountants on the scope of the FSA 86 exclusion in the ICAEW minimum wording
- Acting for insurers in successfully defending claims with aggregate value of £5M brought under PA policies by Southampton Football Club and Blackburn Rovers Football Club following disablement of players
- Advising professional indemnity insurers in relation to PA LMX Spiral claims
- Acting for reinsurers in defending claims made by the reinsureds for non-payment under various reinsurance treaties
- Advising in relation to a claim by German reinsurers against French reinsurance agents concerning business written through the London market under various binding authorities
- Acting for public liability insurers in their successful defence of claims brought under the 1930 Act by former pupils of a special school at which they alleged they had been victims of sexual abuse
- Advising professional indemnity insurers in respect of policy response where Insured brokers had placed “phantom cover” with underwriting agents

- Advising professional indemnity insurers in relation to construction-related claims exceeding £100M made on underlying insurances in respect of a large number of separate projects
- Defending a 1930 Act claim against the professional indemnity insurers of a firm of accountants on the grounds that the policy was voidable for fraudulent non-disclosure notwithstanding the innocent non-disclosure provisions
- Advising professional indemnity insurers in relation to recovery from reinsurers which had purportedly avoided their reinsurance contracts
- Acting for defendant property damage insurers in a £10-million claim arising out of fire damage, where the dispute centred on the incorporation of warranties/suspensive conditions
- Acting for property damage insurers in a variety of claims where insurers avoided for pre-inception non-disclosure of adverse moral or physical hazard
- Acting for all risks insurers of a Train Operating Company in resisting a claim arising out of the Sandy derailment, where the dispute centred on the incorporation of terms on renewal and whether the exception relied upon by Insurers was unenforceable on the grounds of repugnancy
- Advising as to the definition of “damage” under a CAR project policy where work was delayed by inclement weather
- Acting for Insurers in defending a variety of property claims on the grounds of fraud on the part of the Insured including but not limited to arson and the use of fraudulent means or devices to support a claim
- Advising Insurers as to the extent of cover, definition of damage and operation of standard exclusions in respect of a claim under a Product Liability policy concerning faulty printed circuit boards incorporated into mobile phones.

## Product Liability

**“Brilliant mind, excellent tactician and supreme knowledge of the law.”** – *Legal 500, 2021*

**“A very pugnacious and effective advocate.” “He’s beloved by clients and has a very impressive practice.”** – *Chambers & Partners, 2021*

**“Controls the most complex of cases with thorough tactical oversight and never misses trick.”** – *Legal 500, 2020*

**“David is in a class of his own for legally complex contractual, construction and product liability claims.”** – *Chambers & Partners, 2020*

**“He is an excellent performer, with an absolutely incredible eye for detail.”** – *Chambers & Partners, 2019*

**“Provides prompt, no-nonsense advice.”** – *Legal 500, 2019*

**“Has an extraordinary work ethic and shows great attention to detail. He is good at getting judges to listen.” “Extremely clever and can turn his mind to anything.”** – *Chambers & Partners, 2018*

**“He is very, very good indeed. He gets to the detail in a way which we all dream of doing. There is no part of a case which he does not familiarise himself with. There are no corners cut, he has everything at his fingertips in court.”** – *Chambers & Partners, 2016*

Recognised as a leading Silk in this area by the Legal 500 and Chambers & Partners, David has extensive experience of commercial product liability disputes, often involving fire. Cases include:

- acting for the claimants in a claim against major pharmaceutical companies under a Group Litigation Order relating to the safety of childhood vaccines
- acting for concrete suppliers in the defence of claims arising from the supply of allegedly defective concrete
- acting for aggregate suppliers in the defence of claims arising from the supply of contaminated aggregate for use in a major construction project
- advising property insurers and cargo owners on recovery following a significant warehouse fire at London Heathrow
- successfully defending Hoover against £1M claim following the destruction of a farm house allegedly caused by a defective washing machine
- £multi-million claim by a distribution organisation following the destruction of a depot as a result of fire originating in a

trailer's refrigeration unit

- acting for the defendant suppliers of a component which caused a fire at a chemical plant in Sweden
- acting for the defendant suppliers of an air conditioning assembly alleged to have caused extensive flooding and damage to a major bank's computer systems
- acting for the defendant suppliers of insulation material alleged to have caused a fire in cooking extract ductwork
- acting for the defendant manufacturers of combination boilers which failed in service in accommodation designed for elderly people
- advising the manufacturer of studio quality sound-mixing desks in relation to a claim against a supplier of defective PSUs sold with the desks
- acting for the defendant manufacturers of capacitors fitted in PSUs which had a tendency to combust
- defending designers/suppliers of a state of the art industrial defrosting machine against £100-million pound claim arising from the destruction of factory by fire (the Sun Valley Fire)
- defending suppliers of foam material alleged to cause the delamination of the decking of fast patrol boats supplied to the Jordanian Navy.

## Professional Liability

**“Very bright and just the man for the job when you need a rottweiler.” “David is very intelligent and extremely knowledgeable, and quickly takes a strategic view on a case, setting it off in the right direction from the start. Clients love him and he is very responsive.”** – *Chambers & Partners, 2021*

**“He is a strong and incisive advocate.”** – *Legal 500, 2021*

**“He's very, very intelligent and we turn to him for technical things like coverage issues.” “He is a tenacious opponent.”** – *Chambers & Partners, 2020*

**“He is an excellent cross-examiner.”** – *Legal 500, 2020*

**“He is exceptionally bright and quick to analyse complex professional negligence claims.”** – *Legal 500, 2019*

**“He is a very good academic brain and also one of the better commercial brains of the Bar. He doesn't just think like a barrister, but puts himself in the shoes of the client too.” “He is hugely competent in professional negligence and indemnity insurance disputes, particularly accountancy cases.”** – *Chambers & Partners, 2019.*

**“Has an excellent analytical mind and is capable of dealing with intricate matters of detail and explaining them in a readily understandable form. He has an excellent grasp of the nuances of insurance law.”** – *Chambers & Partners, 2018.*

**“He is an excellent QC – very meticulous, thorough and measured.” “Impressive – he is very easy to work with, well prepared and takes a very pragmatic view.”** – *Chambers & Partners, 2016.*

**“A superb courtroom performer and deadly cross-examiner; he is very quick-thinking on his feet with a measured style which earns the court's trust.”** – *Legal 500, 2015*

**“He is commercially very astute and exceptionally good at grasping audit complexities extremely quickly.” “He offers robust advice, and is a strategist extraordinaire.”** – *Chambers & Partners, 2015*

David has extensive experience of a wide range of professional liability disputes and has consistently been recommended as a leader in the field by Chambers & Partners and the Legal 500.

Click on the appropriate link to see David's experience in the relevant professional field.

## Accountants, Auditors & Actuaries

David has wide experience of claims against accountants, and has developed something of a niche practice in relation to claims

arising out of tax planning advice (both bespoke and more widely marketed strategies). Cases in this field include:

- Acting for a top-10 firm of accountants in FRC disciplinary proceedings relating to the audit of a plc and its subsidiaries
- Acting for the accountants on appeal to the Court of Appeal and the Supreme Court relating to the measure of recoverable loss, raising issues of *res inter alios acta*, equitable subrogation and so-called “transferred loss” (*Lowick Rose LLP v. Swynson Ltd* [2017] UKSC 32)
- Acting for audit client in a claim against its auditors arising out of defalcations exceeding £1.35M by an employee
- Acting for auditors in defending a claim arising out of the collapse of a car dealership
- Acting for auditors in defending a £6M claim arising out of the collapse of an employee relocation business
- Defending major firms of accountants against claims arising out of various film partnership schemes of up to £20M in value
- Defending major firm of accountants against £3M claim arising from abortive implementation of an EIS scheme
- Advising major firm of accountants in relation to claims arising from transfers of assets into capital redemption contracts
- Defending HLB Kidsons against £18M claim in the Evolution Films Group Litigation (film partnerships) and leading for HLB Kidsons at trial of its Part 20 claims
- Advising liquidators of a listed company on the prospects of a claim against VAT advisers
- Advising major firm of accountants in relation to claims arising from scheme to create and market trust/capital losses
- Advising major firm of accountants on the recoverable measure of loss where acquisition of company followed negligent tax advice
- Defending a major firm of accountants against a £multi-million claim relating to the use of a BES company as a wrapper to eliminate accrued CGT liabilities, including deployment of an *ex turpi causa defence* alleging a fraud on the Inland Revenue.
- Defending the auditors of a listed company against a claim arising from alleged fraud on company by chief executive
- Acting for defendant accountants and auditors in relation to a claim brought in Cyprus by third-party purchasers of a UK company
- Defending a major firm of accountants against a substantial claim by a firm of solicitors that the accountants had negligently failed to detect that one of the solicitors’ employees was embezzling money
- Defending auditors against a claim brought by the purchasers of a stake in a commodities trading company

## Construction Professionals

David has extensive experience of professional negligence claims against construction professionals. Cases include:

- Acting for M&E consultants/contractors in a £6M claim arising out of the design and construction of the London Fire Brigade’s training facility
- Acting for defendant structural engineers in defending a £15M claim by the operators and owners of a distribution warehouse alleging that negligent design had caused the spread of a catastrophic fire
- Acting for design and build contractors on recovery claims against consultant engineers and specialist piling contractors in relation to a piling scheme in alluvial/running sands
- Advising design and build contractors in relation to a recovery claim against consultant engineers concerning a housing development on built on compressible peat where the hard landscaping and services “sank” but the houses did not
- Acting for claimant building owners in a claim against consulting building services engineers arising from a flood
- Acting for specialist M&E consultants in a claim arising out of the refurbishment of the Berkeley Hotel
- Acting for defendant site investigation consultants in the Panatown litigation
- Acting for defendant design engineers in a claim arising out of the design and construction of a fabricated steel walkway at Pembroke docks
- Acting for defendant design engineers in a claim arising out of the design of a coal injection plant installed at British Steel’s Port Talbot works
- Acting for defendant consultant engineers in a claim arising from the design and construction of an amenity lake as part of a land reclamation project in the Welsh valleys
- Acting for the defendant architects who had designed the Point West development.

## Insurance Brokers & Agents

Much of David’s work in this area is closely related to his “pure” insurance and reinsurance practice. Past and present cases include:

- Acting for an international bank in a claim against its brokers based on the inclusion of a retroactive date in the bank's professional indemnity cover
- Defending reinsurance brokers from a claim arising from the alleged incorporation of a claims notification condition into the reinsurance slip policy
- Defending an intermediary against claim by underwriters arising out of the failure of Lloyd's to include an exclusion clause within a quotation for Italian medical malpractice cover
- Defending coverholders against claims by insured and insurers arising out of a PA scheme for professional footballers
- Acting for producing brokers in an action arising out of the placement of hull cover for a fleet of pleasure boats
- Advising in connection with the potential liability of sub-brokers to underwriters arising from the operation of a line slip
- Acting for defendant producing brokers in an action to which the insured, placing brokers, underwriting agents and insurers were also party, involving allegations of failure to place cover, non-disclosure and failure to notify the insured of relevant policy terms
- Advising a cedant in relation to the potential liability of reinsurance brokers arising from the alleged non-disclosure of material facts prior to inception of various reinsurance contracts
- Advising in relation to the Northern Ireland "phantom" EL cover claims
- Acting on behalf of brokers in a variety of claims where Insurers had avoided for non-disclosure (normally of moral hazard) and the Insureds were seeking to pass claims (which were typically fraudulent) onto their brokers

## Lawyers

David is experienced in claims against lawyers including claims relating to commercial disputes, property transactions, the conduct of proceedings and the provision of door of court advice. Cases include:

- Defending solicitors against claims for accessory liability for breach of trust in relation to various property transactions
- Advising on possible claims against former solicitors arising out of the supply of defective LNG carriers
- Acting for solicitors in successfully defending a claim by a property developer arising out of an unsuccessful attempt to acquire and develop the ground of Wrexham Athletic Football Club
- Acting in relation to cross-claims between successive firms of solicitors for contribution towards aggregate £2M settlement with former clients arising out of the drafting of standard terms and conditions of trading
- Successfully defending a firm of solicitors in a case resulting from the dismissal (on procedural grounds) of an earlier US\$77.5M claim against BAe arising out of the sale of passenger aircraft to a Portuguese airline
- Acting for the solicitors of Oasis at first instance (Gray J) and in the Court of Appeal in their successful defence (on limitation grounds) of the claim brought by Tony McCarroll asserting that the solicitors had been negligent in the drafting of the Band's recording agreement with Sony
- Advising on "loss of chance" claim against solicitors who allowed claim against tax advisers to become statute barred
- Striking out a claim against a firm of solicitors brought by a convicted rapist alleging wrongful conviction
- Acting for solicitors in successfully resisting an application for wasted costs on the grounds that they negligently allowed leading and junior counsel to maintain an improper allegation of forgery at trial
- Acting for a leading IP silk in relation to a claim that he had negligently compromised an action at the door of court
- Acting for claimants in relation to defendant solicitors' negligent failure to renew statutory tenancy under Part II of the Landlord & Tenant Act 1954
- Acting for claimant legal expenses insurer and insured in a claim against solicitors who allowed an underlying claim to become statute-barred.

## Surveyors & Valuers

David's experience in this area includes:

- Defending UK aircraft appraisers against US\$20M claim arising out of the valuation of passenger aircraft which were used to secure a loan by a US lender to a German SPV company established to acquire the aircraft from (and lease them back to) the German manufacturer
- Defending a firm of surveyors against claim arising out of alleged underinsurance of client's property following provision of a reinstatement cost assessment
- Acting for a claimant lending bank in a claim against the valuers of a portfolio of licensed premises, in which the issues



included breach of fiduciary duty arising from the Borrower's PVA (of which the Bank was ignorant but to which the valuer was a party) and the applicability of the SAAMCO cap

- Acting for defendant commercial valuers in respect of the valuation of a portfolio of petrol stations in the Midlands
- Acting on behalf of lenders in a major mortgage scheme mismanagement claim
- Acting for claimants and defendants in a wide variety of "chain of enquiry" cases

## Public Law and Human Rights

David has put his experience from more than 17 years of service as a reservist to use by appearing on a *pro bono* basis for families at inquests into military deaths in Afghanistan and under training in the UK. One of the Afghanistan inquests raised substantial issues as to the engagement and application of Article 2 of the ECHR in relation to the death of a soldier from an IED attack at a British-run training facility. More recently, David appeared for the widow of a soldier who died after sustaining exertional heat injury on a special forces selection exercise in the Brecon Beacons.

David is willing to consider being instructed on the same basis for military families at inquests into deaths on operational service or under training.

## Property Damage

David has been instructed on some of the largest property damage cases in the last 20 years, normally acting on behalf of insurers (either defending a party insured under a liability cover or seeking a recovery of insurers' outlay). Past instructions include the notorious Sun Valley fire case and acting for the lead claimants in the Buncefield litigation.

More recently, David has been instructed in relation to the destruction of the largest power station in Cyprus following the explosion at the "Evangelos Vasilikos" naval base in 2011, and the destruction by fire of a major warehouse at Heathrow Airport in 2010.

Cases include:

- Defending a claim by factory owners against the suppliers of an appliance alleged to have been the seat of a fire which caused widespread damage to the factory
- Advising in relation to the *Evangelos Florakis* naval base explosion in Cyprus
- Advising warehouse owners following a major fire in a warehouse at Heathrow airport
- Acting for public liability insurers in defending a coverage claim arising out of a substantial fire in an aerospace factory
- Acting for the owner/operator of a waste recycling facility in a claim arising from fire damage to the plant during the course of modifications
- Advising on recovery rights against the police following the 2011 London Riots
- Acting for the main group of property owner claimants in the Buncefield litigation following the major explosion at the Hertfordshire Oil Storage Depot in December 2005
- Defending Hoover against a claim following the destruction of a farmhouse by a fire alleged to have been seated in a washing machine
- Acting for Safeway in a claim against McAlpine following the destruction of a store due to the uncontrolled spread of a fire through the store's roof void
- Acting for design and build contractors on recovery claims against consultant engineers and specialist piling contractors in relation to a piling scheme in alluvial/running sands
- Acting for a major building society in a recovery claim against document storage warehouse owners following the destruction of the warehouse – and thousands of title deeds held as security – in a fire caused by arson
- Advising design and build contractors in relation to a recovery claim against consultant engineers concerning a housing development on built on compressible peat where the hard landscaping and services "sank" but the houses did not
- Acting for defendant M&E contractors in a claim relating to corrosion of chilled water pipework
- Advising the owners of a retail outlet damaged by fire on a recovery claim against the owners of the neighbouring property from which the fire had spread
- Acting for defendant structural engineers in defending a claim by the operators and owners of a food distribution warehouse alleging that negligent design had caused the spread (via aluminium-faced, foam cored, sandwich insulation panels) of a catastrophic fire



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- Acting for building contractors in defending a claim following the “Burger King” fire at Terminal 1 of Heathrow Airport in December 1997
- Subrogated recovery claim in name of a retail warehouse owner against owners of an adjoining warehouse whose waste was set on fire by arsonists
- Defending designers/suppliers of a state of the art industrial defrosting machine against £100-million pound claim arising from the destruction of factory by fire following its spread through the building via aluminium-faced, foam cored, sandwich insulation panels (the Sun Valley Fire)
- Defending electrical contractors against a £25m claim arising from the destruction by fire of a large office building (the Digital / Capital & Counties Fire)

## Qualifications & Memberships

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M.A. (Cambridge) Dip Law (City University)

Member of COMBAR, TECBAR and PNBA

## Insights

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### 4 New Square E-Bundling Guide

14 April 2020

Drawing on extensive experience of working with different types of e-Bundle, David Turner QC has created a guide setting out the advantages and disadvantages of different types of standalone e-Bundle, a step-by-step approach to their compilation and how to get the most out of them.

### Halliburton Company v Chubb Bermuda Insurance Ltd [2018] EWCA Civ 817: arbitral appointments in related or overlapping references

23 April 2018

The question of whether an arbitrator can accept appointments in related or overlapping references can arise with surprising frequency, especially in the context of excess layer insurance programmes. In Halliburton, the Court of Appeal held that (1) an arbitrator should have made disclosure of later references but (2) on the facts of the case, neither the fact of the later references nor the failure to disclose them would have led a fair-minded and informed observer to conclude that there was a real possibility that the arbitrator was biased.

### Jackson & Powell on Professional Liability: chapter on Professional Indemnity Insurance in the current, 8th, edition

### The ‘MV Renos’ [2018] EWCA Civ 230

21 February 2018

In the ‘MV Renos’ the Court of Appeal had to determine whether the Respondents (“Owners”) had lost the right to abandon the vessel and claim that it was a constructive total loss

### Bluebon Limited v Ageas (UK) Limited plc and others [2017] EWHC 3301 (Comm)

15 December 2017

Many commercial property insurance policies contain a term, dressed up as a warranty, requiring the electrical installation to be tested every five years. In Bluebon, Bryan J had to determine whether the five year period started from the date of the last inspection (if any), or from the date on which the policy inception

### Premier Motoructions Ltd v PricewaterhouseCoopers LLP [2017] EWCA Civ 1872

23 November 2017



NEW SQUARE

Ever since Stuart-Smith J's decision in *Geophysical Service Centre v Dowell Schlumberger (ME) Inc* [2013] EWHC 147 (TCC), impoverished claimant companies have sought to rely on the existence of an ATE insurance policy as a reason why a Court should not make an order for security for costs. In *Premier Motorauctions* the Court of Appeal was required to decide whether, and to what extent, the existence of ATE cover really could defeat an application for security for costs

### **Ted Baker plc v AXA Insurance UK plc [2017] EWCA Civ 4097**

11 August 2017

In *Ted Baker plc v AXA Insurance UK plc*, the Insured appealed Mr Justice Eder's findings at first instance ([2014] EWHC 3548 (Comm)) that it (1) had breached a claims co-operation clause, compliance with which was a condition precedent to Insurers' liability, and (2) had failed to prove that its claimed loss of profit exceeded the deductible

### **AIG Europe Ltd v. OC320301 LLP and others [2016] EWCA Civ 367**

14 April 2016

In *AIG Europe Ltd v. OC320301 LLP and others* [2016] EWCA Civ 367, the Court of Appeal reviewed a decision of Teare J concerning whether a number of different claims against a firm of lawyers could be characterised as arising from similar acts or omissions in a series of related matters or transactions for the purposes of limb (iv) of the aggregation provision within the prevailing Solicitors' Minimum Terms and Conditions