

OUR PEOPLE

David Halpern KC

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SILK 2006

CHAMBERS & PARTNERS

“He’s a first-rate analyst of the facts, and an impressive authority in chancery law. He provides excellent, clear delivery to clients.”

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David Halpern KC has been rated for many years in the legal directories as a leader in the fields of property litigation and professional liability claims.

Since taking Silk in 2006, his practice has broadened to include a wide range of Chancery and commercial work.

He enjoys working as part of a team with other lawyers and experts in a broad range of disciplines, in relation to both litigation and advisory work. He relishes cases involving difficult questions of law but is also very alive to the client’s requirement for clear advice and commercial solutions. He accepts appointments as an arbitrator and is regularly instructed to participate in mediations.

He sits part-time as a deputy High Court judge in the Chancery Division and is an advocacy trainer for Gray’s Inn, where he is a Bencher.

“David Halpern has an excellent legal brain and wonderful advocacy skills.” (Chambers & Partners 2023)

“Unfailingly polite, always manages his case load well, lets you know when he will deliver and more importantly delivers on time.” (Legal 500 2023)

“Very knowledgeable and gives good strategic advice. He’s good on some of the more complex areas of professional indemnity law.” “If I want a binding opinion on a complicated issue of law, he is a go-to.” (Chambers & Partners, 2022)

“Immensely knowledgeable and always gets on well with clients.” “He has particular expertise in solicitors’ negligence, and is very hands-on and extremely approachable.” “He’s an imaginative advocate.” (Chambers & Partners, 2021)

“He is a walking fountain of knowledge with case law references to match. He is commercially aware and focuses on achieving the outcome the clients are seeking.” “A charming man with an agile and creative mind, a great person to have on your team. There is nothing which fazes him.” (Legal 500, 2021)

“He has fantastic insight, is immensely knowledgeable and is brilliant with clients.” “He has an impressive knowledge of property and professional negligence law, and his drafting is quick, excellent and concise.” “He is charming in his advocacy, but it’s also underpinned by a real intellectual strength.” (Chambers & Partners, 2019)

“His advocacy is strong and to the point, and he is quick to raise relevant points in cross-examination.” “He can find and sustain a cause of action where lesser barristers would fail.” (Legal 500, 2019)

“David is amazing; he is a fount of legal knowledge and his ability to pinpoint issues and form an early view is invaluable.” “Very intelligent, pragmatic and commercial.” “Very personable and extremely knowledgeable with great technical skills and a great turnaround. He pays very close attention to detail.” (Chambers & Partners, 2018)

“His knowledge is encyclopaedic, and he attacks even the most intractable legal problems with zeal and gusto.” (Legal 500, 2017)

“A highly experienced silk whose broad commercial chancery experience feeds into his sophisticated professional negligence practice. He handles a broad range of claims arising from business and property disputes, and also takes on cases involving insurance elements. He’s a first-rate analyst of the facts, and an impressive authority in chancery law. He provides excellent, clear delivery to clients.” (Chambers & Partners, 2017).

“He adopts a client-friendly and very practical approach, and is a terrific strategic thinker.” “Never more at home than when dealing with tricky cases” (Legal 500, 2016).

“A very sound and meticulous advocate who is very good at what he does.” “He is extremely intelligent with excellent client-handling skills” He “has considerable expertise in claims relating to negligent financial advice” and is “very well equipped to handle commercial disputes”.(Chambers & Partners, 2016). “A very bright guy, who gets all the angles of a case. He’s diligent and conscientious.” “He is very thorough, as well as good-humoured and approachable” (Chambers & Partners, 2015).

“A very sound property lawyer with a great reputation. He is often hired by developers due to his strong business acumen. He also has a property-related professional negligence practice, and is an excellent all-rounder.” (Who’s Who Legal 2015).

“Unbelievably brilliant. He is the advocate for all seasons, and fantastically easy to deal with. He’s incredibly direct in terms of identifying the problem, fantastic on his feet and a huge amount of fun.” “A master tactician,” “fantastic on complex areas of law and extremely collaborative in his approach. The lawyer’s lawyer.” (Chambers & Partners, 2014).

Privacy Policy

Click here for a [Privacy Policy](#) for David Halpern KC.

Expertise

Civil Fraud

David’s core areas of practice require him to make or defend allegations of fraud and to seek or resist freezing orders and other interim relief. His specialised knowledge of equity and trusts is of particular value when dealing with constructive trusts and tracing claims.

He is regularly instructed by professional indemnity insurers to conduct indemnity conferences in order to examine the insured for possible dishonesty.

Featured Civil Fraud cases

- Claiming against directors who procured their company to commit deliberate breaches of contract which deprived the claimant of overage on the sale of a valuable site to that company.
- Acting for Barclays Bank in pursuing a £10m claim against a valuer in relation to mortgage fraud
- Thames Valley Housing Association v. Elegant Homes Ltd [2011] NPC 54; David acted in a claim against a shadow director who was found liable for conspiracy and inducing a Guernsey company to commit breaches of contract. Following David’s cross-examination of the defendant, he sought, and obtained from Lewison J, a freezing order, which was granted before

closing submissions.

Commercial

David undertakes a wide range of commercial work, especially in relation to the construction of contracts and other documents. His work includes disputes relating to the sale of goods, agreements for intellectual property rights and share sale warranties.

In 2022 he acted for the successful claimants in a trial in the Abu Dhabi Global Market Court, where it was held that a “drag along” notice had been improperly served on the claimant shareholders.

He is currently acting in relation to a number of collective investments schemes involving land banking.

He has acted in cases involving “peer-to-peer” lending.

A more detailed breakdown is provided under following headings:

- Civil Fraud; and
- Company, Insolvency and Partnership.

Commercial Chancery

David spent 20 years as a junior in Chancery chambers before moving to 4 New Square and then taking Silk. As Chambers & Partners says, he has “broad commercial chancery experience” and is “an impressive authority in chancery law”. He sits part-time as a deputy High Court judge in the Chancery Division.

A detailed breakdown of his commercial Chancery work is provided under the following headings:

- Civil Fraud;
- Contentious Trusts and Probate;
- Company, Insolvency and Partnership; and
- Property.

Company & Insolvency

Company

David’s work in this field is principally concerned with:

- Litigation between shareholders involving s.994 petitions; and derivative claims
- Claims against directors under the Companies Act 2006;
- Claims relating to company securities; and
- Claims for breach of warranty arising out of share sale agreements.

In 2022 he acted for the claimant shareholders in AC Network Holding Ltd v Polymath Ekar SPV1 [2022] ADGMCFI 9, who successfully disputed the validity of a “drag along” notice in a trial in the Abu Dhabi Global Market court.

He is also regularly instructed in relation to partnerships, joint ventures and LLPs.

Insolvency

David began his professional life in Chancery chambers, where he gained considerable experience during the recession of the 1990s in insolvency work, both individual and corporate. During the latest recession he has been involved in a number of domestic

and international insolvencies, acting variously for liquidators, secured and unsecured creditors, directors, auditors and shareholders. He has also acted in disqualification proceedings.

Featured Company & Insolvency cases

- Acting for family member claiming her share of a property empire held through a network of companies and partnerships
- *Insight Group Ltd v. Kingston Smith* [2014] 1 WLR 1448; David acted for the controlling shareholder in a claim arising out of the dissolution of companies in Nevis and the Isle of Man, which led to the intellectual property of the company becoming bona vacantia. The case is reported in relation to his successful appeal against a refusal of permission to amend.
- Advising a South Korean company in relation to a share sale agreement in Hong Kong
- Acting in Gibraltar for a Nevis Foundation claiming an interest in a Russian fund worth \$1bn. The parties had arranged their affairs through a complicated web of trusts and companies in England, Russia, the BVI and Gibraltar, which led to numerous interesting issues of trust and company law, as well as international law.
- Acting for insolvency solicitors defending negligence claims arising out of their handling of bankruptcies and liquidations
- Defending a claim against an auditor for fraudulent trading under section 213 of the Insolvency Act 1986
- *Raja v. Rubin* [2000] Ch 274; This remains one of the most significant decisions on Individual Voluntary Arrangements. David successfully argued in the Court of Appeal that the debtor was entitled to alter the arrangement with some of his creditors, provided that a creditor who did not consent was not prejudiced.
- *Re Portbase Clothing Ltd* [1993] Ch 388; This is one of the very few reported cases on priorities where a fixed chargeholder had agreed to give priority to a subsequent floating

Insurance & Reinsurance

David's insurance work focuses particularly on issues relating to professional indemnity insurance but also extends to general commercial insurance. He has advised a major mutual indemnity insurer on its mutual status.

He is currently instructed to act for HDI Global Specialty SE as respondent to a second appeal by Siddique, which has been fast-tracked for hearing by the Court of Appeal. It concerns the applicability of *FSCS v Larnell* [2006] QB 808 to the Third Parties (Rights Against Insurers) Act 2010 and the impact of insolvency on limitation.

Indemnity and coverage matters on which he is regularly instructed include:

- Issues relating to the SRA Minimum Terms and Conditions;
- Indemnity Conferences where he is instructed by the insurer to examine the insured for possible dishonesty;
- Aggregation issues; and
- Declinature.

He accepts instructions to act as arbitrator in relation to coverage disputes.

He acted for the successful claimant in *Bishop of Leeds v. Dixon Coles & Gill and HDI Global Specialty* [2021] EWCA Civ 1211; [2022] PNLR 5, where the Court of Appeal held that an insurer was not permitted by the SRA Minimum Terms to aggregate losses caused by thefts by one solicitor from multiple clients, despite the fact of "teeming and lading".

Offshore Litigation

David's work has a significant international dimension, which is reflected both in work offshore and in conflict of laws issues in England. His offshore work mirrors the breadth of his domestic practice. He is a former chairman of the International Subcommittee of the Chancery Bar Association. He has been called to the Bar in Gibraltar, has appeared in the Abu Dhabi Global Market Court and has given expert evidence in US proceedings.

Featured Offshore Litigation cases

- *AC Network Holding Ltd v Polymath Ekar SPV1* [2022] ADGMCFI 9: David acted for the successful claimants who challenged the validity of a "drag along" notice served pursuant to a shareholders agreement. The case was heard in the

Abu Dhabi Global Market Court in the UAE, which applies English law.

- *Hamilton v. Hamilton* [2016] WTLR 1699; David successfully defended the trustee of a will in a claim by her brother for maladministration. The brother claimed that a Liechtenstein Stiftung created by their late father had been a sham and that the assets in the Stiftung formed part of the father's estate. The trial took place in London before Henderson J but involved a detailed examination of Liechtenstein law relating to Stiftungen and related issues of conflict of laws
- Acting for a solicitor-trustee defending a £95m claim in Jersey for negligent investment. A major issue in these proceedings concerned the meaning of gross negligence. The trust deed exonerating the trustee from liability for negligence, but not gross negligence.
- Acting in Gibraltar for a Nevis Foundation claiming an interest in a Russian fund worth \$1bn; The claim involved joint venture agreements, trusts and company law issues in England, Russia, the BVI and Gibraltar.
- Advising a major professional body in the Isle of Man on the rent review under its lease
- Acting for two Guernsey companies successfully resisting winding-up. A Guernsey service provider sought to wind up the companies for non-payment of fees. The underlying dispute was for breaches of fiduciary duty by the service providers in relation to the assets, which included a house in Belgravia.
- Advising Jersey trustees on requests for information from the Comptroller of Taxes
- Acting for Nevis fiduciaries caught in the cross-fire between two warring factions of the family which owns a business empire in the USA
- Defending a solicitor on a negligence claim arising out of investments in a failed development in the Turks & Caicos Islands.
- Advising a South Korean company in relation to a share sale agreement in Hong Kong

Professional Liability

David has been rated for in the Directories for professional liability work since the mid-1990s. Before he took Silk he was the highest-rated junior and was shortlisted by Chambers & Partners for Professional Negligence Junior of the Year. He is rated by Chambers & Partners (2023), the Legal 500 (2023) and Who's Who Legal (2023) as a leading Silk for professional liability.

"Very knowledgeable and gives good strategic advice. He's good on some of the more complex areas of professional indemnity law." "If I want a binding opinion on a complicated issue of law, he is a go-to." Chambers & Partners, 2022

"He is a walking fountain of knowledge with case law references to match. He is commercially aware and focuses on achieving the outcome the clients are seeking." – Legal 500, 2021

"He has particular expertise in solicitors' negligence, and is very hands-on and extremely approachable." "He's an imaginative advocate." Chambers & Partners, 2021

"He has an impressive knowledge of property and professional negligence law, and his drafting is quick, excellent and concise." "He is charming in his advocacy, but it's also underpinned by a real intellectual strength." –Chambers & Partners, 2019.

David developed his practice as a junior in Chancery chambers. This made him an obvious choice for professional liability claims in his core areas of expertise. He continues to be especially well known for his work in claims relating to property, business and finance, but as a Silk he has broadened his practice to include claims against professionals in a wide range of disciplines, as well as coverage issues in relation to professional indemnity insurance.

In the best tradition of the Bar, he will act for either claimants or defendants. He believes that this helps him to give objective advice to all his clients and to provide them with the most effective representation in court.

Accountants, Auditors & Actuaries

David has considerable experience of claims against auditors and accountants, including both auditing and advisory work. He has a thorough understanding of accounts and of the audit process. He edited the chapter on Accountants and Auditors in *Jackson & Powell on Professional Liability* between 2002 and 2015 and wrote a new chapter on Actuaries. An article he wrote on auditors' liability was cited by Lord Neuberger in the Supreme Court in *Bilta v. Jetivia* [2016] 1 AC 1 at [21].

Featured cases

- Claim against a “Big Four” accountant for negligent tax advice to a trust
- Barclays Bank plc v. Grant Thornton UK LLP [2015] 2 BCLC 537; Claim by Barclays for £50m. Issue as to whether an auditor engaged to perform a non-statutory audit could rely on a disclaimer of liability to third parties.
- Defending accountant against claim for negligent valuation of shares; The issues concerned the treatment of unlawfully paid dividends and the appropriate discount for minority shareholding.
- Defending accountants in relation to failed film finance schemes
- Insight Group Ltd v. Kingston Smith [2014] 1 WLR 1448; Claim against accountants for negligently allowing an overseas subsidiary to be struck off, thereby causing the group’s valuable intellectual property rights to become bona vacantia. The case is reported on David’s successful application to amend outside the limitation period.
- Defending a claim against an auditor for fraudulent trading under section 213 of the Insolvency Act 1986

Financial Services Professionals

Chambers & Partners says that David “has considerable expertise in claims relating to negligent financial advice” and is “very well equipped to handle commercial disputes”. He regularly deals with claims arising out of the investment powers and duties of trustees and other fiduciaries, claims against IFAs for negligent investment advice and claims for the mis-selling of financial products.

Featured cases

- Defending a claim against an IFA arising out of a failed film finance scheme;
- Advising insurers in relation to a number of land banking schemes which amount to collective investment schemes.
- Acting for a claimant who lost 60% of the value of his portfolio through his IFA’s negligent investment policy

Lawyers

A major part of David’s practice is acting for or against solicitors and barristers in a wide range of cases, but especially in relation to areas of Chancery and commercial law which are within his particular expertise. He is rated in the Directories for property litigation as well as for professional negligence. He is also able to draw on experience outside the Chancery and commercial fields, for example the understanding of criminal law and procedure which he gained from sitting for several years as a Recorder in crime.

David acted for Dreamvar Ltd in the leading Court of Appeal authority on identity fraud in conveyancing.

He represented the appellant in the Supreme Court in the landmark case of *Hughes-Holland v. BPE*.

He advises on coverage issues (for further details, see under the heading Insurance).

Featured cases

- Dreamvar Ltd v. Mishcon de Reya (reported under P&P Ltd v. Owen White & Catlin [2019] Ch 373); The claimant (for whom David acted) was duped into buying a property from an impostor. He successfully sued his own solicitor for breach of trust in paying the purchase price to the impostor’s solicitor. The Court of Appeal upheld the judge’s ruling that the solicitor should not be allowed to rely on s. 61 of the Trustee Act 1925, notwithstanding that the firm had acted honestly and reasonably.
- Hughes-Holland v. BPE Solicitors [2018] AC 599; David acted for the appellant in this landmark appeal to the Supreme Court which has restated the law on the scope of a professional’s duty of care.
- Lonsdale v Wedlake Bell LLP [2022] EWHC 2169 (QB); Acting for solicitors sued by the settlor, the trustees and the beneficiaries of a trust. So far, one claim has been struck out and another is pending on the question, Who is the proper claimant?
- Acting for claimants in a negligence action against a solicitor for failing to advise that a land banking scheme amounted to an unregulated collective investment scheme.
- Ridgewood Ltd v. Kilpatrick Stockton [2014] PNLR 31; Acting for a solicitor in successfully striking out a £54m claim for

negligence on the grounds that it had no real prospect of success and was an abuse of process.

- Acting for a solicitor-trustee defending a £95m claim in Jersey for negligent investment
- Thames Valley Housing Association v. Elegant Homes Ltd [2011] NPC 54
- Defending a raft of claims against a firm of solicitors for £40m for breach of trust and breach of undertakings. This included a successful recovery action against the former client's shadow director for conspiracy and inducing breach of contract.
- Acting for insolvency solicitors defending negligence claims arising out of their handling of bankruptcies and liquidations
- Jassi v. Gallagher [2007] PNLR 4; Most of David's work in relation to claims against barristers settles before trial. This is a comparatively rare example of a case which went to the Court of Appeal. David successfully defended a barrister at trial and on appeal against a claim arising from a failed leasehold enfranchisement.

Surveyors & Valuers

David is ranked as a leading silk for Real Estate Litigation by both Chambers & Partners and Legal 500.

'His knowledge is encyclopaedic, and he attacks even the most intractable legal problems with zeal and gusto.' (Legal 500, 2017).

Chambers & Partners (2018) describes David as someone who "displays excellence in both professional negligence and property litigation." Chambers & Partners (2017) in recommending David for Real Property litigation as well as Professional Liability litigation, says that he is "very technically gifted on property matters" and (in 2016), "he is noted for his specialist knowledge in matters concerning valuation principles."

David is regularly instructed in claims involving surveyors and valuers, particularly in relation to valuation and planning issues, and he frequently works with experts in these fields. He has considerable experience in relation to the valuation of development land.

Featured cases

- Acting for Barclays Bank in pursuing a £10m claim against a valuer in relation to mortgage fraud
- Acting for valuers sued for negligence in agreeing a formula for the sale of development land

Property

David is rated as a leading Silk in property litigation by The Legal 500 (2023), Chambers & Partners (2023) and Who's Who Legal (2023).

He has been described by Who's Who Legal as "a very sound property lawyer with a great reputation. He is often hired by developers due to his strong business acumen."

His real property work regularly includes litigation and advice on:

- Contracts for the sale of land;
- Disputes as to title (including advising on title) and rectification;
- Disputes involving developers, including easements and covenants, ransom strips and overage (his skill in relation to overages has been singled out for praise by the Legal 500);
- Landlord and tenant disputes, particularly in relation to commercial leases; and
- Mortgages.

Featured Property cases

- Acting for a vendor who is suing the purchaser for breach of contract in wrongfully preventing overage from becoming

payable.

- Acting for the landlord of over 300 flats on an appeal to the Upper Tribunal in relation to the reasonableness of insurance charges.
- Acting for a developer in successfully resisting a claim to share in the uplift in value of a site with planning permission for 1200 houses.
- Acting for a vendor who has agreed to sell four hotels as a going concern where the purchaser claims that the agreement has been frustrated by COVID-19 and Lockdown.
- Acting for the trustees of a mosque who own a 23-acre site (with significant planning potential) adjoining the Olympic Stadium in a dispute with a rival group who claim it is held on trust for them.
- Defending an alleged anchor tenant for breach of a keep-open covenant
- David acted for a national leisure company which was sued for breach of a keep-open covenant in a commercial lease. It was alleged that David's client was the anchor tenant of a shopping centre.
- Acting as arbitrator in relation to a lock-out agreement
- *Ridgewood Ltd v. Kilpatrick Stockton* [2014] PNLR 31: Acting for a solicitor in successfully striking out a £54m claim arising out of the purchase of 11 petrol filling stations conditional upon the grant of planning permission.
- Drafting an overage clause to secure an uplift of £11m for the vendor
- Acting for a developer in a misrepresentation claim arising from an exclusivity agreement for the purchase of a property for £80m
- Acting for a landowner disputing a ransom strip which was preventing the development of 750 houses
- Advising a national housebuilder on ownership of a riverbed and whether a large development site had prescriptive rights of drainage

Wills, Trusts and Probate

Although much of David's work is more commercial in nature, he has a thorough grounding in the traditional Chancery fields of wills, trusts and probate. He is experienced in contentious and non-contentious probate and in the construction and rectification of wills and trusts, and he advises trustees, fiduciaries and personal representatives on all aspects of their functions.

Featured Wills, Trusts and Probate cases

- *Lonsdale v Wedlake Bell LLP* [2022] EWHC 2169 (QB): Acting for solicitors sued by the settlor, the trustees and the beneficiaries of a trust. So far, one claim has been struck out and another is pending on the question, Who is the proper claimant?
- *Baines v Dixon Coles & Gill* [2022] Ch 195: the leading Court of Appeal authority on the meaning of "party or privy" in section 21 of the Limitation Act 1980 (limitation period for trustees)
- *Dreamvar Ltd v. Mishcon de Reya* (reported under *P&P Ltd v. Owen White & Catlin* [2018] 3 WLR 1244); Acting for successful claimant in claim that a trustee should not be relieved under s. 61 of the Trustee Act 1925, even though the trustee was held to have acted honestly and reasonably.
- *Hamilton v. Hamilton* [2016] WTLR 1699; David successfully defended the trustee of a will in a claim by her brother for maladministration. The brother claimed that a Liechtenstein Stiftung created by their late father had been a sham and that the assets in the Stiftung formed part of the father's estate. The case involved a detailed examination of Liechtenstein law.
- *Shergill v. Khaira* [2015] AC 359; David acted (with Mark Herbert QC) for the successful appellant in the Supreme Court. The case concerned a power to appoint trustees of a Sikh Temple. Under the Trust Deed, the power was given to the "Holy Saint". The Supreme Court held that the issue as to whether one of the parties was indeed the Holy Saint was justiciable under English law.
- Acting for a beneficiary of a trust of heirlooms seeking to set aside for undue influence a deed of covenant made with the trustees
- Acting for a solicitor-trustee defending a £95m claim in Jersey for negligent investment
- Acting on the rectification of a disability trust which had previously been approved by the Court of Protection
- *Cattley v. Pollard* [2007] Ch 353; This was the first reported case on the limitation period for claims against a defendant for assistance in a dishonest breach of trust. David argued that s 21 of the Limitation Act 1980 did not apply. His argument was accepted by the court and was subsequently approved by the Supreme Court in *Williams v. Central Bank of Nigeria* [2014] AC 1189.

Awards



Qualifications

David is a member of of the Chancery Bar Association and is a former chairman of its International Subcommittee. He is also a member of the Property Bar Association, the Professional Negligence Bar Association and COMBAR.

Other activities:

- He sits part-time as a deputy High Court judge in the Chancery Division. He previously sat as a Recorder in crime.
- He is a Bencher of Gray's Inn and an advocacy trainer for the Inn.
- He has chaired disciplinary proceedings for the Bar Standards Board.
- He is on the panel of the Bar Pro Bono Unit.

Education

M.A. (Oxon)