

Daniel Feetham KC

Call Date: 1994 | Silk Date: 2016 (Gibraltar)



Daniel Feetham KC is an experienced courtroom and advisory leader.

He specialises in complex and high value, commercial, insolvency and insurance cases. He regularly appears in the High Court and other forums in the UK, but much of his work involves international and cross-border elements. His practice includes appellate work in the Court of Appeal and Privy Council.

The directories say “He has a fantastic intellect” and “He is extremely bright and comes up with out-of-the-box ideas.” (Chambers Global 2022).

Daniel qualified in the UK in 1994, establishing a very successful civil and commercial practice at the Bar in the UK. Daniel then dual qualified and began practising in Gibraltar before becoming a Partner at the largest law firm on the Rock. In the last ten years he has been involved in many major insurance restructuring and insolvency cases, in particular in the insurance and financial services sector. These include offshore / Overseas Territories schemes, with significant cross-border work involving English law and jurisdiction. He regularly advises the UK Motor Insurance Bureau and works closely with the UK Financial Services Compensation Scheme on behalf of office holders. He has also advised the Irish State Claims Agency (Irish Compensation Fund) in relation to overseas insurance related insolvency legislation. Clients include major international firms such as Begbies Traynor, PWC and Kroll Restructuring, the latter commenting that Daniel has “unrivalled knowledge of insurance insolvencies”.

His ongoing case load includes financial investigations work in crypto fraud, jurisdiction challenges and cross-border recognition and enforcement, insurance (UK and cross-border), and insolvency work both for and against liquidators, trustees, and administrators. Many of his cases involve complex accountancy and other expert evidence.

Daniel also has a developed 1) appellate practice, appearing before the Privy Council and the Court of Appeal in a wide range of cases from offshore jurisdictions and the Caribbean. In the last year he has appeared in five separate Privy Council appeals involving novel and complex points of law 2) arbitration practice, where he has appeared in high value claims for both Caribbean Governments and multinational companies.

The following are examples of work both in the UK and internationally.

Legal Services

Appeals to the Privy Council

- [A&A Mechanical Contractors and Company Ltd \(Appellant\) v Petroleum Company of Trinidad & Tobago \(Respondents\) \(Trinidad & Tobago\) – Judicial Committee of the Privy Council \(jcpc.uk\) \[2022\] UKPC 39](#) (whether negotiations pursuant to a contractual obligation in a construction contract to agree variations were WP).
- [Brelsford and others \(Appellants\) v Providence Estate Ltd and another \(Respondents\) – Judicial Committee of the Privy Council \(jcpc.uk\) \[2022\] UKPC 46](#) (one of the leading cases on rectification for mistake of land entries in a Torrens land registry system)
- [Dorsey McPhee \(Appellant\) v Colina Insurance Ltd \(Respondent\) \(Bahamas\) – Judicial Committee of the Privy Council \(jcpc.uk\) \[2023\] UKPC 8](#) (certainty of terms, and burden of proof in insurance cases)
- [Responsible Development for Abaco \(RDA\) Ltd \(Appellant\) v The Right Honourable Perry Christie and others \(Respondents\) \(Bahamas\) \[2023\] UKPC 2](#) (for the intervenors in a case involving security for costs in public interest cases)
- [Adrian Hyde & Anor and Gregory Hugh Colin King, 2023/GCS/001](#) CA (complicated non-discharge application appeal)
- [Joanne Sandra Wild \(Cell Administrator of Cells E, F and G of Inspirato Fund No2\) v Steven Knight, 2022/GCA/008](#) CA (submissions described as impressive by President at 83)
- [\(1\) Robert Allen and \(2\) Mark Wood v \(1\) Panorama Ltd and \(2\) Leo Olivero, 2022/GCS/04](#) CA (constitutionality of jury trials)
- [Rennes Foundation and Ors v DVP PCC Ltd and Ors, 2022/GCA/011](#) CA (construction of a performance guarantee)

Insolvency, Restructuring and Insurance

Examples of major recent litigation work (several jurisdictions):

- [Miracle World Ventures \(Globix liquidation\) liquidation of a BVI crypto trader and potential claims against directors](#). The subject of a recent article in the Financial Times: [Gibraltar court freezes crypto assets in hunt for missing \\$43mn | Financial Times \(ft.com\)](#)
- [Hyde, Wild and Simpson as Liquidators of Miracle World Ventures Limited \(BVI\)](#) applications for recognition under UNCITRAL, leave to serve out of the jurisdiction on director and Persons Unknown (Binance) (ongoing).
- [Cell Liquidation of Cells E, F & G of Inspirato Fund No2 PCC Limited](#) – power of examination of a liquidator of a Cell of a PCC and claim against the director of a protected cell company for breach of fiduciary duty (ongoing)
- [GR123 Insurance Company Limited](#) application for an administration order and subsequent representation of the Joint Administrators in all aspects of the administration including the investigation of potential claims against the directors, auditors, actuaries and claims handlers (ongoing).
- [Hyde v King](#) (a bankrupt) – successfully overturning the refusal to extend the bankruptcy of Gregory King and asset recovery claims against third parties (ongoing).
- [Enterprise Insurance Company plc v. Flowers \(and others\) \(2021\)](#) – representing the Finance Director in a complex multi-million-pound claim brought by the liquidator of an insurance company; case involves alleged breach of fiduciary duty, application and scope of the Sequana duty, Duomatic defence, and complex expert evidence accountancy issues (including RRM & solvency capital margins)

3 HARE COURT

vs general solvency, inter relationship between the balance sheet and cash flow insolvency in the insurance context).

- Reclaim Ltd v LAP – acting for the liquidator in this high value claim against defaulting foreign agents. Involves extraterritorial effect of statutory insolvency provisions, realisation of foreign assets, tracing and recognition. Successful at first instance and on appeal.
- Gefion Insurance v. Pukka Insure Limited (2020) – acting for the insurer in this application for a freezing injunction against the cover holder. Underlying claim for £8m. Freezing injunction and further relief secured.
- Gefion Insurance v Pukka Insure Limited (2021) – further related case resisting a jurisdiction challenge. Case involved difficult questions of cross-border enforcement, foreign expert legal evidence and the enforceability of asymmetrical jurisdictional clauses.
- GFSC v Elite (2017-18) – resisting application for the appointment of inspectors and liquidator in the context of Solvency II reserving and technical provisions French construction insurance business.
- Re Peabody Holdings (Gibraltar) Limited – recognition of a foreign insolvency under the Insolvency (Cross Border Insolvencies) Regulations 2014 involving the recognition of a US Chapter 11 bankruptcy, dealing with the largest private coal mining operation in the world .
- Re: Eseekers Limited – application for cross-border recognition of a foreign insolvency under the Insolvency (Cross Border Insolvencies) Regulations 2014, involving the ability of a UK liquidator to apply for recognition under the UNCITRAL Model Law on cross border insolvencies or Council Regulation (EC) No.1346/2000.

Restructuring and Advisory work (several jurisdictions):

- Advising and leading a UK and offshore legal team, investigating and advising (including in due course potential litigation) to secure realisations in GR123 Realisations (formerly MCE Insurance Ltd) – collapsed UK/Gib motor insurance underwriter. (Ongoing)
- Advising the Irish State Claims Agency (Irish Compensation Fund) in relation to Gibraltar insolvency legislation (2021-ongoing)
- Advising the UK Motor Insurance Bureau in relation to the potential setting up of an overseas Insolvency Compensation Scheme and indemnity (2021-ongoing)
- Representing a multinational subsea engineering, construction and services group in relation to a court approved Scheme of Arrangement in order to help it mitigate a £10m Cumulative Transaction Adjustment in its consolidated accounts.
- Re: Elite Insurance (2018-19) – court approval to pursue restructuring of a major insurance company through a Scheme of Arrangement, run-off, and winding-up. Application in 2019 for the appointment of an administrator.

Commercial/Arbitration (several jurisdictions)

- A Caribbean Government in an LCIA arbitration worth in excess of \$US300M.
- Various LCIA arbitrations involving shareholder disputes and sanctions related issues.
- Braganza v Domaine Fund (2020- ongoing) – Claims arising out of the collapse of a major domain name acquisition and development company. Includes complex questions of trust law including the meaning and effect of a Trust Letter on shares purchased by investors.
- ICC Arbitration (2020) – advising and acting as lead counsel against a Tajik-backed enterprise. International arbitration concerning the sale of aluminum fluoride to Tajikistan.
- Sharrock Shand v Ansaldo's Townhouse (ongoing) – commercial construction claim concerning the construction of a boutique hotel.

3 HARE COURT

Regulatory, State Aid and Investment Disputes (several jurisdictions)

- Financial Services Advisory work – handled the first case in Gibraltar before the Decision Making Committee of the FSC, advising the regulator in respect of under-reserving in longtail French construction business.
- Mead Johnson v European Commission (2019-22) – Representing major international company in successful tax /relief challenge before the CJEU. Complex challenge to a State Aid ruling Case T-508-19 concerning the right to reclaim £100m in tax.
- STM v Gibraltar Financial Services Commission (2019) – represented pension and insurance providers, to successfully resist appointment of inspectors by the GFS.
- Re: Adria-Alpe Fund (2019) – advised and acted for one of a number of Experienced Investor Funds, on their due diligence and investor spread.

Chancery

- Popat v Popat (2020-ongoing) – high value dispute concerning existence and management of an offshore trust.
- Advising trustees of trusts created by the late Boris Berezovsky in respect of claims made by the Russian Federation and the French Republic (claims in both UK and Gibraltar) – this is ongoing work involving complex issues of trust, commercial law, cross-border recognition and enforcement.
- Estate of Boris Berezovsky v LMC et al – Successfully defending the trustees of trusts created by the late Boris Berezovsky against claims made by trustees of his insolvent estate.

Media and Defamation

- Advising various clients on potential injunctions/ other orders preventing publication of damaging press releases.
- ABC v. XYZ – Injunction preventing harassment, the misuse of information subject to the right to the constitutional right to privacy and blackmail.
- Allen & Woods v. Panorama (and others) (ongoing) – Defamation claim brought by two senior Gibraltar Defence Police Officers against the Panorama newspaper and one of its reporters.
- Finsbury Trust v. Defendants unknown (Gib, 2020) advising on malicious and defamatory website set up by unknown individuals to purposely attempt to destroy the reputation of a local financial services business.

Direct Access

Daniel is able to accept instructions directly from members of the public, companies and other entities through the public access scheme (also known as direct access). He is happy to accept instructions on a direct basis in appropriate cases. If you wish to instruct Daniel on a direct basis, please speak to the clerks.

For more information on public access, please see the Bar Council [website](#).

Memberships

- The Honourable Society of Gray's Inn

Qualifications

- BA (Hons) History Reading University
- LLB (Hons) Manchester University
- ICSL Bar Professional Training Course

Languages

- Spanish
- English

Activities

- Lecturer at the Gibraltar University on financial services litigation for the Professional Certificate of Competence in Gibraltar Law (2017 to date).
- Member of the Gibraltar Parliament. Former Minister for Justice and Leader of HM Opposition.
- Member of the Gibraltar delegation that negotiated the 2006 Constitution with the United Kingdom (2002 to 2007).
- Member of the Gibraltar Parliament, Brexit Select Committee (2016 to date)