

# ESSEX COURT CHAMBERS

## BARRISTERS



### DAVID FOXTON QC

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## PROFESSIONAL PRACTICE

David Foxtton QC has a wide-ranging commercial practice. He is an experienced lead trial advocate in all types of commercial disputes: both in arbitration (SIAC, LCIA, LMAA, ICC and UNCITRAL) and in Court. He also accepts appointments as an arbitrator.

He has been consistently ranked as a leading commercial barrister by professional directories.

He has been appointed sole arbitrator in ICC, SIAC and “ad hoc” arbitrations and also as chairman of three-member tribunals.

He is a Deputy High Court Judge sitting in the Commercial Court and the Chancery Division.

From 1 July 2017, he is Head of Chambers at Essex Court Chambers.

He is a Visiting Professor in Commercial Law at the University of Nottingham.

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## AREAS OF EXPERTISE

- Arbitration & related court applications
- Banking & financial services
- Civil fraud & asset tracing
- Commercial dispute resolution
- Energy & natural resources
- Insurance & reinsurance
- International commercial arbitration
- Professional negligence
- Shipping & admiralty

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## WHAT OTHERS SAY

### **Chambers & Partners UK Bar 2017** Banking & Finance

“A tremendously creative and pleasant advocate who judges listen to. He is fantastic. A thoroughly likeable guy to work with, thoughtful and clever.”

### **Chambers & Partners UK Bar 2017** International Arbitration

“Absolutely amazing, he’s an absolute supersilk. He has a phenomenal intellect and I’ve never seen anyone deal so well with difficult, stressed-out clients. He has a wonderful bedside manner. Extremely clever, creative, and fantastic to work with.”

### **Chambers & Partners UK Bar 2017** Energy & Natural Resources

“Obviously a class act, he’s an incredibly sophisticated barrister who knows exactly what the key points are. He has an understated manner which hides a really formidable ability to get to the heart of any legal issue.”

### **Chambers & Partners UK Bar 2016** Commercial Dispute Resolution

“A charming, exceptionally intelligent advocate, who gets on top of the materials quickly and instils confidence in both clients and judges alike. He is clearly set for a stellar rise through the ranks to the very highest echelons of the Bar. His intellect is formidable and his manner and approach are very client oriented and client-friendly.”

### **Chambers & Partners UK Bar 2016** Insurance

“He is superb in every way.”

### **Legal 500 UK Bar 2016** Commercial Litigation

‘A phenomenal advocate, widely recognised as one of the super-silks of the English Bar.’

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## ARBITRATION & RELATED COURT APPLICATIONS

Regularly instructed as lead advocate in arbitrations under LCIA, ICC, LMIA; ARIAS (UK) and

SIAC rules and “ad hoc” submissions: jurisdiction challenges under s.68 Arbitration Act 1996; applications for permission to appeal under section 69 Arbitration Act 1996; injunctive relief in support of arbitrations.

Reported cases include *P v Q* [2017] EWHC 148 (Comm); [2017] EWHC 194 (Comm)

**Chambers & Partners UK Bar 2016** (International Arbitration: General Commercial & Insurance)

“A proactive and flexible counsel. He is academic and professional.”

**Chambers & Partners UK Bar 2017** (International Arbitration)

“Absolutely amazing, he’s an absolute supersilk. He has a phenomenal intellect and I’ve never seen anyone deal so well with difficult, stressed-out clients. He has a wonderful bedside manner. Extremely clever, creative, and fantastic to work with.”

**Legal 500 UK Bar 2016** (International Arbitration: Counsel)

‘Very good on the law and surrounding technical issues.’

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## **BANKING & FINANCIAL SERVICES**

Regularly instructed in all types of banking and lending disputes, both international and domestic: ISDA swaps (basis, currency and equity); put options; all kinds of derivatives including CDOs; guarantees; performance bonds; forfaiting transactions; letters of credit; financial services; FSA listing obligations.

Reported cases include *Deutsche Bank v. Sebastian Holdings* [2009] EWHC 2132 (Comm); [2009] EWHC 3069 (Comm); [2010] EWCA Civ 998; [2013] EWHC 3463 (Comm); [2014] EWCA Civ 1100; [2016] EWCA Civ 23; *Lehman Brothers International (Europe) (in Administration)* [2016] EWHC 2417 (Ch); *Property Alliance Group Ltd. V. Royal Bank of Scotland Plc* [2016] EWHC 207 (Ch).

**Chambers & Partners UK Bar 2016** (Banking & Finance)

“One of the cleverest lawyers around, who is also extremely easy to work with. His intellect is formidable and his manner and approach are very client-oriented and client-friendly.”

**Chambers & Partners UK Bar 2017** (Banking & Finance)

“A tremendously creative and pleasant advocate who judges listen to. He is fantastic. A thoroughly likeable guy to work with, thoughtful and clever.”

**Legal 500 UK Bar 2016** (Banking & Finance)

‘He combines formidable intellectual ability with a terrific work ethic and great charm.’

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## COMMERCIAL DISPUTE RESOLUTION

Instructed as lead advocate in all aspects of commercial litigation: jurisdictional challenges; anti-suit injunctions; recognition and enforcement of foreign judgments; commercial fraud actions.

Reported cases include *Dar Al Arkan Real Estate v Al Refai* [2015] EWHC 1793 (Comm); *Arcadia Petroleum v Bosworth* [2016] EWCA Civ 818; *BTI 2014 LLC v Sequana SA* [2016] EWHC 1686 (Ch); [2017] EWHC 211 (Ch); *Latin American Investments Ltd. V. Maroil Trading Inc.* [2017] EWHC 1254 (Comm)

**Chambers & Partners UK Bar 2016** (Commercial Dispute Resolution)

“A charming, exceptionally intelligent advocate, who gets on top of the materials quickly and instils confidence in both clients and judges alike. He is clearly set for a stellar rise through the ranks to the very highest echelons of the Bar. His intellect is formidable and his manner and approach are very client oriented and client-friendly.”

**Chambers & Partners UK Bar 2017** (Commercial Dispute Resolution)

“He has a brain the size of a planet and charm to go with it.”

**Legal 500 UK Bar 2016** (Commercial Litigation)

‘A phenomenal advocate, widely recognised as one of the super-silks of the English Bar.’

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## ENERGY & NATURAL RESOURCES

Instructed as lead advocate in energy contracts: North Sea gas pricing disputes; concession agreements; drilling rig contracts.

Reported cases include *Standard Chartered Bank v. Dorchester LNG (2) Ltd.* [2016] Q.B. 1; *Arcadia Petroleum v Bosworth* [2016] EWCA Civ 818.

### **Chambers & Partners UK Bar 2016** (Energy & Natural Resources)

“His judgement in how to put things to the court is excellent. He has real charm as an advocate and puts difficult points in a fashion that makes them look simple.”

### **Chambers & Partners UK Bar 2017** (Energy & Natural Resources)

“Obviously a class act, he’s an incredibly sophisticated barrister who knows exactly what the key points are. He has an understated manner which hides a really formidable ability to get to the heart of any legal issue.”

### **Legal 500 UK Bar 2016** (Energy)

‘One of the leading silks in the commercial Bar.’

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## **INSURANCE & REINSURANCE**

A specialist on all aspects of insurance and reinsurance litigation, and a frequent writer and lecturer on insurance and reinsurance topics.

Regularly instructed as a lead advocate in domestic and international insurance market disputes: avoidance disputes; coverage issues; captives; financial reinsurance; “follow the settlements” issues; commutations; “Bermuda form” disputes; D&O insurance.

Reported cases include: *AIG (Ireland) v. Faraday* [2007] EWCA Civ. 1208 (notification dispute); *AXA Corporate Solutions SA v. National Westminster Bank Plc* [2011] Lloyd’s Rep. IT 438.

### **Chambers & Partners UK Bar 2016** (Insurance)

“He is superb in every way.”

### **Chambers & Partners UK Bar 2017** (Insurance)

“He’s got an immense breadth of knowledge and is a genuine intellectual. He’s incredibly easy to work with and very clear on what his opinion is and the reasons for having it.”

### **Legal 500 UK Bar 2016** (Insurance and Reinsurance)

‘Particularly noted for arbitration proceedings.’

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## **PROFESSIONAL NEGLIGENCE**

Regularly instructed in professional negligence cases involving solicitors, insurance brokers, underwriting agents (and related errors and omissions insurance issues). Advises on conflict of interest problems.

**Legal 500 UK Bar 2016** (Professional Negligence)

‘Very impressive.’

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## **SHIPPING & ADMIRALTY**

Instructed in time charterparty disputes (withdrawal, late or early redelivery, indemnity claims); voyage charter disputes; lien claims; seaworthiness disputes; shipbuilding disputes.

Reported cases include *Standard Chartered Bank v. Dorchester LNG (2) Ltd.* [2016] Q.B. 1

**Legal 500 UK Bar 2016** (Shipping)

‘First rate.’

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## **CAREER**

**2014** Called to BVI Bar (permanent)

**2010** Bencher (Gray’s Inn)

**2009** Recorder

**2006** Silk

**2003-2006** Junior Counsel to the Treasury List, Common Law Panel A

**1989** Essex Court Chambers

**1989** Call: Gray’s Inn

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## **EDUCATION**

**2001** PhD, King's College, London

**1988** Bar Vocational Course

**1987** Bachelor of Civil Law (First Class Hons), Magdalen College, Oxford University

**1986** MA (First Class Hons) in Jurisprudence, Magdalen College, Oxford University

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## **AWARDS**

**1989** Holker Scholarship; Karmel Scholarships;

Commercial & Chancery; Arden Scholarship

**1989** Oxford University Eldon Law Scholarship

**1986** Martin Wronker Prize (first in year)

**1985** Demy Scholar

**1985** Winter Williams Prize

**1985** Gibbs Prize