



**David Schmitz, BA (Syracuse, NY)**  
**Call 1976**

David Schmitz was called to the Bar in 1976 by Lincoln's Inn. He has a varied Chancery and commercial practice with particular experience in property litigation. In addition, professional negligence, pensions, franchising, undue influence cases and cohabitation disputes fall within his range of specialization. Recently, he has advised overseas clients on sales of goods by auction and has advised charity trustees on the disposal of a listed building.

He is a member of the Chancery Bar Association, the Property Bar Association and the Professional Negligence Bar Association.

He is a qualified mediator and a member of the panel of ADR Chambers.

He has a working knowledge of French and German, and as a dual national, he can undertake work in the United States without difficulty.

**David's reported cases include:**

- *Leadenhall Independent Trustees Ltd v Welham and another* [2004] All ER (D) 423 (Mar) - the powers of the trustees of a pension scheme in respect of a surplus
- *Esso Petroleum Co Ltd v Addison and others* [2003] All ER (D) 253 (Jul) - dispute between oil company and service station licensees concerning (1) the entitlement of the company to charge the licensees for the cost of promotions and (2) the limits on the company's freedom to reduce the licensees' profit margins and increase their costs
- *Abidogun v Froilan Health Care Ltd* [2001] All ER (D) 305 (Oct) - whether a tenant forfeits his lease if he places his landlord's title in issue in a pleading, and whether there can be relief against a forfeiture which is incurred by denial of the landlord's title
- *Krasner v Dennison* [2001] Ch 76 - whether a bankrupt's rights to a personal pension vest, in their entirety, in his trustee in bankruptcy
- *Sparkle Properties Ltd v Residential Developments Ltd* [1998] EGCS - only reported case on powers of receivers appointed by Court under the Landlord and Tenant Act 1987
- *CIBC Mortgages plc v Pitt* [1994] 1 AC 200 - undue influence; constructive notice of the same by a mortgagee; requirements for rescinding a transaction where there has been actual undue influence
- *Grant v Edwards* [1986] Ch 638 - constructive trusts; co-ownership of house by co-habiting couple; significance of sole proprietor's statements to cohabitant of his reasons for not putting property into joint names

He has written on insolvency for the Solicitors Journal and has advised the Society of Licensed Conveyancers on publications concerning cohabitation. He is currently preparing the new edition of a book of legal forms for use by the general public.