



Adam Fenton QC

Silk: 2003 | Call: 1984

afenton@7kbw.co.uk

"Superb"

Legal 500

Practice Profile

Nature of practice

Adam acts as an advocate in Court and Arbitration work in the following core areas of practice: Insurance, Reinsurance, Professional Negligence, Shipping and Sale of Goods.

Recent directory recommendations

Adam is recommended in the current main directories. Under Insurance and Reinsurance in Chambers and Partners 2017 he is known for his "enormous attention to detail" and "is an excellent lawyer, who is very thoughtful and able to assist with the early resolution of matters", in Chambers and Partners 2016 he is described "a very practical person and commercially minded" and "assured and user-friendly particularly on difficult insurance disputes", and in the same category in the Legal 500 2015 "A very strong insurance barrister with good expertise in professional negligence".

Recent practice

In the past four to five years, the focus of his work has remained his ongoing insurance and reinsurance practice. Most recent cases include liability/CAR insurance disputes in relation to a major building project, liability insurance in relation to OFCOM, OAR insurance in relation to OFGEM rulings, Products liability insurance in relation to a large damage to goods claim, D & O claims and insurance issues arising out of the Madoff claims. Adam has also been involved in a major international sale of goods arbitration.

In addition to acting in disputed matters, he is involved from time to time in advising on the contents of and drafting insurance policies and has acted for a number of both insurers and blue chip companies in this respect in recent years. As an example of work for insurers he has done a large drafting job this year, making amendments to the private and taxi drivers car insurance for an insurer operating in the English market. He had to become familiar with the market

background. The cover in question included cover for hire cars (where the insured had hired the car out) as an option. It necessitated (among other things) looking at a framework agreement and considering what was required under the RTA. As regards blue chip assureds he was instructed (with a junior) in an across the board review (property, motor, D & O, Products Liability, Crime, Media amongst others) of a Footsie 100 company's insurance coverage.

In addition to insurance and reinsurance he deals with other matters: over the last four to five years he has been involved in a series of major shipbuilding arbitrations and in the Cattles case, the biggest claim ever to be brought against an accountant, which settled shortly after the start of trial in the Commercial Court in October 2015. He has also been involved most recently in another major international arbitration.

Arbitration and mediation

Adam also sits as an arbitrator in his core areas of practice and is a CEDR accredited mediator. Current arbitration cases include maritime and international sale of goods cases, as well as insurance matters. Adam has recently mediated sale of goods, maritime and insurance matters.

Insurance & Reinsurance

Selected cases:

- Has recently acted in a BVI professional negligence case.
- Has been involved in numerous D & O cases, acting particularly for insurers on coverage and aggregation issues.
- **DHL v. Barbon** [2010] Lloyd's Rep IR 149 Leading Counsel for Barbon in this major 5 week High Court trial involving claims in relation to an Excess Insurance Contract fighting each of the three other parties and effectively fighting three cases in one. Also acted for DHL in relation to the application to join Insurers : [2009] Lloyd's Rep. IR 464
- Acted for successful insurers in relation to insurance of solicitors which resulted in an Award in favour of aggregation and thus the very substantial restriction of insurer's liability and led to the termination of the major High Court action against the solicitors. The arbitration concerned a point of considerable legal and market importance in relation to the basis of aggregation of claims where no dishonesty.
- Acted for successful Insurers in High Court action; action against Insurers was struck out just prior to trial.
- Acted for Encia in relation to appeal to the Court of Appeal from the judgment of Mr. Justice Cresswell (**Encia Remediations v. Canopi** [2008] Lloyd's Rep IR 79) which settled on the eve of the Appeal. Raised a number of significant insurance points.
- Acted for Lincoln (Swiss Re) in a 4 week major arbitration.
- **Scott v. Copenhagen Re** (Com Ct. Langley J and Court of Appeal [2003] EWCA Civ 885

XL market test case about aggregation of losses of KAC aircraft and spares and BA aircraft which occurred during the invasion of Kuwait/Gulf War. The case is a leading case on aggregation and when loss occurs in non-marine insurance.

- ***Feasey v. Phoenix & Sun Alliance*** (Com. Ct Langley J and Court of Appeal [2003] EWCA Civ 688 Dispute about insurable interest, misrepresentation and authority of underwriting agent. I acted for Phoenix on an issue worth U.S.\$ 16 million dollars relating to authority and also provided some assistance and appeared for a day for Sun in the Court of Appeal.
- ***Imperio v. C.E. Heath*** (Com Ct) 1999 Lloyds IR 571; [2001] 1 W.L.R. 268
The leading authority on limitation in relation to breach of fiduciary duty, in the context of reinsurance brokers.
- ***ABT Rasha*** (CA) [2000] 2 Lloyds Rep. 575
Successful claim against insurers for balance of general average liability.
- ***Kirkaldy v. Adrian Walker*** (Com Ct.) [1999] Lloyds IR 410
Successful defence of claim against underwriters in respect of sinking of a floating dry dock.
- ***North Atlantic v. Bishopsgate*** (Com Ct.) [1998] 1 Lloyds Rep. 459 Accrual of cause of action under variable excess reinsurance.
- ***Aiken -v- Wrightson*** [1995] 1 W.L.R. 1281 (Insurance - duty of Lloyd's managing agent)
- ***Grace -v- Leslie & Godwin*** [1995] C.L.C. 801 (Insurance - brokers' negligence)

Professional Negligence

Selected cases:

- **Cattles** - Represented the Claimants in a major action for professional negligence against PwC, the amount claimed being more than £ 1 billion. The case settled a week into trial in October 2015
- ***Hollywood Litigation***: Represented Ince & Co, instructed by Reynolds Porter Chamberlain, for alleged negligence in relation to film finance insurance and reinsurance, where the claim was for U.S. \$ 180,000,000.
- ***Shinhan v. Sea Containers*** (Com Ct.) [2000] 2 Lloyds Rep 406
- Successful claim against Sea Containers for fraud and negligence in relation to the issue of banking documentation.
- ***Grace -v- Leslie & Godwin*** [1995] C.L.C. 801 (Insurance - brokers' negligence)

Sale of Goods

Selected cases:

- **SCT v. Trafigura** [2005] 1 Lloyd's Rep. 128 Sale of Goods case involving sale of oil and repudiation of contract.

Shipping & Transport

Selected cases:

- Recently involved in a series of major shipbuilding arbitrations acting for Chinese yards.
- **The "Surf City"** [1995] 2 Lloyd's Rep. 242 (Shipping/insurance - waiver of subrogation)
- **The "Product Star"** [1993] 1 Lloyd's Rep. 397 (Shipping - unsafe ports in Gulf)
- **The "Simona"** [1989] A.C. 788 (Shipping)

Other

Adam has recently acted in numerous confidential arbitrations and actions which did not come to trial, as well his advisory practice.

Education

B.A. (Oxon) (First Class)

Directories

- "He's extremely thorough and responsive. He's very straight with you and provides excellent client service." "He's brilliant, completely hands-on and all over the details."
- 'An extremely hard worker who is reliable, straight and clear in his assessment and advice, and prepared to get into the nitty gritty.'
- 'He is very technically astute.'
- "Ridiculously responsive, very involved and very enthusiastic." "He's very switched on and very knowledgeable."
- 'He knows the insurance market very well and understands the technical insurance nuances and insurance contracts to a very high level.'

- 'He is very technically astute.'
- 'Razor-sharp intellect, commercial and tenacious.'
- 'He is experienced in high-profile professional negligence cases.'
- "Very user-friendly." "Thorough and pleasant to work with."
- "Steeped in insurance law and really thinks problems through. His detail-driven approach inspires confidence." "very user-friendly."
- Superb.
- Tremendous attention to detail, strong analysis and good turnaround.
- "Enormous attention to detail"
- "He is an excellent lawyer, who is very thoughtful and able to assist with the early resolution of matters."
- He adopts a very thorough approach.
- Noted for his professional indemnity experience.
- A very strong insurance barrister with good expertise in professional negligence.
- Careful, considered and calm
- "Intelligent, utterly professional and hard-working."
- Received widespread praise for his "sensible advice coupled with a tough litigation stance."
- "Tenacious" "deeply immersed in insurance matters."
- "Low-key, considered and highly effective" advocate
- "Highly recommended"