



## David Bailey QC

Silk: 2006 | Call: 1989

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**"David is a genius" "A thorough and engaging advocate."**

Chambers & Partners 2020

## Practice Profile

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David Bailey QC is one of the country's leading commercial silks. He specialises in all aspects of commercial law and is regularly sought after for his expertise in shipping (including super-yacht), insurance and jurisdictional disputes. High profile cases in which David has recently appeared include leading for the appellants in *Enka v Chubb* and *The Alexandros T* in the Supreme Court, acting for Lloyds Bank in relation to PPI, *The Atlantik Confidence*, the SBM/MPOUstor and the West Tankers litigation. Much of David's practice is in arbitration.

David's experience extends across a wide range of commercial sectors including shipbuilding, aviation, charterparties, the carriage of goods, banking, sale and distribution contracts, professional negligence and insurance and reinsurance. He has particular expertise in relation to jurisdictional disputes and private international law. David has been nominated for the Legal 500 Shipping Silk of the Year award and was named Insurance and Reinsurance Silk of the Year in the 2014 Acquisition International Awards. David has written the chapters on jurisdiction and arbitration in *Mance et al. Insurance Disputes* (3rd edition 2011) and regularly lectures on insurance, reinsurance and jurisdictional issues. David has also given expert evidence on English law for use in foreign proceedings, appears at mediations and accepts appointments as an arbitrator in commercial cases.

### Agency

#### Selected cases:

- ***Scan Shipping v APL*** [2008] EWHC 634 (agency - injunction - arbitration)

### Banking & Finance

## Selected cases:

- **Conlon v Black Horse** [2014] Bus LR 553 (Banking - PPI)
- **Bank of Scotland v Euclidian** [2008] Lloyd's Rep. IR 182 (Banking - claim on insurance)
- **Dornoch v Mauritius Union** [2006] 2 Lloyd's Rep. 475 (Banking - fidelity insurance)
- **Barings Futures v Coopers & Lybrand** [2003] Lloyd's Rep IR 566 (Audit negligence - collapse of Barings - derivatives trading - causation - contributory negligence - misrepresentation - relief under Companies Act, section 727)
- **Barings Futures v Coopers & Lybrand** [2002] Lloyd's Rep PN 395 (Deceit - recklessness - causation - circuit of action)
- **Barings Plc v Coopers & Lybrand** [2002] Lloyd's Rep PN 127 (Reflective loss - scope of duty - strike out of shareholder's claim)
- **Barings Plc v Coopers & Lybrand** [2001] Lloyd's Rep 379 (Banking - admissibility of expert evidence)

## European Law

David has acted in three cases that resulted in references to the European Court of Justice and in numerous jurisdiction disputes concerning reinsurance placed in the London market.

## Selected cases:

- **The Alexandros T** [2013] UKSC 70
- **Toepfer v Cargill** [1998] 1 Lloyd's Rep. 379 - breach of arbitration agreement - anti-suit injunction.
- **The Front Comor** [2008] 2 Lloyd's Rep. 661 - anti-suit injunction against subrogated insurers - proper law of arbitration agreement.
- The "**Tatry**" on Articles 21 and 22

## Injunctions & Arrests

### Selected cases:

- **West Tankers v Allianz** [2012] 2 Lloyd's Rep. 103 (Anti-suit injunctions - equitable damages)
- **Oceanconnect v Angara** [2011] 1 Lloyd's Rep. 399 (Injunction - arrest - maritime lien - letter of undertaking)
- **Unicargo v Flotec, The Cienvik** [1996] 2 Lloyd's Rep 395 (injunction - jurisdiction to serve out of the jurisdiction)

- **Toepfer v Cargill** [1998] 1 Lloyd's Rep. 379 (breach of arbitration agreement - anti-suit injunction)
- **The "Front Comor"** [2008] 2 Lloyd's Rep. 661 (anti-suit injunction in aid of arbitration)
- **Scan Shipping v APL** [2008] EWHC 634 (agency - injunction - arbitration)
- **Gidrixlme Shipping v Tantomar Transportes** [1995] 1 W.L.R. 299 (Freezing injunction - scope - jurisdiction in relation to disclosure order)

## Insurance & Reinsurance

### Selected cases:

- **Starlight Shipping v Allianz** [2015] Lloyd's Rep IR 49 and 54, [2014] Lloyd's Rep IR 327 (Marine Insurance - jurisdiction)
- **Conlon v Black Horse** [2014] Bus LR 553 (Banking - PPI)
- **Starlight Shipping v Allianz** [2012] Lloyd's Rep. Plus 2 (Marine Insurance - jurisdiction)
- **Pratt v Aigaion** [2009] Lloyd's Rep. IR Plus 2 (Insurance - construction of warranty)
- **Bank of Scotland v Euclidian** [2008] Lloyd's Rep. IR 182 (ATE insurance)
- **Dornoch v MUA** [2006] Lloyd's Rep IR 127 (Reinsurance - jurisdiction)
- **Goshawk v Bank of Scotland** [2006] 2 All ER 610 (ATE insurance)
- **GE Frankona v CMM Trust** [2006] Lloyd's Rep. IR 704 (Insurance - breach of warranty)
- **Equitas v Wave** [2006] Lloyd's Rep. IR 646 (Reinsurance- negative declaratory relief - Jurisdiction - Article 5 of Jurisdiction Regulation)
- **Munich Re v Commonwealth** [2005] Lloyd's Rep IR 99 (Reinsurance - jurisdiction - significance of English law - related claim against the brokers - forum non conveniens)
- **Martini Investments v McGinn** [2001] Lloyd's Rep IR 374 (Insurance - explosion - proximate cause - whether property damage caused by tephra - indemnity costs)
- **Universities Superannuation Scheme v Royal Insurance** [2000] Lloyd's Rep IR 524 (Fidelity Insurance - discovery of fraudulent acts and limitation)
- **Royal Boskalis v Mountain** [1999] Q.B. 674 (Insurance - illegality and duress arising out of the first Gulf War)

- ***Den Danske Bank et al v Skipton Building Society*** [1998] 1 EGLR 155 (Mortgage Indemnity Insurance - mortgage portfolio securitisation)
- ***Municipal Mutual Insurance v Sea Insurance*** [1998] Lloyd's Rep IR 421, [1996] L.R.L.R. 265 (Reinsurance - fs clause - proper and business like steps - time on risk)
- ***Arig Insurance v Sasa*** (1998) (Reinsurance - as original - incorporation of terms from underlying insurance)
- ***Bank of Nova Scotia v Hellenic Mutual, The Good Luck*** [1992] 1 A.C. 233 (Insurance - war risks - leading House of Lords authority on effect of breach of warranty).

## International Arbitration

### Selected cases:

- **Multiple arbitrations** (LMAA, ICC and ad hoc) (shipping - insurance - general commercial)
- ***West Tankers v Allianz*** [2012] EWCA Civ 27 and [2012] 2 Lloyd's Rep 103 (enforcement of declaratory award)
- ***The "Front Comor"*** [2008] 2 Lloyd's Rep. 661 (anti-suit injunction in aid of arbitration)
- ***Scan Shipping v APL*** [2008] EWHC 634 (scope of section 44 of the Arbitration Act)
- ***The "Athena" (No 2)*** [2007] 1 Lloyd's Rep 280 (incorporation of arbitration agreement)
- ***West Tankers v RAS & Generali*** [2007] EWHC 2184 (power to appoint an arbitrator)
- ***The "Athena"*** [2006] 2 Lloyd's Rep. 147 (costs - power to publish additional award)
- ***Toepfer v Cargill*** [1998] 1 Lloyd's Rep. 379 (breach of arbitration agreement - anti-suit injunction)

## Jurisdiction/Conflicts of Laws

### Selected cases:

- ***Starlight Shipping v Allianz [2015]*** Lloyd's Rep IR 49 and 54, [2014] Lloyd's Rep IR 327 (Brussels Regulation and joinder of non-parties)
- ***West Tankers v Allianz*** [2012] EWCA Civ 27 and [2012] 2 Lloyd's Rep 103 (Declaratory judgment and Brussels Regulation)
- ***Oceanconnect v Angara*** [2011] 1 Lloyd's Rep. 399 (anti-suit injunction)
- ***The "Front Comor"*** [2008] 2 Lloyd's Rep. 661 (anti-suit injunction against subrogated insurers - proper law of

arbitration agreement).

- **Dornoch v MUA** [2006] 2 Lloyd's Rep. 475 (Reinsurance - jurisdiction agreement)
- **Equitas v Wave** [2005] EWHC 923 (Article 5 of Jurisdiction Regulation - Negative declaratory relief)
- **Munich Re v Commonwealth** [2005] Lloyd's Rep IR 99 (Reinsurance - jurisdiction - significance of English law - related claim against the brokers - forum non conveniens.
- **The "Sea Mass"** [1999] 2 Lloyd's Rep 281 (Article 5 of the Brussels Convention)
- **Toepfer International v Cargill** [1998] 1 Lloyd's Rep 379, [1997] 2 Lloyd's Rep 98 (anti-suit injunctions - arbitration - Brussels Convention).
- **Unicargo v Flotec, The "Cienvik"** [1996] 2 Lloyd's Rep 395 (injunction - jurisdiction to serve out of the jurisdiction)
- **The "Maciej Rataj"** [1992] 2 Lloyd's Rep 552 (Articles 21 and 22 of the Brussels Convention.

## Professional Negligence

### Selected cases:

- **Starlight Shipping v Allianz** [2015] Lloyd's Rep IR 49 and 54, [2014] Lloyd's Rep IR 327 (total loss of ship - claim against solicitors - jurisdiction)
- **Barings Futures v Coopers & Lybrand** [2003] Lloyd's Rep IR 566 (Audit negligence - collapse of Barings - derivatives trading - causation - contributory negligence - misrepresentation - relief under Companies Act, section 727)
- **Barings Futures v Coopers & Lybrand** [2002] Lloyd's Rep PN 395 (Deceit - recklessness - causation - circuit of action) **Barings Plc v Coopers & Lybrand** [2002] Lloyd's Rep PN 127 (Reflective loss - scope of duty - strike out of shareholder's claim)
- **Barings Plc v Coopers & Lybrand** [2001] Lloyd's Rep 379 (Banking - admissibility of expert evidence)

## Shipping & Transport

### Selected cases:

- **Starlight Shipping v Allianz** [2015] Lloyd's Rep IR 49 and 54, [2014] Lloyd's Rep IR 327 (Marine insurance - total loss - jurisdiction)
- **Firodi Shipping Ltd v Griffon Shipping LLC** [2014] 1 Lloyd's Rep 471 (Sale and Purchase)
- **West Tankers v Allianz** [2012] EWCA Civ 27 and [2012] 2 Lloyd's Rep 103 (charterparty - arbitration - enforcement of

declaratory relief)

- **Substantial Shipbuilding Arbitrations** (2009), (2010), (2011) (2013 to date)
- **Osmium Shipping Corp v Cargill International SA** [2012] 2 Lloyd's Rep. 46 (Charterparty - piracy)
- **Starlight Shipping v Allianz** [2012] Lloyd's Rep. Plus 2 (Marine insurance - total loss - jurisdiction)
- **West Tankers v Allianz** [2012] EWCA Civ 27 (charterparty - arbitration - enforcement of declaratory relief)
- **Substantial Shipbuilding Arbitrations** (2009), (2010) and (2011)
- **Pace Shipping v Churchgate** [2011] 1 Lloyd's Rep. 537 (title to sue - bills of lading)
- **Oceanconnect v Angara** [2011] 1 Lloyd's Rep. 399 (maritime liens - injunction)
- **The "Reborn"** [2008] 2 Lloyd's Rep. 628 (voyage charter - safe berth - implied warranty)
- **Scan Shipping v APL** [2008] EWHC 634 (agency - injunction - arbitration)
- **Sea Trade v Hellenic** [2007] 1 Lloyd's Rep. 280 (Arbitration - total loss)
- **Caribbean Petroleum v Cristal Limited** [2004] 1 Lloyd's Rep. 48 (Oil pollution - construction of the Cristal contract)
- **Gefco v Mason (No 2)** [2000] 2 Lloyd's Rep. 555 (carriage of goods - exclusion of damages for delay)
- **Cero Navigation v Jean Lion, The Solon** [2000] 1 Lloyd's Rep. 292 (strike clause - proper approach to construction of charterparty)
- **Rank Enterprises v Gerard** [2000] 1 Lloyd's Rep. 403, [1999] 2 Lloyd's Rep 666 (Sale of ship - construction of MOA - claims against the ship - aggregate financial limits)
- **The "Sea Maas"** [1999] 2 Lloyd's Rep. 281 (Admiralty practice - arrest of vessel - unseaworthiness - jurisdiction)
- **Manatee Towing v Oceanbulk, The Bay Ridge** [1999] 2 Lloyd's Rep. 227 (Sale of ship - whether negotiations resulted in binding contract of sale)
- **Gefco v Mason** [1998] 2 Lloyd's Rep. 585 (carriage by road - umbrella contract - application of CMR)
- **Laceys v Bowler** [1997] 2 Lloyd's Rep. 369 (carriage by road - wilful misconduct - limitation of liability)
- **Philipp Brothers v Republic of Sierra Leone** [1995] 1 Lloyd's Rep 289 (garnishee order - intervention of EC Commission)

- ***Gidrixlme Shipping v Tantomar Transportes*** [1995] 1 W.L.R. 299 (Freezing injunction – scope – jurisdiction in relation to disclosure order)
  - ***Aqualon v Vallana*** [1994] 1 Lloyd’s Rep 669 (Title to sue – parties to contract of carriage)
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## Education

David Bailey was educated at Oundle, Oxford and UCLA. He read law at Oxford University, where he was awarded a First Class Honours Degree and the Eldon Scholarship, and at the University of California, Los Angeles (UCLA) where he was awarded a Tuition Fellowship and obtained his Master’s Degree in law.

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## Memberships

David Bailey QC is a Member of the Chartered Institute of Arbitrators. He is also a Fellow of the Royal Society of Arts and a former member of the Great Britain Shooting Team.

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## Appointments

David was called to the Bar by Gray’s Inn in 1989 (where he was awarded an Entrance Award and, later, a Senior Holker Scholarship) and became a member of chambers on completion of his pupillage. He was awarded the Eldon Law Scholarship in 1990. He has since practised full-time as a barrister at 7 King’s Bench Walk. He took Silk, in the first year of its reintroduction, in 2006.

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## Directories

David is recommended as a leading silk in the fields of shipping, insurance and reinsurance, and international arbitration.

- “He’s able to turn complex advice around quickly and willing to give a fair and reasonable assessment of merits.” “He has an outstanding reputation in insurance and he’s doing really high-quality work in the area.” Chambers and Partners 2021

- “His advocacy is absolutely excellent; he is calm, persuasive and has great instincts. His distinguishing talent is his ability to sense what way a tribunal is leading and adapt accordingly.” Chambers and Partners 2021
- “David is a genius. He is very smooth, low-key and disarming on his feet and very secure in what he is saying.” Chambers Global 2021
- ‘Outstanding and dynamic professional of sound judgement.’ Legal 500 2021
- ‘Very knowledgeable and experienced, his advocacy is smooth and he managed the tribunal well.’ Legal 500 2021
- ‘He is incredibly thorough.’ Legal 500 2021
- “Exceptionally strong on the international jurisdictional aspects of insurance disputes.” “Has a good ability to get on top of technical details.” “A thorough and engaging advocate.” Chambers and Partners 2020
- “David is a genius. He is very smooth, low-key and disarming on his feet and very secure in what he is saying.” Chambers and Partners 2020
- “He has very good instincts for how a tribunal is likely to view a case. He is also very good in front of clients.” Chambers Global 2020
- ‘He is very good with clients and is a team player.’ Legal 500 2020
- ‘He is a user-friendly silk.’ Legal 500 2020
- ‘He is incredibly thorough.’ Legal 500 2020
- “He has very good instincts for how a tribunal is likely to view a case. He is also very good in front of clients.” Chambers and Partners 2019
- “Hard-working, very thorough and a considered advocate.” “Bright, approachable and excellent with clients. He is good at getting to the core of issues quickly.” Chambers and Partners 2019
- ‘He gives pragmatic, well-thought-out advice.’ Legal 500 2018
- ‘Has a good style.’ Legal 500 2018
- ‘An undoubted star of the Bar, his days seem to have twice as many hours as those of the rest of us.’ Legal 500 2018
- “Bright, approachable and excellent with clients, he’s good at getting to the core of issues quickly.” Chambers and Partners 2018
- “A calm, persuasive advocate.” “My go-to man on complex marine insurance matters. The accumulated knowledge he has is exceptionally good.” “Academically smart and very commercial.” Chambers and Partners 2018
- A name to note for international arbitration. Legal 500 2017
- Hardworking and very thorough. Legal 500 2017
- In-depth experience. Legal 500 2017
- “Hard working and very thorough. He’s a considered advocate who gets his message across through being restrained and measured.” Chambers and Partners 2017
- “He is very intelligent, experienced and also commercially sensible.” Chambers and Partners 2017
- “He has an ability to get hold of the whole case in the round and find a commercial solution.” Chambers and Partners 2017
- He adopts a commercial, common sense approach. Legal 500 2016



- Detail-oriented. Legal 500 2016
- Recommended for insurance arbitration. Legal 500 2016
- “He is remarkably clever and very easy to work with.” Chambers and Partners 2016
- “On anything jurisdictional, David Bailey knows the subject matter inside out, which carries a lot of weight with the judges.” Chambers and Partners 2016
- “He is a seriously heavyweight appellate advocate.” Chambers and Partners 2015
- “He is brilliant on his feet and an absolute gentleman to work with.” Chambers and Partners 2015
- “He is hard-working and very thorough, and has a good style. He is a considered advocate who is not extrovert but gets his message across through being restrained and measured.” Chambers and Partners 2015
- “a quietly spoken but deadly advocate” Legal 500 2015
- “he has a wealth of knowledge and expertise” Legal 500 2015
- “incredibly focused” Legal 500 2015
- ‘Fiercely clever - a wolf in sheep’s clothing’ Legal 500 2014
- ‘Unswervingly charming and goes out his way to make clients and solicitors feel part of a single team.’ Legal 500 2014
- “... an exceptionally gifted advocate...” Chambers and Partners 2014
- extremely bright, client friendly and articulate. Legal 500 2011
- outstandingly good with clients; good at thinking of simple and useful answers to difficult questions. Legal 500 2010
- highly rated indeed Legal 500 2009
- a “very popular and commercial silk.” Legal 500 2008
- rated highly indeed. Legal 500 2008