



Gavin Geary

Call: 1989

ggeary@7kbw.co.uk

Extremely able

Legal 500

Practice Profile

Gavin Geary's practice encompasses most areas of commercial law seen in the Commercial Court and London arbitration, including shipping, trade, and carriage of goods, professional negligence, and insurance and reinsurance, as well as more general contractual disputes and general commercial law.

He has extensive experience as an advocate in both shorter trials, applications and arbitrations, and in substantial litigation involving complex factual and technical issues. He is equally at home marshalling extensive documentary and witness evidence as in analysing and presenting detailed legal argument. Gavin aims to be approachable and to work as part of a team with solicitors, clients and experts, and to be engaged as much in the strategic planning and general preparation of a case in the months before a trial as with the presentation of it on the day. Gavin's advisory work is often related to ongoing or anticipated litigation, but is always given with a firmly commercial perspective.

General Commercial Disputes

A significant proportion of Gavin's practice does not fall within neat categories, but encompasses a broad range of legal fields and factual situations. He is frequently involved in smaller general contractual disputes such as sale of goods and agency, as well as much more substantial international matters. He recently spent several weeks working on a trial in the Bahamas arising out of the collapse of an international hedge fund, involving numerous issues ranging from regulation to causation and quantification of losses.

Energy & Natural Resources

With a recent major ICC arbitration involving an oil major and a Middle-Eastern government, Gavin has up to date experience in dealing with both technical expert and commercial aspects of onshore oilfield exploration and exploitation.

He has also advised on and fought cases involving offshore projects ranging from pipe laying in the North Sea to specialist vessel charters in the Caribbean.

Insurance & Reinsurance

Gavin has extensive experience of a wide range of insurance and reinsurance disputes, ranging from the major High Court litigation spawned by the difficulties at Lloyd's in the 1990s (eg the **Wellington Names Action**) and the Film Finance disputes of the 2000s (eg **Hollywood 4 & 5**), to individual claims raising the usual problems of coverage, non-disclosure, misrepresentation and breach of warranty. The variety of such disputes is great: from political risk insurance (**Yona v LRF**) to property damage (**Callaghan v Hedges** [2000] Lloyd's IR 125) to various London reinsurance arbitrations.

Gavin's insurance practice often has a marine element. He frequently argues and advises on coverage disputes, ranging from important market-wide issues such as the question of cover for accelerated corrosion caused by SRB, to particular claims on Club covers. He has experience of a wide range of standard terms such as the Institute Clauses and Norwegian Plan terms, as well as the operation of bespoke schemes such as the open cover in **Glencore v Ryan** [2001] 2 Lloyd's Rep 608.

He has also dealt with some less usual aspects of marine insurance, for example the complexities of the operation of s.53 of the 1906 Act in **Chapman v Kadirga** [1998] Lloyd's IR 377 and **Heath Lambert v SCORT** [2005] 1 Lloyd's Rep 597, both concerned with rights of brokers to premium payments; and claims for contribution between insurers in relation to over-insurance by double insurance (**O'Kane v Jones, The Martin P** [2004] 1 Lloyd's Rep 389).

A discrete area of insurance law which has featured in Gavin's practice recently is ATE legal costs insurance, a field throwing up numerous interesting points. **Europ Assistance v Temple** [2008] 1 Lloyd's Rep 216 was a claim for injunctive relief in the context of a disputed termination of binding authority granted to an underwriting agency, in turn sub-delegated to various firms of solicitors. The core issue on appeal in **Baigent v McAndrew Wormald** (2009) was whether the foreign (Bermudan) insurers required authorisation from the FSA when the machinery for arranging ATE insurance was over the internet.

Selected cases:

- **Glencore v Ryan** [2001] 2 Lloyd's Rep 608
- **Chapman v Kadirga** [1998] Lloyd's IR 377
- **Heath Lambert v SCORT** [2005] 1 Lloyd's Rep 597
- **O'Kane v Jones, The Martin P** [2004] 1 Lloyd's Rep 389
- **Europ Assistance v Temple** [2008] 1 Lloyd's Rep 216

- ***Baigent v McAndrew Wormald*** (2009)

International Arbitration

Gavin appears regularly in maritime and reinsurance arbitrations in London. He has also appeared in LCIA and ICC arbitrations – recently a multi-billion dollar dispute between an oil major and a middle-eastern government in relation to a hydrocarbon production concession. He is well-acquainted with the supporting role of the Commercial Court in relation to arbitrations, having dealt with numerous appeals, injunctions, and applications – such as *Thyssen Canada v Mariana Maritime* [2005] 1 Lloyd’s Rep 640, where an attempt was made to set aside an arbitration award as obtained by fraud or contrary to public policy, where there were allegations of fresh evidence showing that false evidence had been given at the original hearing. Similarly in *Tame Shipping v Easy Navigation* [2004] 2 Lloyd’s Rep 626 the Court considered whether it could look at an arbitrators’ confidential reasons in determining whether there had been a procedural irregularity. *Cool Carriers and HSBC* [2001] 2 Lloyd’s Rep 22 raised the question of whether the Court could grant interpleader relief in the context of claims governed by arbitration clauses.

Selected cases:

- ***Thyssen Canada v Mariana Maritime*** [2005] 1 Lloyd’s Rep 640
- ***Tame Shipping v Easy Navigation*** [2004] 2 Lloyd’s Rep 626
- ***Cool Carriers and HSBC*** [2001] 2 Lloyd’s Rep 22

Professional Negligence

Gavin has dealt with various professional negligence actions, ranging from brokers and solicitors in insurance contexts (eg ***Hollywood 4 & 5***), to a Bahamian trial involving allegations of negligence on the part of the directors and the managers of an international hedge fund, to the settlement of a recent Commercial Court case involving allegations of negligent design of composite components of a superyacht.

Shipping & Transport

Over the years Gavin has been involved in a very broad range of shipping disputes, appearing in countless London maritime arbitrations as well as substantial Commercial Court Trials. The subject matter of such disputes ranges widely. Many cases are fact-specific, often with an emphasis on technical and expert issues: the safety of particular ports or berths, the proper carriage of dangerous or troublesome cargoes such as DRI or moist fluorspar, or the operation of a particular vessel and its machinery. Other cases raise complex questions of law, often arising out of charterparty or bill of lading disputes. All require a thorough understanding of the commercial realities of international trade and shipping.

It is only possible to give a flavour of the many different cases Gavin has handled in this field. An example of a long and

high value Commercial Court trial might be the multimillion dollar claim in respect of a fleet of supertrawlers in (**Bergen Industries v Dalmoreproduct** [2001] EWHC 482). In **Almatrans SA v. Tutova Shipping Co Ltd** [2007] 1 Lloyd's Rep. 104, complex issues of Italian law, misnomer, and implied terms came up in the context of a claim on a Club LOU. Gavin has appeared in countless LMAA arbitrations over the years, covering many different areas - shipbuilding and repair (including superyachts), charterparties and COAs, agency and management, MOA disputes. An arbitration relating to a vessel catching fire in the middle of Istanbul raising allegations of arson and unseaworthiness, which came to appeal was **Thyssen Canada v Mariana Maritime** [2005] 1 Lloyd's Rep 640. Another such appeal in **The Goodpal** [2000] 1 Lloyd's rep 638 dealt with the respective duties of Charterers and Owners under the employment and agency clause of the NYPE form.

Over the past year or so Gavin has been dealing with many facets of the consequences of 2008's precipitate market drop, requiring a keen eye on both commercial practicalities and legal analysis. A recent arbitration raised questions as to the authority of agents and employees to negotiate and conclude washout agreements - suddenly a common form of contract. Gavin has been advising on various schemes seeking to resolve the difficulties posed by insolvencies within a chain of charterparties. Some of the issues arising of these charter chains give rise to difficult questions of how to structure and advance a practical claim - allowing Gavin to draw on his experience of the principles of equitable assignment (**Sim Swee Joo v Shirlstar** [1994] LMLN 374) and the operation of interpleader relief (**Cool Carriers and HSBC** [2001] 2 Lloyd's Rep 22) in the context of arbitration clauses in a series of contracts.

Gavin is also currently dealing with various piracy-related cases, both Nigerian and Somali.

Selected cases:

- **"Ocean Victory"** [2017] UKSC 35 A leading case in the Supreme Court concerning "unsafe port" at Kashima.
- **Teekay Tankers v STX O&S** [2017] EWHC 253 (Comm) Instructed on behalf of Korean shipbuilders , successfully resisting a claim for \$180 million (option agreements).
- **Bergen Industries v Dalmoreproduct** [2001] EWHC 482
- **Almatrans SA v. Tutova Shipping Co Ltd** [2007] 1 Lloyd's Rep. 104
- **Thyssen Canada v Mariana Maritime** [2005] 1 Lloyd's Rep 640
- **The Goodpal** [2000] 1 Lloyd's rep 638
- **Sim Swee Joo v Shirlstar** [1994] LMLN 374
- **Cool Carriers and HSBC** [2001] 2 Lloyd's Rep 22

Education

Madgalen College, Oxford. BA Jurisprudence (1st Class) Gavin obtained a First Class degree, and was awarded the Martin Wronker prize for the highest mark in the University in the Jurisprudence paper. Gray's Inn/Inns of Court School of Law, London Gavin won various Gray's Inn scholarships and awards during his ISCL year and in pupillage.

Directories

- "Gavin is always good on his feet." "He is incredibly hard-working." Chambers & Partners 2022
- 'Good with detail and definitely somebody it is good to have on your side.' Legal 500 2021
- 'A fantastic shipping junior.' Legal 500 2020
- 'Extremely able.' Legal 500 2018
- 'His clients include Asian shipyards.' Legal 500 2018 Asia Pacific: The English Bar
- Thoughtful and insightful. Legal 500 2017
- 'Regularly instructed in Korea-related shipping arbitrations.' Legal 500 2017 Asia Pacific: The English Bar
- Gavin Geary is a very experienced senior junior, appearing in a broad range of international trade disputes. One peer is particularly in praise of his practice: "He marshals the facts of the case superbly and really operates on the level of a QC." WWL UK Bar: International Trade & Commodities 2017
- Extremely diligent and calm. Legal 500 2016
- Thoughtful and thorough; he grasps the commercial dynamics quickly. Legal 500 2015