

Clara Benn

Call: 2012

'It is striking that, when everyone is focused on what only seems like the main issue in a case, she will often produce a masterly analysis of the actual essential issue which determines the case.'

Legal 500



✉ Cbenn@7kbw.co.uk ☎ +44 (0)20 7910 8300

Clara Benn maintains a varied practice with an emphasis on commercial dispute resolution, private international law, insurance/reinsurance (including marine insurance), commodities, shipping, aviation, civil fraud and professional negligence.

Since joining Chambers in 2014, she has appeared in the Supreme Court (twice), the Court of Appeal and the High Court, as well as in the DIFC Courts and LCIA, SIAC, ICC and LMAA arbitrations (both as counsel and as an arbitrator). In 2022, Clara was appointed to the Attorney General's B Panel of counsel.

Clara is ranked by the directories as a leading junior in multiple fields and was recognised for two years running as one of Legal 500's top 10 barristers under 8 years' call for commercial litigation. She was recently nominated by the Legal 500 as Shipping, Commodities and Aviation Junior of the Year 2023. The directories describe her as "fiercely intelligent, approachable and charming", "invaluable on a practical/commercial level"; "awesome on her feet" and bringing "a joie de vivre to any case".

Clara is also developing a busy practice as an arbitrator. She has received six appointments to date, including as chair. She welcomes new appointments.

Clara has acted in a number of high-profile cases, including *Enka v Chubb* (2020, Supreme Court) (governing law of arbitration agreements, anti-suit injunctions), described by *The Lawyer* as "a landmark judgment that is likely to become the leading authority in this area"; the *OW Bunker* litigation (2016, Supreme Court) (sale of goods, retention of title clauses), described by *Lloyd's List* as "the most spectacular shipping legal imbroglio so far this century"; *Lakatamia v Nobu Su* [2014] EWHC 3611 (Comm), an US\$80 million claim on an oral contract for the purchase of derivatives; and *Al-Mojil v Protiviti*, a US\$450 million professional negligence claim in the DIFC Courts. She is currently instructed by HFW to appear in the Russian aviation mega trial commencing October 2024.

Clara's recent work as sole counsel includes acting for the Marriott Group in a dispute relating to a luxury hotel in Antigua (instructed by Macfarlanes); obtaining substantial security for Bank of Cyprus in multi-million pound fraud litigation (the judgment can be found [here](#)) (instructed by Sidley Austin); and acting for the successful claimants in a two-day arbitration concerning an alleged variation to a contract for the supply of marine fuel (instructed by Allen & Overy).

If you are interested in instructing Clara, please contact the clerks. Clara is happy to accept pro bono instructions in appropriate cases.

Expertise

Commercial Litigation

Clara is ranked in the directories as a leading junior for commercial litigation and was recognised for two years running as one of Legal 500's top 10 barristers under 8 years' call for commercial litigation.

- ***Enka Insaat Ve Sanayi AS v Chubb Russia & Others*** [2020] UKSC 38, described by The Lawyer as “a landmark judgment that is likely to become the leading authority in this area” (led by David Bailey KC and Marcus Mander): Clara was part of the team instructed to defend the Chubb Group in expedited court proceedings relating to a £400m claim arising out of the Berezovskaya power plant fire in the Russian Federation. Enka was seeking anti-suit injunctions and associated relief in respect of proceedings in the Moscow Commercial Court. The case ultimately went to the UK Supreme Court, whose decision settles a decades-long debate as to whether an arbitration agreement is generally governed by the law of the seat or the law of the main contract (answer – the main contract, except where the main contract is governed by a law not chosen by the parties).
- ***Cockett Marine Oil DMCC v ING Bank & OW Bunker Malta*** [2019] EWHC 1533 (Comm): defeated a jurisdictional challenge brought by two customers of the OW Bunker group (led by Siobán Healy KC); issues included whether the arbitration agreement in OW Bunker's standard terms had been incorporated into the bunker supply contracts; and whether the terms had been subject to variation in favour of the physical suppliers' terms.
- ***Lakatamia v Nobu Su*** [2014] EWHC 3611 (Comm): acted for the successful claimants in a seven day Commercial Court trial concerning a contract to enter into a series of forward freight agreements (led by S.J. Phillips KC and N.G. Casey KC); issues included the identity of the parties to the contract, whether the claimants had failed to mitigate by selling the positions on the open market, and whether the losses had fallen into a legal 'black hole' as a result of subsequent evasions.
- Acting as sole counsel against a silk/junior team in multi-million-pound Commercial Court litigation arising out of the termination of a 10-year hotel management agreement in relation to Hodges Bay, a luxury resort in Antigua.
- Instructed as sole counsel for a major Bank in a two-day arbitration; Clara's client was successful on all points.
- Acted (with James Brocklebank KC) in a US\$450 million dispute in the Courts of the Dubai International Financial Centre over whether Clara's client, Protiviti, was negligent in alleging potential fraud by officers of the Al-Mojil group at an IPO in Saudi Arabia. The allegations made by Protiviti were used by the Saudi regulator as the basis for criminal proceedings against the Claimants, leading to custodial sentences.
- Acting as sole counsel in relation to two High Court claims worth US\$50m for breach of sale and leaseback agreements in respect of two bulk carriers. The financing structure required the sale of the vessels to special purpose entities owned by investment funds, with a simultaneous charter back to special purpose entities on a demise basis.
- Acted in a claim against an individual for the recovery of unpaid fees in respect of services provided to companies in which the defendant had an ownership interest (led by Gavin Kealey KC).
- ***C&S Associates UK Ltd v Enterprise Insurance Company Plc*** [2016] EWHC 67 (Comm): acted in a multimillion-pound claim for wrongful termination of a claims handling contract (led by Jawdat Khurshid KC).
- Acted as sole counsel in a High Court claim by an insurer's authorised representative for breach of a noncompete clause. Clara was involved in all aspects of the case, including a successful mediation.
- Acted as sole counsel in a claim for the return of money paid over for a purpose for which it was not applied; the case raised complex issues of unjust enrichment, agency, trusts law and dishonest assistance.

Civil Fraud

Many of Clara's recent cases involve issues of fraud and dishonesty; she enjoys the careful forensic analysis required by such cases.

- ***Stavrinides & Ors v Bank of Cyprus Public Company Ltd*** [2019] EWHC 1328 (Ch): acted (with Jawdat Khurshid KC) for Bank of Cyprus in a multi-million-pound fraud case in the Chancery division, involving allegations of forgery on both sides; following a two-week trial, Bank of Cyprus was successful on all major issues. Clara appeared as sole counsel at several interlocutory hearings, including a full-day security for costs application involving consideration of the claimant's offshore assets, in which she obtained substantial security for the Bank ([2018] EWHC 313) – the judgment can be found [here](#).
- Acted (with Siobán Healy KC) in an expedited SIAC arbitration brought by a major Asian bank against its insurer, in respect of alleged trade credit losses of approximately US\$25m. The insurer defended the claim on the grounds that the underlying transactions (involving buyers in India and elsewhere) formed part of a fraudulent scheme whereby no actual goods were ever traded.
- Acted (with Andrew Wales AC) in a long-running arbitration against a state-owned oil company. The case would have involved a simple claim for non-payment of hire, but for the fact that the broker who negotiated the charter transpired to have been a fraudster who made dishonest representations both to Clara's client and the purported charterer. Issues included whether the charterparty was vitiated by reason of the broker's fraud, and whether the broker's arrest of the vessel was effected dishonestly and in bad faith.
- Acted (with James Brocklebank) KC in the *Al-Mojil v Protiviti* litigation in the DIFC Courts; issues included whether Protiviti was negligent in alleging potential fraud by officers of the Al-Mojil group at an IPO in Saudi Arabia. The allegations made by Protiviti were used by the Saudi regulator as the basis for criminal proceedings against the Claimants, leading to custodial sentences.
- Acted as sole counsel in a claim for the return of money paid over for a purpose for which it was not applied; the case raised complex issues of unjust enrichment, agency, trusts law and dishonest assistance.

Shipping & Transport

Clara has acted in a wide variety of shipping disputes, including the high-profile OW Bunker litigation. She was recently nominated by the Legal 500 as Shipping, Commodities and Aviation Junior of the Year 2023.

- ***PST Energy 7 Shipping LLC v OW Bunker Malta*** (The "Res Cogitans") [2016] UKSC 23: one of the most important shipping cases so far this century. Clara was instructed by ING Bank on behalf of the lenders to the OW Bunker group, formerly the world's biggest trader of marine fuels. Following OWB's insolvency, the lenders sought to recover approximately US\$1 billion from OWB's former customers. The *Res Cogitans* acted as a test case for the hundreds of arbitrations commenced in the aftermath of the insolvency; appeals from the LMAA tribunal's decision were expedited to the Commercial Court, Court of Appeal and Supreme Court. ING has been successful at all stages.
- ***Cockett Marine Oil DMCC v ING Bank & OW Bunker Malta*** [2019] EWHC 1533 (Comm): defeated a jurisdictional challenge brought by two customers of the OW Bunker group (led by Siobán Healy KC); issues included whether the arbitration agreement in OW Bunker's standard terms had been incorporated into the bunker supply contracts; and whether the terms had been subject to variation in favour of the physical suppliers' terms.
- Acting for shipowners in a dispute relating to a charterparty with a national oil company (led by Andrew Wales KC). The dispute arose in the context of a national fuel crisis caused by damage to an SPBM line. There have already been two preliminary challenges to jurisdiction, including a s.67 appeal to the High Court; Clara's clients have succeeded at all stages.

- Acting as sole counsel in relation to two claims worth US\$50m for breach of sale and leaseback agreements in relation to two bulk carriers constructed in 2010 at a cost of US\$33.5m each.
- Acting for owners in a claim against time charterers for an indemnity in respect of monies paid to settle a cargo claim.
- Acted for carriers in a late delivery claim brought by cargo interests.
- Acted (with S.J. Phillips KC) for the successful owners in an LMAA arbitration concerning a time charter; issues included seaworthiness, maintenance and ‘loss of a chance’ of fixing a sub-charter.
- Instructed in a multi-million-dollar LMAA arbitration claim relating to a chain of charterparties in respect of an LNG carrier (led by David Bailey KC and Michael Holmes KC).
- Acted on behalf of the owner of a luxury superyacht in an LMAA arbitration arising out of the termination of the construction contract (led by David Allen KC and N.G. Casey KC).
- Advised in relation to the arrest of a vessel following in rem proceedings in the Admiralty Division brought by a local port authority; the case involved interpreting various local Acts dating from the nineteenth century.
- Acted in a multi-party dispute in the Admiralty Division concerning liability for fire damage to various super yachts under the Convention on Limitation of Liability for Maritime Claims 1976 (led by David Bailey KC).
- In July 2014 Clara was seconded to the shipping group of a major city solicitor, where she was exposed to a broad range of work including both wet and dry shipping.
- Clara has recently lectured with Stephen Hofmeyr KC on the subject of FPSOs.

Jurisdiction/Conflicts of Laws

Clara particularly enjoys working on cases involving issues of private international law, having specialised in this subject during her BCL. She recently acted in *Enka v Chubb*, the leading case on the governing law of arbitration agreements.

- ***Enka Insaat Ve Sanayi AS v Chubb Russia & Others*** [2020] UKSC 38, described by *The Lawyer* as “a landmark judgment that is likely to become the leading authority in this area” (led by David Bailey KC and Marcus Mander): Clara was part of the team instructed to defend the Chubb Group in expedited court proceedings relating to a £400m claim arising out of the Berezovskaya power plant fire in the Russian Federation. Enka was seeking anti-suit injunctions and associated relief in respect of proceedings in the Moscow Commercial Court. The case ultimately went to the UK Supreme Court, whose decision settles a decades-long debate as to whether an arbitration agreement is generally governed by the law of the seat or the law of the main contract (answer – the main contract, except where the main contract is governed by a law not chosen by the parties).
- ***Cockett Marine Oil DMCC v ING Bank & OW Bunker Malta*** [2019] EWHC 1533 (Comm): defeated a jurisdictional challenge brought by two customers of the OW Bunker group (led by Siobán Healy KC); issues included whether the arbitration agreement in OW Bunker’s standard terms had been incorporated into the bunker supply contracts and whether the terms had been subject to variation in favour of the physical suppliers’ terms.
- Acting as sole counsel for a major commodities trader in relation to a multi-forum, multi-party shipping dispute.
- Acted in a multi-party dispute in the Admiralty Division concerning damage to super yachts caused by a fire in a marina in Mallorca (led by David Bailey KC). The case raised complex issues of private international law, including the circumstances in which a member state of the EU can refuse to recognise a judgment of another member state on the grounds of “irreconcilability” with a previous judgment. Appeared as sole counsel for the applicant in a s.30 challenge to the jurisdiction of an arbitrator. Successfully defended a s.67 challenge by a state-owned oil company to the jurisdiction of an LMAA tribunal (led by Andrew Wales KC). Clara’s clients were successful before both the tribunal and the High Court.

- Obtained an anti-suit injunction on behalf of the owner of a newbuild superyacht to constrain the yard from bringing proceedings other than by London arbitration (with James Brocklebank KC).
- Advised on the meaning of a complex arbitration clause in an insurance policy, including identifying the law of the arbitration agreement, the seat of the arbitration, and the law governing the substantive dispute.

Commodities

Clara is the most junior member of the Bar to be ranked in Band 2 for commodities by the Legal 500.

- ***PST Energy 7 Shipping LLC v OW Bunker Malta*** (The “Res Cogitans”) [2016] UKSC 23: one of the most important commodities/sale of goods cases so far this century. Clara was instructed by ING Bank on behalf of the lenders to the OW Bunker group, formerly the world’s biggest trader of marine fuels. Following OWB’s insolvency, the lenders sought to recover approximately US\$1 billion from OWB’s former customers. The Res Cogitans acted as a test case for the hundreds of arbitrations commenced in the aftermath of the insolvency; appeals from the LMAA tribunal’s decision were expedited to the Commercial Court, Court of Appeal and Supreme Court. ING has been successful at all stages. *Cockett Marine Oil DMCC v ING Bank & OW Bunker Malta* [2019] EWHC 1533 (Comm): defeated a jurisdictional challenge brought by two customers of the OW Bunker group (led by Siobán Healy KC); issues included whether the arbitration agreement in OW Bunker’s standard terms had been incorporated into the bunker supply contracts; and whether the terms had been subject to variation in favour of the physical suppliers’ terms.
- Expedited SIAC arbitration under the UNCITRAL Rules brought by a major Asian bank against its insurer in respect of alleged trade credit losses of approx. US\$25m. Clara’s client defended the claim on the grounds that the underlying transactions (involving buyers in India and elsewhere) appeared to have formed part of a fraudulent scheme whereby no actual goods were ever traded. The case centred on detailed evidence from commodities experts specialising in the trading of palm oil, copper cathodes and coal.
- Two-week LCIA arbitration in which Clara (led by Rebecca Sabben-Clare KC) successfully defended a wellknown commodities trader in respect of a US\$17 million claim for losses alleged to have been suffered as a result of processing sub-standard goods. The case involved extensive expert evidence, as well as complex legal issues relating to the implied terms as to quality and fitness for purpose under s.14 of the Sale of Goods Act 1979.
- LMAA arbitration in which Clara acted with Andrew Wales KC against a stated-owed oil company in relation to a national oil crisis precipitated by the malfunctioning of an SPBM line.
- Acted alone in a US\$1.2 million claim for late delivery of a cargo of oil.
- Acting as sole counsel for a major commodities trader in relation to a multi-forum, multi-party dispute.
- Ongoing LMAA arbitration in which Clara is acting as sole counsel for a leading commodities trader. Clara’s client is accused of loading dangerous and/or unsafe coal, leading to delays and the arrest of the claimant’s vessel by the cargo receivers in Bangladesh.
- Advised on potential defences to two claims for failure to take delivery of cargoes of oil (with Andrew Wales KC).

Insurance & Reinsurance

Clara’s practice is increasingly focussed on insurance and reinsurance. She acts for both insureds and insurers and has experience of D&O, trade credit, business interruption, liability (including medical liability), property and marine insurance claims.

- Instructed on behalf of All Risks insurers in the Russian aviation insurance mega trial set to commence in October 2024.
- Instructed as sole counsel to provide advice to a police force on a confidential matter.
- Acted for an insured in an action against its broker relating to a business interruption claim; the case involved complex expert evidence in respect of the insured's losses.
- Acting (with Andrew Wales KC) for the insurers in respect of a claim under a master physical damage, business interruption and liability policy relating to an arson attack on a factory. Issues include whether the policy's terrorism exclusion is engaged and questions of causation mirroring s. 11 of the Insurance Act 2015.
- Acting (with Andrew Wales KC) for the insurers under a D&O policy taken out by a construction company.
- Acted for the insurer in an expedited SIAC arbitration brought by a major Asian bank in respect of a policy of trade credit risk insurance (led by Siobán Healy KC).
- Acted for the Chubb Group in relation to a £400m property damage claim arising out of the Berezovskaya power plant fire in the Russian Federation.
- Acted for QIC in an urgent application to intervene in the FCA test case on business interruption claims arising out of the Covid-19 pandemic (led by Rebecca Sabben-Clare KC and Stephen Hofmeyr KC). The application was prompted by an understanding that one of the insurers that had participated in the High Court trial was not intending to apply for permission to appeal the judgment of Flaux LJ and Butcher J to the Supreme Court.
- Acted as sole counsel in High Court proceedings brought by the insurer of a yacht which was destroyed by a fire in Honduras; Clara's client sought a declaration of non-liability on the grounds of breach of warranty.
- Acted as sole counsel for the insured in a complex marine insurance dispute in the High Court; the issues included whether there had been any material misrepresentations by Clara's clients; whether the vessel was a CTL; and whether alleged negligence on the part of the crew was a proximate cause of the loss.
- Advised in relation to a policy of tax insurance; issues included misrepresentation, non-disclosure and breach of warranty.
- Advised in relation to a dispute concerning the calculation of insurance premium; drafted points of claim and appendices setting out the technical detail of the calculations.
- Assisted in preparing an advice on a complex reinsurance matter concerning long tail claims.

Professional Liability

- Acting for an insured in High Court litigation in a professional negligence claim against its broker.
- Acted as sole counsel in relation to a solicitor's negligence claim involving complex issues of causation and quantum.
- Acted with James Brocklebank QC in the *Al-Mojil v Protiviti* litigation, a US\$450 million professional negligence claim in the DIFC Courts relating to an IPO in Saudi Arabia; the case involved complex forensic accounting and foreign law evidence.
- *C&S Associates UK Ltd v Enterprise Insurance Company Plc* [2016] EWHC 67 (Comm): defended a claims handler alleged to have acted negligently in the performance of services (with Jawdat Khurshid QC).
- Advised on whether an insurance broker acted in breach of contract and/or negligently in relation to alleged non-disclosures on the part of his client.

Education

2012 – 2013: Bachelor of Civil Law, University of Oxford (Distinction)

- Conflict of Laws, Restitution, Commercial Remedies, Legal History

2011 – 2012: Bar Professional Training Course, BPP Law School (Outstanding, top of year)

- ‘Student of the Year’ prize
- Highest mark ever awarded in International Trade

2010 – 2011: Graduate Diploma in Law, City University (Distinction)

- 7KBW/City University prize for Contract Law

2005 – 2008: BA History, University of Oxford (First Class, top 3% of year)

- Lincoln College Exhibition
- Various prizes (including the vacation essay prize and a prize for performance in Finals)

Lincoln’s Inn

- Sir Thomas Eastham Scholarship (pupillage)
- Selected to give the Call Day speech on behalf of the newly called barristers (October 2012)
- Buchanan Prize for performance on the BPTC
- Lord Denning Scholarship (BPTC)
- Lord Bowen Scholarship (GDL)

In recent years, Clara has conducted interviews for admission onto the undergraduate Jurisprudence degree at Oxford.