

David Bailey KC

Call: 1989 | Silk: 2006

“You couldn’t wish for better legal assistance than David when addressing highly complex insurance issues.”

Insurance, Chambers UK Bar 2025



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David Bailey KC is one of the country’s leading commercial silks. He specialises in all aspects of commercial law including shipping, superyachts, insurance and reinsurance, aviation, banking, energy, and professional negligence.

David has a particular expertise in relation to jurisdictional disputes and is regularly retained as an expert on English law in foreign litigation. High-profile cases in which David has recently appeared include leading for the appellants in *Enka v Chubb* and *The Alexandros T* in the UK Supreme Court, acting for insurers and reinsurers in the *Russian Aircraft Litigation* and for NIOC in its dispute with Crescent Petroleum in the Commercial Court and the Court of Appeal. He has also been engaged in several high-value Covid business interruption insurance cases, including *Parkdean v Axis*, one of the first cases to be issued outside of the FCA Test Case, which settled before trial. Major shipping cases in which David has appeared include *The Atlantik Confidence*, the *SBM/MPOUstor*, the *MSC Flaminia* and the *West Tankers* litigation.

Much of David’s practice is in arbitration, where he is currently instructed on a US\$100 million shipping dispute and a significant superyacht case, alongside other cases, including one claim where aggregate losses from a casualty totalled over US\$260 million. He has also handled cases involving the alleged seizure of vessels by governments following the imposition of sanctions and dealt with marine insurance claims relating to the alleged total loss of vessels in Yemen and Venezuela. David is also regularly instructed in disputes involving mortgagee’s interest insurance.

David has been nominated for The Legal 500 Shipping Silk of the Year award and was named AIA Insurance and Reinsurance Silk of the Year in 2014. He regularly lectures on insurance, reinsurance and jurisdictional issues.

David appears at mediations and accepts appointments as an arbitrator in commercial cases. David has also been appointed a Deputy High Court Judge and he sits in both the King’s Bench and Chancery Divisions.

Expertise

Agency

Selected cases:

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

Banking & Finance

Selected cases:

- *Citigroup Global Markets Ltd v Amatra* [2018] – (US\$400m derivatives mis-selling dispute, settled pre-trial)
- *Alpha Bank v Bank of Communications* [2018] – (Acting for Claimant Bank in successful claim for declaratory relief relating to allegations of fraud in relation to refund guarantees)
- *Bominflot v Macquarie* [2018] – (US\$80m claim for unauthorised futures trading cleared by Australian bank)
- *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)
- *Den Danske Bank et al v Skipton Building Society* [1998] 1 EGLR 155 (Mortgage Indemnity Insurance – mortgage portfolio securitisation)

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

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:

- **The Russian Aircraft Litigation** [2025] (Commercial Court litigation concerning aircraft alleged to have been detained in Russia following the invasion of Ukraine)
- **Aegean Baltic Bank v AXA** [2022] (claim relating to alleged total loss of a vessel in Yemen)
- **Parkdean v Axis** [2021] (acting for claimant in business interruption insurance claim arising from COVID-19 pandemic)
- **Enka v Chubb** [2020] UKSC 38 (leading for insurers US\$400m dispute arising out of a fire at a Russian power plant)
- **SBM Offshore – YME MopuSTOR** [2018] (US\$1 billion insurance dispute; settled pre-trial)
- **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 (PPI)
- **Starlight Shipping v Allianz** [2012] Lloyd's Rep. Plus 2 (Marine Insurance – jurisdiction)
- **AC Ward v Catlin** [2010] Lloyd's Rep IR 301 (construction of warranty – reverse summary judgment test)
- **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)
- **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)

International Arbitration

Selected cases:

- **Multiple arbitrations** (LMAA, ICC, LCIA and *ad hoc*). Recent and current examples include:
 - U\$100 million superyacht dispute
 - U\$200 million dangerous claim against charterers and shippers arising from an explosion aboard a vessel
 - US50 million claim for one of the world's largest container shipping companies
 - Very substantial multi-million-euro dispute concerning a superyacht
 - US\$70 million claim following deliberate scuttling of a vessel
 - Acting for a shipyard in a dispute over the sale and delivery of a series of bulk carriers
 - Acting for owners in a dispute over a ferry service
- **National Iranian Oil Company v Crescent Petroleum** [2023] (challenge to US\$2.4 billion arbitration award: in High Court [2023] Bus LR 235 and Court of Appeal [2024] 1 WLR 71)
- **DPW v MSC** [2021] (lead counsel for MSC in a dispute arising from a volume and rebate agreement)
- **Enka v Chubb** [2020] UKSC 38 (leading case on proper law of arbitration agreements)
- **Goodwood Investments Holdings Inc v Thyssenkrupp Industrial Solutions AG** [2018] EWHC 1056 (alleged settlement – section 45 of Arbitration Act)
- **West Tankers v Allianz** [2012] Bus LR 1701 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 – the power to publish additional award)
- **Toepfer v Cargill** [1998] 1 Lloyd's Rep. 379 (breach of an arbitration agreement – anti-suit injunction)

Jurisdiction / Conflict of Laws

Selected cases:

- **Enka vs Chubb** [2020] UKSC 38 (leading case concerning the governing law of arbitration agreements in the context of anti-suit injunctions)
- **Crescendo v Bank of Communications** [2016] Lloyd's Rep 414 (anti-suit injunction)
- **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] 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)
- **The Cienvik** [1996] 2 Lloyd's Rep 395 (injunction – jurisdiction to serve out of the jurisdiction)
- **The "Front Comor"** [2008] 2 Lloyd's Rep. 661 (anti-suit injunction and Brussels Convention)
- **Scan Shipping v APL** [2008] EWHC 634 (agency – injunction – arbitration)
- **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 – *forum non conveniens*.)

Professional Negligence

Selected cases:

- **Tanfield v Ward Hadaway** [2022] (acting for solicitors in professional negligence claim)
- **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** [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:

- **Multiple arbitrations** (LMAA, ICC and ad hoc) Recent examples include:
 - \$100 million superyacht dispute (LMAA)

- £200 million claim against charterers and shippers arising from an explosion aboard vessel
 - £50 million claim for one of the world's largest shipping companies
 - Very substantial multi-million-euro dispute concerning a superyacht
 - US\$70 million case following deliberate scuttling of a vessel
 - Acting for a shipyard in a dispute over the sale and delivery of a series of bulk carriers
 - 12-million-dollar LMAA arbitration concerning charter and contracts for a ferry service.
- **Aegean Baltic Bank v AXA** [2022] (claim relating to the alleged total loss of a vessel in Yemen)
 - **MSC Flaminia** [2021] (dangerous goods)
 - **Atlantik Confidence** [2019] (total loss of cargo and vessel)
 - **DPW v MSC** [2021] (lead counsel for MSC in a dispute arising from a volume and rebate agreement)
 - **The Palladium** [2018] 1 Lloyd's Rep. Plus 78 (superyacht dispute)
 - **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 – deposit)
 - **West Tankers v Allianz** [2012] Bus LR 1701 and [2012] 2 Lloyd's Rep 103 (charterparty – arbitration – enforcement of declaratory relief)
 - **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)
 - **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)
 - **The Solon** [2000] 1 Lloyd's Rep. 292 (strike clause – proper approach to the 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 – the arrest of vessel – unseaworthiness – jurisdiction)
 - **The Bay Ridge** [1999] 2 Lloyd's Rep. 227 (Sale of ship – whether negotiations resulted in binding contract of sale)

Memberships

David Bailey KC 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.

Appointments

2023 Deputy High Court Judge (King's Bench and Chancery Divisions).

2006 Silk

1990 Eldon Law Scholarship

1989 Called to the Bar by Gray's Inn (where he was awarded an Entrance Award and a Senior Holker Scholarship)

Education

David Bailey KC read law at Oxford University, where he graduated with a First-Class Honours Degree and was awarded 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.