

## Gavin Geary

Call: 1989

'A trustworthy and reliable barrister whose advice is very clear, logical and easy to understand. He is straight to the point and persuasive.'

Legal 500 2023



✉ [ggeary@7kbw.co.uk](mailto:ggeary@7kbw.co.uk) ☎ +44 (0)20 7910 8300

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.

*"Gavin Geary is a well-regarded junior frequently appearing in the Commercial Court on a variety of shipping and commodities disputes. He is also well acquainted with international cases as well as arbitrations." (Chambers & Partners)*

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 dealing with extensive documentary and witness evidence as in analysing and presenting detailed legal argument. *"He marshals the facts of the case superbly and really operates on the level of a QC." (WWL)*

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. *"Definitely somebody it is good to have on your side." (Legal 500)*

## Expertise

### Commercial Litigation

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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 general contractual disputes such as sale of goods and agency, as well as much more substantial international matters. For example, he spent several weeks 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

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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

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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 (and the Film Finance disputes of the 2000s, 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 to property damage to various London reinsurance arbitrations.

Gavin's insurance practice often has a marine element, such as in **The Ocean Victory** [2017] 1 Lloyd's Rep 521, where the contractual insurance regime was held to exclude claims between co-insured parties. 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 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:

- **The Ocean Victory** [2017] 1 Lloyd's Rep 521
- **Baigent v McAndrew Wormald** (2009)
- **Europ Assistance v Temple** [2008] 1 Lloyd's Rep 216
- **Glencore v Ryan** [2001] 2 Lloyd's Rep 608
- **Heath Lambert v SCORT** [2005] 1 Lloyd's Rep 597
- **O'Kane v Jones, The Martin P** [2004] 1 Lloyd's Rep 389
- **Chapman v Kadirga** [1998] Lloyd's IR 377

## International Arbitration

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Gavin appears regularly in maritime and reinsurance arbitrations in London. He has also appeared in LCIA and ICC arbitrations – for example, 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. *CVLC Three v AMPTC* [2021] 2 Lloyd’s Rep. 397 and *Uniteam Marine v United Tenorio* [2018] EWHC 1593 are examples of successful appeals. *Thyssen Canada v Mariana Maritime* [2005] 1 Lloyd’s Rep 640, was 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.

As well as his established practice as counsel, Gavin is also increasingly in demand as an arbitrator, frequently appointed in LMAA, ICC and ad hoc arbitrations.

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- *CVLC Three v AMPTC* [2021] 2 Lloyd’s Rep. 397
- *Uniteam Marine v United Tenorio* [2018] EWHC 1593
- *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

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## Professional Negligence

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Gavin has dealt with various professional negligence actions, ranging from brokers and solicitors in insurance contexts, 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

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“A fantastic shipping junior.” The Legal 500

Over the years Gavin has been involved in a very broad range of shipping and international trade 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 cargoes, 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. He appeared in the seminal safe port case **The Ocean Victory** [2017] 1 Lloyd’s Rep 521 in the Court of Appeal and the Supreme Court. Shipbuilding is a major part of his practice: for example, **Teekay v STX** [2017] 1 Lloyd’s Rep 387. Gavin has appeared in countless LMAA arbitrations, covering many different areas – shipbuilding and repair (including superyachts), charterparties and COAs, agency and management, MOA disputes. Relatively few arbitrations come to appeal, but some recent examples can be found in **CVLC Three v AMPTC** [2021] 2 Lloyd’s Rep 397 and **Uniteam v United Tenorio** [2018] EWHC 1593

## Selected cases:

- **CVLC Three v AMPTC** [2021] 2 Lloyds Rep 397 Successful appeal in relation to parental corporate guarantees and separate security by arrest.
- **Uniteam v United Tenorio** [2018] EWHC 1593 Successful appeal in relation to ship management contracts.
- “**The Ocean Victory**” [2017] UKSC 35 A leading case in the Supreme Court concerning allegations of an “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).
- **Almatrans SA v. Tutova Shipping Co Ltd** [2007] 1 Lloyd’s Rep. 104 Commercial Court action involving club LOU
- **Thyssen Canada v Mariana Maritime** [2005] 1 Lloyd’s Rep 640
- **Bergen Industries v Dalmoreproduct** [2001] EWHC 482
- **The Goodpal** [2000] 1 Lloyd’s Rep 638
- **Cool Carriers and HSBC** [2001] 2 Lloyd’s Rep 22
- **Sim Swee Joo v Shirlstar** [1994] LMLN 374

## Education

Madgalen College, Oxford. BA Jurisprudence. Gavin obtained a First Class degree, and was awarded the Martin Wronker prize for the highest mark in the University in the Jurisprudence paper. Gavin won various Gray’s Inn scholarships and awards during his ISCL year and in pupillage.