

# **Oliver Caplin KC**

**SILK: 2024 | CALL: 2012** 

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Languages: Italian (conversational)



# **Overview**

Oliver is an experienced advocate. He took silk in 2024 at just 11 years' call.

He has appeared at all levels of the English Court system, including appellate work in the Supreme Court and Court of Appeal, and trials and applications in the Commercial Court. He also acts in international arbitrations in London and around the world (including under the LCIA, LMAA, ICC, SIAC, HKIAC and SCC Rules). He is equally happy acting alone or leading a team of junior counsel.

He has a broad commercial practice which particularly focuses on international trade, insurance (in particular war risks insurance), energy, jurisdiction, and dry-shipping disputes. Oliver has developed particular expertise in the area of anti-suit injunctive relief.

Oliver's insurance work comprises both marine and non-marine work. He acted for Greggs Plc in its major Covid-19 Bl claim and continues to provide regular advice in relation to other such claims. He is the co-author of Miller's *Marine War Risks* (4<sup>th</sup> ed) and has advised extensively on insurance issues arising from current global instability affecting commercial shipping and trade.

His pure commercial work spans a number of different sectors, including up and downstream oil and gas, energy infrastructure projects, renewables, and pharmaceuticals. Many of his cases involve jurisdictional or other conflicts of laws issues.

Before he took silk, he was ranked as a leading junior for shipping, international trade, and insurance by Chambers and Partners (UK Bar and Global), The Legal 500 (UK Bar, Asia Pacific) and Who's

#### **Publications**

 Co-author of the 4th edition of Miller's Marine War Risks (Informa Law, June 2020).

## **Professional memberships**

- Bar Pro Bono Unit
- Wellness for Law
- Commercial Bar Association (COMBAR)
- Supporting Member of the LMAA
- Vice-Chair of the LCLCBA
- COMBAR Wellbeing Sub-Committee

### **Recent Lectures/talks**

- The Song Winds Litigation (at the LSLC).
- Private International Law and IP Disputes.
- Before you Start: Pre-action tactics, possible pit falls, and recent cases.
- Conflicts of Interest in International Arbitration.
- Anti-Suit Injunctions 101.

Who Legal. He was nominated for "Shipping Junior of the Year" in 2021 and 2023 by Chambers and Partners and for "Shipping and Commodities Junior of the Year" by The Legal 500 in 2022.

Oliver first trained and worked as a medical doctor before coming to the Bar. As a result he is comfortable working on commercial cases in the life sciences industry, including those which require a detailed understanding of the technical medical or scientific context of the dispute.

#### **Education**

- City University: Bar Professional Training Course, Outstanding (2012)
- BPP Law School: Graduate Diploma in Law, Distinction (2011)
- University of Cambridge, Magdalene College: Medicine MB BChir, Distinction (2009)
- Nottingham University: BMedSci (Hons), First (2006)

## Prizes/awards/scholarships

- Certificate of Honour for performance on the BPTC, Middle Temple (2012)
- The Brick Court Chambers Scholarship, Middle Temple (2012)
- The Bart Prize, Nottingham University (2006)

#### **Recent cases**

- Frangou v Frangos [2023] EWCA Civ 1320: acted as sole counsel against a KC in a two day appeal concerning contractual interpretation and the doctrine of implied rescission.
- Frangou v Frangos [2022] EWHC 3129 (Comm): acted as sole counsel against leading counsel in a four day trial successfully defending a US\$12 million claim for opex losses and management costs alleged to have been payable in relation to a vessel.
- Vitol SA v JE Energy Ltd [2023] 1 Lloyd's Rep. 558: sole counsel defending a US\$4.5m claim for damages under an FOB basis fuel oil contract ex Tema, Ghana. Issues included contractual terms, varying laycan dates, opening LCs, and the applicable measure of loss.
- QBE Europe SA/NV v Generali Espana SA de Seguros y Reaseguros [2022] 2 Lloyd's Rep 481: sole counsel, obtained a quasi-contractual anti-suit injunction to restrain proceedings brought in Spain for circa. €7 million that had been brought pursuant to a direct action statute, but which in substance sought to enforce a right to an indemnity under an insurance policy containing a London arbitration agreement.
- OCM Singapore Njord Holdings Hardrada Pte Ltd and others v Gulf Petrochem FZE [2023] 2 Lloyd's Rep 177: acted as sole counsel in this LOI enforcement dispute for one of the successful claimants by obtaining summary judgment for in excess of US\$10 million, and resisting an application to withdraw admissions and amend a defence.
- Herculito Maritime Ltd v Gunvor International BV (The Polar) [2022] 1 Lloyd's Rep 375: acted for the successful respondent in the Court of Appeal. The decision considers the law on the incorporation of charter terms into bills of lading, in particular clauses relating to war risks insurance, and also provisions for insurance funds and the necessary ingredients for their creation (led by Guy Blackwood QC).
- Galtrade Ltd v BP Oil International Limited [2022] 1 Lloyd's Rep 129: acted for BPOI as sole counsel against leading counsel in a five day trial concerning an off-specification cargo of straight run fuel oil. The case concerned the classification of quality terms and reliance losses (wasted expenditure).
- BP Oil International Ltd v Vega Petroleum Ltd and another [2022] 1 Lloyd's Rep 89: acted for the successful claimant BPOI in a US\$17m restitution claim for unjust enrichment involving a contract for the sale and purchase of crude oil. The case considers the relationship between contracts and restitution claims, and a number of defences to a failure of basis claim

(led by Michael Ashcroft QC).

- Septo Trading Inc v Tintrade Limited [2021] 2 Lloyd's Rep 591 (CA): acted for the successful appellant Tintrade, overturning Teare J's decision that provisions in a deal recap for the sale and purchase of fuel oil concerning the effect of a certificate of quality were not inconsistent with terms concerning certification in the BP standard terms. The case considers the approach to resolving conflicts between documents which make up a contract (led by Michael Ashcroft QC).
- Herculito Maritime Ltd v Gunvor International BV (The Polar) [2021] 1 Lloyd's Rep 150: acted for the successful section 69 claimant in a dispute arising from the piratical seizure of the POLAR vessel, and the consequent declaration of General Average. Issues arising included the law concerning the incorporation of charter terms into bills of lading, and the constitution of joint insurance funds in the war risks and K&R contexts (led by Guy Blackwood QC).
- Black Sea Commodities Ltd v Lemarc Agromond Pte Ltd [2022] Lloyd's Rep Plus 19: acted as sole counsel for the successful section 67 claimant setting aside two GAFTA arbitration awards for want of the Tribunal's substantive jurisdiction. The case concerned whether a deal recap amounted to a binding contract, and if so, whether in any event the parties had agreed to an arbitration agreement (conventionally, or by way of an arbitration agreement to be implied by custom).
- Tenacity Marine Inc v NOC Swiss LLC [2021] Bus LR 1108: acted as sole counsel against leading counsel for the successful applicant for an interim mandatory injunction compelling performance of a maritime letter of indemnity. The case is one of a series that Oliver was involved in, both led and unled, exploring the extent to which impossibility of performance is a good defence to claims for such injunctions: see also Tenacity v NOC [2020] EWHC 3214 (Comm).

# **Shipping**

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- QBE Europe SA/NV v Generali Espana SA de Seguros y Reaseguros [2022] 2 Lloyd's Rep 481: sole counsel, obtained a quasi-contractual anti-suit injunction to restrain proceedings brought in Spain for circa. €7 million that had been brought pursuant to a direct action statute, but which in substance sought to enforce a right to an indemnity under an insurance policy containing a London arbitration agreement.
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- V8 Pool Inc v Gulf Petrochem FZE [2020] EWHC 3689 (Comm): acted as sole counsel for the successful applicant for an interim mandatory injunction compelling performance of a maritime letter of indemnity. The case involved complex issues of UAE law, as well as English legal principles concerning the enforcement of letters of indemnity, and the impossibility defence.
- Tenacity Marine Inc v NOC Swiss LLC [2021] Bus LR 1108: acted as sole counsel against leading counsel for the successful applicant for an interim mandatory injunction compelling performance of a maritime letter of indemnity. The case is one of a series that Oliver was involved in, both led and unled, exploring the extent to which impossibility of performance is a good defence to claims for such injunctions: see also Tenacity v NOC [2020] EWHC 3214 (Comm).
- Trafigura Maritime Logistics Pte Ltd v Clearlake Shipping Pte Ltd [2021] 1 Lloyd's Rep 533: acted for the successful injunction applicant, Trafigura, in this application for an interim mandatory injunction compelling the provision of security and defence funds due under a maritime letter of indemnity (led by Michael Ashcroft QC).
- The Miracle Hope [2021] 1 Lloyd's Rep 552: acted for the successful applicant at a combined return date varying a mandatory injunction requiring the provision of security and defence funds under a maritime letter of indemnity. The injunction obtained required a cash payment of US\$76m into court as security (led by Michael Ashcroft QC).
- Qatar National Bank (QPSC) v The Owners of the Yacht Force India [2020] EWHC 719 (Admlty): acted for the third party in an unusual application for the setting aside of an order for sale of a yacht by the Admiralty Registrar at a very late stage, after a number of bids had been received. The first case to deal with such matters since The Acrux [1961] 1 Lloyd's Rep

- Navig8 Chemicals Pool Inc v Glencore Agriculture BV [2018] 2 Lloyd's Rep 374 (CA): acted in this spin-off to the Court of Appeal from The Songa Winds litigation. The appeal concerned whether a time bar contained in a charterparty had any effect on a letter of indemnity (led by Michael Ashcroft QC).
- The Songa Winds [2018] 2 Lloyd's Rep 47: acted as sole counsel for Navig8 in this dispute which concerned the proper interpretation of the International Group of P&I Clubs standard form Group A letter of indemnity for the delivery of cargo absent the bills of lading.
- The Zagora [2017] 1 Lloyd's Rep 194: acted for the successful head owners at trial in this dispute concerning the proper interpretation and engagement of a series of International P&I Group standard form letters of indemnity given for the delivery of cargo absent the bills of lading (led by Michael Ashcroft QC).
- The Flag Evi [2017] 2 Lloyd's Rep 467: acted for the successful applicant in this application for an interim anti-suit injunction to restrain proceedings commenced in Jordan in breach of an arbitration agreement (led by Michael Coburn QC).
- The Yusuf Cepnioglu [2016] 3 All ER 697: acted at first instance and in the Court of Appeal in this leading anti-suit injunction case which considered the approach English law takes to different kinds of derived rights situations (subrogation, assignment and foreign direct-action statutes) (led by David Lewis QC).

#### **Commodities and international trade**

- Vitol SA v JE Energy Ltd [2023] 1 Lloyd's Rep. 558: sole counsel defending a US\$4.5m claim for damages under an FOB basis fuel oil contract ex Tema, Ghana. Issues included contractual terms, varying laycan dates, opening LCs, and the applicable measure of loss.
- Galtrade Ltd v BP Oil International Limited [2022] 1 Lloyd's Rep 129: acted for BPOI as sole counsel against leading counsel in a five day trial concerning an off-specification cargo of straight run fuel oil. The case concerned the classification of quality terms and reliance losses (wasted expenditure).
- BP Oil International Ltd v Vega Petroleum Ltd and another [2022] 1 Lloyd's Rep 89: acted for the successful claimant BPOI in a US\$17m restitution claim for unjust enrichment involving a contract for the sale and purchase of crude oil. The case considers the relationship between contracts and restitution claims, and a number of defences to a failure of basis claim (led by Michael Ashcroft QC).
- Septo Trading Inc v Tintrade Limited [2021] 2 Lloyd's Rep 591 (CA): acted for the successful appellant Tintrade, overturning Teare J's decision that provisions in a deal recap for the sale and purchase of fuel oil concerning the effect of a certificate of quality were not inconsistent with terms concerning certification in the BP standard terms. The case considers the approach to resolving conflicts between documents which make up a contract (led by Michael Ashcroft QC).
- Black Sea Commodities Ltd v Lemarc Agromond Pte Ltd [2022] Lloyd's Rep Plus 19: acted as sole counsel for the successful section 67 claimant setting aside two GAFTA arbitration awards for want of the Tribunal's substantive jurisdiction. The case concerned whether a deal recap amounted to a binding contract, and if so, whether in any event the parties had agreed to an arbitration agreement (conventionally, or by way of an arbitration agreement to be implied by custom).
- Septo Trading Inc v Tintrade Inc [2020] EWHC 1795 (Comm): acted for the Defendant in an off-specification fuel oil trading dispute, raising issues about whether or not the parties had agree a certificate of quality was final and binding upon them on issues of quality (led by Michael Ashcroft QC).
- Aden Refinery Company v Gunvor SA [2019] EWHC 3555 (Comm): Successfully defended Gunvor from a US\$5 million claim in the Commercial Court after a four day trial. The case concerned a gasoil sales contract, pricing mechanisms, and the law of agency.
- ADM Intermare v Sunraja and Gem [2019] EWHC 2321 (Comm): acted for the successful applicant obtaining an anti-suit injunction restraining foreign proceedings brought in breach of a London arbitration agreement. The Court ordered mandatory relief on an interim basis.
- Gunvor Singapore Pte Ltd v Xiang Da Marine Pte Ltd [2019] EWHC 1536 (Comm): acted for the successful claimant obtaining an ex parte interim anti-suit and anti-anti-anti-suit injunction to restrain proceedings brought in Singapore. The injunction was granted on the interesting "quasi-contractual" basis.
- K v A [2020] 1 Lloyd's Rep 28: a section 67,68 and 69 Arbitration Act 1996 appeals case from a GAFTA Board of Appeal award. The case revolved around a social engineering cyberfraud committed at the time payment under a sale contract was being made (led by Lawrence Akka QC).
- Gunvor SA v Crugas Yemen Ltd [2018] EWHC 2601 (Comm): acted for the successful claimant obtaining judgment in excess of US\$20 million in relation to unpaid demurrage and additional war risk premiums due under a sales contract.
- Gunvor SA v Sky Oil & Gas Ltd [2018] EWHC 1189 (Comm): acted as sole counsel at trial for the successful claimant, Gunvor, obtaining a judgment for over US\$10 million arising out of the breach of a contract for the sale of gasoil ex-

Yemen.

• Sarpd Oil International Ltd v Addax Energy SA [2016] CP Rep 24: acted at first instance and in the Court of Appeal for the successful appellant, Addax in this leading decision on the circumstances in which a court will have "reason to believe" that a party will be unable to pay an adverse costs award in the context of a security for costs application.

## Jurisdiction, conflicts and enforcement

- QBE Europe SA/NV v Generali Espana SA de Seguros y Reaseguros [2022] 2 Lloyd's Rep 481: sole counsel, obtained a
  quasi-contractual anti-suit injunction to restrain proceedings brought in Spain for circa. €7 million that had been brought
  pursuant to a direct action statute, but which in substance sought to enforce a right to an indemnity under an insurance
  policy containing a London arbitration agreement.
- ADM Intermare v Sunraja and Gem [2019] EWHC 2321 (Comm): acted for the successful applicant obtaining an anti-suit injunction restraining foreign proceedings brought in breach of a London arbitration agreement. The Court ordered mandatory relief on an interim basis.
- The Chang Hang Guang Rong [2020] 1 All E.R. (Comm) 61: acted for the successful applicant (Gunvor) in obtaining an anti-suit injunction on the basis that the foreign proceedings were a vexatious and oppressive circumvention of a jurisdiction clause to which Gunvor was not a party (led by Michael Ashcroft QC).
- Eli Lilly & Co v Genentech Inc [2018] 1 WLR 1755: acted in this pharmaceutical patent concerned jurisdiction dispute for the successful claimant Eli Lilly & Co. The case establishes (pending Genentech's appeal to the Court of Appeal) that the English court can, notwithstanding Article 24 of the Brussels 1 Regulation (Recast), take jurisdiction over multiple claims for declarations of non-infringement in relation to foreign designations of an EU patent (led by Alex Layton QC and Tom Hinchliffe QC).
- Chugai Pharmaceutical Co v UCB Pharma et al [2017] Bus LR 1455: acted in this pharmaceutical patent dispute for the defendant in relation to its challenge to the court's jurisdiction under Article 24 of the Brussels 1 Regulation (Recast). The case concerned the scope of Article 24 and the validity/infringement nexus, the act of state doctrine, and the justiciability of disputes concerning foreign patents before the courts of England and Wales.
- The Flag Evi [2017] 2 Lloyd's Rep 467: acted for the successful applicant in this application for an interim anti-suit injunction to restrain proceedings commenced in Jordan in breach of an arbitration agreement (led by Michael Coburn QC).
- Fujifilm Kyowa Kirin Biologics Company Ltd v Abbvie Biotechnology Ltd [2017] Bus LR 333: acted for the successful claimant in this pharmaceutical patent dispute in which the defendant had challenged the court's jurisdiction (led by Thomas Raphael QC).
- The Yusuf Cepnioglu [2016] 3 All ER 697: acted at first instance and in the Court of Appeal in this leading anti-suit injunction case which considered the approach English law takes to different kinds of derived rights situations (subrogation, assignment and foreign direct-action statutes) (led by David Lewis QC).

## **Intellectual property**

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- Chugai Pharmaceutical Co v UCB Pharma et al [2017] Bus LR 1455: acted in this pharmaceutical patent dispute for the defendant in relation to its challenge to the court's jurisdiction under Article 24 of the Brussels 1 Regulation (Recast). The case concerned the scope of Article 24 and the validity/infringement nexus, the act of state doctrine, and the justiciability of disputes concerning foreign patents before the courts of England and Wales.
- Fujifilm Kyowa Kirin Biologics Company Ltd v Abbvie Biotechnology Ltd [2017] Bus LR 333: acted for the successful claimant in this pharmaceutical patent dispute in which the defendant had challenged the court's jurisdiction (led by Thomas Raphael QC).

#### **Insurance**

- QBE Europe SA/NV v Generali Espana SA de Seguros y Reaseguros [2022] 2 Lloyd's Rep 481: sole counsel, obtained a
  quasi-contractual anti-suit injunction to restrain proceedings brought in Spain for circa. €7 million that had been brought
  pursuant to a direct action statute, but which in substance sought to enforce a right to an indemnity under an insurance
  policy containing a London arbitration agreement.
- Herculito Maritime Ltd v Gunvor International BV (The Polar) [2022] 1 Lloyd's Rep 375: acted for the successful

respondent in the Court of Appeal. The decision considers the law on the incorporation of charter terms into bills of lading, in particular clauses relating to war risks insurance, and also provisions for insurance funds and the necessary ingredients for their creation (led by Guy Blackwood QC).

- Herculito Maritime Ltd v Gunvor International BV (The Polar) [2021] 1 Lloyd's Rep 150: acted for the successful section 69 claimant in a dispute arising from the piratical seizure of the POLAR vessel, and the consequent declaration of General Average. Issues arising included the law concerning the incorporation of charter terms into bills of lading, and the constitution of joint insurance funds in the war risks and K&R contexts (led by Guy Blackwood QC).
- X v Y Arbitration: A US\$40 million reinsurance dispute concerning PML limits, inducement, and alleged avoidance (led by Philip Edey QC).
- A US\$80 million solicitors' and brokers' negligence claim arising out of a trade credit finance policy (led by John Lockey OC).
- A brokers' negligence dispute in the Commercial Court arising from the allegedly negligent placing of various XL policies (led by Philip Edey QC)
- LMAA Arbitration A v B: Acting for K&R and war risks insurers in a dispute arising out the piratical seizure of a vessel off the coast of Somalia (led by Guy Blackwood QC).
- X v Y Arbitration: Acting for the insured in a complex D&O policy dispute with parallel proceedings in the US.
- Various disputes in arbitration and the Commercial Court as sole counsel covering issues under the IA 2015, CTLs, joint-insurance in a wide variety of industry sectors.

#### Recommendations

Oliver is commercially astute, personable and his written submissions are always extremely impressive. Chambers UK Bar 2024

Oliver is a superb advocate. He delivers the points that need to be made in a clear and measured way. The Legal 500 UK Bar 2024

He is brilliant, really patient and can explain the UK system to international clients very well. Chambers UK Bar 2024

Oliver is very clever, extremely efficient and an expert in jurisdictional issues. Chambers UK Bar 2024

Oliver is an excellent barrister whose advocacy is clear, concise and perfectly delivered. The Legal 500 UK Bar 2024

Highly responsive, commercially savvy and incisive. The Legal 500 UK Bar 2024

However pressurised the situation, he is calm, responsive and he punches above his weight, a go-to senior junior for commodities disputes. The Legal 500 UK Bar 2023

Oliver has an incredibly sharp legal mind. The Legal 500 UK Bar 2023

He has the ability to cut through the noise and identify the key issues in the case, and he is very responsive, dedicated and thorough. The Legal 500 UK Bar 2023

Oliver is tactically smart and commercially astute Chambers UK Bar 2023

Oliver provides sound and commercial advice, responds promptly and is able to quickly grasp concepts that may sometimes be pretty technical (especially in the shipping/commodities industry). The Legal 500 Asia Pacific 2023: The English Bar

He is excellent in terms of his willingness to work with the team. Chambers UK Bar 2023

Oliver is very good on his feet. Chambers UK Bar 2023

A senior junior that is more than capable of mixing it with silks, he is calm, affable, extremely responsive, strategically astute and a true specialist in the area. The Legal 500 UK Bar 2022

He exudes calm and confidence and is a very clear communicator. Chambers UK Bar 2022

He has a very calm manner and pleasant disposition, but never misses a trick. The Legal 500 Asia Pacific 2022: The English Bar

Always calm and affable. He never appears stressed or off his stride whoever he is up against. Oliver is a senior junior who can be easily pitted against QCs and can prevail. The Legal 500 UK Bar 2022

Extremely thorough and very responsive. The Legal 500 Asia Pacific 2021: The English Bar

'impressively bright' with strong experience in dry shipping disputes Who's Who Legal 2021

A very impressive junior who really knows his stuff and is ahead of the game. The Legal 500 UK Bar 2021

He is supremely organised and turns work around swiftly - a go-to barrister. Chambers UK Bar 2021

A great barrister and well-liked by clients. The Legal 500 UK Bar 2021

He has the calm approach, meticulous preparation and knowledge to stand up against anyone. The Legal 500 Asia Pacific 2020: The English Bar

A silk in the making, Oliver is superb all round and has fast become a go-to barrister for trade and shipping work. Chambers UK Bar 2020

Totally unflappable, he can stand up against anyone and appears far more experienced than his years of call; first-class in high-value oil trading cases. The Legal 500 UK Bar 2020

He is well thought of by judges, who are all charmed by him, even the very tough ones. Chambers UK Bar 2020

Extremely user-friendly, efficient and extremely bright. The Legal 500 UK Bar 2020

'Impressively bright' Who's Who Legal 2020

He is very responsive, organised and proactive and has an impressive work ethic; his calm unflappable demeanour assists him in managing clients and expectations. The Legal 500 UK Bar 2019

Oliver Caplin is one of the most prominent shipping juniors at the Bar, gaining recognition for his adept handling of complex dry shipping and commodities disputes. Who's Who Legal 2019

He is quick and very bright. The Legal 500 UK Bar 2019

He is able to move quickly through large volumes of information and identify the pertinent issues. The Legal 500 UK Bar 2017

'An absolutely outstanding litigator' with 'impressive expertise in dry shipping disputes'. Who's Who Legal 2018