

Arbitrators

AT 24 LINCOLN'S INN FIELDS



DAVID WALSH KC

David has a strong commercial practice with expertise in insurance and reinsurance, commodities, international trade, energy, transport, shipping and shipbuilding/offshore construction disputes. David started accepting appointments as arbitrator in 2020 and is a member of the LCIA and LMAA. David is also on the DIFC Courts' Register of Practitioners.

David is an editor of the latest editions of: (i) *Arnould – Law of Marine Insurance and Average* (together with Jonathan Gilman KC, Mark Templeman KC, Claire Blanchard KC, Philippa Hopkins KC, Neil Hart); (ii) *Scrutton on Charterparties and Bills of Lading* (together with Sir David Foxton, Steven Berry KC, Christopher Smith KC and Professor Howard Bennett); and (iii) *Chalmers' Marine Insurance Act 1906* (together with Simon Rainey KC and Guy Blackwood KC).

David is also a Barrister in England and Wales. He is recognised as being “a stellar performer ...” with clients praising David for combining:

- **intellectual rigour** (“a first-rate brain”, “incredibly bright”, “super smart”, “always manages to make very complex cases easy to understand”)
- with **skilful advocacy** (“his advocacy [is] formidable”, “a forceful advocate, who seems to get the ear of the judge very well”, “unflappable”, “particularly noted for his skilful advocacy”)
- **industriousness** (“prodigiously hardworking”, “prepared to roll his sleeves up”)
- and **client service** (“a naturally collaborative and inclusive style”, “Clients really like him”, “A very personable and approachable individual, who connects well with clients”, “really easy to engage with”, “responsive and user friendly”).

Arbitration (including arbitration-related court applications)

David has experience of international arbitrations on ad hoc, ARIAS, FOSFA, GAFTA, HKIAC, ICC, LCIA, LMAA, and UNCITRAL terms. He has also been instructed in a number of arbitration claims in the Commercial Court (ss. 67, 68 and 69 of the Arbitration Act 1996).

Examples of cases in which David has been instructed include the following:

- **Minister of Finance & 1MDB v IPIC & Aabar:** David was instructed with Steven Berry KC, Toby Landau KC and Peter Webster in this s.68 claim which sought to set aside an arbitral 'consent' award because of fraud relating to the award and underlying settlement deeds. The case arises from the infamous 1MDB fraud by which more than US\$3.5 billion was allegedly misappropriated from the Malaysian sovereign wealth fund.
- **A v B**, 23rd March 2017, David successfully resisted an application under section 68 of the Arbitration Act 1996. Ali Malek KC, sitting as a Deputy High Court Judge, held that an arbitrator's determination of the position of a compacted buoy on the seabed, which he found had holed the owner's vessel while berthing, in breach of a safe berth warranty, did not involve any serious irregularity causing substantial injustice.
- He was recently instructed in an ICC arbitration with a Paris seat with disputes being determined under an 'equity clause'. The claim was for commissions allegedly earned on the sale of valves used in petrochemical projects.
- David has recently been acting in a substantial and heavy UNCITRAL arbitration involving claims under an offshore drilling contract. The case has involved numerous applications for interim measures and urgent relief.
- Instructed by a national government in a major ICC arbitration concerning the construction and delivery of military submarines.
- **Lorand Shipping Ltd v Davof Trading (Africa) BV (The "OCEAN GLORY")** [2014] EWHC 3521 (Comm), a section 68 application in the Commercial Court challenging the decision of a tribunal to make a final rather than partial award.
- Acted as sole counsel in a 2-day jurisdictional challenge under section 30 of the Arbitration Act 1996. Issues included whether there was intention to create the legal relationship of owner/charterer, authority and misrepresentation.

What Others Say

"David is experienced and provides a polished service."

Chambers UK, 2023

"He is very hard-working and diligent."

Chambers UK, 2023

"... he has excellent written skills and produces top-quality yet concise advice on complex issues."

Legal 500, 2023

"His advice is always well presented ... A joy to work with for solicitors and lay clients alike."

Legal 500, 2023

"David is thorough, easy to work with and very intelligent." "He is incredibly bright."

Chambers UK, 2022

"He is an absolutely brilliant insurance lawyer and has got a lot of expertise in marine insurance."

Chambers UK, 2022

"He is prepared to roll his sleeves up and get into the weeds of the documents when necessary ..."

Legal 500, 2022

"Impressive – efficient, analytical, and a naturally collaborative and inclusive style that makes David a pleasure to work with."

Legal 500, 2022

"His written work is very precise and very clear, measured and reasonable."

Legal 500, 2022

"He is richly deserving of his leading reputation and practice. He is approachable, responsive, has an organised mind and works hard."

Chambers UK, 2021

"He is a stellar performer ... a top choice for marine insurance cases."

Chambers UK, 2021

"An excellent performer."

Chambers UK, 2021

"He is very capable and his pleadings are tight and good."

Chambers UK, 2021

"He has a first-rate brain and excellent judgement, and is prodigiously hardworking, urbane and perceptive."

Legal 500, 2021

"Superb performance in oral hearing by comprehensive and intensive preparations and sharp cross-examinations."

Legal 500, 2021

"A go-to junior for complex marine insurance coverage cases."

Legal 500, 2021

"His advices are always well presented ... his advocacy formidable."

Chambers UK, 2020

"David is very proficient as well as efficient and client-friendly. He gives an excellent performance in oral hearings; he prepares comprehensively and is sharp in cross-examination."

Chambers UK, 2020

"He has a breadth and quality of work that is impressive."

Chambers UK, 2020

"He's very good and very user-friendly."

Chambers UK, 2020

"He is very easy to get up to speed on the issues."

Chambers UK, 2020

"He provides us with prompt, technical and accurate advice on an urgent basis." **Chambers UK, 2020**

"Very bright, responsive and user-friendly, he connects well with clients and provides clear, digestible advice."

Legal 500, 2020

Insurance & Reinsurance

David's practice covers all aspects of insurance and reinsurance, including Bermuda Form arbitrations. He has experience of disputes under aviation, banker's bonds, business interruption, cargo, EAR, H&M, IV, K&R, liability, MII, political risk/violence, property, rig, trade credit, and XL policies. He had been involved in facultative and treaty reinsurance claims, disputes under open covers, binding authorities, and actions against brokers and claims handlers for professional negligence.

David was the 2022 UK winner of Lexology's Client Choice Award for Insurance & Reinsurance. He won praise from clients as someone who *"stands apart in the insurance field"*, for being *"hard working and user-friendly"*, for being *"liked and respected by all in the market"* and for his *"high quality work"*.

In recent times, he has been heavily engaged with insurance claims arising out of the COVID-19 pandemic (in particular business interruption disputes) and the war in Ukraine.

Since acting at the start of his career in one of the largest and complex navigational CTL's experienced by the London Market "WD FAIRWAY" litigation, David has taken a particular interest in the law of marine insurance. He has considerable experiences of coverage issues in H&M and cargo claims on policies incorporating the Institute Clauses, as well as policies incorporating the Norwegian Marine Insurance Plan. He is one of the editors of *Arnould – Law of Marine Insurance and Average* as well as of *Chalmers' Marine Insurance Act 1906*.

In Legal Week's Stars at the Bar feature, David was praised as having *"experience beyond his call, especially in complex insurance and reinsurance disputes."* Clients noted that *"in the field of marine insurance he is the go-to junior, building a level of expertise in this narrow but important sector that is unmatched by his peers. Other juniors dabble in marine insurance; David is fast becoming the genuine specialist of his generation."*

During the early years of David's practice, he acquired market experience during a placement with RSA's Marine Hull Claims Team and a placement with QBE Aviation Syndicate 5555 (as it was then).

Examples of cases in which David has been instructed include the following:

- **Al-Mana Lifestyle Trading LLC v United Fidelity Insurance Co PSC** [2022] EWHC 2049 (Comm); [2023] EWCA Civ 61: David acted with John Lockey KC for underwriters in this c.US\$40m business interruption claim brought by various food and beverage and retail outlets operating in the Middle East, arising out of the COVID-19 pandemic. Underwriters persuaded the Court of

Appeal to overturn the judgment of the Commercial Court to the effect that the English courts had jurisdiction.

- **Gatwick Investments Ltd & ors v Liberty Mutual Insurance Europe SE and other actions brought by Liberty Retail, Hollywood Bowl, Starboard Hotels, Fuller Smith & Turner, Pizza Express and Bath Racecourse:** acting with David Scorey KC for underwriters in this business interruption dispute arising out of the COVID-19 pandemic, where common preliminary issues relating principally to coverage and limits are being tried in October 2023.
- Instructed with David Scorey KC in various Bermuda Form arbitrations concerning alleged liabilities arising out of the use of herbicides and the opioid epidemic in the United States.
- **Lals Holdings & ors v Emirates Insurance Company & ors:** acting as sole counsel for insurers in this dispute in the DIFC concerning a business interruption claim brought by various retail and other outlets in the Middle East in the aftermath of the Covid-19 pandemic.
- **Yapi Kredi Bankasi AS v Chaucer & ors (The “MUSTAFA KAN”):** acting as sole counsel for underwriter resisting a claim for a US\$22.5m indemnity under an MII policy following a total loss.
- David acted with John Lockey KC for reinsurers in an LCIA arbitration where claims on a political violence policy were brought following damage to a warehouse in South Africa following the unrest after the arrest of former president, Jacob Zuma.
- Acting as sole counsel for reinsurers in a DIFC claim against insurers for declarations of non- liability.
- Currently acting with Guy Blackwood KC in two LCIA arbitrations where claims are brought on trade credit policies.
- Acting with John Lockey KC in a Bermuda Form arbitration arising out of a fire and explosion at an ethylene plant.
- Acting with Guy Blackwood KC in an ICLP arbitration (Colombo) for the owners of a Maldives hotel seeking to recover BI losses suffered as a consequence of the COVID-19 pandemic.
- **Korean Reinsurance Company v XL Insurance Company SE (The “STELLAR BANNER”):** marine reinsurance dispute for recovery of a significant CTL paid to the underlying assured.
- **GAREX & ors v Delos Shipholding SA & ors (The “WIN WIN”):** this US\$37.5m total loss claim on a war risks policy concerns a detention in Indonesia. David is being led by Philippa Hopkins KC.
- **Technip Saudi Arabia v The Mediterranean & Gulf Insurance and Reinsurance Co:** David is acting with Peter MacDonald Eggers KC in this US\$31m claim on an offshore CAR insurance policy.
- **Fleetscape NSMH Limited v Axis Corporate Specialty & ors:** David is acting as sole counsel in this US\$23m mortgagee interest insurance claim for the total loss of 11 vessels. Each of the vessels was either scrapped or sold allegedly without the consent of the mortgagee bank.

- **Ever Judger Holding v Novae Corporate Underwriting & ors (The “EVER JUDGER”)**: David acted as sole counsel in this US\$22m claim for the constructive total loss of the vessel “EVER JUDGER” which was detained by the Indonesian authorities after its anchor dragged across an oil pipeline causing massive environmental damage.
- **Hiscox Action Group arbitration**: Acted with John Lockey KC in this significant arbitration concerning BI losses allegedly suffered as a consequence of the COVID-19 pandemic.
- **Aegean Baltic Bank SA v Various Underwriters (The “STARLET”)**: David acted with Stephen Hofmeyr KC in this claim on a mortgagee interest insurance policy.
- Currently instructed in a large number of multi-million dollar trade credit insurance disputes. **Libyan Navigator Co Ltd v Libya Insurance Company (The “BADR”)**: David acted for underwriters in this c.US\$40m claim for the total loss of a vessel following a prolonged stay in Bulgaria. He was led by Michael Ashcroft KC.
- **Psara Energy Limited v Lancashire Insurance Company UK Limited & ors (The “CV STEALTH”)**: David acted with Claire Blanchard KC for war risks insurers in this US\$77m claim for a total loss resulting from the prolonged stay of a vessel in Venezuela.
- Acted with David Foxton KC for insurers in a multi-billion dollar Bermuda Form arbitration concerning liabilities allegedly connected with the failure of a dam in Brazil.
- Acted with David Foxton KC for insurers in a Bermuda Form arbitration concerning liabilities allegedly connected with the opioid epidemic in the United States.
- **Azzouz & ors v United Commercial Assurance & ors**: David acted with Mark Templeman KC in this US\$30m claim under a political violence policy. The claim arises out of the Syrian Civil War and damage to property in Aleppo. The assured claims that insurgents occupied their facilities and stole/damaged stock and equipment.
- David acted with David Foxton KC in an XL reinsurance arbitration concerning aggregation of losses arises from the 9/11 attacks on the World Trade Centre.
- **Jordan Insurance v AIG Europe**: David acted as sole counsel in this dispute about whether the payment of an indemnity under a reinsurance contract will put AIG in breach of US sanctions against Syria. The underlying banker's bonds insurance provided cover to a bank in Syria, which had some \$33m of currency stolen from its Damascus branch during the uprising.
- **Double Eight Marine SA v RSA & ors (The “PANAMAX TRADER”)**: David was instructed with Alistair Schaff KC for the London Market in this c. £30m ATL claim in the Commercial Court.
- **Lassan Holdings Limited v Generali & ors**: He was instructed with John Lockey KC in a €20m claim under a property damage and business interruption policy in relation to pot-freeze and related damages sustained at an aluminium smelter.

- David was instructed with Guy Blackwood KC in an XL reinsurance dispute – Bahrain law and arbitration – concerning losses related to market losses following the Iraqi invasion of Kuwait and the Lockerbie bombing.
- **Atlas Navios-Navegação Lda v Navigators Insurance Co Ltd (The “BATLANTIC”)** [2016] Lloyd’s Rep 351: David acted for underwriters in relation to this claim under a war risks policy following the detention of vessel in Venezuela for drug smuggling. He successfully resisted an application by the assured to the Court of Appeal for permission to appeal to the Supreme Court.
- **Rak Africana Shipping Ltd v Al-Sagr National Insurance Company:** David acted with Guy Blackwood KC in this CTL claim where a vessel was detained by pirates for a period of nearly 12 months. The claim was settled shortly before trial in 2016.
- **Involnert Management Inc v Aprilgrange Ltd & ors (The “GALATEA”)** [2015] 2 Lloyd’s Rep. 289, David successfully represented the London Market in this €13million claim for the CTL of a mega yacht. Underwriters were held to be entitled to avoid the policy for material non-disclosure of a valuation of the yacht and the non-disclosure of the fact that she was being marketed for sale at well below her insured value. Underwriters were also entitled to decline the H&M claim for the assured’s failure to comply with the policy requirement to file a sworn proof of loss within 90 days and for its failure to serve a timeous Notice of Abandonment. David was led by Alistair Schaff KC.
- Acted as sole counsel in an ARIAS arbitration where US\$19m was claimed under a Marine Cargo and Delay in Start-up policy. The claim was prompted by damage to diesel generators during a sea voyage, which were intended to be used in a power plant in Kenya. The principal issue was whether a delimiting warranty had been breached.
- **Allianz Risk Transfer AG Dubai Branch v Al Ain Ahlia:** David assisted Guy Blackwood KC in this reinsurance action in which the DIFC Court had to consider the nature of the “Arab Spring” in Egypt, and whether property damage had been caused by civil commotion amounting to popular rising. The case settled after full trial, which included factual evidence and expert geopolitical evidence.
- **Bernina Maritime Inc v RSA & ors (The “LIQUID ERA”):** David was led by Mark Templeman KC in this contested US\$8million CTL claim in the Commercial Court, which was settled before trial.
- **Markerstudy Insurance Company Limited v Endsleigh Insurance Services Limited:** David was instructed as part of a 6 strong counsel team in a substantial Commercial Court action concerning negligent claims handling across a number of books of business, which was set down for a 40 day trial before a settlement was reached.
- **Dornoch Ltd & ors v Westminster International BV & ors (The “WD FAIRWAY”)** [2009] 2 Lloyd’s Rep 191: David (led by Iain Milligan KC and Guy Blackwood) acted on behalf of the successful underwriters in this major marine insurance dispute following the constructive total loss of the “WD FAIRWAY”. Issues considered by the Court in phase one included abandonment and the

extent of underwriters' proprietary rights in a vessel on payment of a CTL and election.

- **Dornoch Ltd & ors v Westminster International BV & ors (The "WD FAIRWAY")** [2009] 2 Lloyd's Rep 420: phase two of this action the Court considered the impeachment of transactions defrauding creditors under section 423 of the Insolvency Act 1986 in an insurance context. Again, David (led by Iain Milligan KC and Guy Blackwood) acted on behalf of the successful underwriters.

Shipping & Admiralty

"He is richly deserving of his leading reputation and practice. He is approachable, responsive, has an organised mind and works hard." (Chambers UK, 2021, Shipping & Commodities)

David has been involved in the full range of dry shipping disputes. He has particular experience of unsafe port claims, demurrage disputes, charterparty repudiations, termination/withdrawal/anti-technicality clauses, claims involving questions of unseaworthiness and due diligence, claims under the NYPE Inter-Club Agreement, delivery and redelivery obligations, speed and performance claims and casualties arising out of dangerous cargo incidents. David also has considerable experience of cargo claims involving the application of the Hague/Hague-Visby Rules and of General Average disputes.

He is one of the editors of *Scrutton on Charterparties and Bills of Lading* and was shortlisted for shipping junior of the year at the Legal 500 Bar Awards 2022.

Examples of cases in which David has been instructed include the following:

- **MSC Mediterranean Shipping Co SA v Stolt Tank Containers BV & ors (The "MSC FLAMINIA")** [2022] EWHC 835 (Admlty); [2022] EWHC 2746 (Admlty): David acted for the successful owners in an LMAA arbitration claim for damages of c. US\$250m arising out of the shipment of a dangerous cargo in which was led by David Bailey KC. He also acted for owners in their successful defence of the charterers' limitation action in the High Court and resisted an anti-suit injunction in connection with the enforcement of the arbitration award. He was led by Christopher Smith KC in those High Court proceedings. The Court of Appeal will hear the appeal in the limitation action in July 2023.
- David has acted in two recent charterparty disputes for owners who have been threatened with sanctions by the US government for allegedly and unwittingly carrying Iranian-origin crude oil.
- David acted with Douglas Campbell KC and Michael Ashcroft KC in the quantum phase of **Salt Ship Design AS v Prysmian Powerlink SRL** [2021] EWHC 2633 (Comm): breach of confidence and unlawful means conspiracy in relation to a ship design.
- Acted as sole counsel for the successful owners in an arbitration in which the charterers sought to argue that a charterparty had been frustrated by the consequences of the COVID-19 pandemic.

- **CVLC Three Carrier Corp v Arab Maritime Petroleum Transport Co** [2021] EWHC 551 (Comm): David acted with Steven Berry KC in this s.69 appeal concerning whether a guarantee of a charterers' obligations contained an implied term that no other further security would be sought from the guarantor.
- He acted with Steven Berry KC in a US\$100m claim involves alleged breach of sanctions clauses in six separate tanker charterparties.
- **Arauco Navigation Ltd v Rudolf A Oetker & ors (The "CCNI ARAUCO")**: David acted as sole counsel in this US\$30m charterparty dispute which arose after a dangerous cargo was loaded on to the vessel and not properly declared. Hot works were performed on the vessel near the cargo and it exploded causing massive physical damage to the vessel and economic loss. The case settled the day before trial.
- **Societa Italiana Assicurazioni e Riassicurazioni PA & ors v Golden Spring Line Pte Ltd (The "GEMINI")**: David acted with Guy Blackwood KC in this Commercial Court dispute resulting from a piratical attack on the "GEMINI". She was ultimately released by the pirates upon payment of a multi-million dollar ransom.
- In August 2017 David acted as sole counsel in a 5-day HKIAC arbitration concerning whether the condition of a bulk carrier's cranes was such as to amount to a repudiatory breach of the charterparty. David acted for the successful owners.
- David acted with Simon Croall KC in a multi-party LMAA unsafe port arbitration, where substantial losses were sustained when a vessel broke free of her moorings in adverse weather conditions causing substantial damage to the berth in Brazil. The case settled shortly before the arbitration hearing was due to commence.
- **Imperator I Maritime Co v Bunge SA (The "CORAL SEAS")** [2016] 2 Lloyd's Rep 293: David was instructed by the intermediate charterers in this section 69 appeal, which concerned an alleged breach of a continuing performance warranty where the underperformance was caused by bottom fouling arising from compliance with time charterer's orders.
- **Contecon Guayquil SA & ors v Ikaria Maritime (The "CCNI ANTARTICO")**: David was instructed with Luke Parsons KC in this substantial Admiralty Court action brought by the operators of a terminal at a port in Ecuador after the "CCNI ANTARTICO" caused damage when she berthed at excessive speed.
- David acted with Simon Croall KC for the successful charterers in a Hong Kong arbitration where damages of over US\$90m were claimed for breach of a long-term COA.
- Instructed with Sean O'Sullivan KC in a 3-week LMAA arbitration between the owners of a vessel and two sets of bareboat charterers relating to the condition of the vessel on redelivery from one bareboat charterer and delivery to the next.
- Instructed, with Simon Kverndal KC, in an LMAA arbitration where damages of c.US\$60m were sought for breach of a long-term time charter.

- David was instructed with Simon Croall KC in a substantial charterparty dispute involving the constructive total loss of a ship when calcium hypochlorite being carried on board exploded mid-voyage. The case settled before the arbitration hearing.
- **JP Klausen & Co A/S v MSC (The “SKY JUPITER”)** [2013] EWHC 3254 (Comm): Acted for the successful cargo interests in this Commercial Court claim for damage to frozen fish being carried in reefer containers from New Zealand to Germany.
- **CHS Inc Iberica SL v Far East Marine SA (The “DEVON”)** [2012] EWHC 3747 (Comm): David acted for the successful cargo interests in this claim against the owners of the “DEVON” for damage caused to a consignment of corn when the subject voyage took 59 days instead of 8 days because of a main engine breakdown. Issues considered by Mr Justice Cooke included unseaworthiness, due diligence and the obligation to proceed with reasonable dispatch.
- **Transpetrol Maritime Service Ltd v SJB (Marine Energy) BV (The “ROWAN”)**: David, led by Stephen Cogley KC, settled the application for permission to appeal to the Supreme Court from the Court of Appeal’s decision at [2012] 1 Lloyd’s Rep 564. The case concerned the proper construction of an oil majors approval clause in a voyage charter.
- **Emeraldian Limited Partnership v Wellmix Shipping Company Limited & ors (The “VINE”)** [2011] 1 Lloyd’s Rep 301: David was led by Lionel Persey KC in this demurrage / safe berth dispute and associated guarantee claim, which involved a number of conflict of laws issues and the application of Chinese law and exchange controls.

International Trade, Transport & Commodities

“He has a first-rate brain and excellent judgement, and is prodigiously hardworking, urbane and perceptive.” (Legal 500, 2021, Commodities)

David’s commodities practice encompasses all aspects of international trade and futures, including oil trading, metals and foodstuffs. He has been involved with a number of GAFTA and FOSFA arbitrations (including appeals from those arbitrations) and has acted for many substantial trading houses in both the English courts and international arbitrations. David was shortlisted as commodities junior of the year at the Legal 500 Bar Awards 2022.

Examples of cases in which David has been instructed include the following:

- Acted as sole counsel in an application under section 44(3) of the Arbitration Act 1996 in connection with a contract for the sale of carbon credits.
- **Integral Petroleum SA v Petrogat FZA & ors**: advised in relation to freezing injunction in respect of claim under section 423 of the Insolvency Act 1986. Underlying claim related to contract for the sale of medium and low sulphur fuel oil.

- Acted as sole counsel in a claim on insurers for multi-million pound losses arising out of the loss by misappropriation of grain from storage facilities in the UK.
- **Duferco SA v CVG Ferrominera Orinoco CA** [2021] EWHC 824 (Comm): David acted as sole counsel obtaining summary judgment in excess of US\$21m for breach of prepayment and export agreements concerning the supply of hot briquetted iron from Venezuela. **Associated Tobacco v Lloyds Underwriters**: David acted as sole counsel in this US\$15m claim arising out of a fire at a tobacco storage warehouse in Zambia.
- **BMCE Bank International v Phoenix Commodities & ors**: David acted as sole counsel for the bank seeking to recover a loan of US\$5m to Phoenix in this Commercial Court action. Phoenix is resisting repaying the money on the basis that the bank did not properly handle the collateral for the loan – a cargo of steel billets, which went missing in Nigeria.
- **Zurcher Kantonalbank v Vincom Commodities Ltd**: David acted for the bank seeking to recover US\$3m under various bills of exchange drawn to cover the sale of over 600mt of nickel strips. He was led by Guy Blackwood KC.
- David is currently advising and acting for a steel trader in respect of a number of claims on trade credit insurance policies, running into tens of millions of dollars, against various insurers in respect of suppliers that went insolvent.
- David acted with Graham Dunning KC in a claim was for the refund of nearly US\$50m of advance payments made for the purchase of emeralds from mines in Zambia.
- David was recently instructed with Julian Kenny KC in an LCIA arbitration over commissions claimed by brokers in respect of sales of LNG into Egypt.
- **Taurus Petroleum v State Oil Ministry of Iraq** [2016] 1 Lloyd's Rep 42: an important case concerning the extent of state immunity granted to Central Banks of oil producing countries, enforcement against debts owed under letters of credit, the proper law of letters of credit and the situs of the debt owed by the issuing bank. David recently acted with Guy Blackwood KC in relation to the appeal of this case to the Supreme Court.
- **ED&F Man Sugar Ltd v T&L Sugars Ltd & Ors**: David was instructed with Simon Rainey KC in this commodities action in the Commercial Court where it was alleged that the defendants were part of an unlawful means conspiracy to induce a third party to break its contract with the claimant for the sale of sugar.
- **Garantibank v DRUM**: David acted as sole counsel for Garantibank in this US\$6m Commercial Court claim against DRUM, who were acting as collateral managers of coal being shipped into Turkey. Vast quantities of coal went missing and the bank is suing to recover the losses suffered in the form of lost security for debts.
- **Glencore v Total Kenya Limited**: David was instructed (with Simon Croall KC) by Glencore in a Commercial Court action relating to the supply and storage of gasoil in Kenya.

Commercial Dispute Resolution

David specialises in high-profile and high-value commercial cases, arising out of widely differing commercial contracts and contexts, usually with an international aspect. His practice includes injunctive work, including freezing orders and anti-suit injunctions, and commercial fraud.

Examples of cases in which David has been instructed include the following:

- **Minister of Finance & 1MDB v IPIC & Aabar:** David was instructed with Steven Berry KC, Toby Landau KC and Peter Webster in this claim which sought to set aside an arbitration 'consent' award because of fraud relating to the award and underlying settlement deeds. The case arises from the infamous 1MDB fraud by which more than US\$3.5 billion was allegedly misappropriated from the Malaysian sovereign wealth fund.
- **Bonnier Books UK Group Holdings Limited & ors v Haysmacintyre:** acting with Huw Davies KC and Rebecca Akushie for the claimant publishing companies in a c.\$90m professional negligence claim against their former accountants.
- **STJ Investments Ltd v The Wolseley Restaurant Property Ltd:** David acted with Jeffrey Gruder KC in this dispute between the owners of The Wolseley restaurant and their landlord concerning rent in and around the period of the Covid-19 national lockdowns.
- **Advance Multi-Technology for Medical Industry & ors v Uniserve Limited & ors** [2022] EWHC 264 (Ch): David is acting with James Collins KC in this c.£40m claim in the Chancery Division related to a contract for the supply of personal protective equipment during the height of the Covid-19 pandemic.
- **Dynami SPV III Limited v Metallon Corporation Limited:** he acted as sole counsel in this claim on a guarantor of the obligations of a purchaser of a simple cycle power barge.
- **Integral Petroleum SA v Petrogat FZA & ors:** advised in relation to freezing injunction in respect of claim under section 423 of the Insolvency Act 1986.
- He is also currently acting as sole counsel in a dispute between joint venture partners about the construction and sale of a superyacht.

Energy & Natural Resources

David regularly advises and acts in energy disputes relating to drilling and exploration projects. He deals with a variety of production, transportation and processing agreement matters, as well disputes relating to energy products and energy generation. His practice encompasses trading disputes, disputes relating to off-shore structures and mining claims.

Examples of cases in which David has been instructed include the following:

- **Trafigura v Sudanese Petroleum Corporation:** David is acting as sole counsel in this US\$20m claim by Trafigura against Sudanese governmental entities for breaches of various contracts for the sale/swapping of crude oil.
- **Vitol SA v Glencore Energy:** David acted as sole counsel in this Commercial Court claim arising out of the sale of allegedly off-spec gasoil.
- **Technip Saudi Arabia v The Mediterranean & Gulf Insurance and Reinsurance Co:** he is acting with Peter MacDonald Eggers KC in this US\$31m claim on an offshore CAR insurance policy.
- **Integral Petroleum v Melars Group Limited:** David acted as sole counsel in this litigation stemming from breaches of underlying sales contracts for the sale of millions of dollars of gasoil, judgments in the BVI, LCIA arbitrations, Swiss proceedings, winding up proceedings in the English Companies Court and freezing orders made by the English Commercial Court.
- David acted with John Lockey KC in a c. US\$20m reinsurance claim concerning the theft of crude oil products from a refinery in Mohammedia.
- He acted as sole counsel in a US\$3.5m claim concerning whether a charterparty for the project vessel being used for exploration off west Africa was frustrated as a result of the COVID 19 pandemic.
- David was instructed with Julian Kenny KC in an LCIA arbitration concerning sales of LNG into Egypt.
- He acted as sole counsel in a claim for commissions allegedly earned on the sale of industrial valves used in petrochemical projects. It was referred to an ICC arbitration in Paris seat with disputes being determined under an 'equity clause'.
- David acted for the successful yard in an arbitration concerning whether an amendment to a contract for the delivery of a heavy tender assist drilling barge was procured by economic duress.
- David is currently acting as sole counsel in this US\$15m claim for damage to a cargo of gasoil which was shipped from Rotterdam to West Africa.
- David was led by Richard Southern KC in UNCITRAL arbitral proceedings between the operators of a drill ship against a state oil company.
- David acted in a heavy LCIA arbitration involving disputes under a drilling contract, which involved hundreds of allegations of defects in the rig, allegations of deceit about the condition of the rig and allegations of misrepresentation about the time required for repairs.

Shipbuilding & Offshore Construction

Much of David's work in recent years has involved shipbuilding and offshore construction disputes. He has particular experience of issues relating to deliverability, cancellation/termination, Class and Flag compliance issues, warranty claims, refund guarantees, performance bonds, and questions of illegality and economic duress in this area.

David often acts for clients at an early stage when issues first arise in the construction/delivery process and advises on the parties' rights and assists with gathering and preparing the evidence required to fight the cases to a successful conclusion.

Examples of cases in which David has been instructed include the following:

- David is currently acting as sole counsel in claims against yards under two contracts (each for in excess of US\$300m) for the construction of semi-submersible crane-accommodation vessels.
- David acted, led by Simon Croall KC, for the successful yard in an arbitration concerning whether an amendment to a contract for the delivery of a heavy tender assist drilling barge was procured by economic duress.
- David was also instructed by a yard in arbitrations relating to two shipbuilding disputes where issues arose as to the deliverability of the vessels, in particular whether the design and arrangement of the vessels' stern tube bearing was compliant with the contractual specification.
- Advising on disputes relating to four jack-up rigs where instalments have not been paid.
- David was instructed with Simon Croall KC in an arbitration where the central issue was whether a buyer was entitled to terminate a shipbuilding contract for the failure of the yard to provide evidence of SAFE registration of a refund guarantee.

Aviation

David is regularly instructed by underwriters on coverage issues arising under aviation policies. He has also acted as counsel for underwriters in a number of high-profile inquests that have followed aviation disasters, including the following:

- Appeared at the inquest into a death following amid-air collision near Leicester airport.
- Instructed to appear at the inquest into a death following a mid-air collision at Shoreham airfield and is now instructed in the High Court litigation brought by the family of the deceased.
- Instructed to appear at the inquest into two deaths at Rotherfield Greys, near Henley-on-Thames in Oxfordshire, which occurred when a bi-plane failed to recover from an aerobatic manoeuvre.

- Instructed on behalf of the North West Parachute Centre at the inquest into two deaths following a mid-air collision between two light aircraft near Blithfield Reservoir, Staffordshire.
- Instructed to appear at an inquest into two deaths following an air accident at Seething airfield, Norfolk.

David was shortlisted for aviation junior of the year at the Legal 500 Bar Awards 2022.

Banking & Financial Services

Examples of cases in which David has been instructed include the following:

- **BMCE Bank International v Phoenix Commodities & ors:** David acted as sole counsel for the bank seeking to recover a loan of US\$5m to Phoenix in this Commercial Court action. Phoenix is resisting repaying the money on the basis that the bank did not properly handle the collateral for the loan – a cargo of steel billets, which went missing in Nigeria.
- **Zurcher Kantonalbank v Vincom Commodities Ltd:** David acted for the bank seeking to recover US\$3m under various bills of exchange drawn to cover the sale of over 600mt of nickel strips. He was led by Guy Blackwood KC.
- **Garantibank v DRUM:** David acted as sole counsel for Garantibank in this US\$6m Commercial Court claim against DRUM, who were acting as collateral managers of coal being shipped into Turkey. Vast quantities of coal went missing and the bank is suing to recover the losses suffered in the form of lost security for debts.

Civil Fraud

Examples of cases in which David has been instructed include the following:

- **Minister of Finance & 1MDB v IPIC & Aabar:** David was instructed with Steven Berry KC, Toby Landau KC and Peter Webster in this s.68 claim which sought to set aside an arbitral 'consent' award because of fraud relating to the award and underlying settlement deeds. The case arises from the infamous 1MDB fraud by which more than US\$3.5 billion was allegedly misappropriated from the Malaysian sovereign wealth fund.
- **Integral Petroleum SA v Petrogat FZA & ors:** advised in relation to freezing injunction in respect of claim under section 423 of the Insolvency Act 1986. Underlying claim related to contract for the sale of medium and low sulphur fuel oil.
- **JSC BTA Bank v Solodchenko:** a case involving commercial fraud, freezing orders and sentencing for civil contempt. David acted as sole counsel settling an application for permission to appeal to the Supreme Court against the 21 month custodial sentence imposed by the Court of Appeal on Mr Kythreotis.

Education

Keble College, Oxford, 2002-2005: BA, Jurisprudence

University College London, 2005-2006: LLM

Awards

Inner Temple: Exhibition Scholarship; Frank and Burris Gahan Prize; Duke of Edinburgh Entrance Scholarship.

Memberships

COMBAR, British Insurance Law Association, London Court of International Arbitration, LMAA Supporting Member.