

Oliver Caplin

CALL: 2012

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Languages: Italian (conversational)



Overview

Oliver has a broad commercial practice which particularly focuses on international trade, jurisdiction, IP/IT, and dry-shipping disputes (including ship construction). He is ranked as a leading junior in a number of practice areas by Chambers & Partners (UK Bar), The Legal 500 (UK Bar, Asia Pacific) and Who's Who Legal.

His commercial work spans a number of different sectors, including up and downstream oil and gas, energy, pharmaceuticals, telecoms and IT, and sports. Many of his cases involve jurisdictional or other conflicts of laws issues. Oliver has developed particular experience in the area of anti-suit injunctive relief.

Oliver has a broad marine and non-marine insurance practice, including reinsurance. He is the co-author of Miller's Marine War Risks (4th Ed, Informa) published in June 2020.

He appears frequently in the Commercial Court, both as sole counsel and as a junior to a QC. Oliver has also appeared a number of times in the Court of Appeal. He regularly represents clients in arbitral proceedings (both in London and Singapore) before the LMAA, LCIA, ICC, SIAC, HKIAC, GAFTA and FOSFA, as well as related arbitration applications in the Commercial Court.

Before coming to the Bar, Oliver trained and practised as a medical doctor. As a result, he has a particular interest in commercial litigation falling within the life sciences and technology industries. His scientific training also assists more generally with technical disputes involving issues of (bio)chemistry, physics, and engineering.

Publications

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

Professional memberships

- Bar Pro Bono Unit
- Wellness for Law
- Commercial Bar Association
- Young Fraud Lawyers Association

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.

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

- *Galtrade Ltd v BP Oil International Limited* [2021] EWHC 1796 (Comm): 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* [2021] EWHC 1364 (Comm): 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).
- *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).
- *Septo Trading Inc v Tintrade Limited* [2021] EWCA Civ 718: 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* [2021] EWHC 287 (Comm): 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).
- *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.
- *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 agreed a certificate of quality was final and binding upon them on issues of quality (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 471.
- *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.
- *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).
- *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).
- *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).
- *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.
- *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.
- *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).

Shipping

- *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).
- *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).
- *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.
- *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 471.
- *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

- *Galtrade Ltd v BP Oil International Limited* [2021] EWHC 1796 (Comm): 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* [2021] EWHC 1364 (Comm): 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] EWCA Civ 718: 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* [2021] EWHC 287 (Comm): 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 agreed 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.

Construction - onshore and offshore

Oliver is frequently instructed in on and off shore construction disputes. His onshore work is mostly in the energy sector, covering traditional and renewable energy projects. His offshore work concerns sub-sea cable disputes alongside FPSO and rig construction disputes. He also advises regularly in conventional ship construction disputes, arising out of the SAJ form and others.

Recent highlights include:

- *X v Y*: US\$50 million Middle Eastern power plant construction dispute raising complex contractual construction issues concerning delay and change of scope / the meaning and construction of various variation notices.
- *A v B*: Advising the main contractor in relation to two disputes arising out of a contract for the Front End Engineering Design ("FEED") and EPCM services for (i) a monoethylene glycol plant in India and a (ii) linear low-density polyethylene plant, also in India.
- *P v J*: LMAA arbitration representing the buyer of a US\$40 million superyacht in a case concerning the alleged repudiation of the construction agreement by the Yard (led by Nigel Eaton QC).
- *C v D*: Advising an Italian shipyard over a dispute with the buyer of a superyacht in which the buyer of the yacht had become subject to the OFAC sanctions regime (in particular, the Kingpin Act), and had as a result failed to pay the full purchase price for the yacht.

Jurisdiction, conflicts and enforcement

- *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

- *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.

- *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

- *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 QC).
- 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

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](#)