

William Day

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Year Of Call: **2016**



William is a versatile junior barrister with a practice spanning all aspects of commercial litigation and arbitration. He has particular experience in commercial fraud cases, banking and finance disputes, and company law and insolvency matters. He has also acted on a number of cases raising complex jurisdiction and choice of law issues.

Ranked as a rising star in the Legal 500 for 2022 for commercial litigation, banking and finance, and insolvency, William is described as a “*star junior barrister with a brilliant ability to see the critical points in the case*”, “*fabulous*”, “*intellectually brilliant*”, “*a name to note*” for his involvement “*in a number of fraud-infused cases*”, and “*extremely switched on to technical legal issues*”.

Current and recent instructions include:

- ***Investors in Eclipse v HSBC*** (Commercial Court, ongoing) – acting for claimant group in a £1.3 billion claim in deceit, conspiracy and dishonest assistance against HSBC for its part in structuring partnerships to invest in Disney films. Led by John Jarvis QC and Matthew Collings QC.
- ***Stonegate v MS Amlin & Ors*** (Commercial Court, ongoing) – acting for UK’s largest pub owner in expedited £845 million Covid-19 business interruption insurance claim. Led by Ben Lynch QC and Adam Kramer QC. One of *The Lawyer’s* Top 20 Cases of 2022.
- ***Tillman v Lloyds Bank and Better Capital*** (Commercial Court, ongoing) – defending Lloyds Banks in £150 million claim by the former owner of the high street chain Jaeger involving allegations of conspiracy, deceit and breach of confidence arising from the circumstances of its administration. Led by Ian Wilson QC.
- ***Banco San Juan v Petroleos de Venezuela*** [2020] EWHC 2937 (Comm), [2021] 2 All ER (Comm) 590 and [2021] EWCA Civ 610 – acting for Venezuela’s state-owned oil giant in \$80 million dispute under credit agreements subject to US sanctions. Led by Ali Malek QC.
- ***Brake v The Chedington Court Estate*** [2020] EWCA Civ 1491, [2021] BusLR 577; [2020] EWHC 1810 (Ch), [2020] 4 WLR 113; [2021] EWHC 670, [2021] 4 WLR 71 and [2021] EWHC 671 (Ch); and [2021] EWHC 2308 (Ch) – acting in related bankruptcy and partnership liquidation proceedings, now appeal to the Supreme Court to be heard in 2022. Led by Andrew Sutcliffe QC.

William was previously a solicitor at Allen & Overy, where he worked on a range of commercial disputes with an emphasis on banking and finance litigation. He has also acted as a judicial assistant in the Chancery Division and has been seconded to the in-house litigation team at Credit Suisse.

Alongside practice, William is a Fellow in Law at Downing College, Cambridge (see [here](#)) where he teaches contract and commercial law to undergraduates, and lectures private law topics on the LLM. He recently edited a collection of essays to mark Lord Sumption's retirement from the Supreme Court with Professor Sarah Worthington (see [here](#)) and is currently editing a collection of essays on private international law with Professor Louise Merrett, to be published in 2023.

William has published over 40 chapters, articles, notes and reviews in books and in journals including the *Cambridge Law Journal* and the *Law Quarterly Review* on a range of commercial law subjects, which have been cited by and to the Commercial Court, Court of Appeal and Supreme Court. Most recently his published work on economic duress was praised as "excellent" by Lord Burrows in the Supreme Court's decision in *Pakistan International Airline Corp v Times Travel* [2021] UKSC 40, [2021] 3 WLR 727.

Directory Quotes

'A fabulous barrister. William is intellectually brilliant coupled with an easy manner and very approachable.'

Legal 500, 2022

'One of the best ... Will is extremely switched on to technical legal issues having come to the Bar from a Magic Circle law firm and also having academic interests.'

Legal 500, 2022

Expertise

Experience

Commercial Litigation and Arbitration

William is regularly instructed led and unled to act in a range of commercial disputes in the Commercial Court, the Chancery Division, the Commercial Circuit Court and in LCIA, ICC, SIAC and ICSID arbitrations.

Experience includes:

- **Stonegate v MS Amlin & Ors** (Commercial Court, ongoing) - acting for UK's largest pub owner in expedited £845 million Covid-19 business interruption insurance claim.
- **ICC Arbitration** (2021) - acting for leading Central European food manufacturer in £37m breach of tax warranty claim under share purchase agreement.
- **LCIA Arbitration** (2020) - acting for shareholder in well-known beverage company in private equity dispute arising from exercise of £15 million put option.
- **Winlink v Liverpool FC** [2020] EWHC 2271 (Comm) - acting for sports intermediary in

dispute over commission in respect of £15 million shirt sponsorship of Liverpool FC.

- ***Davis & Co v Alam and Alam*** [2020] EWHC 3284 (Comm) – acting for claimant seeking injunctive relief and damages arising from acquisition of accountancy business.
- ***Medenta Finance v Hitachi Capital*** [2019] EWHC 323 (Comm) and [2019] EWHC 516 (Comm) – expedited Commercial Court trial raising issues of interpretation, implication and rectification of restrictive covenants in financial brokerage agreement.
- ***ICC Arbitration*** (2019) – acting for claimant in £4 million gas field project dispute raising issues of termination, frustration, damages, and restitution for total failure of consideration.
- ***LCIA Arbitration*** (2018) – acting for claimant in £9 million claim for breach of restrictive covenants in SPA for digital marketing company.

Commercial Fraud

William has a wide-ranging experience of commercial fraud cases, including acting in a number of applications for freezing and prohibitory injunctions and search orders.

Experience includes:

- ***Investors in Eclipse v HSBC*** (Commercial Court, ongoing) – acting for claimant group in a £1.3 billion claim in deceit, conspiracy and dishonest assistance against HSBC for its part in structuring partnerships to invest in Disney films.
- ***Manek v IIFL Wealth & Ors*** (Commercial Court, ongoing) – acting for UK branch of Indian financial services company defending £20 million claim relating to sale of Indian payments company Hermes to Wirecard.
- ***Aggreko v Sumitomo Mitsui Banking Corp & Ors*** (Commercial Court, 2020, unreported, but see [press here](#)) – acted for claimant in \$37 million claim against a Yemeni electricity company. Injunctive relief obtained preventing payment out under fraudulent call on performance bonds in support of DIFC-LCIA arbitral proceedings.
- ***CMOC Sales and Marketing v Persons Unknown*** [2018] EWHC 2230 (Comm) – as a pupil assisting Philip Hinks, in claim in conspiracy and knowing receipt claim by corporate victim of \$10million cyber fraud against persons unknown

Banking, Finance & Financial Services

Banking and finance litigation, and financial services disputes, are central to William's practice, having specialised in this area as a solicitor at Allen & Overy. He has been seconded to the in-house litigation team at an investment bank. In addition to his led work in the High Court, he regularly appears in the County Court for high street banks including Deutsche Bank, RBS, NatWest, Lloyds, Barclays, Santander and HSBC in retail and commercial banking cases. He is also instructed by the Financial Conduct Authority on contentious financial services matters.

Other experience includes:

- ***Tillman v Lloyds Bank and Better Capital*** (Commercial Court, ongoing) – defending Lloyds Banks in £150 million by the former owner of the high street chain Jaeger involving allegations of conspiracy, deceit and breach of confidence arising from the circumstances of its administration.

- ***Bankserve v Deutsche Bank*** (Commercial Court, ongoing) - acting for Deutsche Bank defending claim from insurer broker seeking commission from role in settlement of dispute under asset finance agreements with prominent Greek shipowner.
- ***Banco San Juan v Petroleos de Venezuela*** [2020] EWHC 2937 (Comm), [2021] 2 All ER (Comm) 590 and [2021] EWCA Civ 610 - acting for Venezuela's state-owned oil giant in \$80 million dispute under credit agreements affected by US sanctions.
- ***Financial Conduct Authority v 24HR Trading Academy*** [2020] EWHC 1455 (Ch) and [2021] EWHC 648 (Ch) - acting for the FCA in claim for breach of the general prohibition based on unauthorised investment advice and investment arrangements, including obtaining ex parte a freezing order.
- ***Credit Suisse Asset Management v Titan 2006-1*** [2016] EWHC 969 (Ch) and [2016] EWCA 1293 - at Allen & Overy, acting for defendant cash manager and agent bank in securitisation note dispute.
- ***Metlife v JP Morgan Chase Bank*** [2015] EWHC 463 (Comm) and [2016] EWCA Civ 1248 - at Allen & Overy, acting for the defendant bank in dispute over inflation-linked bonds.

Company and Insolvency Law

William's experience encompasses liquidations, administrations and personal bankruptcies, including applications to reverse transactions at an undervalue, to restore companies to the register at Companies House, and to access a company's register of members.

William has been instructed to appear for petitioners and respondents in bankruptcy and winding up petitions, both at final hearings and in seeking injunctive relief to restrain presentation of petitions.

Other recent instructions include:

- ***Re Harrington and Charles Co Ltd*** [2021] EWHC 1566 (Ch) - acting for an investment bank in a USD 774m multi-jurisdictional asset tracing exercise through UK shell companies in liquidation/dissolution.
- ***Brake v The Chedington Court Estate*** [2020] EWCA Civ 1491, [2021] BusLR 577; [2020] EWHC 1810 (Ch), [2020] 4 WLR 113; [2021] EWHC 670, [2021] 4 WLR 71 and [2021] EWHC 671; and [2021] EWHC 2308 (Ch) - acting in related bankruptcy and partnership liquidation proceedings, now leading authorities on standing to make insolvency applications, on section 283A of the Insolvency Act 1986, on unfair prejudice in the context of standalone moratoriums, and on rights of confidence/privacy in the insolvency context. Now on appeal to the Supreme Court.
- ***Re Core VCT plc (in liquidation)*** [2020] EWCA Civ 1207, [2021] PNLR 10 and [2019] EWHC 540 (Ch) and [2019] EWHC 701 (Ch) - acting for liquidators of private equity funds resisting an application for removal from office, and obtaining information and documents from third parties under section 234 to 236 of the Insolvency Act 1986. Now the leading authority on members' voluntary liquidations.
- ***Re Mediterranean Insurance and Reinsurance Ltd (in administration)*** (2019-2021) - acting for administrators of an insolvent insurance undertaking seeking court directions to make distributions to creditors, and move into liquidation.
- ***Re Asia Resource Minerals plc*** (PS/2015/15) - at Allen & Overy, acting for an investment bank in respect of Takeover Panel proceedings over a concert party reverse takeover.

Conflict of Laws

William has a particular interest in the conflict of laws. He won the John Morris Prize for best performance in the subject in his postgraduate studies at Oxford, and has also published on topical jurisdiction and choice of law issues. Experience includes:

- ***Banco San Juan v Petroleos de Venezuela*** [2020] EWHC 2937 (Comm), [2021] 2 All ER (Comm) 590 and [2021] EWCA Civ 610 - acting for Venezuela's state-owned oil giant in \$80 million dispute about the effect of foreign law illegality at common law (the 'Ralli Bros' rule) and under the Rome I Regulation on English law credit agreements.
- ***Anon*** (2020) - advising international auction house on potential liability regarding artwork allegedly stolen by the Nazis in the Second World War, raising issues of applicable law for liability and limitation for conversion, negligence and breach of contractual terms.
- ***SIAC Arbitration*** (2018) - acting on an arbitration concerning issues of proof of foreign law and recognition of foreign judgments.
- ***Marme Inversiones v RBS & Ors*** [2016] EWHC 1570 (Comm) - at Allen & Overy, acting for the second to fifth defendants in jurisdiction challenge involving *lis pendens* and interface between the Brussels Regulation and the Insolvency Regulation.
- ***Plaza v Law Debenture*** [2015] EWHC 43 (Ch) - as judicial assistant to Proudman J, a jurisdiction challenge involving reflexive effect of provisions of the Brussels Regulation.

Publications

William recently edited, with Professor Sarah Worthington, *Challenging Private Law* (Hart 2020), a collection of essays to mark Lord Sumption's retirement from the Supreme Court (see [here](#)). William contributed chapters on contract variation and waiver and proprietary restitution.

William is also under contract to write a book on commercial law in the *Key Ideas in Law* series, and is editing a collection on private international law with Professor Louise Merrett, both due to be published in 2023.

A selection of recent publications include:

- 'Recent travails of fraudulent misrepresentation' [2021] LMCLQ 636
- 'Disproportionate Penalties in Commercial Contracts' in P Davies and M Raczynska (eds), *The Contents of Commercial Contracts: Terms Affecting Freedoms* (Hart, 2020)
- 'Contracts, illegality and comity: Ralli Bros revisited' (2020) 79 CLJ 64
- 'Risks on the contract/unjust enrichment borderline' (2020) 136 LQR 349 (with Professor Graham Virgo)
- 'Lawful act duress', 'Lawful act duress (again)' and 'Duress and uncertainty' (2018) 134 LQR 5, (2020) 135 LQR 7 and (2022) 137 LQR forthcoming (the former two with Professor Paul Davies)
- 'Jurisdictional Gateways in the CPR' (2018) 77 CLJ 36
- "'At the expense of" in unjust enrichment: causal, direct or intentional transfers of value?' [2017] LMCLQ 588

William has published over 40 articles, notes and reviews and his fuller publication record can be

found on Downing College's website, where he is a Fellow in Law alongside practice (see [here](#)).

Education

BCL, Trinity College, Oxford (Distinction)

John Morris Prize in the Conflict of Laws; 3 Verulam Buildings Prize for Legal Concepts in Financial Law

MA (Law), Downing College, Cambridge (Double First)

Platt Prize for Especial Distinction in University Examinations (graduating in the top 2.5% of the class list); Senior Jarvis Scholar, Foundation Scholar; Harris Scholar; Rebecca Flower Squire Scholarship

BA (History), St Cuthbert's Society, Durham (First)

Gibson Prize in History; Norton Burns Prize for Outstanding Academic Achievement

Professional Memberships

Chancery Bar Association

Commercial Bar Association

Commercial Fraud Lawyers Association

Financial Services Lawyers Association

Inner Temple

London Court of International Arbitration

Society of Legal Scholars