

OUR PEOPLE

Shail Patel

CALL 2006

LEGAL 500

“An innovative thinker, who brings a fresh insight to any case.”



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Shail Patel is a commercial litigator with a particular focus on financial services, fraud, insurance, professional liability work and costs. He also advises in regulatory and disciplinary investigations and enforcement proceedings. He was shortlisted for Financial Services and Insurance Junior of the Year in the Legal 500 Bar Awards 2022 and for Professional Negligence Junior of the year in the Chambers & Partners Bar Awards 2020.

Shail prides himself on being able to quickly identify the heart of a dispute and provide practical and commercial advice leading to its resolution. He is an experienced and tenacious advocate who will go the extra mile for his clients.

His commercial caseload spans multi-jurisdictional disputes in court and arbitration proceedings. It includes corporate and shareholder disputes and claims against officers, trustees and recipients of funds, particularly where those claims have an off-shore element. He is a leading specialist in securities actions under s.90 and s.90A of FSMA and has been instructed in 10 separate actions including Tesco, RBS and other confidential matters. He is also experienced at obtaining and defending applications for urgent injunctive relief, including freezing, evidence preservation and *Norwich Pharmacal* orders.

Shail is registered to practice in the Courts of the DIFC.

See the 'Areas of Expertise' below for more details of Shail's experience and practice areas.

Recent Highlights

Directories

Shail is ranked as a leading junior by the directories in Commercial Litigation, Financial Services, Insurance, Professional Negligence and Costs.

“Shail is a genius in the courtroom. He gets stuck in as part of the team and gives very clear and excellent advice.” – *Legal 500, 2023*

“Shail is a fantastic barrister who provides consistently commercial advice.” “Shail’s written work is really of a very high quality.” – *Chambers & Partners, 2023*

“A top-notch junior. A star in the making. Incredibly smooth with the most difficult judges.” – *Legal 500, 2022*

“An extremely analytical, diligent and hard-working junior. He is one of the brightest talents for the future.” – Legal 500, 2022

“Extremely good on his feet, cost effective and commercial. The go-to counsel for non-standard matters that need commercial and technical input.” – Legal 500, 2022

“Shail is commercial, highly efficient and responsive with superb attention to detail.” “He is an excellent tactician and thinks outside the box. His written work is excellent and his advocacy is very persuasive.” – Chambers & Partners, 2022

“Very calm, articulate, clever and has a good client manner. He is our first choice senior junior counsel for professional negligence cases.” – Legal 500, 2022

“Extremely good: he’s persuasive and succinct.” “A go-to barrister for professional negligence because of his manner and technical excellence.” – Chambers & Partners, 2022

“Superb on costs issues and incredibly quick on the uptake.” – Legal 500, 2022

“Shail is a star. He is really easy to work with, he turns around matters quickly, has a great way of explaining challenging concepts to clients and assisting them to assess risk in a pragmatic and commercial way.” – Legal 500, 2021

“Fantastically approachable and commercial – the go-to barrister for legal issues of a quirky nature.” – Legal 500, 2021

“He has phenomenal attention to detail and beautifully crafts his pleaded case. He is responsive and collaborative, and takes initiative to improve our clients’ position.” – Legal 500, 2021

“Strong comprehensive knowledge and capacity to see the bigger picture. Responsive and precise in his advice.” – Legal 500, 2021

“He’s very bright and very quick to get to the key nuggets of a matter. He’s also very user-friendly and happy to bounce ideas around and fields queries well.” “He’s a go-to counsel for the more interesting and intellectually taxing matters. Shail is fantastically versatile.” “Technically very able, very hard-working and very good on his feet. He’s excellent.” – Chambers & Partners, 2021

“He’s an expert in professional negligence and very approachable to clients.” “He is very knowledgeable and practical.” – Chambers & Partners, 2021

“Leaves no stone unturned, an excellent trial lawyer.” “Always brings a fresh perspective.” – Legal 500, 2019

“Very commercial, bright, personable and user-friendly.” “Calm, assured and confident.” – Chambers & Partners, 2019

“He is incisive and has a nice manner. I can see him becoming a leader in the field.” “He is very bright, user-friendly, and great on technical detail.” – Chambers & Partners, 2019

Recent Reported Cases

Bank of Baroda v Maniar [2019] EWHC 2463 (Comm)

Successfully defending a bank’s claim on personal guarantees at trial, in a dispute involving a number of involved European cross border insolvency law and conflicts of law issues, in relation to the effect of the Irish law Examinership and Debt Settlement Agreement insolvency processes on English law bank guarantees. A full analysis can be found [here](#).

Orb and ors v Fiddler and Anciano [2016] EWHC 361 (Comm)

Shail acted for a respondent to an unusual *Norwich Pharmacal* and evidence preservation order made in the context of substantial commercial court litigation. Shail (with Patrick Lawrence QC) acted on the successful application to discharge the injunction, which was set aside as an abuse of process and for significant material non-disclosures. The Judgment of Popplewell J considers the correct approach to the question of the purpose for which *Norwich Pharmacal’s* information is to be used.

E.Surv Limited v Goldsmith Williams Solicitors [2014] EWHC 1104 (Ch); [2015] EWCA Civ 1147

Shail was the sole advocate at trial and led by Ben Hubble QC in the Court of Appeal in this claim brought by valuers against solicitors under the Contribution Act. The case raised an important point of construction of a conveyancing solicitors' retainer under the CML Handbook and Solicitors' Practice Rules. The trial judge, upheld by the Court of Appeal, held that the duty imported by *Mortgage Express v Bowerman* [1996] 1 PNLR 62 was not excluded by the terms of the retainer, and the defendant was therefore in breach of duty for failing to report the prior purchase price of the security property to its lender client.

Mathiesen v Clintons [2013] EWHC 3056

Acting for the Defendant West End firm of solicitors in successfully defending a £15m claim arising out of the drafting of a shareholders agreement. The case involved allegations of dishonesty against the solicitors involved (which were rejected by the Court) and other legal and factual complexities. Acting with Michael Soole QC and Jamie Smith.

Yeates v Aviva Insurance plc [2012] EWCA Civ 634

Shail appeared as counsel for Aviva in the Court of Appeal successfully resisting the Claimant's application for an extension of time for appeal. The Court of Appeal accepted Aviva's submissions that the Claimant had not been candid in the presentation of his application and laid down a principle that a misstatement to the court when applying for an extension would "almost inevitably lead the court to decline to exercise its discretion in favour of a would be appellant regardless of the merits of an appeal".

Adams & ors v Ford & Ors [2012] EWCA Civ 544; [2012] All ER (D) 137

Shail appeared with Graham Chapman for the respondents before the Court of Appeal, successfully resisting an appeal relating to authority to issue claim forms and abuse of process. The appeal raised a novel procedural dilemma concerning proceedings issued without authority. See the 'News' section for further details.

Brown & Ors v InnovatorOne plc and Ors [2012] EWHC 1321

From Autumn 2008 until the conclusion of the 18 week trial in February 2012 Shail acted as junior counsel for the Claimants in *Brown v InnovatorOne and Ors*, a c. £50m claim involving complex tax avoidance schemes and allegations of fraud against individuals and professional advisers, led by John Powell QC and Graham Chapman. Over that period Shail gained unparalleled hands-on experience in all aspects of running complex commercial court proceedings from start to finish.

The issues arising in *Innovator* included breach of trust, dishonest assistance, conspiracy, insurance and coverage points, and causes of action under the Financial Services and Markets Act 2000, as well as a large number of procedural and satellite matters. Shail has appeared in the following *Innovator* related decisions:-

- [2011] EWHC 3321 (Comm) – on mid-trial amendments to statements of case; cited at White Book vol. 1: note 17.3.7
- *Bjorn Stiedl v Enyo Law LLP* [2011] EWHC 2649 (Comm) – where a defendant in the action applied to injunct the Claimants' solicitors from acting; cited at White Book vol. 1, note 31.3.27 (where Shail appeared at the earlier hearing before Walker J).
- [2008] EWHC 1376 (Comm) – the first reported decision on the correct interpretation of CPR 6.15, cited at White Book vol. 1 note 6.15.3 (on substituted service)
- Further interim applications and hearings: [2011] EWHC 119 (Comm), [2011] EWHC 215 (Comm), [2010] EWHC 2281 (Comm), [2009] EWHC 2905 (Comm), [2009] EWHC 1376 (Comm).

Dominic Adams v Stewart Ford, Keydata Investments Services Ltd & Ors.

Shail was instructed with Graham Chapman for over 100 Claimant investors in technology based tax mitigation investment schemes, appearing in:

- [2012] EWCA Civ 544; [2012] All ER (D) 137 (Court of Appeal, abuse of process/strikeout)
- [2011] EWHC 3412 (Comm); stay of proceedings
- [2011] EWHC 2101 (Comm); abuse of process/strikeout

Shail acted for the vendor bridging finance provider in *Wickens v Cheval Property Developments Ltd* [2011] 1 P & C.R. DG9, (2010) 154 (35) SJLB 30; [2010] EWHC 2249 (Ch), a leading case on the meaning of the Law Society's Standard Conditions of Sale. The dispute concerned the sale of a £1.3m stately home, issues of construction and allegations of deceit.

Privacy Policy

Click here for a [Privacy Policy](#) for Shail Patel.

Expertise

Commercial Dispute Resolution

“Shail is a great barrister and very user friendly. He gets stuck in as part of the team and gives very clear and excellent advice.”
– *Legal 500, 2023*

“A top-notch junior. A star in the making. Incredibly smooth with the most difficult judges.” – *Legal 500, 2022*

“Excellent – he has a very calm style which is helpful when dealing with complex issues.” – *Legal 500, 2020*

“Leaves no stone unturned, an excellent trial lawyer.” – *Legal 500, 2019*

Shail is recognised by the Legal 500 as a Leading Commercial Litigation Junior. Shail is regularly instructed by leading City firms in complex matters encompassing all areas of domestic and international commercial dispute resolution. He is accredited to appear in the DIFC. Shail's practice includes:-

- Contractual disputes including the sale and supply of goods and services
- Civil fraud and asset tracing
- Injunctive relief including freezing injunctions and *Norwich Pharmacal* orders as well as evidence seizure and preservation orders
- Company disputes, unfair prejudice proceedings, breach of warranty/covenant/SPA claims, partnership and shareholder disputes and claims against directors.
- Banking and financial services, especially claims involving a FSMA angle (see Shail's financial services regulation profile)
- Claims with an international dimension giving rise to jurisdictional disputes, applications for service out, and choice of law problems

Featured Commercial Dispute Resolution cases

- DIFC banking dispute; Acting for the defendant in a US\$16m banking claim in the Courts of the DIFC
- Football Agents Claims; Acting for defendants in a conspiracy and secret commission claim brought by investors in the Ingenious film schemes
- Pharma Co. Buyer v Seller 2017; Acting for the sellers in a £20m fraud and breach of warranty/SPA claim arising from the sale of a pharmaceutical manufacturing company
- NHSE v SRCL 2017; Acting for the NHS in a multi £m contractual dispute with a supplier of waste disposal services across the country.
- X Bank v Y Outsourcing Co.; Acting for a major supplier to a high street bank in an outsourcing dispute heard in secret and involving an unprecedented mandatory injunction application in the High Court, with a £60m SPA/warranty claim in the wings.
- Melbury Road v Cornet; Shail (with Patrick Lawrence QC) acted for the successful claimant in a two week trial in June 2016 to establish the true ownership of a £15m property in Holland Park.
- Orb and Ors. v Fiddler and Ancian [2016] EWHC 361 (COMM); Shail acted for a respondent to an unusual Norwich Pharmacal and evidence preservation order made in the context of substantial commercial court litigation. Shail acted on the successful application to discharge the injunction, which was set aside as an abuse of process and for significant material non-disclosures. The [Judgment of Popplewell J](#) considers the correct approach to the question of the purpose for which Norwich Pharmacal information is to be used.
- Pyrrho Investments Ltd v MWB Property, Balfour Lynn & Ors [2016] EWHC 256 (CH); Acting (with Graham Chapman QC)

for a former director of a major property business in a £20m+ claim by a Hong Kong private equity fund for misrepresentation, breaches of fiduciary duty and secret profits. The case has given rise to the **leading authority** on predictive coding.

- *Bengough v OBAR Camden & Ors*; Shail acted for the petitioner in heavy unfair prejudice proceedings in the Companies Court regarding a well known London nightclub, successfully obtaining an unusual form of interim injunction against the Respondent to preserve the value of the business.
- *Patel v Barrowfen and others*; Acting in a highly acrimonious shareholders' dispute involving a substantial family owned commodities and property conglomerate. In the English Companies Court proceedings the claimants (instructing Shail) alleged forgery of company documents by the defendants and faced counterclaims regarding the claimants' commercial conduct in businesses in Malaysia and the Far East.
- *AAI and others v Financial Conduct Authority and PWC*; Acting for PWC in a £600m claim brought by an assignee of the former MD of Keydata Investment Services (a substantial asset management company) arising out of the withdrawal of its regulatory permissions by the FCA. The claim involved serious allegations of breach of duty, conspiracy and misfeasance against the defendants and raised complex issues of privilege and the financial regulatory framework.
- *Connaught Income Fund v Capita and Blue Gate*; Acting with John Powell QC and Graeme McPherson QC for Capital Financial Managers Ltd in a £100m Comm Ct. claim against the promoter and operator of an investment fund specialising in bridging finance. The claimant alleged unlawful promotion of the scheme as a matter of the proper construction of FSMA 2000 and relevant SIs, and that the promotional documents were misleading. There were a large number of complex technical, procedural and factual issues arising.
- *Various Investors v Tesco plc*; Advising institutional investors in relation to potential claims worth several hundred million US\$ under s.90A of FSMA against Tesco plc arising out of the £260m 'black hole' in Tesco's accounts announced in 2014.
- *Shetty v Al Rushaid Petroleum Investment Company & Ors*; Fraud by directors on a Saudi oil/gas conglomerate by taking secret commissions through offshore financial structures as found by Floyd J ([2013] EWHC 1152). Shail (with Justin Fenwick QC) obtained a worldwide freezing injunction against the defendants and has since appeared at five separate return dates (as sole counsel), successfully retaining and extended the injunction and obtaining information disclosure orders.
- *Noorgat v Manning & Co and others*; Shail acted as sole counsel for individuals who had lost purchase monies for their new home by paying them to fraudsters masquerading as the seller's solicitors. Shail successfully obtained an unusual form of freezing injunction against the ascertained assets of unascertained defendants and *Norwich Pharmacal* relief from Burton J, and acted subsequently in seeking to trace and enforce against the misappropriated funds.
- *Hawksford Trust v Stella UK Ltd*; Junior counsel for defendant, a substantial travel group. The £35m claim alleged breaches of a sale and purchase agreement and mismanagement of the company sold by C to D. The case raised complex factual issues (including transfer pricing and accounting matters) and constructions points, and was been subject of a rectification decision (Ch. D) and two appeals to the CA.
- *Central Bank of Trinidad and Tobago and Colonial Life Insurance Company Ltd v Duprey, Monteil & Ors*; Acting on counsel team for Claimants in claims totalling several hundred million USD against the former management and shareholders of the Trinidadian national life assurance company following its nationalisation but the Trinidad government. Claimants alleged misappropriation of assets and policyholder funds as well as financial mismanagement and unauthorised investment.
- *Whessoe Oil & Gas and Cleveland Bridge UK v Dale*; Acting for the Claimant oil/gas and construction/manufacture companies in claims pleaded at over £50m, alleging malfeasance and financial irregularities against former management of a liquefied natural gas project, and responding to counterclaims. Settled at trial, led by Justin Fenwick QC.
- *Brown v InnovatorOne and Ors*; From Autumn 2008 until the conclusion of the 18 week trial in February 2012 Shail acted as junior counsel for the Claimants in *Brown v InnovatorOne and Ors*, a c. £50m claim involving complex tax avoidance schemes and allegations of fraud against individuals and professional advisers, led by John Powell QC and Graham Chapman. Over that period Shail gained unparalleled hands-on experience on all aspects of running complex commercial court proceedings from start to finish. The issues arising in *Innovator* included breach of trust, dishonest assistance, conspiracy, insurance and coverage points, and causes of action under the Financial Services and Markets Act 2000, as well as a large number of procedural and satellite matters. Shail has appeared in the following *Innovator* related decisions:-
 - [2011] EWHC 3321 (Comm) – on mid-trial amendments to statements of case; cited at White Book vol. 1: note 17.3.7
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 - Further interim applications and hearings: [2011] EWHC 119 (Comm), [2011] EWHC 215 (Comm), [2010] EWHC 2281 (Comm), [2009] EWHC 2905 (Comm), [2009] EWHC 1376 (Comm).
- *Wickens v Cheval Property Developments Ltd* [2010] EWHC 2249 (CH); Acting for the vendor bridging finance provider in a dispute over the £1.3m sale of a stately home, involving issues of construction of the Standard Conditions of Sale and

allegations of deceit.

- *Hayes v Somerfield Stores Ltd* (UNREP. 27 MARCH 2009); Appeared with Sue Carr QC for the supermarket to defend a £2.7m claim brought by one of its former retail partners. Somerfield's written submissions were described by the High Court as "*scholarly, comprehensive and fair*".

Financial Services Regulation

"Shail is a very intelligent and thorough counsel with a real ability to give clients clear commercial advice. A pleasure to work with, responsive and creative in his approach." – *Legal 500, 2023*

"An extremely analytical, diligent and hard-working junior. He is one of the brightest talents for the future." – *Legal 500, 2022*

"Excellent – confident in the delivery of his views but has a collaborative and open style." – *Legal 500, 2020*

A substantial part of Shail's case load involves litigation with a financial services, and financial services regulation aspect. He also has a significant advisory practice on FSMA related matters.

Shail's experience in this area includes:

- Acting for regulated firms and individuals in enforcement actions brought by the FCA
- Acting in a number of the most important cases involving Collective Investment Schemes in recent years, including Innovator, Keydata, Connaught, Africa Land, Ingenious, Scion, and others.
- Mis-selling claims for and against advisers, product providers and promoters, including in respect of complex structured products and Collective Investment Schemes.
- Shareholder claims under s.90 and s.90A of FSMA 2000, including Tesco and the RBS Rights Issue Litigation.
- Advising on perimeter issues in various sectors, including Collective Investment Schemes, regulated insurance business and derivatives trades.

Featured Financial Services Regulation cases

- *RBS Rights Issues Litigation*; Acting for a group of institutional investors in this securities class action against RBS
- *FCA v Fund Manager 2017*; Acting for an authorised fund manager in a substantial penalty and redress claim brought by the FCA in the RDC.
- *Connaught Income Fund v Capita and Blue Gate*; Acting with John Powell QC and Graeme McPherson QC for Capital Financial Managers Ltd in a £100m Comm Ct. claim against the promoter and operator of an investment fund specialising in bridging finance. The claimant alleged unlawful promotion of the scheme as a matter of the proper construction of FSMA 2000 and relevant SIs, and that the promotional documents were misleading. There were a large number of complex technical, procedural and factual issues arising.
- *Various Investors v Tesco plc*; Advising institutional investors in relation to potential claims worth several hundred million US\$ under s.90A of FSMA against Tesco plc arising out of the £260m 'black hole' in Tesco's accounts announced in 2014.
- *Financial Conduct Authority v Waygood and others*; Shail acted as sole counsel for a defendant in this multiparty action for damages and an injunction brought by the FCA against various individuals said to have run and profited from unlawful collective investment schemes. The case raised many complex issues under FSMA (a number of which were determining in the Court of Appeal ([2015] EWCA Civ 284).
- *Roughton International v Clydesdale and National Bank of Australia*; Acting as sole counsel for an international engineering firm which purchased a complex foreign exchange rate structured derivative from the bank.
- *Adams & Ors v Ford & Ors* [2012] EWCA Civ 544; [2012] ALL ER (D) 137; Shail appeared with Graham Chapman for the respondents in the Court of Appeal, successfully resisting an appeal relating to authority to issue claim forms and abuse of process. The **appeal** raised a novel procedural dilemma concerning proceedings issued without authority.

Costs

"Shail is a genius in the courtroom. He gets stuck in as part of the team and gives very clear and excellent advice." – *Legal 500, 2023*

“Superb on costs issues and incredibly quick on the uptake.” – *Legal 500, 2022*

“Masters the detail of costs cases without losing sight of the commercial purpose.” – *Legal 500, 2020*

“Always brings a fresh perspective.” – *Legal 500, 2019*

“Impressive on his feet.” – *Legal 500, 2017*

Recognised as a Leading Costs Junior by the Legal 500, Shail has a thriving practice in the field of costs. He regularly appears in the SCCO and related appeals and advises on the interpretation of costs rules, and funding agreements. He also drafts and settles fresh and remedial retainer documentation, including CFAs and DBAs.

Shail's commercial practice complements his costs work. He has been instructed on costs aspects of major pieces of High Court litigation and group actions, for example, the Mau Mau litigation, In Amenas Oil Refinery litigation, bank swap mis-selling claims and redress schemes.

Featured Costs & Litigation Funding cases

- *Dial Partners v Easter Airlines* [2018] EWHC B1 (COSTS); Acting for the paying party in this groundbreaking **decision** regarding the late stage cancellation and replacement of a Damages Based Agreement with a CFA.
- *Caldero v Beppler and Jacobson, Lazurenko and others*; Instructed as costs counsel for the respondent and various companies and is involved in advising on and coordinating strategy on numerous sets of detailed assessment proceedings arising out of a series of high profile High Court judgments in this long running oligarch litigation involving TNK-BP (Russia's third largest oil producer) and the respondent.
- *Various Claimants v Barclays Bank plc*; Instructed with Nick Bacon QC for the bank in respect of its strategy to manage the costs of Interest Rate Hedging Product claims settled via the FSA Settlement structure.
- *Langstone v Willers*; Shail was instructed with Nicholas Bacon QC in this £3.5m detailed assessment. The assessment took place over 12 days and raised a number of preliminary issues with cross examination of witnesses, including novel issues relating to the assignment of a right to costs and variation of funding agreements.
- *Roger v Bala*; Acting for the defendant dentist and dental insurer in a long running detailed assessment of a £260k bill, culminating in three days of appeal before HHJ Wood QC where Shail succeeded on various points of principle relating to 'alternative means of funding' with the result that all of the claimant's additional liabilities were disallowed.
- *Clients of Rapid Solicitors v Various*; Shail acted for a medical insurer defending costs claims progressed by this well known claimant personal injury firm in the North East. The costs cases attracted widespread press coverage given the very substantial bills of costs presented by claimants in comparison to the amount of damages recovered.
- *Derwent Holdings v Pannone*; Shail acted for a commercial client against its former solicitors in applications for their time records for the purposes of enforcing costs orders. The case raised various issues surrounding delay in issuing costs proceedings and the documentation a former client is entitled to.
- *Heard v Sesame*; Shail appeared for a firm of financial advisers at a detailed assessment hearing of costs against them. The dispute raised complex issues in relation to recoverability of ATE premiums and other points of principle.

Professional Liability

Shortlisted for the 'Professional Negligence Junior of the Year' 2020 award by Chambers & Partners UK.

“Shail can explain complex things clearly and simply, and always has commercial tactics in mind, thinking one step ahead.” “He has a clear and measured advocacy style that wins favour with judges. Very user-friendly and a real asset to the team.” – *Chambers & Partners, 2023*

“Very good on the technical side, with the level of rigour on the details that you would expect. Works very well as part of a team, and is excellent with clients. A measured advocacy style, Shail's ability to adapt his approach to reflect the difference preferences of the Bench is impressive.” – *Legal 500, 2023*

“Very calm, articulate, clever and has a good client manner. He is our first choice senior junior counsel for professional negligence cases.” – *Legal 500, 2022*

“Extremely good: he's persuasive and succinct.” “A go-to barrister for professional negligence because of his manner and technical excellence.” – *Chambers & Partners, 2022*

“He has a tremendous ability to absorb a huge amount of detail and to bring it together in an incredibly concise and articulate manner.” – *Legal 500, 2020*

“He asks the right questions and really gets involved in achieving the desired result.” “He is approachable and easy to work with, and gives sound commercial advice on group actions.” – *Chambers & Partners, 2020*

“He is incisive and has a nice manner. I can see him becoming a leader in the field.” “He is very bright, user-friendly, and great on technical detail.” – *Chambers & Partners, 2019*

“Impressive” – *Legal 500, 2019*

“He is smart, technically very good and provides watertight advice. He is also very good with clients.” “Very intelligent, switched-on and on the ball commercially.” – *Chambers & Partners, 2018*

Shail acts for claimants and defendants in claims involving solicitors, surveyors/valuers, accountants, financial services professionals, insurance brokers, pensions trustees, construction professionals and others. He is regularly instructed in high profile professional liability disputes both on his own and with a team. Recent example cases are listed below.

Shail is co-editor (with David Halpern QC) of the “Accountants” chapter in *Jackson & Powell on Professional Liability* (7th ed.)

Featured Professional Negligence cases

- *Stirling Mortimer (Commercial Ct) 2017*; Acting for defendant accountants in a £50m+ conspiracy and negligence claim arising out of a massive fraud on an offshore property fund.
- *Ingenious Film Litigation 2017*; Acting for accountants in substantial group litigation arising from the failure of film and game tax schemes.
- *Babb v Montpelier Pension Trustees 2016*; Acting for SIPP administrators in a claim by a former premiership footballer in relation to alleged unlawful pensions distributions and transactions.
- *Richard Worth v Tymar Associates 2016*; Acting for the claimant in a claim against accountants for failing to spot a £2m+ fraud on a residential letting business
- *Trehan v Liverpool Victoria and Asons Solicitors 2017*; Successfully defending solicitors against allegations of forgery in relation to a large number of court documents.
- *Esurv v Goldsmith Williams [2014] PNLR 25; [2014] EWHC 1104 (CH); [2015] EWCA CIV 1147*; Acting at trial and in the CA in this landmark decision regarding the Bowerman duty and the CML Handbook.
- *Mathiesen v Clintons (A Firm) [2013] EWHC 3056 (CH)*; Successfully defending solicitors in a 2 week trial in a case raising many issues in relation to solicitors’ duties.

Insurance & Reinsurance

“Shail is a fantastic barrister who provides consistently commercial advice.” “Shail’s written work is really of a very high quality.” “He’s very accessible, he doesn’t overdo the formality and he comes across well in front of clients.” – *Chambers & Partners, 2023*

“Shail is a very intelligent and thorough counsel with a real ability to give clients clear commercial advice. A pleasure to work with, responsive and creative in his approach.” – *Legal 500, 2023*

“Extremely good on his feet, cost effective and commercial. The go-to counsel for non-standard matters that need commercial and technical input.” – *Legal 500, 2022*

“Shail is commercial, highly efficient and responsive with superb attention to detail.” “He is an excellent tactician and thinks outside the box. His written work is excellent and his advocacy is very persuasive.” – *Chambers & Partners, 2022*

“He is excellent on his feet and very responsive.” – *Legal 500, 2020*

“Absolutely fantastic.” “Very user-friendly and great getting to grips with very complex matters.” – *Chambers & Partners, 2020*

“Very commercial, bright, personable and user-friendly.” “Calm, assured and confident.” – *Chambers & Partners, 2019*

Recognised as a leading insurance junior, Shail has experience of a wide range of insurance and reinsurance disputes including:-

- Advising and acting on policy wording/coverage matters
- Advising in disputes between insurers, including those arising out of the successor practice provisions of the solicitors' Minimum Terms and Conditions.
- Pursuit of fraudulent insurance claimants
- Subrogated recovery claims for property damage, product liability and financial loss/fraud.

Featured Insurance & Reinsurance cases

- X Plc v Y Insurance Co; Acting for a major insurer in a notification dispute in relation to a £6m public liability claim.
- X v LV; acting for insurers in a fire claim brought by an antiques business, defended on grounds of material non-disclosure regarding prior financial circumstances, shadow directorship, and moral hazard.
- Chandler v Hiscox (QB); Acting for the defendant insurer in an insurance claim arising out of an alleged burglary and alleged loss of over £300,000 of jewellery, fine china, leather goods and other valuables.
- Aviva v Upper Crust Bakery; Acting for the claimant in seeking to recover a business interruption insurance settlement paid out pursuant to fraudulent means and devices used by the owners of a bakery business. All allegations of fraud were denied at trial. Shail acted as sole counsel at trial and following two days of cross examination the Judge found the defendant shown to be "*thoroughly dishonest*" and gave judgment for the claimant.
- Yeates v Aviva Insurance plc [2012] EWCA CIV 634; Shail appeared as counsel for Aviva in the Court of Appeal successfully resisting the Claimant's application for an extension of time for appeal. The Court of Appeal accepted Aviva's submissions that the Claimant had not been candid in the presentation of his application and laid down a principle that a misstatements to the court when applying for an extension would "*almost inevitably lead the court to decline to exercise its discretion in favour of a would be appellant regardless of the merits of an appeal*".
- Yeates v Aviva [2010] EWHC 3016 (QB); Acting for the buildings insurer on appeal to the Court of Appeal in this fraudulent claims/fraudulent means and devices dispute in the context of a £300k insurance claim.
- Acting for insurer; In a £150k claim by a property investment company arising out of a fire at two substantial London properties. The claim is defended *inter alia* on grounds of suspected fraudulent claims and other irregularities.
- Acting for insurer; In a £150k motor trade policy claim arising out of the alleged firebombing of a prestige vehicle. Claim defending on grounds of breaches of warranty and non disclosure.
- Acting for insurer; Defending a £0.5m claim arising out of the lapsing of a motor insurance policy (and subsequent accident) in circumstances where the insurer's and broker's obligations to renew the policy under the relevant wording was unclear. The case also engages issues of construction of the relevant policy documents and points arising under the ICOBS.

Property Damage and Construction

Shail appears regularly in the county courts and Technology and Construction Court on disputes of all sizes arising out of technology and construction. He has significant experience of subrogated recovery claims involving fires, floods and other wrongful damage to buildings and property.

Highlights in this area includes:-

- A fire claim against a plumbing contractor in respect of a fire at a college causing c. £1m of damage. Liability and causation is heavily contested.
- Acting for a defendant construction firm in a claim brought against it for allegedly damaging gas infrastructure.
- A delay claim against a firm of consulting engineers in respect of a significant London commercial development site.
- Acting for a supplier of stone to a City office development in a claim for breach of contract and delay, including acting in the successful mediation of the claim.

International Arbitration

A number of members of Chambers have built up expertise as advocates and arbitrators in domestic and international arbitration

and have appeared before a wide variety of tribunals and courts in jurisdictions around the world – including all the main arbitral centres: whether Singapore, Hong Kong, Dubai, Mumbai, Geneva, Stockholm, London, Paris or The Hague. This expertise is recognised in profiles of members in both Chambers & Partners and Legal 500.

The experience extends across the commercial spectrum, ranging from construction claims, insurance and reinsurance matters, energy and utilities, civil fraud, banking, commodities and international trade. Experience also includes acting in investment treaty arbitrations – whether under the auspices of ICSID or otherwise, both for or against investors and states.

Equally, we have experience of claims run under an extremely broad range of domestic and international institutions such as the AAA, HKIAC, LCIA, ICC, CIETAC, SIAC, ICSID or the UNCITRAL rules.

Shail's experience includes insurance and commercial arbitrations in a domestic and international setting.

Chancery

Shail frequently acts in chancery matters, predominantly for lenders in disputes arising out of mortgages and land transactions.

Featured Chancery cases

- Wickens v Cheval Property Developments Ltd [2011] 1 P & C.R. DG9, (2010) 154 (35) SJLB 30; [2010] EWHC 2249 (CH); A leading case on the meaning of the Law Society's Standard Conditions of Sale. Shail acted for the vendor bridging finance provider in a dispute over the sale of a stately home, involving issues of construction and allegations of deceit.
- Claims against solicitors and valuers; Junior in a c. £5m lender claim proceeding in the Chancery Division.

Awards



Qualifications

Shail studied law at Merton College, Oxford, where he graduated with the second highest first in the university and was awarded the Martin Wronker and Field Fisher Waterhouse prizes for the highest marks in tort law and EC law. He obtained a distinction in law moderations, a college Scholarship from Merton and Fowler prizes in jurisprudence, contract law and trusts. Shail completed his LLM at Harvard Law School where he participated in the university's intensive trial advocacy program. He is a member of Inner Temple, where he received the Peter Taylor Scholarship. During his BVC year Shail was a seminar leader and examiner in tort law at King's College London.
