

Christopher J. Bailey (Chris)

Partner

Trial and Global Disputes / International Arbitration and Litigation

Tokyo: +813 4510 5603
Mobile: +81 80 2160 4254
cbailey@kslaw.com



Chris Bailey leads our Global Disputes practice in Tokyo and specializes in arbitration, litigation and all forms of alternative dispute resolution. A partner in our International Arbitration practice, Chris represents clients in cross-border disputes and regulatory matters across a range of industries, with the core of his practice in the construction, energy and resource sectors. Chris has practiced for over 10 years in Tokyo, including a two-year secondment with one of Japan's leading trading houses, and is a member of the Dai-Ichi Bar Association and registered as a Gaikokuho Jimu Bengoshi.

Chris is a Fellow of the Chartered Institute of Arbitrators, a Member of the SIAC Japan Users Counsel, has been selected to become a member of the SIAC Panel of Arbitrators and appears as an advocate in international arbitration. He is also a Solicitor Advocate with rights of audience in the English High Courts. From Tokyo, he represents clients in a wide variety of commercial disputes submitted to arbitration under ICC, JCAA and SIAC Rules, amongst others; and in national courts including England, Japan, Singapore, Thailand and the U.S. In London, Chris was a commercial litigator appearing before the Commercial Court at the Royal Courts of Justice.

On the regulatory front, Chris has been involved in full-scale corruption investigations involving the U.S. Department of Justice, the UK Serious Fraud Office and the Nigerian Economic and Financial Crimes Commission, as well as investigations arising out of transactions in Africa and the Middle East. Chris was also involved in the recent global investigations into the trading activities of the major financial institutions.

Since 2013, Chris has been featured in the Asia Pacific legal directories for Disputes and Projects & Energy, and in recent years, has been individually recommended in both *Chambers* and *Legal 500* directories for Japan Dispute Resolution: International Firms. In addition, Chris is included on *Who's Who Legal: Arbitration's Future Leaders – Partners* list and was named in *Asian Legal Business's* 40 Under 40 list in 2016.

Chris speaks on investment protection, arbitration, dispute resolution and anti-corruption matters throughout Asia. His articles have been featured in publications such as *Bloomberg Law Report* and on the *Lexology* website.

Matters

INTERNATIONAL COMMERCIAL ARBITRATION

- Represented a **Korean construction contractor** in respect of a multi-contract dispute involving EPC works at a mine in Australia with SIAC arbitration and related Australian proceedings commenced under numerous heads of claim and quantum in excess of AUD 1 billion, which ran through to a full multi-week hearing in Singapore and a final award.
- Represented a **global automobile groups** in separate JCAA arbitrations and litigation the Thai courts for in excess of USD 600 million arising out of the termination of long-term distribution agreements with local SEA counterparties governed by Japanese law. The second arbitration proceeded to a final hearing in Tokyo at which acted as lead advocate before a leading tribunal and a final award in the client's favour. In addition, parallel satellite litigation in the Singapore courts which proceeded to trial.
- Represented a **Japanese construction contractor** in relation to joint venture and owner disputes for in excess of USD 200 million relating to the EPCC works for the replacement of two power generating unit at a thermal power plant in Asia, with the principle issue being delays and costs caused by welding defects and referring disputes to ICC and SIAC arbitration seated in Asia.
- Represented a **Japanese trading house** in ICC arbitration, and a jurisdictional challenge that passed through to the Thai Supreme Court, in respect of claims brought by a Thai state owned entity for USD 100 million in respect of allegedly defective equipment for a Combined Cycle Power Plant.
- Advised a **Japanese energy company** on Energy Charter Treaty arbitration claims for fair and equitable treatment provisions and expropriation, and also Spanish judicial review, arising from changes to Spain's wind power incentives and energy tariff regime. Estimated losses in the region of EUR 100 million.
- Represented a **Japanese auto parts manufacturer** in a USD 84 million dispute with its US business partner arising out of Michigan law contracts that provided for AAA arbitration. The facts concerned treatment under the relevant contracts of a 2013 multi-million dollar corporate acquisition in Europe.
- Advised a **global protection & indemnity insurer** on a USD 47.6 million subrogated arbitration claim for breach of contract in relation to an oil spill from a vessel in a Californian port. Litigation was also pursued in California, with a separate negligence action brought against the US lawyers involved.
- Advised a **Japanese trading house** on a USD 28 million extension of time and wrongful termination dispute in respect of a construction sub-contract for a plant in the Middle East that provided for ICC arbitration in London. Key issue as to whether the contract was of fixed price and scope.
- Represented a **Japanese construction company** in ICC arbitration in London in relation to employer and sub-contractor disputes arising out of the construction of a plant in Algeria. Quantum was in the region of USD 25 million, with forty heads of claim and a tribunal including the Hon. Mr Justice Ramsey QC.
- Advised a **Japanese trading house** on a dispute involving non-compliance with specifications in a USD 19 million letter of credit that provided for ICC arbitration in Geneva in respect of a purchase

of metal from a Brazilian vendor for onward sale to a Hong Kong based purchaser with delivery in China.

- Represented a **global provider of offshore drilling services** in a USD 17 million dispute arising out of damage caused to a jack-up oil drilling rig in the Gulf of Mexico during Hurricane Ivan, and involving a jurisdictional dispute and claims in both London arbitration and Texan civil court proceedings.
- Represented a **global financial institution** in parallel ICC arbitral and Thai court proceedings involving allegations of negligent banking services and employee fraud. Claims that USD 15 million in funds were diverted by various practices. The employee was found dead shortly after the discovery of the fraud.
- Represented a **Japanese manufacturer of high precise instruments** in relation to contracts concerning neurosurgical microscope systems that provided for ICC arbitration in Singapore. Claims included contractual interpretation, intellectual property and competition issues and multiple jurisdictions.
- Represented a **gas trading company** against a Sri Lankan company in respect of an LNG term contract containing exclusive English law and London arbitration clauses. Involved appearing before Mr. Justice Tomlinson in the English Commercial Court to seek assistance in the appointment of a sole arbitrator.
- Advised a **Japanese EPCI FPSO contractor** on a issues including the availability of ICSID claims arising out of the introduction of local regulations in Ghana, sovereign immunity issues arising out of a counter-guarantee, contractual interpretation of a pollution indemnity and the impact of a Ghanaian tax ruling.
- Advised a **Japanese trading house** on the availability of ICSID proceedings against the Government of Venezuela. Included issues of whether, in the absence of an express ICSID arbitration clause or an applicable BIT, Venezuela had given consent to ICSID through its national investment laws.
- Advised **Japanese interests** in relation to their involvement in the Gorgon offshore field development in Western Australia. The relevant contracts concerned supply to the project and provided for reference to institutional arbitration in Perth. The issues that arose impacted the critical path to completion.
- Advised **the Korean project operator of the Shwe gas field in Myanmar** on issues including a dispute over the volume and specification of natural gas delivered to the Chinese buyer, the disputed termination of a rig management contract; and the consequences of an explosion in the onshore gas terminal.
- Advised **various state and private Asian purchasers of LNG** on their contractual rights in relation to price review provisions under long-term LNG SPA contracts concerning offtake from amongst others Australia, Japan, Malaysia, Nigeria, Russia, South Korea, Thailand, the US and Yemen.

COMMERCIAL LITIGATION IN NATIONAL COURTS

- Represented a **billionaire US investor** in an action for breach of fiduciary duty in connection with the proposed USD 6.1 billion merger of major US and Japanese listed corporates, with a New York State Superior Court judge ruling that the then-CEO and a majority of the directors had likely

violated their fiduciary duties and issuing injunctive relief stopping the deal.

- Advised **Japanese interests on contractual and tortious liability** over which the English courts had jurisdiction arising out of the supply to the Kashagan oil project in Kazakhstan following the suspension of production at the project. The suspension was expected to last for 2 years and cost billions of dollars.
- Represented **a leading telecommunications company** in an English Commercial Court claim in excess of GBP 709 million involving claims for deceit, misrepresentation and breach of contract and arising out of a GBP 48 million contract for the provision of a state-of-the-art customer management system.
- Advised **a Japanese trading house** in relation to proceedings in the New York (28 U.S.C. Section 1782 application) and Tokyo District Courts in respect of a USD 353 million claim defended on the ground that the contract was a forgery and the plaintiff was the victim of a complex fraud.
- Represented **a leading worldwide provider of oilfield products and services** in relation to a USD 79 million claim in the English Commercial Court arising out of a contract for the design and supply of a Drilling Instrument Control System and an incident involving a well off Equatorial Guinea.
- Advised **a Japanese trading house** on a Southern District Court of New York employment dispute by two employees for in excess of USD 70 million (including punitive damages) on the grounds of race-based discrimination, retaliation, defamation and breach of contract.
- Represented **a leading Middle Eastern construction contractor** in a jurisdictional petition to the House of Lords and an English Commercial Court trial for in excess of GBP 50 million in respect of profit from oil production and cost recovery from an interest in the Masila oil field concession in South Yemen.
- Represented **a global property investment company** in disputes relating to the purchase of a JPY 5 billion Tokyo-based asset financed through the issue of JPY 4.78 billion bonds. The failure to repay the bonds led to parallel proceedings in the Royal Courts of Guernsey and the Tokyo District Court.
- Represented **a leading engineering provider and strategic consultant** on a English Royal Court of Justice claim for more than GBP 46 million for breach of contract and negligence in relation to finite element analysis conducted in the design of an engine which catastrophically failed in an African mine.
- Represented **a global oil & gas company** in relation to a Part 8 hearing in the English Commercial Court for a declaration of interpretation in relation to a contract for the provision of seismic data, the performance of which caused damage in excess of USD 9.9 million to sub-sea pipelines and installations.
- Represented **a global logistics company** in a series of related subrogated claims by a cargo insurer a trial in the English Commercial Court concerning the loss of various high value consignments during international transit. Implications for the company's terms and conditions and document retention policy.
- Advised **a Japanese trading house** on jurisdiction, forum non conveniens and demurrer applications in the Californian courts in relation to claims for invasion of privacy, tortious interference and unlawful business practices. Also, advised on related indemnity provisions

governed by the laws of Hong Kong.

- Represented **an outsourcing company** in the English Commercial Court in an indemnity claim concerning from liabilities arising from the exposure of employees in the UK and Australia to asbestos during the manufacture of the company's products. Insurance coverage advice also provided.

REGULATORY DISPUTES

- Represented **a Japanese trading house** in relation to claims of up to USD 210 million that concerned the trading of metal at sub-market prices and creation of artificial margin through futures trading. Included Middle Eastern criminal proceedings, Texan civil proceedings and DOJ and SFO investigations.
- Advised **a Japanese trading house** in respect of US SEC/DOJ and Nigerian EFCC investigations anti-corruption investigations into allegations of bribes in excess of USD 180 million paid to the former Nigerian dictator, General Sani Abacha, and other Nigerian officials to secure USD 6 billion of work.
- Represented **a global financial institution** in investigations in various jurisdictions relating to FX spot trading operations. Included interim and final reports to the Japan Financial Services Agency, interviews with the bank's employees and provision of Japan related strategic guidance and support.
- Advised **a Japanese ocean shipping company** on potential anti-bribery and corruption issues arising from its sponsor participation in a FPSO vessel project with the Brazilian company Petrobras as counterparty. Conducted a commercial and legal risk analysis and submitted a final report to the client's auditor.
- Numerous other **confidential regulatory matters** including sanctions and OFAC advice concerning amongst others Iran, Iraq, Myanmar and Syria, advice on reporting obligations in Hong Kong, Japan and Singapore, securing the release of employees imprisoned in Indonesia, managing the treatment of criminal proceedings before the Attorney General of Thailand, the preparation of pre-investment due diligence and risk assessment reports and the design and implementation of compliance programmes.

Credentials

ADMISSIONS

England and Wales

Japan Gaikokuho-Jimu-Bengoshi

ASSOCIATIONS

England & Wales (Admitted 9/15/2003; Reg # 313807)

Japan - Gaikokuhojimu Bengoshi (Admitted 5/1/2013; REg # G846)

Fellow of the Chartered Institute of Arbitrators (Reg #29335) (2016)

Member of the SIAC Panel of Arbitrators (2017)

Member of the SIAC Japan Users Council (2017)

Member of the Chartered Institute of Arbitrators (Reg #29335) (2009)

Recognition

Japan Dispute Resolution: International Firms

LEGAL 500

Japan Dispute Resolution: International Firms
CHAMBERS

Recognized in
WHO'S WHO LEGAL

Disputes and Projects & Energy: "... fantastic to work with. His analytical ability is exceptional. He always went into great detail and left no stone unturned"; "approachable, very knowledgeable on litigation, dispute resolution and regulatory investigations and a trusted adviser"; "tenacious, precise and excellent negotiator"; "a very smart guy"; "energetic."
ASIA PACIFIC LEGAL DIRECTORIES

Named in
ASIAN LEGAL BUSINESS 40 UNDER 40, 2013–2017

Insights

NEWSLETTER

October 31, 2019

Tokyo Dispute Resolution & Crisis Management Newsletter – October 2019

September 30, 2019

Tokyo Dispute Resolution & Crisis Management – September 2019

August 29, 2019

Tokyo Dispute Resolution & Crisis Management Newsletter – August 2019

[VIEW ALL ON KSLAW.COM](#)

Events

CONFERENCE

February 27, 2019

LNG to Power Opportunities in Asia Seminar

June 14, 2018

California Dreaming or Nightmare? Legal Risks of Doing Business in California

February 20, 2018

Crisis Management Tokyo Roundtable: Global Insights from our Government Investigations and Crisis Management Leaders

[VIEW ALL ON KSLAW.COM](#)

News

RECOGNITION

October 3, 2019

Latest Benchmark Litigation Guides Recognize King & Spalding as a Leading Litigation Firm

February 19, 2019

King & Spalding Posts Strong Results in Chambers Global 2019 Guide

January 18, 2019

King & Spalding Earns Multiple Top-Tier Rankings in Legal 500 Asia-Pacific 2019 Guide

[VIEW ALL ON KSLAW.COM](http://www.kslaw.com)