



Akhil Shah QC

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"Demonstrates superb judgment, meticulous preparation and second to none in advocacy."

The Legal 500

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Akhil Shah QC is an experienced trial and appellate advocate, who 'demonstrates superb judgment, meticulous preparation and second to none advocacy.'

His broad commercial arbitration and litigation practice spans the fields of aviation, arbitration, banking and finance, conflicts of law, competition, injunctions, insurance, product liability, and travel.

Akhil, who is described in the directories as 'the epitome of a modern leader', is currently advising in COVID-19 related matters. He has also acted in a wide range of aviation disputes involving aircraft finance, leasing, design / manufacture of aircraft and helicopters (including coronial inquests), as well as aviation regulation including allocation of slots and the right to fly; for banks in relation to claims made under the Proceeds of Crime Act ('POCA') 2002; in trade finance disputes; in disputes to recover assets in the control of those alleged to be operating a "Ponzi Scheme"; and in arbitrations concerning insurance, joint ventures and infra-structure disputes.

Akhil provides expert evidence on English law to foreign courts (including in PRC, Malaysia, Russia and France) and accepts appointments as arbitrator. He is admitted to the British Virgin Islands Bar.

Recent Highlights

Thomas Cook Plc in Liquidation

Akhil acted for the liquidator following the insolvency of Thomas Cook. Akhil represented and advised the liquidator in regulatory proceedings before the Civil Aviation Authority ('CAA') and in expedited judicial review proceedings threatened by an airport. He successfully assisted the liquidator to preserve the airline's right to exchange its slots for valuable consideration. The instruction had a number of similarities to the work Akhil did in R (Monarch) v ACL regarding the exchange of Monarch's slots.

Airbus v Generali [2019] EWCA Civ 805

Akhil acted for insurers of Airbus in a dispute concerning the applicability of a jurisdiction agreement over an arbitration agreement. The case: (a) identified the approach to resolve a conflict between different agreements with

competing dispute resolution clauses; and (b) established the ability of a party to a jurisdiction agreement to obtain declaratory relief against non-party insurers acting by way of subrogation because a jurisdiction agreement gave rise to an equitable right that was enforceable against non-party insurers.

Alpstream (& Others) v PK & GECAS

Akhil acted as lead counsel for GECAS at trial and in the Court of Appeal in a dispute arising out of the collapse of a German airline and the resulting sale by mortgagee of repossessed aircraft; successfully defeating on appeal claims in conspiracy and other economic torts. Akhil also acted as lead counsel for all defendants in post-judgment injunction proceedings.

Petrosaudi Oil Services (Venezuela) Ltd v Novo Banco SA & PDVSA [2017] EWCA 9

Akhil acted for the bank in an expedited trial and appeal in a letter of credit dispute. The applicant raised defence of fraud by the beneficiary. The bank was caught in a dispute: where the applicant alleged that the beneficiary had dishonestly made a demand for payment. On appeal the court found that: (a) the fraud exception did not apply and (b) the dispute of invoices was no basis to restrain payment of the letter of credit.

Latin American Investments v Maroil [2017] EWHC 1254

Akhil acted for the claimant, a shareholder in this joint venture / shareholder dispute, with alleged misappropriation of funds by another shareholder acting in breach of authority and conflict of interest. The proceedings established that a freezing injunction could be obtained by a shareholder seeking specific performance and damages on behalf of the joint venture company against the wrongdoing shareholder. Such relief was determined not to be precluded by the rule against reflective loss.

Expertise

Administrative & Public Law

Reported Administrative & Public Law cases

R (on Application of Monarch Airlines (in administration)) v Airport Coordination Ltd [2017] EWHC 2896

Acting in judicial review proceedings concerning allocation of slots at Manchester and other UK airports.

R (TUI & Others) v CAA [2013] 1 All ER (Comm) 385

Acting for the CAA in judicial review proceedings in which the CJEU affirmed the right of passengers to claim compensation for delay under EU Regulation 261/2004.

Kibris Turk Hava Hollari v SS Transport and Republic of Cyprus [2011] 1 Lloyds 274

Representing the Republic of Cyprus as interveners in support of the UK Secretary of State's defence of judicial review challenge by a Turkish airline to operate schedule and charter flights to northern Cyprus. The case considered the right to fly in airspace and to land in territory of a sovereign state which did not consent to the flights.

Aviation & Travel

Akhil has acted in a broad spectrum of aviation related disputes. He has extensive experience with the legal, commercial and regulatory framework of the aviation industry. He has acted in and advised on disputes concerning aircraft leases, financing of aircraft, sale of aircraft, design and manufacture of aircraft, aviation insurance, air accidents often with a multi-jurisdictional considerations, carriage of passengers and of cargo under the Warsaw and Montreal Convention regimes, UK regulation, EU competition law and international regulation. He also has significant experience of public law and competition law disputes within the regulatory framework of the aviation industry.

Reported Aviation & Travel cases

Blanche v EasyJet [2019] EWCA Civ 69, [2019] 1 Lloyds Rep 286

EU Regulation 261/2004 defence of extraordinary circumstances where delay caused by air traffic control decision.

Alpstream (& Others) v PK & GECAS [2016] 1 CLC 135

Aviation, banking and finance and commercial litigation.

R (on Application of Monarch Airlines (in administration)) v Airport Coordination Ltd [2017] EWHC 2896

Judicial review proceedings concerning allocation of slots at Manchester and other UK airports.

Rogers v Hoyle [2015] QB 265

Admissibility of air accident investigation reports in civil proceedings.

Dawson v Thomson Airways [2015] 1 WLR 883

Limitation period for EU Regulation 261/2004 claims.

Jet 2.Com v Huzar [2014] 4 All ER 581

Whether technical fault amounts extraordinary circumstance under EU Regulation 261/2004.

R (TUI & Others) v CAA [2013] 1 All ER (Comm) 385

Acting for the CAA in judicial review proceedings in which the CJEU affirmed the right of passengers to claim compensation for delay under EU Regulation 261/2004.

Acting for easyJet (CAA decision SCAC1/12) in its successful application to the CAA for the allocation of a scarce capacity certificate to fly between London and Moscow.

Pindell v Air Asia [2011] 2 All ER (Comm) 296

Acting for airline in successfully resisting a claim by aircraft lessor to recover as damages the value of a lost future sale of the aircraft following late redelivery and the collapse in asset prices after the “credit crunch”.

R (Kibris Turk Hava Hollari) v SS Transport & Republic of Cyprus [2011] 1 Lloyds 274

Representing the Republic of Cyprus as interveners in support of the UK Secretary of State’s defence of judicial review challenge by a Turkish airline to operate schedule and charter flights to northern Cyprus. The case considered the right to fly in airspace and to land in territory of a sovereign state which did not consent to the flights.

DTVA v Bmibaby [2011] 1 Lloyds 68

Acting for low-cost airline in a dispute concerning the economic operation of low cost airlines and their contractual relationships with regional airports.

AerCap v Avia Asset Management [2010] 2 CLC 578

Acting for seller of two Boeing 757 aircraft against defaulting buyer, where default arose out of the “credit crunch” and aircraft prices were depressed by economic down turn.

Sunrock v SAS [2007] 2 Lloyds 612

Representing lessors in aircraft leasing disputes arising out breach of redelivery condition of aircraft.

IHRC v CAA (2007) ACD 5

Acting for CAA in connection with judicial review proceedings relating to carriage of weapons from the UK to Lebanon.

Amiri v BAE [2003] 2 Lloyds 767

Acting for Abu Dhabi state in a claim against BAE relating to the design of aircraft fuel tanks and their protection against corrosion.

Protea Leasing v RAC & MAS [2002] All ER (D) 224

Acting for lessor in a multi-million dollar leasing dispute with the Cambodian state airline, and advising on recovery of possession of three aircraft from Singapore.

Airbus v Patel [1999] 1 AC 119

Acting for Airbus in anti-suit injunction proceedings arising out of fatal crash landing of airline in Bangalore.

Notable Aviation & Travel cases

COVID-19

Advising different stakeholders on implications and effect of COVID-19 on different agreements.

Cathay Pacific v Lufthansa Technic (2020)

Acted for maintenance organisation in dispute arising out of long-term engine maintenance agreement, concerning financial adjustment to be made at the end of the term.

Thomas Cook in Liquidation

Acting for liquidator concerning allocation of slots to Thomas Cook.

A v B

Acting for major Asian airline in arbitration concerning redelivery dispute of 737 aircraft. Dispute raised issues concerning maintenance payment adjustments at end of lease.

HSB Nordbank v Air Astra

Representing lenders, owners and lessors of a fleet of five Airbus passenger aircraft in a claim which recovered the aircraft from insolvent Spanish airline.

Acting for the CAA in judicial review proceedings relating to a takeover dispute between leading European airlines.

Acting for aircraft lessors in numerous disputes concerning recovery of commercial aircraft from defaulting airlines.

Acting for the CAA in connection with judicial review challenges relating to proposed redesign of controlled airspace over southern England.

Advising as to regulatory implications of trans-European acquisition of one airline by another airline.

Advising in relation to the economic regulation of airlines and airports.

Acting for manufacturer of aircraft in relation to a claim relating to the design of landing gear following crash landing of aircraft at Heathrow.

Banking & Finance

Reported Banking & Finance cases

Petrosaudi Oil Services (Venezuela) Ltd v Novo Banco SA & PDVSA [2017] EWCA 9; [2017] 1 WLUK 450

Banking and finance and civil fraud.

Alpstream (& Others) v PK & GECAS [2016] 1 CLC 135

Aviation, banking and finance and commercial litigation.

Notable Banking & Finance cases

Acting in structured finance disputes advising lenders, investors and export credit agencies as to enforcement and recovery of secured assets.

Advising in respect of enforcement of mortgage over floating production vessel in Brazil.

Acting for bank in letter of credit disputes, with allegations of fraud and illegality in underlying contracts.

Acting for banks in relation to claims made under POCA 2002.

Advising in disputes under Payment Services Regulations 2009 arising out of cyber fraud on bank accounts.

Acting in complex multi-party proceedings concerning duties of mortgagee when selling mortgaged asset.

Acting in dispute concerning a credit card affinity agreement between bank and commercial counter-party.

Acting in swaps disputes (interest rates and futures) between banks and commercial counter-parties.

Advising security trustees, investment managers and insurers as to management of investments.

Acting for lender in a dispute where borrower falsely represented it had title to asset offered as security.

HSH Nordbank v Air Astra

Representing the bank in proceedings for the recovery from the Spanish airline (Air Astra) of aircraft in Spain provided as security for a loan.

Deutsche Bank v Volare

Acting for Deutsche Bank in proceedings for the recovery of aircraft from an insolvent Italian airline – Volare.

Acting for and advising banks in connection with personal and proprietary remedies in England and abroad (including injunctive relief) against defaulting customers and third parties.

Acting for and advising both banks and others in relation to claims on bills of exchange, and promissory notes.

Acting for and advising banks in relation to letters of credit.

Acting in a dispute concerning enforcement of documentary credits.

Acting in a dispute between two banks in a civil fraud claim concerning performance bonds.

Acting for Central Bank of Yemen in a dispute arising out of the purchase by an investment fund of promissory notes issued by the bank to the Czech Republic.

Civil Fraud

Notable Civil Fraud cases

Acting in dispute to enforce foreign judgment alleged to have been tainted by fraud and bias.

Latin American Investments v Maroil

Acting for shareholder in claim against fellow shareholder in a joint venture where assets belonging to the joint venture had been appropriated in breach of authority and in conflict of interest. Relief sought of freezing injunction and claim brought by innocent shareholder on behalf of defrauded company.

A v B

Acting for respondent in confidential arbitration concerning contract alleged to have been procured through fraudulent misrepresentation.

X v Y

Acting for claimant in telecommunications arbitration where agreement alleged to be tainted by corrupt practices.

PetroSaudi Oil Services (Venezuela) Ltd v Novo Banco

Acting for bank in letter of credit dispute where demand for payment alleged to have been made fraudulently by beneficiary.

Commercial Disputes

Reported Commercial Disputes cases

Latin American Investments & Another v Maroil & Another [2017] EWHC 1254L

Joint venture / shareholder dispute, with alleged misappropriation of funds by shareholder, raising issue of reflective loss and ability of shareholder to obtain injunctive relief to freeze assets of wrongdoer on behalf of company.

Alpstream (& Others) v PK & GECAS [2016] 1 CLC 135

Aviation, banking and finance and commercial litigation.

Notable Commercial Disputes cases

Advising in relation to the effect of sanctions on contractual obligations, including sanctions imposed on Russia and Iran.

SDI Retail Services v The Rangers Football Club

Acting for Rangers football club in dispute concerning agreement to manufacture, distribute, market and sell replica

football kit.

An asset finance dispute involving claims of conspiracy and procuring breach of duty.

An international sale of goods dispute involving allegations of bribery, conspiracy and procuring breach of contract.

Joint venture disputes in transport and telecommunications industries.

Disputes relating to share purchase agreements and warranty claims.

A dispute to recover assets of irreplaceable historical value.

Disputes to recover assets in the control of a company alleged by the United States SEC to be operating a “Ponzi scheme”.

Disputes to enforce judgment against assets of judgment debtor, including freezing injunctions and contempt proceedings.

Commercial Disputes - Jurisdiction & Conflicts of Law

Reported Commercial Disputes - Jurisdiction & Conflicts of Law cases

Airbus v Generali [2019] EWCA Civ 805

Approach to resolve a conflict between different agreements with competing dispute resolution clauses.

Castle v First Nation Airways [2016] EWHC 3488 and [2017] EWHC 2069

Acting for lessor of aircraft obtaining interim and final mandatory anti-suit injunctive relief to restrain proceedings brought in Nigeria in breach of exclusive jurisdiction agreement as well as interim and final declaratory relief.

Knauf v British Gypsum (No 2) [2002] 2 Lloyds 416

Acting in dispute concerning jurisdiction under Brussels Convention of contribution claim when main action dismissed.

Airbus v Patel [1999] 1 AC 119

Acting for Airbus in proceedings arising out of fatal crash landing of airline in Bangalore. Anti-suit injunction sought to restrain proceedings brought in Texas applying “long arm” jurisdiction.

Notable Commercial Disputes - Jurisdiction & Conflicts of Law cases

Enforcement of foreign judgment in England where foreign court alleged not to have jurisdiction.

Interpretation and enforcement of jurisdiction agreements in connected transactions.

Acting for leading UK bank in jurisdiction dispute concerning letter of credits, with proceedings brought in India in breach of jurisdiction agreement.

Acting for lender to restrain debtor from proceeding in Brazil in breach English exclusive jurisdiction clause.

Acting for insured against whom anti-suit injunction granted for commencing proceedings in non-EU jurisdiction in alleged breach of arbitration agreement.

Acting in jurisdiction dispute concerning liability of English parent company for acts of subsidiary in non-EU jurisdiction.

Acting in dispute for anti-suit injunction against trustees alleged to have commenced proceedings in United States in breach of exclusive jurisdiction clause.

Acting in disputes for interim relief from English court in support of substantive proceedings in EU and non-EU jurisdictions.

First Security Bank v Air Gabon

Acting in proceedings resisting anti-suit injunction against proceedings commenced in breach of exclusive jurisdiction clause.

Acting in proceedings governed by foreign law and in particular, Mexican, Cambodian, Libyan, Iranian, Saudi and French law.

Company, Restructuring & Insolvency

Reported Company, Restructuring & Insolvency cases

Thomas Cook Plc in Liquidation

Acting for the liquidator following the insolvency of Thomas Cook. Akhil represented and advised the liquidator in regulatory proceedings before the Civil Aviation Authority ("CAA") and in expedited judicial review proceedings threatened by an airport. He successfully assisted the liquidator to preserve the airline's right to exchange its slots for valuable consideration. The instruction had a number of similarities to the work Akhil did in R (Monarch) v ACL regarding the exchange of Monarch's slots.

Goshawk v Lion Air

Acting in a matter concerning the restructuring of Indonesian carrier following financial strains imposed by the impact of COVID-19.

Competition

Notable Competition cases

X v Y

Confidential arbitration dispute between airport operator and airline concerning long term agreement for the use of an airport. Claim raised issues of state aid and also abuse of dominant position, where it was necessary to identify the relevant market for airport use and establish whether the airport had a dominant position which had been abused.

Laudamotion v Deutsche Lufthansa

Dispute in which issues arose concerning: (a) meaning and effect of undertakings given to the European Commission under its merger legislation; and (b) whether there was a dominant position which was being abused.

Acting for major airline group in relation to remedial undertakings given to regulatory authorities to avoid creation of a dominant position following merger of airlines.

Insurance

Reported Insurance cases

Involnert v Aprilgrange & AIS Insurance & OAMPS Special Risks [2015] 2 Lloyds Rep 289

Proceedings regarding total loss of vessel: issues of moral hazard, innocent non-disclosure and broker's negligence.

Notable Insurance cases

Acting in Bermuda Form claims arising out of US opioid litigation.

Airbus v Generali

Ability of contract party to enforce equitable right to obtain declaratory relief against insurers acting by way of subrogation.

Acting in coverage disputes with claims of non-disclosure and misrepresentation, and failure to comply with conditions precedent.

Acting for insured in property insurance dispute in the US on hybrid Bermuda Form, including proceedings for anti-suit injunction.

Advising insurers in relation to cyber fraud effected on bank accounts of policy holders.

Blue Sky v Chartis & 17 Others

Representing the insured owner of three Boeing 747 aircraft in a dispute for \$150 million against eighteen insurers in connection with the theft and removal of the aircraft to Iran. The claim raised issues of the effect of US sanctions against Iran on imports of assets into Iran and insurance of those assets in the international insurance market.

Acting for a syndicate of investors and owners of a fleet of fourteen passenger aircraft in proceedings against insurers arising out of the theft of the aircraft in Mexico. The claim raised issues about the ability of one co-insured to recover under a composite policy for loss caused by wrongful conduct of another co-insured.

Acting for the insured in ARIAS arbitration proceedings in a dispute concerning viatical and contingent cost insurance.

Representing Excess Insurers in international arbitration on the Bermuda Form in relation to liability policies including in liability for fuel contamination in the US, and liability for pharmaceutical claims arising in the US.

Acting in disputes concerning political risk insurance, including claims of appropriation of assets by governments in Venezuela, Iran and Sudan.

Acting in disputes concerning export credit insurance, trade insurance and credit insurance.

Acting in arbitration proceedings between all risk and war risk reinsurers relating to hi-jacking in Columbia.

Acting in property insurance disputes arising out of the loss of “The MV Reina 1”.

Acting for professional indemnity insurers in a dispute arising out of fraudulent conduct in a partnership.

Acting in disputes concerning coverage under professional indemnity insurance.

Acting in disputes arising out business interruption insurance.

International Arbitration

Notable International Arbitration cases

Acting for aircraft manufacturer in a dispute arising out of the sale of multiple aircraft to a regional airline.

Acting for an international airline in ICC arbitration concerning redelivery of commercial passenger aircraft.

Acting for a telecoms company in a successful ICC arbitration relating to the supply of telecommunications infrastructure in Kosovo.

Acting for a counter-party to an international sales contract in LCIA arbitration proceedings relating to software applications in the automobile industry in Saudi Arabia.

Acting for a state in a joint venture dispute relating to the design of a transport project (ad hoc arbitration).

Acting for a counter-party in international supply contract to Libya in ICC arbitration proceedings, including jurisdiction challenge as to application of arbitration agreement to third party respondents.

Acting for a party to a joint venture in Saudi Arabia in LCIA arbitration proceedings.

Acting for a party to a joint venture investment in the cellular telecoms industry in India in ICC arbitration proceedings.

Acting for a counter-party to an international sale of goods contract to India in LCIA arbitration proceedings.

Acting for a syndicate of investors and owners of a fleet of passenger aircraft in international arbitration proceedings against insurers arising out of the theft of the aircraft in Mexico.

Acting for the insured in ARIAS arbitration proceedings in a dispute arising out of the insurance into Lloyds of viatical policies issued in the US.

Acting in international arbitration on the Bermuda Form on liability and property insurance policies.

Acting for a national airline in international arbitration proceedings arising out of an agreement to establish and support commercial airline services in Afghanistan.

Acting for an appellant in arbitration proceedings brought under International Cotton Trade Association, in relation to sale of cotton to the People's Republic of China.

Acting for a major oil company in LCIA arbitration proceedings in a dispute arising out of the take-over of a major oil company and its effect on a joint venture agreement for the oil exploration in Kuwait.

Media, Entertainment & Sport

Reported Media, Entertainment & Sport cases

SDIR v Rangers Football Club

Acting in a dispute which resulted in various judgments concerning retail and marketing rights of football replica kit.

Product Liability

Reported Product Liability cases

Amiri v BAE & Crossair [2003] 2 Lloyds 767

Acting for Abu Dhabi state in a claim against BAE relating to the design of aircraft fuel tanks and their protection against corrosion.

Notable Product Liability cases

Acting in arbitration proceedings concerning alleged manufacturing defects in aircraft engine.

Acting in relation to alleged design and manufacturing defects in commercial helicopters.

Acting in relation to design and manufacture of hip replacement systems.

Advising in respect of European regulatory requirements for the design, manufacture and certification of automotive parts.

Acting against manufacturer of plastic seals in a dispute concerning the chemical contamination of a well known brand of alcohol.

Acting for the manufacturer of aircraft in disputes concerning the design and manufacture of aircraft landing gear following separate failures of landing gear on aircraft at Heathrow and Brussels.

Acting for supplier in a dispute concerning the delamination of plasterboard.

Acting in a dispute concerning the design and manufacture of jet engines following engine failure on landing at Munich airport.

Acting for the manufacturer of aircraft windows in a dispute concerning the spontaneous failure of toughened glass caused by the alleged presence of sulphide impurities.

Directory Quotes

"My absolute go to barrister: phenomenally bright, measured, unflappable, brilliant on his feet, and with clients, brilliant on paper, super-responsive, a pleasure to work with, and clients love him. The no 1 aviation Silk at the bar. I use him on almost every big aviation case."

The Legal 500

"First-rate, highly responsive and shows excellent judgement in challenging cases."

The Legal 500

"The most talented aviation barrister currently working at the English Bar. He's all-round brilliant and understands better than any other barrister the technical workings of the aviation industry." "Akhil is exceptionally intelligent, readily available and highly responsive. He's tenacious and is a measured and effective advocate."

Chambers & Partners

"He is super-bright, super-responsive, and is the most capable aviation specialist silk at the bar."

The Legal 500

"He is an expert in travel regulation matters. He is very user-friendly, works quickly and efficiently and is a calm and measured advocate."

Chambers & Partners

"A real team player with great analytical ability."

The Legal 500

"He performs at the top of his game throughout a case."

The Legal 500

"He is thoughtful, brilliant with clients, and superb intellectually. You couldn't have a nicer opponent but he doesn't hold back. He has a steely charm."

Chambers & Partners

"The epitome of a modern leader, nothing is too much trouble for him."

The Legal 500

Directory Rankings

Chambers & Partners

- Aviation (Band 1)

- Product Liability
- Travel: Regulatory & Commercial (Band 1)

The Legal 500

- Aviation (Tier 1)
- Banking & Finance (including Consumer Credit)
- Commercial Litigation
- Insurance & Reinsurance
- International Arbitration: Counsel
- Product Liability
- Travel Law (including Jurisdiction issues)

Education

- MA, St John's College, Cambridge

International Bar / Court Appointments

- Called to the Bar of the British Virgin Islands

Memberships

- Commercial Bar Association
- London Court of International Arbitration
- British Insurance Law Association

Publications

- Co-author of *Carriage by Air* (2000) (Butterworths)
- Author of chapter on "Carriage by Air" in *Bullen & Leake & Jacob's Precedent of Pleading*, Blair J, Brennan QC, Jacob LJ and Langstaff J, Sweet & Maxwell 19th ed (2019)
- Specialist editor of *Halsbury's Laws of England* (Vol 2 on Aviation), Fifth edition (2017)
- Joint editor of *Commercial Court Procedure* (Sweet & Maxwell)

Languages

- French (working knowledge)
- German (basic)

Awards

