

SUPERYACHT LAW

What Is the Purpose of a Superyacht Lawyer?

In this article, we explore the reasons behind needing a legal expert for the purchasing and ownership of yachts and superyachts. We speak with Bernardo Ruiz Lima more about this.

Many are unaware of a 'superyacht lawyer'; can you share more on what you do?

We provide legal advice and practical guidance in relation to all aspects of yachts and superyachts. Our day to day work deals with ownership, sale, purchase, finance, dispute resolution, insurance, management, advising a large variety of participants in the yacht industry; these clients may be the owners, managers, insurers, yacht brokers, yards and marinas.

We have considerable expertise in many superyacht related matters, such as: building and refit contracts, urgent casualty response (personal injuries, groundings, salvage, towing, etc.), chartering, crewing and employment, dispute resolution, insurance related matters, management, marina and yard's liabilities, sale and purchase, registration and finance. We are particularly involved in the new aspects of racing rules, regattas and sports law, cyber-crime and its insurance.

Why and when should a client hire you to act as a superyacht lawyer?

Problems with superyachts do occur and generally require immediate action and a cross-border perspective. I have considerable experience in handling disputes across this spectrum. I am available 24/7 together with our firm's emergency response team. Our experience derives from our long history as specialists in maritime law. Our team also

has extensive practical sailing and sea-going experience on-board yachts and superyachts, grand-prix racing yachts and private pleasure crafts giving us an in-depth understanding of the industry. I also work closely with our commercial, employment and ship finance groups so that I can advise clients on the broad range of superyacht matters. We have global reach with offices in countries also known for 'yachting' and 'superyachting' including Spain, UK, France, Greece and Singapore. Our team and I can readily advise on multi-jurisdictional issues affecting superyachts.

What are the pre-contract considerations a UHNW should make prior to designing or purchasing their yacht?

The buyer or the future charterer of a superyacht has to take care of many legal aspects and practicalities before ordering the design or the construction of a complex high-value project. Most probably, several jurisdictions will be involved with different applicable laws and several international treaties. Therefore, a reliable law firm, with international presence, and a lawyer with relevant experience are essential.

After the decision is made about the designer of the project, and before signing the contract with the builder, a UHNW should be given strong advice on the local legal aspects of the country, including: where the superyacht will be built; the possible use of a SPV; the finance, mortgages, possibilities of using a tax

lease scheme; the cross border tax implications; the choice of registration and flag; and to negotiate taking good care of possible insolvency risks; refund and performance guarantees; variation of contracts, etc.

What are the most troublesome aspects of the contract when building or purchasing a yacht?

There are many legal aspects that should be taken into account by a UHNW. Among others, I would highlight the following troublesome aspects: finance, leasing structures, cross border and tax implications, payment schedules, insolvency risks, delays in delivery, insurance, confidentiality, variations of contract, warranties, agreement of a good dispute resolution clause, implications of a future commercial use of the superyacht and the crew problems.

How does insurance work in this area?

It is essential to liaise with a reliable and first-class insurance company, not only post-delivery (H&M, P&I, etc.) but also to cover the design and building process. An in-depth analysis of policy covers should be taken with brokers and legal advice should be sought. I recommend requesting and reviewing the builder's risks policy (with the insolvency cover) and always think carefully about the insurance value and the possibility of asking for a waiver of the yard's rights, in case of negligence of the owner or the owner's servants. **LM**



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**T H O M A S
C O O P E R**

About Bernardo Ruiz Lima

I am a Spanish qualified lawyer and Partner at Thomas Cooper LLP, Madrid office. I am a key contact for yacht and superyacht related matters in the firm. I hold an LLM in Maritime Law, International Trade and Marine Insurance from Cardiff University (UK). I am currently completing a PhD, focusing my final dissertation on insurance. I am a teaching professor for a number of Master degrees and specialised courses in Spanish Universities. I am also a qualified Average Adjuster having taken courses at the Spanish Merchant Academy (COMME); an Arbitrator and mediator; and member of the Spanish Maritime Law Association and the Spanish Arbitration Association.