



Simon Rainey KC

Called: 1982

Silk: 2000

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"A razor-sharp mind, a formidable cross examiner and elegantly unflappable in a tight corner." (Legal 500, 2023)

"Extremely intelligent, fantastic on his feet and an absolute pleasure to work with - a truly superb silk." (Legal 500, 2022)

Simon Rainey KC is one of the best known and most highly regarded practitioners at the Commercial Bar. He has a reputation which is second to none for his intellect and legal analysis ("fantastically intelligent and tactically astute"). He is acclaimed for his advocacy skills ("a stunning advocate") and his cross-examination ("excruciatingly superb"). But he is equally well known to his clients as a cheerful team player, who rolls up his sleeves in long and complex trials and arbitrations and who prides himself on high standards of client care ("incredibly user friendly" and "lovely to work with").

His practice focuses on five core areas: commercial litigation, commodities and international trade, energy and natural resources; international arbitration; insurance and reinsurance and shipping and maritime law.

In each of these fields he has an outstanding track-record and he has long been cited in all of the various directories, here and abroad, as being in the very front rank of practitioners.

He is in high demand for the heaviest and most complex cases, especially in disputes involving expert evidence (typically multiple technical disciplines or questions of foreign law) and those requiring the arguing of difficult or novel legal issues, particularly at appellate level (including the Supreme Court, where he has been brought in to argue six appeals in the last three years).

Shortlisted: International Arbitration Silk of the Year 2023, Legal 500. Winner: International Arbitration Silk of the Year 2020, Legal 500 (and shortlisted 2017 and 2019). Winner: Shipping Silk of the Year 2017 & 2022, both Chambers & Partners and Legal 500 (and shortlisted 2018; 2019; 2020). Lloyd's List Top 10 Global Maritime Lawyers in 2017, 2019 and 2021.

He sits as a Deputy High Court Judge in the Commercial Court and as a Recorder of the Crown Court.

What the directories say

- *"He is a top-class advocate in every way, at the top of his game. He is a brilliant KC." (Chambers UK, 2024)*
- *"Simon is renowned and with good reason." (Chambers UK, 2024)*
- *"Simon is an extremely effective advocate who sees straight to the heart of the issue. His presentation is a model of clarity and he is a joy to listen to, quickly winning the confidence of judges and tribunals." (Legal 500, 2024)*
- *"Brilliantly clever, seemingly with all of commercial law at his fingertips. Excellent at directing a case in the right*

direction to get a favourable result. A pleasure to work with."(Legal 500, 2024)

- *"Outstanding in court - precise, authoritative and very clear."*(Legal 500, 2024)
- *"Brain the size of a planet. Judges and arbitrators love him. Really good with clients."* (Legal 500 Asia Pacific, 2023)
- *"Simon is brilliant at remaining flexible while also being very clear on the underlying law."*(Chambers UK, 2023)
- *"Not only does Simon have a simply brilliant mind, he is also incredibly personable, polite, and humble."* (Chambers UK, 2023)
- *"He has the star quality, with a very persuasive, charming and smooth advocacy style."*(Chambers UK, 2023)
- *"He's a serious player in the space and extremely clever in putting together contractual arguments."*(Chambers UK, 2023)
- *"Simon is one of the very best. Extremely smart, commercial and a pleasure to work with."*(Chambers UK, 2023)
- *"Simon has a razor-sharp mind, and is a formidable cross-examiner and elegantly unflappable in a tight corner."*(Chambers UK, 2023)
- *"Not only does he have a simply brilliant mind, he is incredibly personable, polite and humble."*
- *"Simon's advocacy is top notch."*(Chambers UK, 2023)
- *"Simon is still the go-to for tricky esoteric points."*(Chambers UK, 2023)
- *"He can be relied upon in all circumstances to provide excellent service."*(Chambers UK, 2023)
- *"Simon is very experienced and of the very highest level in terms of expertise and sophistication of work."* (Chambers UK, 2023)
- *"A razor-sharp mind, a formidable cross examiner and elegantly unflappable in a tight corner."*(Legal 500, 2023)
- *"The go-to senior shipping silk. First class."*(Legal 500, 2023)
- *"Simon's approach to advocacy is well-tempered and he oozes gravitas. He is very efficient with his time and gives robust, considered, advice."*(Legal 500, 2023)
- *"He is incredibly clever and picks up the details of huge cases with absolute ease provides a clear path forward."* (Legal 500, 2023)
- *"First-class - the go-to senior commodities silk."*(Legal 500, 2023)
- *"Strategic, forensic, leaving no stone unturned and his advocacy is top drawer."*(Legal 500 Asia Pacific, 2022)
- *"Simon is razor sharp, gets across details quickly, and gives clear advice in a commercial and client-centric fashion."*(Chambers UK, 2022)
- *"A go-to sector doyen for the most complex energy disputes, he really has seen it all and is a real star of the best kind."*(Legal 500, 2022)
- *"Extremely intelligent, fantastic on his feet and an absolute pleasure to work with - a truly superb silk."*(Legal 500, 2022)
- *"Undoubtedly one of the top shipping barristers in London. Phenomenal on his feet and a barrister you can 100% rely on."*(Legal 500, 2022)
- *"An excellent advocate - sharp and effective. Always such a pleasure to work with."*(Legal 500, 2022)
- *"Quality advice and very prompt in responding to matters."*(Legal 500, 2022)
- *"He demonstrates a sharp mind and is able to bring extensive subject-matter expertise."*(Legal 500 Asia Pacific, 2021)
- *"Definitely a first-class all round silk, he has a very powerful mind when it comes to analysis."*(Legal 500 Asia Pacific, 2021)
- *"Simon Rainey is widely regarded as one of the very best of the shipping silks, a reputation which is entirely justified."*(Chambers UK, 2021)
- *"The best of the best. He's stunning in writing and on his feet, making the most complex of matters seem easy; he can take hundreds of pages of documents and turn them into five killer bullet points."*(Chambers UK, 2021)
- *"Simon Rainey is immensely experienced, very personable and outstanding on his feet before a tribunal or judge. He always delivers."*(Chambers UK, 2021)
- *"He's smoother than a marble and more polished than a guardsman's jacket button."*(Chambers UK, 2021)
- *"A truly fantastic advocate."*(Chambers UK, 2021)

- *"He comes with a judicial-like approach and it's hard to resist his submissions."*(Chambers UK, 2021)
- *"Deservedly very popular for energy disputes. He has encyclopaedic knowledge of case law and is an effective, charming advocate."*(Chambers UK, 2021)
- *"He has a real mastery of his game, just beautifully smooth, his oral submissions are the closest thing to music in advocacy."*(Legal 500, 2021)
- *"He has an unrivalled ability to communicate complex ideas in a way that seems intuitive – he always wins the narrative battle."*(Legal 500, 2021)
- *"Unquestionably a super silk. a first-class advocate with a very powerful mind who breaks a problem down into its constituent parts and leaves no stone unturned."*(Legal 500, 2021)
- *"Consummate advocate who thinks many steps ahead and reads the court and opponents very well."*(Legal 500, 2021)
- *"A first-class all-round silk."*(Legal 500, 2021)
- *"He has it all under complete control, and he reads the court, his opponents and the direction of the case perfectly."*(Chambers UK, 2020)
- *"A very smooth advocate who is adept at putting forward a persuasive argument."*(Chambers UK, 2020)
- *"He is a proper brainbox! His ability to second-guess what a tribunal will decide is frankly eerie."*(Chambers UK, 2020)
- *"He remains brilliant. His cross-examination is excruciatingly superb."*(Chambers UK, 2020)
- *"Extremely easy to work with and down to earth. He's very on the ball and knowledgeable."*(Chambers UK, 2020)
- *"Simon is considered a legendary figure by the entire shipping world."*(Chambers UK, 2020)
- *"He has the ability take the most complex of cases, drill them down to half a dozen propositions and drive them home."*(Chambers UK, 2020)
- *"His cross-examination is second to none. He's extremely clever and lovely to work with."*(Chambers UK, 2020)
- *"He is a true star."*(Shipping & Commodities - Star Individual - Chambers UK, 2020)
- *"Remains brilliant – his cross-examination was excruciatingly superb."*(Legal 500, 2020)
- *"On the top of his game and clients love him – he is as good as his reputation suggests."*(Legal 500, 2020)
- *"Always superb – a brilliant lawyer and cross-examiner who hones in on the key issues with amazing focus."*(Legal 500, 2020)
- *"Incredibly knowledgeable, very practical and pragmatic; he manages to make the complex seem simple."*(Legal 500, 2020)
- *"Truly a super silk – devastatingly sharp and exceptional on his feet."*(Legal 500, 2020)
- *"He is incredibly knowledgeable, very practical and pragmatic; he manages to make the complex seem simple."*(Legal 500, 2020)
- *"very good at interfacing both with commercial arbitrators and with those who are lawyers and judges."*(Chambers & Partners, Asia Pacific, 2020)
- *"excellent if you are looking for a high-level, hard-hitting silk who's up there with the best on the big matters"*(Chambers & Partners, Asia Pacific, 2020)
- *"A superstar with very solid and reliable mind for very complicated legal and factual issues."*(Legal 500 Asia Pacific, 2019)
- *"Brilliant and user-friendly, he is a stunning advocate and a top-level academic able to understand the most complex of expert evidence."*(Legal 500 Asia Pacific, 2019)
- *"An accomplished advocate whose main strength is that he inspires confidence with clients."*(Legal 500 Asia

Pacific, 2019)

- *"A class act who's proved himself to be a stellar performer; he's fighting at the top of his game."*(Legal 500, 2019)
- *"One of the best commodities barristers – diligent and responsive, he is an excellent example of the modern silk."*(Legal 500, 2019)
- *"He is a gift to the Bar – he can always think a few steps ahead and understands both the legal and commercial perspectives."*(Legal 500, 2019)
- *"A first-choice silk for the very complicated cases."*(Legal 500, 2019)
- *"A fantastically intelligent and tactically astute barrister who is immensely erudite."*(Chambers UK, 2019)
- *"A pleasure to work with. Fantastically intelligent and tactically astute." ... "Personable and intellectually brilliant. He has the ability to sift through numerous documents and turn arguments into razor-sharp points that get straight to the core issues."*(Chambers UK, 2019)
- *"Simon is just brilliant at conveying the meaning of agreements and making complex things simple and persuasive." ... "He's a very fluent advocate and a very good cross-examiner."*(Chambers UK, 2019)
- *"a very fluent advocate" who "is fiendishly bright and always has the answer"*(Who's Who Legal, 2018)
- *"has the ability to calm the most troubled of water" ... "highly experienced and knowledgeable"*(Who's Who Legal, 2018)
- *"...One of the best shipping silks around. He thinks very quickly on his feet, has fantastic analytical skills and is capable of communicating complex issues with ease. Furthermore, he is lovely to work with...."*(Chambers UK, 2018)
- *"He has strong credentials in the oil trading field, combined with an agile mind, and is not afraid to push the boundaries of the law." "Exceptional for really complex energy cases," his particular skill lies in reducing the complicated to the elegantly simple."*(Chambers UK, 2018)
- *"A delight to work with, he's authoritative and someone whom the tribunal will listen to." "He has a very good, polished style of advocacy and is very persuasive."*(Chambers UK, 2018)
- *"A mixture of brilliance and brevity, his written submissions are like poetry"*(Legal 500, 2017)
- *"Very impressive and focused - he thinks fast on his feet. He is fantastic both on the technical law and also as an advocate. He is easy to work with and charming, and remains calm and collected under pressure"; He is stellar. He has the brain the size of a planet"*(Chambers UK, 2017)

International Arbitration

"He has a real mastery of his game, just beautifully smooth, his oral submissions are the closest thing to music in advocacy."

(Legal 500, 2021)

Overview

Simon Rainey is recognised as being in the first flight of arbitration practitioners, with extensive experience of international arbitration as advocate (either as first chair or as co-counsel) in references under all of the main international arbitral rules (LCIA; SIAC, HKIAC, UNCITRAL; ICC, Swiss Rules etc). His speciality is complex and heavy commercial disputes, typically involving energy and natural resources, international construction or infrastructure projects and commercial joint ventures and very often with a non-UK seat and the application of foreign law and state immunity aspects.

He has a long-track record in Commercial Court challenges to arbitration awards under sections, 67, 68 and 69 of the Arbitration Act 1996.

He is highly ranked by both Chambers and Partners and Legal 500 as a first division international arbitration specialist ("highly regarded for his expertise in handling high-profile arbitrations"), and was winner of the International Arbitration KC of the Year at the Legal 500 UK Awards for 2020 (and shortlisted in 2017 and 2019).

He also sits as arbitrator under all of the main international rules and *ad hoc* and is a Fellow of the Chartered Institute of Arbitrators, a member of the ICC United Kingdom Arbitration & ADR Committee and a member of the ICCA-ASIL Task Force on Damages in International Arbitration.

Current and recent directory quotes:

"Extremely easy to work with and down to earth. He's very on the ball and knowledgeable."(...) *"He has a very good ability to make a clear case."* (Chambers UK, 2020)

"Truly a super silk – devastatingly sharp and exceptional on his feet." (Legal 500, 2020)

"A pleasure to work with. Fantastically intelligent and tactically astute."(...) *"Meticulous and very thoughtful."* (Chambers UK, 2019)

"A mixture of brilliance and brevity, his written submissions are like poetry." (Legal 500, 2019)

Current and recent examples of his work as Counsel:

- **ICC Arbitration:** contractual dispute concerning recycling plant design, involving important reputational issues and technical issues relating to state-of the art engineering design. Successful result, the tribunal allowed all claims in full, dismissing counterclaims and awarding Simon's client 100% of its costs.
- **UNCITRAL Arbitration:** brought in as lead counsel to represent a national African electricity company in claims against a mining conglomerate operating a copper mine in the country. This complex dispute concerned the electricity supply contract and raised complex issues of electricity pricing, responsibility under the contract for outages and the concept in electricity generation of "firm power" also whether there was an obligation to "wheel" electricity by buying in electricity from the grids of other African countries.
- **SIAC Arbitration:** representing a major energy company in claims and counterclaims under two long-term 30 year contracts related a clean coal power plant project. Complex contractual and jurisdictional issues.
- Permanent Court of Arbitration, The Hague: **Crescent Petroleum v National Iranian Oil Corporation** (No. 1 and now No. 2). Co-counsel for NIOC in a long-running arbitration concerning a claim by Crescent for US\$ 13 billion under a long term gas sale and purchase agreement. The case has spawned numerous applications to the English Commercial Court see e.g. [2016] EWHC 510 (Comm), [2016] EWHC 1900 (Comm). Issues of applicable law, Iranian law, gas pricing, pipeline and infrastructure construction and capacities, effect of sanctions on damages; jurisdictional issues between English seat and subsequent Swiss seat tribunals etc.
- **HKIAC / UNCITRAL rules:** lead counsel for the world's leading oil majors in US\$340 million dispute with Far East importer of liquefied natural gas under a 30 year LNG supply contract with complex questions of construction as to the operation of an LNG sale and purchase agreement and involving allegations of wilful misconduct and difficult gas pricing and gas availability issues.
- **UNCITRAL Rules, London:** lead counsel for world leader fertilizer manufacturer and producer in a US\$250M dispute with major Middle East producer of chemicals and fertilizers in dispute over termination of a 20 year co-operation and marketing agreement. Difficult issues of foreign law and complex issues of exclusive distributor obligations, joint venture price setting, contractual control over hydrocarbon supplies and feasibility of an ammonium nitrate plant.
- **SIAC:** Lead counsel for leading Singaporean trader in Indonesian and Malaysian coal in major coal trading dispute with major Indonesian coal producer. Complex sale of goods questions, conflict of laws principles as to differences between English and Singapore law on rejection for defective quality and heavy expert issues as to coal quality and coal mining geology.
- **Nigerian Arbitration, Lagos and London:** Co-counsel for Statoil, the Norwegian energy major, in a complex dispute regarding redetermination of shares on oil field production in Nigeria in connection with the new Agbami field. Contractual issues relating to status of and availability of challenge to a final and binding Expert Determination shifting the allocation of sub-sea oil fields from one oil major group to another.
- **LCIA London:** Lead counsel for one of the world's largest coal and mineral traders in this US\$250 million LCIA arbitration dispute in respect of a long term coking coal contract fuelling much of the Bosnian steel industry with a guarantee provided by the world- famous Mittal steel family. Issues concerning joint venture price setting, contractual control over coke supplies and quantum for alleged long term breaches totalling US\$ 100M.
- **LCIA London:** Lead counsel for Swiss metals and minerals trade house, in long fought out LCIA arbitration concerning deliveries of specialist coal to the leading state Ukrainian energy producer with complex issues of validity of expert determination and the circumstances in which that may be set aside and extensive counterclaims for interruption of Ukrainian national grid power supply, values of claims and counterclaims.
- **SIAC Dubai:** Lead counsel in a series of five back-to-arbitrations in Dubai concerning specialist offshore vessel / FPSO project. Issues relating to interim and emergency measures and interaction between governing law and

law of the seat.

- **UNCITRAL London:** Co-counsel for US supplier of specialist mining equipment to major Australian mining conglomerate in lengthy dispute over product liability / misrepresentation and alleged interruption of coal and ore mining over twenty mining regions.
- **Commercial Court:** associated s67 and s68 LCIA challenges in the *A v B* [2017] EWHC 3417 (Comm) and 2019 arbitration litigation involving the construction and effect of LCIA Rules.
- Commercial Court: *DSME v Songa Offshore* [2018] EWHC 538 (Comm): the leading case on the correction of awards and the effect (or non-effect) on running of time for appealing an award under s69 of the Arbitration Act 1996, resolving the conflict between *Surefire Systems Limited v Guardian ECL Limited* [2005] EWHC 1860 (TCC) and *K v S* [2015] EWHC 1945 (Comm).

Current and recent arbitral appointments:

- ICC Paris seat arbitration: power station failure and IT systems defects; Greek law.
- SIAC offshore construction contract claim; Singapore law.
- Swiss Rules, Geneva: long-term ore supply contract claim; Swiss law.
- LCIA London: offshore drilling contract dispute; Venezuelan law.
- ICC Dubai: construction of airport facilities; UAE / Qatari law.

Energy

"A go-to sector doyen for the most complex energy disputes, he really has seen it all and is a real star of the best kind." (Legal 500, 2022)

"Deservedly very popular for energy disputes. He has encyclopaedic knowledge of case law and is an effective, charming advocate." (Chambers UK, 2021)

"He is a proper brainbox! His ability to second-guess what a tribunal will decide is frankly eerie." (...) "He remains brilliant. His cross-examination is excruciatingly superb." (Chambers UK, 2020)

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Overview

Simon Rainey has a strong reputation as one of the foremost practitioners in the fields of energy and natural resources and related offshore construction. He has advised and appeared as counsel in relation to almost every aspect of the industry, upstream to downstream, and has represented or advised almost all of the major players and oil majors in the sector.

He is ranked by Chambers UK in Band 1 for Energy & Natural Resources, described as "a strong commercial silk", and is described by Legal 500 as "always superb".

By way of example, he has been involved in cases concerning:

- Oil and gas drilling and exploration projects, both in terms of construction and infrastructure and joint ventures;
- Long term gas sale and purchase / take or pay agreements and gas pricing issues;
- A broad variety of issues under oil and gas production and Transportation and Processing Agreements;
- Oilfield and boundary determination and redetermination and associated issues as to expert determinations and challenges to such determinations;
- A wide range of disputes regarding Joint Operating Agreements, both North Sea and elsewhere;
- Offshore and onshore construction projects covering virtually every species of oil and gas platform, rig - fixed or floating (such as the new Grupo R 6th generation and DSME / Songa Offshore North Sea DP3 semi-sub), FPSO, offshore vessel and sub-sea installation and
- Cases at the cutting edge of energy technology: contract and liability issues involving wind farms, new generation oil rigs, "gas-to-liquid" technology and the Yamal LNG project are recent examples.

He has considerable expertise in cases involving casualties due to failures of equipment or negligent operation and the allocation of responsibility in complex factual and technical situations in the light of equally complex forms of “knock-for-knock” provisions, such as the collapse of the Gazprom jack-up rig “Ekha” in the Bay of Bengal and of the Saipem jack-up rig “Perro Negro” in the Gulf of Gambia, and the handling of the long-running multi-party litigation to which such events give rise (see e.g. *Seadrill v. OAO Gazprom* [2010] 1 Lloyd’s Rep. 543 and [2011] 1 All E.R. (Comm) 1077).

His longstanding pre-eminence in commodities and international trade and oil trading disputes makes him in demand for contractual disputes relating to energy products and energy generation.

He is a frequent speaker on industry topics and contractual issues, e.g. at Oil & Gas UK seminars, and is the author of the leading text on marine offshore contracts: “The Law of Tug and Tow and Offshore Contracts” (Informa, 4th Edn, 2019) and co-author of “Offshore Contracts and Liabilities” (Informa, 2015: chapter on offshore construction project mutual indemnities). He is currently writing a commentary on the new offshore industry decommissioning form (Dismantlecon).

He has performed a large number of expert determinations under industry contracts, especially on North Sea matters.

Current and recent examples of his work:

- Represented a major Oil and energy company in a dispute concerning the repayment provisions arising of the share sale and purchase agreement in a US\$2bn purchase. US\$100m dispute involving a pitched battle on the complex share sale contract provisions as well as a full trial seeking the rectification of the contract based on discussions between principals.
- Representing major operator offshore oil fields in a US\$ 150M Commercial Court claim against a specialist oil industry manufacturer of drilling tubings in relation to widespread defects in tubing which led to the emergency closures with massive losses. The claim is typical of the highly technical drilling and oilfield expert issues which Simon is well-known for his expertise, and for the complex mesh of interlocking contracts (production agreement; joint operating agreement, joint venture) which have to be unravelled to identify the proper basis of claiming the huge losses.
- *Daewoo Shipbuilding and Marine Engineering Co Ltd v Songa Offshore Equinox Ltd and Transocean* [2020] EWHC 2353 (TCC) - represented buyers in major new generation rig dispute worth \$900 million.
- *UNCITRAL Arbitration*: acting for an oil major against a natural gas producer. Interpretation of a Gas Price and Formula provision contained in the Gas Sale and Purchase Contract and how to approach (a) the construction of the gas price change provision and (b) how to evidence the matters required for the gas pricing clauses to be triggered. These are always highly complex and specialised issue on which the profitability of a long-term contract typically 10 to 20 years will depend.
- *Crescent Petroleum v National Iranian Oil Corporation* (No. 1 and now No. 2). Co-counsel for NIOC in a long-running arbitration taking place at the Permanent Court of Arbitration in the Hague concerning a claim by Crescent for US\$ 13 billion under a long term gas sale and purchase agreement. Issues concerning gas pricing, pipeline and infrastructure construction and capacities.
- Lead counsel for the world’s leading oil majors in US\$340 million HKIAC arbitration dispute with Far East importer of liquefied natural gas under a 30 year LNG supply contract with complex questions of construction as to the operation of an LNG sale and purchase agreement and involving allegations of wilful misconduct and difficult gas pricing and gas availability issues.
- *Teesside Gas Transportation Ltd v CATS North Sea Ltd* [2019] EWHC 1220 (Comm): Counsel for Teesside in dispute arising under a capacity reservation and transportation agreement (CRTA) for capacity in the North Sea CATS gas pipeline with issues including correct allocation methodologies, treatment of expenditure and implied contractual good faith. Raised fundamental issues as to the allocation methodology with big knock-on effects for the gas industry last considered in *Amoco v Teesside* [2001] UKHL 18.
- *DSME v Songa Offshore* [2018] EWHC 538 (Comm). Counsel for former Statoil related entity Songa Offshore (now taken over by Transocean) in highly publicised and controversial dispute with offshore industry specialist DSME in dispute concerning (a) the building of three new state of the art North Sea exploration semi-

submersible drilling rigs (known as the new Category DP3s) and (b) allegations of fundamental design failures by DSME which made the rigs too heavy and unsuitable for use. The dispute was worth US\$850 million over the three drilling rigs. Successful preliminary issue on DSME's design responsibility leading to the dismissal of DSME's claim has given rise to various satellite challenges: see e.g. an unsuccessful appeal [2018] EWHC 538 (Comm) and further proceedings in the TCC (on appeal from a second award dismissing an application by DSME to amend): December 2019.

- ***Premier Oil v Dana Petroleum***. Counsel for Dana in dispute arising under a series of joint operating agreements relating to various North Sea oil licences. The dispute concerned whether or not Dana, who had an interest in the various licences, was liable to the Claimant, the operator of those licences, for expenses incurred by way of transition and integration costs, as a result of the Claimant having taken over the previous operator.
- ***Vitol E&P Ltd v New Age (African Global Energy) Ltd*** [2018] EWHC 1580 (Comm): Counsel for Vitol in dispute against a major West African energy and oil producer relating to complex US\$150 million financing package developed by Vitol. Issues involved novel questions relating to the rectification of a written contract in the light of alleged bad faith 'standing by' by one party in oral negotiations and the use of financing side letters. The case turned on the successful cross-examination of New Age's CEO by Simon.
- ***Transocean Drilling v Repsol Sinopec***. Counsel for Repsol Sinopec (formerly Talisman) in a US\$90M dispute concerning interrupted drilling and a collapsed drilling well in the North Sea (the Seagull field) and the financial fallout under a long term hire of a Transocean drilling unit. Complex technical issues and contractual issues as to industry terms "Redrill Rate" and "Fishing".
- ***Crestar Resources v Newton Energy***. Counsel for Newton Energy in a complex joint venture / cooperation agreement dispute with Crestar Energy (the energy group headed by the colourful Mr Shefsky) XXX arising out of a series of agreements for the development of new oil field block in Nigeria. Issues involve breach of warranties given in the agreement (on which Simon is a sector expert: see *Idemitsu Corp v Sumitomo Corp* [2016] EWHC 1909 (Comm) and bad faith exercise of contractual options.
- ***Statoil v Chevron, Petrobras and others*** (Awards 2016 and 2018): Co-counsel for Statoil, the Norwegian energy major, in a complex and multi-phase dispute regarding redetermination of shares on oil field production in Nigeria in connection with the new Agbami field. Contractual issues relating to status of and availability of challenge to a final and binding Expert Determination shifting the allocation of sub-sea oil fields from one oil major group to another etc.
- Counsel for major North Sea oil production and development player in long running and dispute with offshore industry specialist in dispute concerning (a) the funding and acquisition arrangements of participants' shares in a new North Sea field and (b) allied to this, alleged breaches by as to the modification and engineering work to convert and construct a new FPSO for this field
- Counsel for leading subsea contractor in relation to dispute with major submarine energy network development contractor under a marine installation contract for the installation, burial and separate shore end landings of energy lines on the Quintillion Subsea Project offshore Alaska. The biggest offshore energy project ever carried out in Alaska and involving revolutionary new cable laying / fibre optic and associated technology.
- Counsel for one of the leaders in wind farm construction, in dispute with major offshore construction company in dispute relating to a punch through of an offshore installation unit operating in the construction of the Robin Rigg offshore wind farm field. One of the first cases involving a UK wind farm and the subsea geology requirements for wind turbine monopoles and who bears responsibility for seabed faults.
- Counsel for substantial offshore operator in Singapore/Far East in relation to dispute concerning damage to a major Far East country's oil pipeline during a major construction project extending the field. Claims in excess of US\$500M which are sought to be passed on under standard forms of offshore contracts.
- Counsel for one of the world's largest operator of "Gas to Liquid" plants recovering hydrocarbon fuel products from natural gas in dispute with manufacturer of the patented technology for synthesis gas.
- Counsel for Grupo R in relation to a dispute concerning the US\$ 800 million new generation oil drilling rig "**LA MURALLA IV**", one of the biggest new rigs in the world. Novel and complex technical issues of interest to the drilling industry and interpretation of specification for such rigs.

Shipping

"The go-to senior shipping silk. First class."
(Legal 500, 2023)

"Simon Rainey is widely regarded as one of the very best of the shipping silks, a reputation which is entirely justified."
(Chambers UK, 2021)

Overview

Simon Rainey is regarded as the foremost shipping and international trade KC at the English Bar today.

He has been ranked in the unique category of "Star Individual" (a special category, ranked above Band 1) for 'Shipping and Commodities' by Chambers & Partners UK since 2015. Simon was awarded the title of 'Shipping Silk of the Year' by *both* Chambers and Partners UK *and* Legal 500 UK Awards in 2017 and 2022. He was also shortlisted for 'Shipping Silk of the Year' at the Chambers UK Bar Awards 2018, for 'Shipping Silk of the Year' at the Legal 500 UK Awards in 2019 and 2020.

He was named number one in the Lloyd's List top 10 maritime lawyers in 2021, and has featured/won previously in 2017, 2018 and 2020.

He has handled every possible type of shipping and maritime dispute, with particular emphasis in recent years on complex cases involving all of the main major casualties arising out of dangerous cargo incidents (e.g. most recently APL Austria, MSC Daniela; MSC Flaminia; Bulk Jupiter; Bremen Express; Amsterdam Bridge, MSC Napoli: see also the calcium hypochlorite casualties; Hanjin Pennsylvania, CMA Djakarta, Contship France, Aconcagua etc.), representing variously owners and charterers, and major safe port disputes, as well as almost all of the major appeals to the Commercial Court, Court of Appeal and Supreme Court on the major shipping cases raising shipping and commodity law points of principle (e.g. *Grand China v Spar Shipping*; *Bunge v Nidera*; *The Global Santosh*, *The Maria*, *Volcafe v CSAV*, *The Arctic*, *Classic Maritime v Limbungan*; *The CMA CGM Libra*; *The Ever Smart* etc).

Simon regularly acts in ground-breaking shipping and commodity cases at appellate level including *Bunge SA v Nidera SA* [2015] UKSC 43; *NYK Bulkship (Atlantic) NV v Cargill International SA (The Global Santosh)* [2016] UKSC; *Grand China Logistics Holding (Group) Co Ltd v Spar Shipping AS* [2016] EWCA Civ 982; *Volcafe Ltd v Compania Sud Americana de Vapores SA* [2018] UKSC 61 (one of the most important shipping appeals in recent times, dealing with issues as to the burden of proof under the Hague / Hague-Visby Rules and the inherent vice defence). He has been brought in to pursue the Supreme Court appeal in *Evergreen Marine Ltd v Nautical Challenge Ltd (The Ever Smart)* [2018] EWCA Civ 2173, on the application of the 'crossing rule' under the Collision Regulations (appeal to permission now granted).

He has long had special expertise in interpretation issues relating to the Hague and Hague-Visby Rules, having argued almost all of the leading cases in the last fifteen years: e.g. *The Jordan II (Jindal Iron and Steel Co Ltd and Others v Islamic Solidarity Shipping Company)* [2005] 1 Lloyd's Rep 57 (House of Lords); *MacWilliam v Mediterranean Shipping Company (The "Rafaela S")* [2005] 2 AC 423; *CSAV v Hamburg Schiffahrtsgesellschaft (The Aconcagua)* [2006] 2 Ll. Rep 6; *Serena Navigation v Dera Establishment (The "Limnos")* [2008] 2 Ll. Rep. 166; *Volcafe Ltd v Compania Sud Americana de Vapores SA* [2018] UKSC 61.

In addition he has long experience in major shipbuilding disputes. In arbitration he has represented buyers and yards covering every sort of vessel from new generation Q-Max LNG carriers, via state-of the art super-OSVs to the latest iteration of 'super-superyacht' such as the Benetti Zoza. He has also handled major shipbuilding s.69 Arbitration Act appeals: e.g. *Covington Marine Corp v Xiamen Shipbuilding* [2006] 1 Lloyd's Rep 745; *Ravennavi SpA v New Century Shipbuilding Company Ltd* [2007] 2 Lloyd's Rep. 24; *DSME v Songa*.

He is the author of the leading work on towage and offshore service contracts and charterparties, now in its fourth edition: "The Law of Tug and Tow and Offshore Contracts" (2019); is a frequent writer and speaker on topical maritime and commodity law issues (see list of publications) and has been a visiting professor in maritime and commercial law at the Institute of International Trade and Shipping Law, University of Swansea, since 2012.

Current and recent examples of his work:

- *Ark Shipping Company LLC v Silverburn Shipping (IOM) Ltd (The "ARCTIC")* [2019] EWCA Civ 1161. Brought in

for the appeal to the Court of Appeal as counsel for the successful appellant in this important ruling on the classification of the charterers' obligation to keep a vessel 'in class' under a bareboat charter, overturning the Judge's decision that the term was a condition. The Court of Appeal held that the obligation was an innominate term and that the owners were not entitled to terminate for breach of this obligation in the absence of a repudiatory breach.

- ***Classic Maritime v Limbungan*** [2019] EWCA Civ 1102. Counsel for charterers in relation to force majeure issues under a long-term COA arising out of the Samarco dam collapse in Brazil in 2015; questions of construction of standard form force majeure clauses and the correct analysis in damages if the force majeure clause is inapplicable but performance was nevertheless impossible: appeal and cross-appeal from earlier Commercial Court decision [2018] EWHC 2389 (Comm); on appeal to the Supreme Court (2020).
- ***Volcafe Ltd v Compania Sud Americana de Vapores SA*** [2018] UKSC 61. Counsel for the respondent owner / carrier in what is now the leading case regarding the burden of proof under the Hague / Hague-Visby Rules and the inherent vice defence.
- ***Evergreen Marine v Nautical Challenge (EVER SMART in collision with ALEXANDRA I)*** Appeal to the Supreme Court in 2020 (on appeal from [2018] EWCA Civ 2173). Counsel for appellants: successfully obtained permission to appeal and will argue the appeal in 2020. The case is the first admiralty appeal for many years and raises critical questions as to the correct approach to be taken to the interpretation and effect of the International Collision Regulations 1972 and the so-called "Crossing Rule" and "Narrow Channel Rule".
- ***The Maersk Karachi*** (2018-2020) Counsel for Maersk in three week Commercial Court trial in 2020 concerning gantry crane collapse at Bremerhaven resulting in major fire and substantial damage to vessel and cargo. Issues of alleged systems failure and raising the burden of proof for unseaworthiness under Article III, Rule 1 of the Hague Rules, post-Volcafe (see above) See also *The "Maersk Karachi"* [2019] EWHC 1099 (Comm).
- ***Agile Holdings Corporation v Essar Shipping Ltd (The Maria)*** [2018] EWHC 1055 (Comm). Simon is routinely brought in to seek to appeal maritime arbitration awards (LMAA) to the Commercial Court under section 69 of the Arbitration Act 1996 on points of law. This case dealt with a long outstanding issue under the Inter-Club Agreement as to the apportionment of liability under Clause 8(b) of the Inter-Club Agreement and the effect of amendments "similar" to adding "and responsibility" to Clause 8 of the NYPE form. Simon successfully obtained permission from an LMAA award of top arbitrators (including a leading shipping QC) and then had the award overturned.
- ***'Rosalia d'Amato' (D'Amato Navigazione v Nidera / COFCO BV and Lloyd's Syndicates)*** (2016-2018). Counsel for Owners in this case where the vessel was captured by pirates in the Gulf of Aden. The case raised difficult and controversial issues as to (a) whether and in what circumstances a vessel is unseaworthy by reason of the sorts of measures it takes to avoid piracy attacks (water cannon / razor wire / high speeds) and (b) the question whether a master's voyage or 'passage plan' can amount to an attribute of the vessel making her unseaworthy or if (as Owners allege) it is excepted as simple 'error in navigation'.
- ***MSC Flaminia (Stolt Tankers & 116 others v MSC Shipping)*** (2017-2020). Simon has a long track record on major ship casualties where dangerous cargo or alleged dangerous cargo is in issue (he was counsel in almost all of the 'calcium hypochlorite' cases e.g. *The CMA Dkakarta*; *The Hanjin Pennsylvania*; *The Contship France* and *The Aconcagua* (*Compania Sud Americana De Vapores SA v Sinochem Tianjin Import & Export Corporation* [2011] 1 Lloyd's Rep. 683).
- Counsel for Brazilian petro-giant Petrobras against leading Norwegian shipowners Teekay in US\$180m claim for termination by Petrobras of long term charter of highly technical offshore loading system (the 'Hiload') used to allow large tankers to load direct from FPSOs.
- ***NYK v Cargill (The Global Santosh)*** [2016] UKSC 20: Counsel for the successful appellant time charterers Cargill International SA in the Supreme Court appeal from the Court of Appeal's decision on the scope of responsibility for delegates under standard forms of time charterparty. The appeal concerned points of general importance to all time charterparties as to (a) standard form off-hire clauses dealing with vessel arrests and time lost as a result during course of a time charter and (b) nature of charterer's obligation for cargo handling operations under clause 8 of the most common time charter form (NYPE).
- ***Grand China Logistics Holding (Group) Co Ltd v Spar Shipping AS*** [2016] EWCA Civ 982. The case dealt with the much discussed 'split' in the cases on whether the payment of hire was a condition of the contract or merely an intermediate term: known as the "Astra" point, following the contrary decision of Flaux J. in 2013. Simon successfully represented the time charterers. The case is now a landmark decision on the status of hire under time charterparties and lays down important principles for repudiation in the event of delays in punctual payment.
- ***Bunge SA v Nidera SA*** [2015] UKSC 43. The leading commodity case of the past few years. Simon successfully represented Bunge in a landmark decision by the Supreme Court on GAFTA Default Clause and sale of goods damages after *The Golden Victory* on points which had been lost at every stage below.
- ***The Bulk Jupiter*** (2016-2018) Simon has a long track record on major ship casualties / disasters where

dangerous cargo or alleged dangerous cargo is in issue, e.g. affecting stability (Simon was counsel in both The MSC Napoli and The Rena). The bulk carrier Bulk Jupiter sank suddenly on a laden voyage with only one survivor in January 2015 and Simon represented the time charterers. Raised complex issues of cargo liquefaction science.

Commercial Dispute Resolution

"Consummate advocate who thinks many steps ahead and reads the court and opponents very well."

(Legal 500, 2021)

Overview

Simon Rainey has an extensive commercial litigation practice, specialising in high profile and high value commercial cases, arising out of widely differing commercial contracts and contexts, usually with an international aspect. His cases typically involve heavy interlocutory stages centred around pre-emptive strike applications such as worldwide freezing injunctions and anti-suit and other injunctive relief, a recent example of which is the hard-fought *Gerald Metals v Timis* litigation in England, Cayman and the BVI (2017-2018).

Many of his cases concern commercial fraud. He has long experience of difficult multiple jurisdiction disputes and complex enforcement issues, often with state immunity or international law aspects, such as *Government of Sudan v Republic of South Sudan and others* (2012-2015) and *Heiser v Iran* (2019-2020)

He is highly ranked in the sector by both Chambers & Partners and Legal 500 (UK as well as Asia-Pacific).

Current and recent directory quotes:

"He has it all under complete control, and he reads the court, his opponents and the direction of the case perfectly." (...) "A very smooth advocate who is adept at putting forward a persuasive argument." (Chambers UK, 2020)

"Remains brilliant – his cross-examination was excruciatingly superb." (Legal 500, 2020)

"A superstar with very solid and reliable mind for very complicated legal and factual issues." (Legal 500 Asia Pacific, 2019)

"A fantastically intelligent and tactically astute barrister who is immensely erudite." (Chambers UK, 2019)

"A class act who's proved himself to be a stellar performer; he's fighting at the top of his game." (Legal 500, 2019)

Current and recent cases include:

- **VTB v Antipinsky (Petrarco intervener) (2019- 2020):** Simon is regularly involved in high value complex freezing injunction and jurisdictional disputes. Representing third party intervener to vary US\$225m worldwide freezing order to permit off-take of US\$30m oil from floating storage facility in Murmansk. Advancing claim against the applicant under its cross-undertaking in damages to third parties; defending counterclaim involving allegations of fraud, conspiracy to injure and Russian law torts.
- **Estate of Michael Heiser and Others v (1) The Islamic Republic of Iran; (2) The Iranian Ministry Of Information and Security [2019] EWHC 2074 (QB) and [2019] EWHC 2073 (QB):** Simon is frequently involved in very large scale commercial disputes involving states or state entities and questions of State Immunity (e.g. the South Sudan litigation where he acted for S Sudan in its action to recover oil exports sold round the world by the government of N Sudan: see below). Counsel for the Iranian Government in successfully resisting jurisdiction and enforcement proceedings in the Commercial Court arising out of an attempt to enforce various US judgments totalling US\$ 800 million obtained against Iran alleging its liability for the 9/11 terrorist attacks on the World Trade Center and other terrorist incidents. Raised complex issues of jurisdiction of English court, State Immunity and US and English law and public policy defences.
- **Gerald Metals v Timis Trust / Timis Corp / Frank Timis (2016-2018):** Represented Timis Corp in this major and bitterly fought out commercial litigation concerning the development of mining interest in Sierra Leone between Gerald Metals a major minerals and metals trader and Frank Timis, one of the world's richest men and a leading mining entrepreneur in the difficult mining environments of the world. The case concerned alleged conspiracy to defraud (and 'unlawful means conspiracy' and whether transfers in breach of insolvency legislation can constitute in law 'unlawful means'), breach of guarantees and numerous issues concerning arbitral award enforcement; equitable receivership, worldwide freezing injunctions etc: the matter has gone frequently to the Commercial Court in this context alone and spawned litigation in the BVI, Switzerland and elsewhere. Issues included 'unlawful means conspiracy' and whether transfers in breach of insolvency legislation can constitute in

law 'unlawful means'.

- **Crestar Energy v Newton Energy (2018):** Simon is regularly brought in on commercial litigation concerning the wider aspects of international commerce flowing from large scale energy transactions, especially where they involve allegations of bad faith or tortious conduct. Counsel for Newton Energy in a complex joint venture / cooperation agreement dispute with Crestar arising out of a series of agreements for the development of new oil field block in Nigeria. Issues involved breach of warranties given in the agreement (on which Simon successfully argued the leading case, *Idemitsu Corp v Sumitomo Corp* [2016] EWHC 1909 (Comm): see below) and bad faith exercise of contractual options.
- **Vitol E&P Ltd v New Age (African Global Energy) Ltd [2018] EWHC 1580 (Comm):** This is an example of the energy spin off commercial litigation field in which Simon is heavily engaged. Successfully represented Vitol, one of the world's largest trade and commercial houses, in dispute against a major West African energy and oil producer relating to complex US\$150 million financing package developed by Vitol. Issues involved novel questions relating to the rectification of a written contract in the light of alleged bad faith 'standing by' by one party in oral negotiations and the use of financing side letters. The case turned on the successful cross-examination of New Age's CEO by Simon.
- **Mena Energy DMCC v Hascol Petroleum Limited [2017] EWHC 262 (Comm) and (2018):** Representing Mena, one of the UAE's largest and most prestigious independent energy traders in successful trial on liability in claim against the largest chain of petrol stations in Pakistan, Hascol. Case involved breach of contract, contract terms, formation of contract, letters of credit, oil and gas contracts and shipments.
- A US\$19 million Commercial Court dispute arising under three contracts for the sale by the claimant to the defendant of various cargoes of high sulphur fuel oil and gasoil. Having won on liability, Phase II (before settlement) gave rise to complicated quantum issues regarding whether or not there was an available market for the cargoes in question and whether or not the claimant ought to have entered into hedging arrangements in respect of its losses.
- **Idemitsu Corp v Sumitomo Corp [2016] EWHC 1909 (Comm):** Represented Sumitomo in dispute with Idemitsu in a claim by Idemitsu for US\$250 million arising out of a share sale and purchase agreement relating to Sumitomo's shareholding in the North Sea Blake Field producer Petro Summit. Simon advised Sumitomo in relation to a very novel 'reverse summary judgment' application by Sumitomo against Idemitsu, in which he successfully argued that Idemitsu's claim was bad in law, leading to the dismissal of the whole claim. The decision made new law as it resolved (on the basis of Simon's successful argument) a long-running split in the cases (*Sycamore Bidco and Invertec Ltd v De Mol*) as to how to construe share S&P agreements. This case pitted two very big players against each other in a dispute which will have large scale ramifications for all S&P contracts.
- **A v B (2015-2016):** Simon is frequently brought in as a specialist leader in Commercial Court litigation involving the enforcement of judgments and arbitration awards where a defendant or respondent is seeking to evade judgment and freezing injunctions. He was brought into this huge professional negligence action where a trading entity claimed against a leading London law firm in respect of alleged negligence by and leading commercial barristers in handling the enforcement of an international arbitration award of US\$300 million. Simon's robust defence of the claim led to the claimant settling before a lengthy Chancery Division trial; Simon led a specialist professional negligence team.
- **SK Gas International v Everglory Energy and Motivi Point (2016):** Represented SK, one of Singapore's largest commodity and energy trade houses, in multi-jurisdiction claims in excess of US\$150M for repudiation of long term contracts for gas supply by Everglory, alleging wrongful inducing of breach of contract and tortious interference with contract by a Hong Kong shareholder. Raised important issues as to fiduciary duty of care by the shareholder, possible conspiracy to defraud creditors.
- **Archer Daniels Midland v Tarif Akhras [2014] EWHC 1392 (Comm):** Represented ADM (the US giant and one of the world's biggest grain traders) in dispute with Akhras, a highly placed member of President Assad's family regarding importation of grain into Syria over many years and a highly complex network of trading companies employed by him. Obtained worldwide freezing injunction against him for US\$ 80M and subsequent committal.
- **Government of Sudan v Republic of South Sudan and ors (2012-2015):** Represented the government of the newly formed Republic of South Sudan in the well publicised disputes with North Sudan arising out of competing oil ownership and pipeline transit fee claims, leading to various claims by third parties. The case raised major issues of principle the effect of sovereign immunity on ex parte orders and similar procedures for determining title.
- **Vitol SA v Sterling Oil [2013] EWHC 3108 (Comm):** Represented Sterling (one of the biggest exporters of Nigerian crude oil) in dispute over alleged breach of long term supply and development contract. The case raised issues as to the efficacy (or otherwise) of a standard form Entire Agreement Clause in a major trade house's terms in relation to alleged collateral contracts: a point of general importance to claimants seeking summary judgment.

- **Star Reefers Inc. v JFC Group [2012] EWHC 1803 (Comm)**: Represented the claimant in worldwide freezing injunction dispute arising out of massive default on a series of contracts by Russia's largest fruit multi-national, JFC Group Co. Ltd ("JFC") of St Petersburg (owned by Mr Vladimir Kekhman known as the "Russian banana king"). Established important new scope of application of freezing injunction to directors and extra-territorial scope of UK contempt proceedings.
- **Energy Venture Partners v. Malabu Oil & Gas [2012] EWHC 853 (Comm) and [2011] EWHC 2215 (Comm)**. Representing JP Morgan Chase in dispute worth US\$1.3 Billion (making it one of the biggest Commercial Court cases of all times in money value terms) arising out of a dispute between parties to an agreement relating to oil prospecting licences in Nigeria. Acted for J P Morgan in this complex and high value litigation. The sum of US\$1.3 billion was paid into an account with the bank, held to the order of the Federal Government of Nigeria. The case raised major issues of principle in relation to freezing orders and the position of third party banks and the effect of sovereign immunity.
- **Antonio Gramsci Shipping Corp v Recoletos Ltd and Lembergs [2012] EWHC 1887 (Comm)**: Represented the Claimants in the application to Mr Lembergs (one of the Latvian politicians alleged to have been involved as "controlling mind") of the jurisdictional result achieved against another such politician (Mr Stepanovs) reported at [2011] 1 LI Rep 647 (see below). Application of the "Gramsci Point" on piercing the veil and independent argument on Article 23 of the EU Judgments Regulation.
- **Georgian Copper v J.S.C. Madneuli (2012)**: Representing the former Georgian state owned copper producing combine in dispute (one of the biggest copper producers in the world) involving an alleged long term supply contract for copper and copper concentrate products. Raised issues of illegality, fraud and validity of contract in a claim made for US\$ 75,000,000 and complicated questions of the interaction of Georgian law, Swiss law and English law and conflicts of law principles and jurisdiction.
- **Antonio Gramsci Shipping Corp v Recoletos Ltd and Stepanovs [2011] 1 Lloyd's Rep 647**: This ground-breaking decision concerned the scope and application of the Brussels Regulation in the context of lifting the corporate veil. Successfully argued for a new extension of Gilford v Horne, Trustor v Smallbone etc principles to make the controlling mind behind a company's fraudulent contract party to the contract and its jurisdiction clause.

Commodities & International Trade

"Unquestionably a super silk. a first-class advocate with a very powerful mind who breaks a problem down into its constituent parts and leaves no stone unturned."

(Legal 500, 2021)

Overview

Simon Rainey is one of the foremost practitioners in commodity work, and his practice covers all aspects of international trade and commodities / futures, including oil trading, metals and all forms of soft commodities.

He has been ranked for many years in Band 1 by Legal 500 in its specialist Commodities listing.

He has acted for all of the world's big trade houses such as Vitol, ED&F Man; Tate and Lyle; Glencore; Archer Daniels Midland, Bunge, Cargill, Vale and ICOF both in arbitration before specialist tribunals (FOSFA, GAFTA, RSA; SAL) and in Court on Arbitration Act challenges to awards or in Commercial Court litigation. He handles a large number of GAFTA and FOSFA arbitrations, and has been involved in many of the section 69 Arbitration Act appeals from (and other challenges to) such GAFTA and FOSFA awards. He successfully represented Bunge SA in the recent landmark section 69 appeal before the Supreme Court, *Bunge SA v Nidera BV* [2015] UKSC 49 on the GAFTA Default Clause and the application of The Golden Victory to damages in sale of goods cases.

He is particularly known for his expertise in both oil trading disputes ("He has strong credentials in the oil trading field, combined with an agile mind, and is not afraid to push boundaries of the law") and sugar trades and sugar futures, with considerable experience in biofuel quality disputes and having handled virtually all of the major sugar arbitrations in the last fifteen years ("probably the premier silk in London for sugar matters").

Current and recent Directory quotes:

"Simon is considered a legendary figure by the entire shipping world." (...) "He has the ability take the most complex of cases, drill them down to half a dozen propositions and drive them home." (Chambers UK, 2020)

"His cross-examination is second to none. He's extremely clever and lovely to work with." (...) "He is a true star." (Chambers UK, 2020)

"On the top of his game and clients love him – he is as good as his reputation suggests."(Legal 500, 2020)

"A pleasure to work with. Fantastically intelligent and tactically astute."(...) *"Personable and intellectually brilliant. He has the ability to sift through numerous documents and turn arguments into razor-sharp points that get straight to the core issues."*(Chambers UK, 2019)

"One of the best commodities barristers – diligent and responsive, he is an excellent example of the modern silk."(Legal 500, 2019)

Current and recent examples of his commodities work:

- ***Classic Maritime v Limbungan*** [2019] EWCA Civ 1102 force majeure issues under a long-term contract arising out of the Samarco dam collapse in Brazil in 2015; questions of construction of standard form force majeure clauses and the correct analysis in damages if the force majeure clause is inapplicable but performance was nevertheless impossible: appeal and cross-appeal from earlier Commercial Court decision [2018] EWHC 2389 (Comm).
- Representing a major US trade house in dispute over US grain cargoes with string contracts and involving problems for cargoes afloat on insolvency of carrying vessels owners.
- Representing a major sugar trader in RSA arbitration on alleged liability of FOB seller of containerised sugar parcels from Brazil where the containers were used by drug smugglers as receptacles for international cocaine smuggling.
- Representing one of the world's biggest mineral producers and exporters in dispute with a leading world commodity house, involving specialised ore long term supply contract.
- ***Mena Energy DMCC v Hascol Petroleum Limited*** [2017] EWHC 262 (Comm) and (2018) Representing Mena, one of the UAE's largest and most prestigious independent energy traders in successful trial on liability in claim against the largest chain of petrol stations in Pakistan, Hascol. Case involved breach of contract, contract terms, formation of contract, letters of credit, oil and gas contracts and shipments. A US\$19 million Commercial Court dispute arising under three contracts for the sale by the claimant to the defendant of various cargoes of high sulphur fuel oil and gasoil. Having won on liability, Phase II (before settlement) gave rise to complicated quantum issues regarding whether or not there was an available market for the cargoes in question and whether or not the claimant ought to have entered into hedging arrangements in respect of its losses.
- ***Bunge SA v Nidera BV*** [2015] UKSC 49. Brought in after the Court of Appeal to challenge decisions of GAFTA Board of Appeal, Hamblen J. and Court of Appeal on meaning of the standard GAFTA Default Clause. The Supreme Court overturned the previous rulings, holding that the Clause does not oust the ordinary compensatory principle in damages. The Court also applied the decision in *The Golden Victory* to single sales contracts (dispelling academic and judicial doubts on this point) and strongly affirmed *The Golden Victory*, rejecting the Buyers' argument that the same should be reversed.
- ***ED&F Man v Tate & Lyle Sugar*** (2015) Represented T&L in Commercial Court dispute with ED&F Man involving a long term raw sugar supply agreement and joint venture between major sugar trade houses as to the setting up of a major new sugar refinery in Italy in which Man allege that Tate & Lyle acted as part of an unlawful means conspiracy to convert a cargo of sugar worth US\$25M and to cause loss to Man.
- ***Stemcor UK Ltd v Global Steel Holdings Ltd and Pramod Mittal*** [2015] EWHC 363 (Comm) Representing Stemcor in dispute with purchaser of coking coal under long term supply contracts.
- ***Nidera BV v Venus International Free Zone for Trading*** [2014] EWHC 2013 (Comm). Represented Nidera, in Commercial Court appeal from GAFTA award on the GAFTA standard form "Extension of Delivery" clause in dispute arising out of the Ukrainian embargo on exports of corn and grain. The dispute was worth US\$ 15m. The issue of law raised was of major importance to all GAFTA contracts and to FOSFA contracts which have a similar clause.
- ***Transition Feeds v Itochu, Transition Feeds v ICOF*** (2013-2015). Represented Transition, a specialist palm oil subsidiary of the ED & F Man Group in a case involving major questions of principle for CIF and Ex Tank Contracts and the effect of piracy on feed grade goods bound for animal consumption and raising critical issues on the concept of 'good merchantable quality' in FOSFA contracts. Obtained remission of four separate FOSFA arbitration awards on these and other issues on section 68 Arbitration Act challenge for 'serious irregularity' [2013] EWHC 3629 (Comm).
- ***Great Elephant Corp. v. Trafigura Beheer BV, Trafigura v Vitol Asia, Vitol SA and China Offshore Oil ("The Crudesky")*** [2014] 1 Lloyd's Rep. 1: representing exporter of Nigerian crude oil; case raises issue whether governmental detention and fine following loading of oil in breach of regulations amounted to force majeure/restraint of princes and/or novus actus interveniens; multi party dispute arising out of alleged breach of Nigerian law in loading of crude oil cargoes under a "string" contract. Important questions of principle as to the liability of an FOB seller for acts of sellers down the "string" and tackled some undecided questions under the

warranty of good title under sect 11 of Sale of Goods Act 1979 and INCOTERMS.

Insurance

"Incredibly knowledgeable, very practical and pragmatic; he manages to make the complex seem simple."
(Legal 500, 2020)

Overview

Simon has a depth of experience across most of the industry sectors, with particular expertise in marine insurance and coverage issues; he regularly advises P&I Clubs on coverage and Rules issues. He has also advised in many of the recent piracy and ransom cases and represented insurers in the recent Venezuelan confiscation case *Atlas-Navios Navegacao v Navigators Insurance (The B Atlantic)* [2014] EWHC 4133 (Comm).

He is highly ranked by Legal 500.

He is co-author (with Guy Blackwood KC and David Walsh) of the new 11th Edition of Chalmers on the Marine Insurance Act (published 2019); of *The Insurance Act 2015: A New Regime for Commercial and Marine Insurance Law* (published 2017: ed Clarke and Soyer) and has published and spoken on the new changes to insurance law, e.g. [2013] LMCLQ 357 (fraudulent claims).

Current and recent directory quotes:

"Incredibly knowledgeable, very practical and pragmatic; he manages to make the complex seem simple."(Legal 500, 2020)

"A senior silk with gravitas and an ability to provide crystal clear advice that gets to the bottom line."(Legal 500, 2019)

Current and recent examples of his work

- ***Transocean v Canopus Insurance*** (2018-2019) Represented Transocean in major Bermuda Form arbitration arising out of Deepwater Horizon disaster. Issues involved correct application of interpretation principles under Article VI.O, the scope and effect of the Article II ultimate net loss provisions and the exclusion of "fines and penalties" in relation to liabilities under the US RESTORE Act.
- Represented leading London marine syndicate in defending a Commercial Court Claim for £25M alleged total loss of specialist tuna purse seine Pacific Ocean fishing vessel. Case involves loss by alleged fire and issues of illegality, fraudulent device and unseaworthiness. Complex policy issues and complex scientific evidence on fire and fire propagation.
- *The Elli and Brillante Virtuoso* (2016-2017) Represented and advising a number of London hull market leading syndicates in relation to the fall-out from the dismissal of the assured's claim in the controversial case of the *Brillante Virtuoso*
- Represented assured in dispute concerning the loss by springing a leak through its helicopter / garage deck of a super yacht. The case raised important general issues of crewing qualifications and crew experience issues under the standard forms of English 'yacht clauses' and the American Yacht Clauses, and highly complex questions of causation and insured perils.
- Represented the London and Companies insurance markets in connection with a yet further alleged CTL of a vessel arising from confiscation of a vessel in Venezuela for alleged drug smuggling. Case involves allegations made of political interference in the judicial process and of impropriety by Venezuelan government. It also raises important issues of construction of standard war risk exclusions.
- ***Atlas-Navios Navegacao v Navigators Insurance (The B Atlantic)*** [2014] EWHC 4133 (Comm). Venezuelan confiscation and political interference; total loss.
- Representing P&I club in relation to coverage issues under Rules and under the International group pooling agreement in relation to major casualty involving jack-up rig in West Africa.
- Representing major reinsurers in defence of claim for indemnity in respect of the constructive total loss of vessel due to piracy attack in the Red Sea.
- Representing war risk insurers in defence of claim under reinsurance policy relating to ransom payments for hijacked vessel.
- Representing major insurers in dispute as to liabilities arising out of construction project of waste-to-energy plant. Involves questions on the standard forms of Erection "All Risks", Public Liability and Delay in Start Up Insurance Policy and the operation of the commonly used 50/50 clause.
- Representing the claimant assured in a "Bermuda Form" arbitration concerning US public liability insurance contract dispute.

- Providing expert evidence on English insurance law before the Dutch Supreme Court) concerning the assignability of insurance policies in English law.

Academic

BA (Cantab.) (1st Class Hons., Law) 1980, MA 1984

Licence en Droit Européen (Bruxelles) (Plus grande distinction) 1982.

Awards

Exhibitioner (Corpus Christi College, Cantab). Squire scholarships (Cantab); Lazard scholarship (Corpus Christi College); Wiener-Anspach scholarship (Cantab - Bruxelles).

Denning Scholar; Scarman Scholar, Ver Heyden, Buchanan and Lord Morton of Henryton Prizes (Lincoln's Inn).

Ranking



Appointments

Recorder (Crown Court), 2000;

Recorder (County Court), 2004

Deputy High Court Judge Queen's Bench Division (2008).

Deputy High Court Judge, Commercial Court (2014)

Visiting Fellow, Institute of International Trade and Shipping Law, University of Swansea (2010).

Honorary Professor, College of Business, Economics and Law, University of Swansea (2013)

Fellow of the Chartered Institute of Arbitrators (2013)

Presentations

Chalmers' Marine Insurance Act 1906, co-ed. with Guy Blackwood KC and David Walsh (2019, Bloomsbury Professional)

"The Law of Tug and Tow and Offshore Contracts" (4th Edn, 2019, Informa) (Also 3rd Edn 2012 Informa, and as "The Law of Tug and Tow", 1st Edn 1996, LLP; 2nd Edn 2002, LLP);

"Manual of International Maritime Law; II: Shipping Law" (IMO Institute of International Maritime Law; OUP vol II. 2018: ed Prof M Attard, Chapter author: "The Law of Towage")

"New Technologies and Shipping Law in the 21st Century" (2018, ed. Prof Baris Soyer, chapter author on Glencore v. MSC and the Use of PIN Codes to Effect Delivery

"Charterparties: Law and Practice on Emerging Issues" (2017, Informa, ed Prof Baris Soyer, chapter author on shipowner's remedies for non-payment of hire)

"International Trade & Carriage of Goods" (2016, ed Prof Baris Soyer, chapter author on recent developments in delegated contractual performance and The Global Santosh.

"Ship Building, Sale and Finance" (2015, Informa, ed Prof Baris Soyer, chapter author on ship sale and purchase and problems of The Union Power)

"Offshore Contracts and Liabilities" (2014, Informa ed. Prof Baris Soyer, chapter author on mutual indemnity clauses in offshore contracts)

"Carriage of Goods by Sea, Land and Air" (2013, Informa, ed Prof Baris Soyer, chapter author on piracy and charterparties)

"Pollution at Sea: Law and Liability" (2012, Informa, ed. Prof Baris Soyer; chapter author on public nuisance).

"The Carriage of Goods at Sea under the Rotterdam Rules" (2011, LLP, ed Prof Rhidian Thomas; chapter author on interpretation of international conventions).

"The Evolving Law of Voyage Charterparties" (2009, LLP, Prof Rhidian Thomas; chapter author on laytime and demurrage).

"Ship Sale and Purchase" ed. Goldrein and Turner (2nd Edn 1992 LLP; 3rd Edn 1998 LLP, chapter author on shipbuilding contracts).

"The Maritime Laws of Anglophone and Francophone West Africa" (1985) UNCTAD / MINCONMAR.

Various published articles in the Lloyd's Maritime and Commercial Law quarterly, e.g. [2013] LMCLQ 50 and [2013] LMCLQ 357.

Memberships

ICC United Kingdom Arbitration & ADR Committee

Commercial Bar Association (COMBAR)

London Maritime Arbitrators' Association (Supporting Member)

London Common Law and Commercial Bar Association (LCLCBA)

London Court of International Arbitration

Singapore Chamber of Maritime Arbitration (Panel)

Member Bar Pro Bono Unit

Languages

French (fluent); Italian (passive)

Interests

Skiing, walking, military and naval history, chamber music, print-collecting.