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## Nigel Cooper KC

Called: 1987

Silk: 2010

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Nigel Cooper KC appears before the business and appellate courts in England & Wales, and has a strong arbitration practice advising on and acting in disputes before all the main international and domestic arbitral bodies both in London and elsewhere. Nigel accepts appointments as an arbitrator and has acted as a mediator and as a party's representative in mediations. He has experience of public inquiries having appeared for the government in three major formal investigations.

Nigel's Insurance and Reinsurance practice extends to policy disputes in both the non- marine and marine sectors as well as to the review and drafting of policy wordings. Nigel's commercial practice covers most aspects of international trade and the carriage of goods, commodities, brokerage and commercial management disputes, fraud & illegality, and professional negligence. His shipping practice includes all forms of bill of lading and charterparty disputes; shipbuilding (including superyachts and military vessels) and off-shore construction; ship sale and purchase; arrest, limitation and collision actions, pollution and, occasionally, Merchant Shipping Act offences. In addition to his commercial shipping practice, Nigel has a specialist interest in disputes in the yachting and marine leisure market. In the energy sector, Nigel's work covers both upstream and downstream aspects of the industry. He has advised on and acted in disputes relating to drilling and exploration, to production and to the sale and purchase of energy products as well as on related issues such as the enforcement of related guarantees and the insurance of drilling units. In all areas of his practice, Nigel is experienced in dealing with related jurisdictional and enforcement issues, including early measures to ensure the preservation of assets.

He has considerable experience of handling cases that are factually and technically complex with a corresponding level of documents or which have required him to become familiar with new areas of law (most recently cross-border insolvency). He is known for being approachable and believes in working as a team with those instructing him. Nigel has a global client base and is increasingly instructed for disputes with an overseas seat of arbitration.

Nigel is recommended as a leading silk in Chambers UK & Global as well as Legal 500 UK and Asia Pacific.

### What the directories say

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- *"Nigel really understands the subject matter and is able to digest information quickly and get to the key issues. He is an excellent communicator with a relaxed and effective style."* (Legal 500, 2024)
- *"Nigel is a pleasure to work with and learn from."* (Chambers UK, 2024)
- *"He is great and very easy to engage with."* (Legal 500, 2024)
- *"Nigel is focused and crisp in his advice. He is also very personable in nature and is always up for a challenge."* (Legal 500 Asia Pacific, 2023)

- *"Nigel is very engaging and the most approachable KC on the block."*(Chambers UK, 2023)
- *"Nigel is a great person to have on your side."*(Chambers UK, 2023)
- *"Nigel is a very good advocate, and provides well-written detailed advice that is easy to understand and read."*(Legal 500, 2023)
- *"Just brilliant on his feet. Also very good with clients and down to earth and easy to engage with."*(Legal 500, 2023)
- *"Nigel is incredibly reliable and a deceptively strong advocate who is always well prepared and never gets fazed."*(Legal 500, 2023)
- *"A highly engaging and effective advocate, who is very quick on his feet and effective in cross examining expert witnesses."*(Legal 500 Asia Pacific, 2022)
- *"Nigel is efficient, well organised and accurate. He is exceptionally easy to deal with."*(Chambers UK, 2022)
- *"Produces brilliant pleadings and is thorough."*(Legal 500, 2022)
- *"Very sharp and concise, simplifying what otherwise would be a complicated case."*(Legal 500 Asia Pacific, 2021)
- *"He is concise and clear in his views and has an excellent commercial understanding of how the shipping trade works."*(Chambers UK, 2021)
- *"He is absolutely magnificent: tenacious, diligent and extraordinarily calm."*(Chambers UK, 2021)
- *"Nigel Cooper is a very thorough and clear thinker."*(Chambers UK, 2021)
- *"Succinct in his advice, astute in his views and savvy in the commercial dynamics of the shipping business."*(Legal 500, 2021)
- *"He is knowledgeable, straightforward, hardworking and successful."*(Legal 500, 2021)
- *"Very commercial and practical in his advice."*(Legal 500 Asia Pacific, 2020)
- *"He understands exactly what his clients want."*(Legal 500 Asia Pacific, 2020)
- *"He's accessible, open-minded to suggestions, organised and easy to contact as well as a good advocate who knows which points to run."*(Chambers UK, 2020)
- *"He's remarkably calm, cool and clear. He's good at judging the best way to pitch so as to get the best results."*(Chambers UK, 2020)
- *"He is very experienced and commercial in his thinking; his advice and suggestions are concise and very helpful."*(Legal 500, 2020)
- *"A class act: intelligent, sharp, quick on his feet and incisive in his thinking."*(Legal 500 Asia Pacific, 2019)
- *"A very authoritative advocate." "Calm and measured."*(Chambers UK, 2019)
- *"Exceedingly good."*(Legal 500, 2019)
- *"Very user-friendly. He gets to grips with things well and provides a good service."... "Flexible, accommodating, patient and easy to work with."*(Chambers UK, 2018)
- *"He is very clever and knows his area of practice"*(Legal 500, 2017)
- *"Charming and an able practitioner in both wet and dry shipping matters"*(Legal 500, 2016)
- *"He is very approachable and conveys his points with clarity."*(Chambers UK, 2015)
- *"He is really forthright, and his attention to detail is phenomenal"... "He quickly picks up the issues and is willing to work antisocial hours as required by the case"*(Chambers UK, 2014)
- *"Very careful and perceptive and gives prompt advice"*(Legal 500, 2014)
- *"An extremely approachable silk, who is incredibly easy to work with" He has the "ability to get right into the detail of a case yet still provide clear overall strategy, advice and assistance."*(Chambers UK, 2013)

- “Highly intelligent” and “Straightforward and to the point in all he does”(Chambers UK, 2012)

## Commercial Dispute Resolution

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Nigel has a broad commercial practice, covering most aspects of international trade (including commodities) and the carriage of goods, as well as construction (including off-shore), railways, professional negligence (particularly in relation to shipbrokers), fraud, international supply contracts and conflicts of law.

Examples of Nigel's work include:

- Acting for one of the shipbroker defendants in the Fiona Trust litigation, defending allegations of fraud and breach of trust;
- Acting for a firm of warranty surveyors in defence of claims for professional negligence in excess of US\$55 million
- Acting for a multi-national mining and natural resources group in connection with claims in excess of US\$110 million arising out of a series of FFA transactions;
- Acting for international secure carriers in connection with claims arising out of the theft in transit of gold;
- Acting for the owners of a series of offshore support vessels in connection with a multi-jurisdictional corporate dispute as to the ownership and possession of the vessels;
- Acting for an oil supply intermediary in connection with claims for in excess of US\$40 million with issues including breach of sanctions legislation, illegality and breach of trust;
- Successfully challenging the jurisdiction of the English courts in relation to claims based on the doctrine of undisclosed principals.
- ***Great North Eastern Railway Ltd v Railcare Ltd*** [2003] EWHC 1608 - claim by rail operator against a contractor for negligence in the maintenance of trains leading to a derailment;
- ***BHP Billiton Marketing AG v TMT Asia Ltd*** [2012] EWHC 3919 – summary judgment in respect of claims in excess of US\$110 million under the settlement agreement for a series of FFA contracts;
- ***Kaefer Aislamientos SA v AMS Drilling Mexico*** [2017] EWHC 2598 (Comm) and [2019] EWCA 10 – successful jurisdiction challenge on behalf of rig owners in a dispute over liability for the price of conversion works to the rig.

## Shipping

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### Wet Shipping/Admiralty

Nigel has extensive expertise and experience in connection with collision and limitation actions and related aspects of the Admiralty jurisdiction including the arrest, appraisalment and sale of ships. His work frequently involves disputes spanning multiple jurisdictions and issues concerning the arrest overseas of vessels in support of claims brought before the English courts or in arbitration.

Particular examples of Nigel's work include:

- ***Holyhead Marine Ltd v Farrer*** [2021] EWCA Civ 1585 Court of Appeal decision concerning the right of a marina to limit its liability under the Merchant Shipping Act 1995
- Advising charterers of a superyacht in connection with the arrest of the yacht for security for their claims against the owners and acting for them in London arbitration
- Acting for the owner of a jet ski defending high-value personal injury claims arising out a collision with a motorboat and alternatively claiming a right to limit any liability arising out of the collision
- Formal Investigations for The ***DERBYSHIRE*** (2000), The ***MARCHIONESS/BOWBELLE*** (2001) and The ***GAUL*** (2004).
- ***The Western Neptune*** [2009] EWHC 1274 (Admlty) concerning a collision between a container vessel and a seismic survey vessel and its array
- ***The Ocean Glory 1*** concerning the arrest, appraisalment & sale of a cruise ship and subsequent distribution of the sales proceeds
- ***The Peppy*** [1997] 2 Lloyd's Rep. 722 concerning the arrest of a vessel by ship managers
- ***The Blitz*** [1992] 2 Lloyd's Rep 441 concerning the exercise of statutory powers of arrest

### Dry Shipping

Nigel's dry-shipping and commodities practice is broad and varied. His work covers all types of charter party and bill of lading disputes as well as international trade and related finance disputes. Nigel has a particular expertise in disputes relating to shipbrokers, managers and surveyors including fraud and professional negligence claims. A significant part of Nigel's work in this sector is international in nature and often raises complex issues relating to jurisdiction, conflicts of law and enforcement.

Particular examples of Nigel's work include:

- Defending claims down a chain of charterparties to recover deductions from hire during a period of arrest;
- Advising a majority shareholder in relation to the claims arising in the Ocean Victory litigation;
- Acting for owners in connection with multiple claims for hire and ancillary claims with proceedings in the UK and Singapore;
- Acting for a firm of shipbrokers in the Fiona Trust litigation defending claims of fraud and breach of trust;
- Defending a professional negligence claim against a firm of warranty surveyors for a sum of about US\$55 million;
- Acting together with revenue counsel by HMRC in connection with a dispute over the tax treatment of a lease finance scheme for two LNG carriers;
- Acting for a multi-national mining and natural resources group to obtain summary judgment and worldwide injunctive relief in connection with claims in excess of US\$110 million under a settlement agreement relating to a series of FFA contracts;
- Numerous arbitrations concerning offshore supply, project and heavylift cargoes as well as bunker quality disputes and safe ports;
- Acting on behalf of owners to secure orders for the discharge and sale of a cargo, which charterers had failed to discharge;
- Acting for charterers to defend claims concerning the safety of a port arising out of a girding and the capsize of a tug;
- Acting in unsafe port claims for the owners of two vessels which suffered damage at ports in the Mississippi;
- *BHP Billiton Marketing AG v TMT Asia Ltd* [2012] EWHC 3919 – summary judgment in respect of claims in excess of US\$110 million under the settlement agreement for a series of FFA contracts.
- *M.H. Progress Lines S.A. v Orient Shipping Rotterdam B.V.* [2012] 1 Lloyd's Rep. 222 - Time-bar provisions in the Inter-Club Agreement 1996 held to take precedence over the express time-bar provision in an arbitration clause.
- *Lloyd's TSB Equipment Leasing (no. 1) Ltd v Revenue & Customs Commissioners* [2012] UKFTT 47 (TC) - Dispute over the proper tax treatment for a lease finance scheme relating to the construction, sale and charter of two LNG carriers.
- *Ferryways v ABP* [2008] 1 Lloyd's Rep. 639 - responsibility of a terminal operator to indemnify a shipowner for liabilities arising out of the death of a crew member notwithstanding exclusion clauses in operator's standard terms and conditions.
- *Almatrans S.A. v Tutova Shipping Co. Ltd* [2007] 1 Lloyd's Rep. 104 - Case concerning the proper interpretation of a P & I club's letter of undertaking.
- *The DORIC PRIDE* [2006] 2 Lloyd's Rep. 175 - case concerning the allocation of risk as between the owner and the charterer for delays caused by security inspections at load port.
- *Seascope Capital Services Ltd. v Anglo Atlantic* [2002] 2 Lloyd's Rep. 611 - claim by shipbroker to recover commission having been the effective cause of the financing transaction entered into by the shipowner

## Superyachts & Yachting

Nigel has considerable expertise in the Superyacht and Yachting sectors in particular dealing with disputes relating to construction, management, insurance and navigation.

Examples of Nigel's work include

- Acting for a European yard in connection with a build dispute for claims in excess of €20 million as well as related claims for breach of fiduciary duty and the payment of secret commissions;
- Acting for a European yard in relation to disputes arising during the course of an on-going build;
- Acting for an owner in relation to claims against insurers and brokers in respect of claims arising out of the loss of a helicopter overboard;
- Acting for insurers in connection with a coverage dispute arising out of the grounding of a yacht;

- Acting for insurers in relation to claims for serious injuries caused to a crew member who fell overboard;
- Acting for a national authority in relation to coverage issues arising out of injuries to a competitor in racing organised under the auspices of that authority;
- Acting for a sub-contractor in defence of claims for alleged construction defects in a series of yachts;
- Acting for a designer in relation to claims of professional negligence arising out of the capsizing of a high-performance racing multi-hull;
- Acting for the owner of a jetski defending high value personal injury claims in another jurisdiction arising out of a collision;
- Nigel is a contributor to the *Law of Yachts and Yachting* (now 2nd edn.), providing the chapters on yacht brokers and on the insurance of the yachts and superyachts.

## International Arbitration

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Nigel appears regularly in international arbitrations including arbitrations under the major institutional rules and under the rules of organisations such as the LCIA, ICC, SIAC, AIAC, LMAA, SCMA and GMAA as well as ad hoc arbitrations. Nigel advises regularly on strategies to ensure that parties are held to their agreement to arbitrate and to ensure the effective enforcement of arbitration awards in different jurisdictions.

Nigel accepts appointments as an arbitrator in all his areas of practice. Many of the cases discussed in other sections of this profile are cases subject to international arbitration and the operation of different institutional rules. Alongside those cases:

- *Midnight Marine Ltd. v. Thomas Miller Speciality Underwriting Agency Ltd* [2018] EWHC 3431 (Comm) – successfully defending challenges to an Award under ss. 68 and 69 of the 1996 Act and upholding the dismissal of the s.68 challenge on paper.

## Insurance

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Nigel appears in a broad range of Insurance and Reinsurance disputes (both marine and non-marine), often raising issues of non-disclosure or misrepresentation, the proper construction of policy terms and the effect of condition survey warranties. Nigel is counsel of choice for a major insurer advising on both particular high value coverage disputes internationally and policy wordings. Most recently, he has been advising on coverage issues arising out of the current pandemic and in particular its impact on property damage and business insurance policies.

Nigel has a specialist interest in (super)yacht insurance disputes and has previously advised the Treasury in connection with a retrocession dispute for sums in excess of £80 million.

A selection of matters in which Nigel has recently been instructed include:

- Currently advising on global coverage issues arising out of the coronavirus pandemic;
- Advising on coverage disputes relating to environmental damage, the impact of sanctions, the loss of goods in transit, insurers' exposure to third parties as a consequence of the insolvency of a multi-national shipping line, superyachts, collapse of terminal plant and machinery;
- Acting for insurers to obtain the dismissal of arbitration proceedings in circumstances where the proceedings were time-barred and stale;
- Providing strategic advice to an insurer in relation to claims worth in excess of US\$100 million being brought in the United States;
- *W.I.S.E. v. Grupo Nacional Provincial S.A.* - a review of the principles relevant to non-disclosure and waiver in the context of goods-in-transit insurance.

## Shipbuilding

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Nigel has a strong practice in shipbuilding (including superyacht construction). His work extends to the commercial, government and super yacht sectors. Recent cases include two major super yacht construction disputes, one for the builder and one for the owner and advising on the proper construction and enforcement of government shipbuilding

contracts worth in excess of £300 million. During much of 2013, Nigel acted for owners in connection with a six-week arbitration for claims in excess of US\$50 million arising under a shipbuilding contract for a bulk carrier.

## Energy

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Nigel has a well-developed practice in the field of energy and natural resources including both the oil and gas sectors as well as renewables. Illustrations of the type of cases on which Nigel had advised and acted include disputes relating to drilling and exploration, the laying of pipelines, sale and purchase of energy products, long-term offshore support contracts including support for the supply and installation of wind farms, construction of rigs and other offshore platforms as well as disputes relating to the safe design and operation of terminals.

Nigel was also counsel for the successful claimant in *Ferryways v ABP* [2008] EWHC 225 (Comm), one of the cases routinely cited in relation to the proper construction of exclusion and consequential loss clauses in both the shipping and energy sectors.

Examples of recent cases include:

- Instructed on behalf of the owners of a fleet of offshore support and drilling vessels used for drilling projects in West Africa in relation to a dispute over ownership of the vessels;
- Instructed on behalf of a multi-national supplier of gas turbine packages for use with a jack-up platform in a dispute over the price of the packages;
- Instructed on behalf of rig owners in a dispute over liability for the price of conversion works to the rig. The dispute went the Court of Appeal on a jurisdictional challenge; see *Kaefer Aislamientos SA v AMS Drilling Mexico* [2017] EWHC 2598 (Comm) and [2019] EWCA Civ 10;
- Instructed on behalf of rig owners to recover the rig and damages for deprivation of use following the collapse of a drilling project;
- Instructed on behalf of the employers of an FPSO in connection with claims arising out of the redelivery of the FPSO at the end of long-term contracts for its deployment in an offshore field;
- Instructed on behalf of FPSO owners in connection with claims for the late delivery of the FPSO by builders, including claims for emergency relief from the arbitration tribunal.
- Instructed on behalf of the UK government (together with revenue counsel) in relation to a dispute about the tax treatment of an LNG project; see *Lloyd's TSB Equipment Leasing (no. 1) Ltd v Revenue & Customs Commissioners* [2012] UKFTT 47 (TC)
- Instructed on behalf of contractors to advise on liabilities arising from a failure to drill a well in the correct location.
- Instructed on behalf of employers in an arbitration arising out of the collapse of a well during drilling.
- *Seadrill Management Services v OAO Gazprom* [2010] EWCA Civ 691 and [2009] EWHC 1530 (Comm) – Represented Gazprom, in a US\$ 80 million claim and counterclaim against one of the leading drilling rig operators, Seadrill. The dispute involved complex legal and factual issues relating to a mobile drilling rig unit hired by Gazprom. The decisions at first instance and on appeal are important for the interpretation of an internationally recognised form of drilling contract and for the correct approach to “knock-for-knock” clauses

## Alternative Dispute Resolution

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Nigel is an accredited mediator, and has appeared as parties’ representative in mediations.

## Administrative Law and Judicial Review

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Having been a member of the Treasury panels and instructed by the Department for Transport for all of the last three shipping Formal Investigations in England & Wales, Nigel is familiar with the Administrative law concepts pertinent to his areas of practice and has experience of judicial review proceedings.

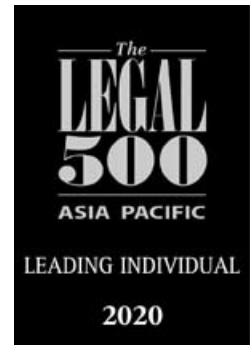
- *R (On the application of INTERTANKO) v Sec. of State for Transport* [2007] Env. L.R. 8 - challenge to the compatibility of the EU ship-source pollution directive with the Law of the Sea and the MARPOL convention.
- Formal Investigations for *The DERBYSHIRE* (2000), *The MARCHIONESS/BOWBELLE* (2001) and *The GAUL*

## Academic

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## Ranking

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## Publications

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Contributor to The Law of Yachts and Yachting (2012).

Contributor to Butterworths' Commercial Court and Arbitration Pleadings (2005).

Co-editor of The European Advocate (1997-2000).

Co-author of Taylor & Cooper, European Litigation Handbook (Sweet & Maxwell, 1995).

Former contributor to Vaughan's Law of the European Communities (Butterworths).

Contributor to the Practitioner's Handbook of EC Law (Bar Council/Trenton Publishing).

## Appointments

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Member of the Attorney General's panel of Counsel (A & B Panels) from 1997 until becoming Queen's Counsel in 2010.

Accredited Mediator.

Accepts appointments as an arbitrator.

Provides expert evidence on English law for proceedings in other jurisdictions.

Nigel is a registered foreign lawyer with the Singapore International Commercial Court (2019).

## Presentations

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Nigel is a regular speaker on legal issues pertinent to his practice.

## Memberships

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Member of SCMA

COMBAR, TECBAR, supporting member of the LMAA, BMAA, LCIA, Bar European Group, European Circuit, British German Jurists Association.

Until 2011 Chair/Vice-chair of various Bar Standards Board Committees.

## Languages

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Able to accept instructions in German, Dutch and French.

## Personal

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Nigel is married and has two daughters

## Interests

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Sailing, Climbing and Walking