



Robert Thomas KC

Called: 1992

Silk: 2011

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Robert is an established commercial silk. His practice focuses on the following core areas: shipping, commodities and international trade; energy and natural resources; international arbitration and commercial litigation (in particular, in commercial fraud and related relief). He has been consistently ranked as a Leading Silk in both directories, and has been praised (amongst other things) for having a "*fantastically effective and intellectual style*", for "*consistently deliver[ing] a first-class service*" and for his ability to handle "*difficult cases on a tight timetable*". Clients particular appreciate his tenacity and insightful cross-examination, as well as his appreciation of the commercial and practical considerations that are in play. He is also receiving an increasing number of appointments as an arbitrator.

Robert is frequently ranked as a leading barrister in Chambers & Partners as well as the Legal 500 directories for Shipping & Commodities.

What the directories say

- "*Robert is an excellent technical lawyer with a good commercial sense.*"(Chambers UK, 2024)
- "*Very approachable and a pleasure to work with.*"(Legal 500, 2024)
- "*Rob has a keen eye for the big picture, suitably balanced with an attention to detail that allows him to give advice that is spot on legally and shows an awareness of commercial considerations.*"(Chambers UK, 2023)
- "*Robert has a strong grasp of technical details and combines a vigorous admiralty practice with a firm grasp of dry shipping law intricacies.*"(Chambers UK, 2023)
- "*He is a very hard-working and tenacious adversary.*"(Chambers UK, 2023)
- "*Very smart and approachable.*"(Legal 500, 2023)
- "*Technically excellent with good advocacy skills, which combine an easy style with a quiet confidence, and an ability to cut through irrelevancies to get to the nub of a matter.*"(Legal 500 Asia Pacific, 2022)
- "*Robert Thomas is innovative and assertive in defence of a client's position. He has a strong practical understanding of ships and how they operate. He is well able to combine this with the applicable rules and judicial considerations.*"(Chambers UK, 2022)
- "*He has the sort of strong of overall academic and technical abilities which are to be found in any top class commercial silk allied to an ability to draft quickly and concisely, and backed up by persuasive and instinctive advocacy skills. A first class communicator, both in writing and orally.*"(Legal 500 EMEA, 2021)
- "*He fully understands the commercial nuances of a case, his advocacy is very robust and also first-class.*"(Legal 500 Asia Pacific, 2021)
- "*Rob is thorough, tenacious and really lives the case while he is handling it.*"(Chambers UK, 2021)

- *"He is extremely user-friendly, very approachable and responds immediately."*(Chambers UK, 2021)
- *"He is sensible, extremely commercially minded and has excellent judgement in his advocacy."*(Chambers UK, 2021)
- *"Very user friendly and understands the commercial pressures that clients are under and the pace of response needed."*(Legal 500, 2021)
- *"A go-to silk for any maritime or trading dispute that requires a bullish approach."*(Legal 500 Asia Pacific, 2020)
- *"He has a clear and incisive mind, produces concise and well-founded advice and has a natural ability to explain complex issues in a simple way."*(Chambers UK, 2020)
- *"His advocacy is first-class and stands out for being authoritative, reasoned and persuasive."*(Chambers UK, 2020)
- *"He is sensible, extremely commercially minded and has excellent judgement."*(Chambers UK, 2020)
- *"He is a real fighter and an exceptional advocate."*(Legal 500, 2020)
- *"A strong advocate who can focus on the key legal issues in cases with many strands."*(Legal 500 Asia Pacific, 2019)
- *"He gives excellent advice and his advocacy is authoritative, reasoned and persuasive." (...) "Very user-friendly."*(Chambers UK, 2019)
- *"Very quick, friendly and an excellent communicator." (...) "Very smart and someone who gets fully involved in the case."*(Chambers UK, 2018)
- *"He has a great mastery of shipping law."*(Legal 500, 2017)
- *"Frequently commended for his 'intellectual firepower'", and described as "a class act, very assured and hard-working, accessible and a joy to work with."*(Chambers UK, 2017)
- *"If there is a novel or difficult application where we need to persuade a judge, he is very good at that."*(Chambers UK, 2017)

Shipping

Dry Shipping

'Leading Silk' in Legal 500 UK and Asia-Pacific and Chambers UK and Global editions.

Robert has a busy and broad practice in this area, taking in all aspects of dry shipping and commodities.

As well as numerous arbitrations and unreported cases, the following is a selection of publicly available decisions in which Robert has appeared both in the High Court and Court of Appeal:

- Robert is instructed to act for Evergreen in relation to the heavily publicised stranding of *The Ever Given* in the Suez Canal. He is currently advising on all relevant aspects including what is thought to be one of, if not the biggest Limitation Action ever conducted in London.
He is instructed on behalf of global commodity traders in the leading case relating to Letters of Indemnity, *The Miracle Hope Nos 1-4*, [2020] EWHC 726 (Comm); [2021] 1 LI Rep 533; [2020] EWHC 805 (Comm); [2021] 1 LI Rep 543; [2020] EWHC 995 (Comm); 2021 1 LI Rep 552; [2022] EWHC 2234. He successfully represented them at a series of hearings for injunctions and damages arising out of the delivery of cargo without bills of lading.
- Robert is also instructed on behalf of shipowners in *The Maersk Honam*. The instructions cover an LCIA arbitration and the Limitation Action which is currently proceeding in the Admiralty Court and is thought to be worth US\$400m. A 6 week trial is scheduled for early Jan 2024.
- Robert successfully represented the owners of Holyhead Marina in the Court of Appeal [2021] EWCA Civ 1585, [2022] 1 LI Rep 463 in a seminal case arising out of Storm Emma and which determined the entitlement of leisure marina operators to limit their liability under the Merchant Shipping Act 1995.
- In *M/V Pacific Pearl Co Ltd v Osios David Shipping Inc* [2022] EWCA Civ 798, [2022] 2 LI Rep 448 Robert successfully overturned a first instance decision holding that the standard Admiralty Solicitors' Group's Collision Jurisdiction Agreement (CJA) did not include an implied obligation to accept security that was objectively reasonable.

- In *UniCredit Bank A.G. v Euronav N.V.* [2022] EWHC 957 (Comm), [2022] 2 LI Rep 467 Robert represented Owners, successfully defeating a claim by a German bank for damages under a Bill of Lading for misdelivery. The case raises fundamental issues as to the rights of subsequent holders and as to how damages are properly assessed. It is due to go before the Court of Appeal in May 2023.
- Robert represented the appellants in an important section 69 appeal analysing the scope of off-hire provisions in the context of piracy – *Eleni Shipping Ltd v Transgrain BV* [2019] EWHC 910 (Comm), [2019] 2 LI Rep 265.
- He also represented cargo interests and insurers before the Court of Appeal in *The Lady M* [2019] EWCA Civ 388, [2019] 2 LI Rep 109, a seminal case that considered the definition of barratry, as well as the nature and scope of the defences available to carriers under the Hague-Visby Rules 2(b) & (q). The case has important implications for the approach to the construction of such defences more broadly.
- In *Kyokuyo Co Ltd v AP Moller - Maersk A/S (t/a Maersk Line)*, [2018] EWCA 778, [2018] 2 LI Rep 59 Robert successfully represented cargo interests before the Court of Appeal, having also been successful at first instance in the first English case to consider package limitation for containerised cargoes under the Hague-Visby Rules, [2017] EWHC 654 (Comm), [2017] 1 LI Rep 580.
- Following success before the arbitrators, in *Sevylor Shipping and Trading Corp v Altafadul* [2018] EWHC 629 (Comm), [2018] 2 LI Rep 33 Robert defended an arbitration appeal which raised issues of general importance in relation to the scope and application of section 2 of the Carriage of Goods By Sea Act 1992 and the ability of insurers/bill of lading holders to recover damages suffered by others at common law.
- In *Owners of the ship Al Khattiya v Owners and/or demise charterers of the ship Jag Laadki* [2018] EWHC 389 (Admlty), Robert represented owners in a jurisdiction and anti-suit dispute relating to the proper jurisdiction for the determination of issues arising out of a collision in Fujairah port. The issues included the proper approach to be adopted in cases of forum non conveniens and, in particular, the relevance of the location of the tort, of differences in foreign law and whether the English court could intervene in circumstances where it was not the natural forum for the determination of the dispute.
- Following on from hearings before the Court of Appeal (see below), in *Kairos Shipping Ltd v Enka & Co LLC* [2016] 2 LI Rep 525 (Admlty), Robert led a team in a 7 week trial in the Admiralty Court. This was the first attempt before an English Court to break limits under the 1976 Limitation Convention. The Court considered seminal issues in relation to the correct legal test to apply in such cases as well as voluminous factual and expert evidence. The Lawyer Magazine has identified this case as one of its "10 longest cases of 2016".
- In *Superior Pescadores* [2016] 1 LI Rep 561, Robert represented cargo interests before the Court of Appeal which determined important issues of construction relating to the Clause Paramount and the correct time for conversion of gold value under the Hague Rules.
- Rob also advised in respect of the appeal recently decided by the Court of Appeal in *Volcafe v CSAV* [2016] EWCA Civ 1103 (being unable to appear due to his involvement in Kairos Shipping).
- In *The Africa Reefer* [2015] EWHC 1950, Robert represented cargo interests in an application under section 12 of the Arbitration Act 1996 for an extension of time for commencing arbitration.
- In *The Sea Mirror* [2015] 2 LI Rep 395, Flaux J (as he then was) considered the meaning of the words "at the expenses and risk of Shippers/Charterers" in the standard form Synacomex 90 voyage charter.
- *The Superior Pescadores* [2014] 1 LI Rep 586 addressed important issues as to the construction of a Clause Paramount which have wide-ranging implication. The matter is on its way to the Court of Appeal.
- Robert also has a wealth of experience in relation to Limitation Actions (in addition to those listed above), having been involved in such proceedings in relation to the following vessels (amongst others): *The Napoli*, *The MOL Comfort (Japan)*, *Hanjin Pennsylvania* and *The Sea Empress*.
- In a decision of profound practical significance, in *Kairos Shipping Ltd v Enka & Co LLC* [2013] 2 LI Rep 596, Robert persuaded the Court of Appeal that it was both permissible and appropriate to constitute a Limitation Fund by way of guarantee or Club Letter of Undertaking, contrary to the prevailing views expressed in leading textbooks.
- In *Moondance II* [2013] 1 LI Rep 269 represented charterers in its successful defence against claims of misrepresentation and subsequently argued successfully for security for costs in owners' section 68 application.
- In *Breffka & Hehnke GmbH & others v Navire Shipping & others* [2013] 1 LI Rep 401, Robert successfully represented cargo interests in a case based on Owners' fraudulent misrepresentation(s) as to the condition of the cargo upon shipment. The Judgment also provides a welcome clarification of the nature and effect of the so called Retla clause in relation to steel cargoes.
- In *The Owners of the Ship "Theresa Libra" v The Owners of the ship MSC "Pamela"* [2013] 2 LI Rep 597 Robert represented owners in relation to a dispute as to the true construction of a settlement agreement and its inter-relation with section 190 of the Merchant Shipping Act 1995.
- *Antonio Gramsci Shipping Corp v Recoletos Ltd* [2012] 2 LI Rep 365: Robert represented and argued the case on behalf of Claimants in a re-run of the jurisdictional dispute reported at [2011] 1 LI Rep 647 (see below) following Judgments in other cases raising similar issues. The issue of nature and effect of lifting the corporate

veil and its relevance from the jurisdictional point of view is currently the subject of an application for permission to appeal to the Supreme Court.

- ***Antonio Gramsci Shipping Corp v Reoleto Ltd*** [2011] EWHC 2242: Robert represented Claimants in a dispute relating to the appropriateness of a Worldwide Freezing Injunction and successfully resisted the setting aside of the Order on grounds of alleged non-disclosure, absence of a risk of dissipation and delay.
- ***Antonio Gramsci Shipping Corp v Reoleto Ltd*** [2011] 1 LI Rep 647: This ground-breaking decision concerned the scope and application of the Brussels Regulation in the context of lifting the corporate veil. Robert was instrumental in developing and successfully advanced arguments to persuade the Court to accept jurisdiction under the EU Regulation over a claim against those alleged to stand behind a massive commercial fraud.
- ***Tryggvafelag Fororar P/F v CPT Empresas Maritimas SA*** [2011] 1 CLC 425 - this case raised issues relating to the Court's substantive jurisdiction, anti-suit injunctions and the point at and terms upon which a contract came into being in the specialist context of off-shore emergencies.
- ***Dolphin Maritime and Aviation Services Ltd v Sveriges Angartygs Assurans Forening*** [2009] LI Rep Plus 50 - this decision concerned the application of the EU Judgments Regulation to the torts of inducing a breach of contract and unlawful means conspiracy and the scope of the Contracts (Rights of Third Parties) Act 1999
- ***The Petroleum Oil and Gas Corporation of South Africa (PTY) Ltd v FR8 Singapore Pte Ltd (The "ETERNITY")*** [2009] 1 Lloyd's Rep 107. The dispute related to the obligation to operate an inert gas system in accordance with IMO procedures was absolute or one of due diligence, whether a failure to adequately operate an inert gas system was covered by the exception for default in management of the vessel under Art IV Hague Visby rules and whether a demurrage claim was time-barred by a failure to present signed pumping logs.
- ***Verity Shipping SA and Another v NV Norexia and others*** (The "SKIER STAR") [2008] 1 Lloyd's Rep. 652: Robert acted for the Defendant bill of lading holders successfully applying to set aside an anti-suit injunction on the grounds of delay and risk of inconsistent decisions.
- ***Pacific Maritime (Asia) Ltd v Holystone Overseas Ltd*** [2008] 1 Lloyd's Rep. 371. This case concerned a freezing order under s 44 Arbitration Act 1996 in relation to a dispute about liability under a Memorandum of Agreement for the sale of a floating prison.
- ***Compania Sud American Vapores v MS ER Hamburg Schiffahrtsgesellschaft MBH & Co KG*** [2006] 2 Lloyd's Rep. 66 - The issue was the interaction of Clause 8 NYPE, placing responsibility for loading and stowing on the charterers, and seaworthiness obligations under the Hague-Visby Rules. Robert was led by Jeremy Russell QC on behalf of the Owners, who were successful.

Wet Shipping

Since starting in Chambers, Robert has been involved in numerous collision and salvage cases and appears in LOF salvage arbitrations, variously for ship, cargo and contractors. Very recently he has represented shipowners in what is reputedly one of the largest LOF salvages ever (*The Maersk Honam*) and appeared as Leading Counsel in a rare three ship collision in the Suez Canal, *The Sakizaya Kalon v Panamax Alexander* [2020] EWHC 2604 (Admlty), [2021] 2 LI Rep 70.

Shipbuilding

Robert has advised and appeared in a number of recent shipbuilding arbitrations and a superyacht construction dispute.

Commodities & International Trade

Robert regularly advises and acts in commodity cases, both in the context of technical disputes as quality, description etc and in relation to sale of goods issues and documentary credits. He has experience in GAFTA, FOSFA, SAL, ICC and LCIA arbitrations in these areas.

He is currently acting in a number of cases including a US\$25m FOSFA arbitration in which he is advising a leading, international trading house, an ad hoc ICC arbitration relating to grain trading in which he is advising buyers and a multi-jurisdictional dispute in which he is advising middle eastern clients and an arbitration under the Sugar Association of London Rules.

In *UniCredit Bank A.G. v Euronav N.V.* [2022] EWHC 957 (Comm), [2022] 2 LI Rep 467 Robert represented Owners, successfully defeating a claim by a German bank for damages under a Bill of Lading for misdelivery. The case raises fundamental issues as to the rights of subsequent holders and as to how damages are properly assessed. It is due to go before the Court of Appeal in May 2023.

In *TOTSA v New Stream Trading* [CL-2019-000358], Robert represented well-known oil traders, successfully obtaining summary judgment for nearly US\$15m in a dispute for non-delivery arising out of the Antipinsky refinery affair.

International Arbitration

The vast majority of Robert's practice is in international arbitration. He regularly advises and acts in references held under all of the major institutional rules such as the LCIA, UNCITRAL and ICC Rules, as well as the LMAA, HKIAC, GAFTA and FOSFA rules.

By its nature arbitration work is confidential but current cases include the following:

- Robert has recently represented a major international paint manufacturers in a multi-million dollar dispute relating to alleged defects in their commercial products and their application systems. It was held under the **LCIA** Rules.
- In the summer of 2022, Robert successfully represented a well-known trading house in its prosecution of a claim in **ICC** arbitration in relation to termination fees under a Long Terms Storage and Throughput Agreement for oil products in Latvia.
- He has recently acted successfully for contractors in a very substantial and long-running dispute arising out of two EPIC contracts which are the subject of an arbitration under the **LCIA** Rules. The matter has been through five phases, with five Awards issued and involved significant legal, factual and technical issues relating to the over-run of the project.
- He has recently represented a major oil company in a dispute against a state-owned counterparty in a dispute arising out of a reciprocal investment in the oil fields in Brazil and India and which is subject to the **LCIA** Rules. The issues were many and varied and cover both technical issues relating to the failure exploratory wells and legal issues arising in the relation to the meaning and scope of the agreements between the parties.
- Robert is acting for a well-known commodities trader in an arbitration under the **Sugar Association of London** Rules relating to shipments out of South America.
- He is instructed in an **ICC** dispute relating to the provision of on-line travel agency services and related contractual disputes.
- Robert is acting for sellers in a sale of goods dispute under the rules of the **HKIAC**. The dispute involves issues as to the correct contractual parties, title to sue and rights to set off.
- He is also instructed in a series of CVC arbitrations subject to the **LMAA** rules but with a seat in Hong Kong.
- Robert is representing a major international trading house in an ad hoc **UNCITRAL** arbitration relating to a JOA for a gas production facility, seeking and maintaining a Worldwide Freezing Order in respect of the same, successfully resisting an attempt to set the injunction aside and, in so doing, persuading the Commercial Court on some important issues relating to its jurisdiction and the nature and scope of the UNCITRAL Rules. The case also relates to an international investment treaty dispute.
- Robert is representing a well-known international trader in an ad hoc **ICC** arbitration relating to grain trading. The matter is a multi-party arbitration involving a string of similar contracts.
- A multi-jurisdictional dispute in which he is advising middle eastern clients on a range of issues relating to share sale and purchase and investment obligations.
- Robert regularly advises and acts in commodity cases, both in the context of technical disputes as quality, description etc and in relation to sale of goods issues and documentary credits. by way of example, he is currently for a leading international trading house in a US\$25m **FOSFA** arbitration and for another in a dispute over the sale of copper concentrates.

He also has a breadth of experience in relation to arbitration applications to the English High Court, predominant under sections 12, 44, 68, 69 and 72 of the Arbitration Act: see, by way of example, *Sevylor Shipping and Trading v Altafadul* [2018] EWHC629 (Comm). He also has substantial experience in preparing and obtaining Freezing Orders in support of arbitration claims.

Robert is also receiving an increasing number of appointments to sit as an arbitrator.

Commercial Dispute Resolution

In addition to a substantial practice in commercial arbitration, Robert is regularly involved in a variety of general commercial disputes beyond the core areas of Chambers' work. Recently these have covered areas as diverse as spot

trading and storage of nickel, software licensing, windfarm joint ventures, investment trusts, directors' duties, commercial agents, ATM licensing and commercial fraud.

By way of example, Robert is currently involved in advising a major paint company in relation to multiple claims in relation to alleged defects in its commercial products and their application systems.

- Robert has recently been involved in advising a major paint company in relation to multiple claims in relation to alleged defects in its commercial products and their application systems.
- In *Natixis SA v Marex Financial Ltd and others* [2019] 2 LI Rep 431 Robert led a team in a 3 week Commercial Court trial representing a nickel storage warehouse in a dispute relating to the trading and storage of nickel.
- In *Alan Ramsay Sales & Marketing Ltd v Typhoo Tea Ltd* [2016] 4 WLR 59, Robert resisted claims under the Commercial Agents Regulations. The matter settled shortly before it was due in the Court of Appeal.
- After taking silk, Robert has been heavily involved in the Antonio Gramsci and the Access Bank Plc litigation.
- The former centres around a substantial commercial fraud, raises jurisdictional issues and questions of general importance as to the circumstances in which it is appropriate to and the consequences of "lifting the Corporate Veil". The case also involved Robert in applying for and maintaining a Worldwide Freezing Order in this jurisdiction and a related Order overseas.
- The latter arises out of an allegedly fraudulent failure to make payments due under contract of guarantee/indemnity in relation to imported petroleum products. Robert applied for and successfully maintained a Worldwide Freezing Order and sought and obtained a series of unless orders resulting from the Defendants' persistent breaches of the Court's Orders.

For reported judgment see, for example:

- *Antonio Gramsci Shipping Corp v Reoleto Ltd* [2012] 2 LI Rep 365: Robert represented and argued the case on behalf of Claimants in a re-run of the jurisdictional dispute reported at [2011] 1 LI Rep 647 (see below) following judgments in other cases raising similar issues. The issue of nature and effect of lifting the corporate veil and its relevance from the jurisdictional point of view is currently the subject of an application for permission to appeal to the Supreme Court.
- *Antonio Gramsci Shipping Corp v Reoleto Ltd* [2011] EWHC 2242 Robert represented Claimants in a dispute relating to the appropriateness of a Worldwide Freezing Injunction and successfully resisted the setting aside of the Order on grounds of alleged non-disclosure, absence of a risk of dissipation and delay.
- *Antonio Gramsci Shipping Corp v Reoleto Ltd* [2011] 1 LI Rep 647: This ground-breaking decision concerned the scope and application of the Brussels Regulation in the context of lifting the corporate veil. Robert was instrumental in developing and successfully advanced arguments to persuade the Court to accept jurisdiction under the EU Regulation over a claim against those alleged to stand behind a massive commercial fraud.

Energy

Following involvement in cases such as the Piper Alpha disaster in the early years of his practice, Robert has gained wide-ranging experience in the energy sector, both on and offshore.

He has recently acted successfully for contractors in a substantial dispute arising out of two EPIC contracts which are the subject of an arbitration under the LCIA Rules. The matter has been through five phases, with five Awards issued and involves significant legal, factual and technical issues relating to the over-run of the project.

He has also recently represented a major international trading house in an ad hoc UNICTRAL arbitration relating to a JOA for a gas production facility, seeking and maintaining a Worldwide Freezing Order in respect of the same, successfully resisting an attempt to set the injunction aside and, in so doing, persuading the Commercial Court on some important issues relating to its jurisdiction and the nature and scope of the UNCITRAL Rules. The case also relates to an international investment treaty dispute.

In recent years, he has also represented a major oil company in a dispute against a state-owned counterparty in a dispute arising out of a reciprocal investment in the oil fields in Brazil and India. The issues are many and varied and cover both technical issues relating to the failure exploratory wells and legal issues arising in the relation to the meaning and scope of the agreements between the parties.

He has also advised in respect of windfarm joint ventures off the East coast and aspects of the Meygen project. In the offshore context, Robert has recently been involved in three substantial arbitrations focusing on legal and technical issues arising out of pipeline construction and maintenance. In addition, he has experience in technical

disputes relating to jack-up and pontoon rigs, ROV's and recovery of oil from sunken vessels.

Fraud

Since taking silk in 2011, Robert has been heavily involved in the Antonio Gramsci and the Access Bank Plc litigation.

The former centres around a substantial commercial fraud, raises jurisdictional issues and questions of general importance as to the circumstances in which it is appropriate to and the consequences of "lifting the Corporate Veil". The case also involved Robert in applying for and maintaining a Worldwide Freezing Order in this jurisdiction and a related Order overseas.

The latter arises out of an allegedly fraudulent failure to make payments due under a contract of guarantee/indemnity in relation to imported petroleum products. Robert applied for and successfully maintained a Worldwide Freezing Order and sought and obtained a series of unless orders resulting from the Defendants' persistent breaches of the Court's Orders.

Robert is also currently acting in other cases involving significant and complex allegations of fraud. These include:

- Acting for a substantial Middle Eastern client in a multi-jurisdictional dispute arising out of alleged fraudulent misrepresentations said to have been made to induce the purchase of significant shareholdings in various companies.
- Advising (pre-action) in relation to allegations of pre-contractual fraudulent misrepresentations leading to the sale of a passenger vessel.
- Acting for former directors of a limited company accused of inducing a sale of shares by reason of the nondisclosure.

For publicly available judgments, see:

- *Kairos Shipping v Enka, The "Atlantik Confidence"* [2016] EWHC 2412 (Admiralty) in which Robert led a team in a 25 day trial before the Admiralty Judge in which the English Court considered for the first time an attempt to break limits under the 1976 Limitation Convention on grounds of scuttling.
- *Antonio Gramsci Shipping Corp v Recoletos Ltd* [2012] 2 LI Rep 365: Robert represented and argued the case on behalf of Claimants in a re-run of the jurisdictional dispute reported at [2011] 1 LI Rep 647 (see below) following judgments in other cases raising similar issues. The issue of nature and effect of lifting the corporate veil and its relevance from the jurisdictional point of view is currently the subject of an application for permission to appeal to the Supreme Court.
- *Antonio Gramsci Shipping Corp v Recoletos Ltd* [2011] EWHC 2242. Robert represented Claimants in a dispute relating to the appropriateness of a Worldwide Freezing Injunction and successfully resisted the setting aside of the Order on grounds of alleged non-disclosure, absence of a risk of dissipation and delay.
- *Antonio Gramsci Shipping Corp v Recoletos Ltd* [2011] 1 LI Rep 647: This ground-breaking decision concerned the scope and application of the Brussels Regulation in the context of lifting the corporate veil. Robert was instrumental in developing and successfully advanced arguments to persuade the Court to accept jurisdiction under the EU Regulation over a claim against those alleged to stand behind a massive commercial fraud.
- In *Breffka & Hehnke GmbH & others v Navire Shipping & others* [2012] EWHC 3124, Robert successfully represented cargo interests in a case based on Owners' fraudulent misrepresentation(s) as to the condition of the cargo upon shipment. The judgment also provides a welcome clarification of the nature and effect of the so called Retla clause in relation to steel cargoes.
- Robert is also experienced and well-equipped to deal with related matters such as breach of fiduciary duty, see Infection *Control Ltd v Virrage Industries Ltd* [2009] EWHC 2602 (QB).

Insolvency

Robert's practice encompasses both marine and non-marine. He regularly advises in relation to policy cover and recently has advised on a number of occasions in relation to "fraudulent devices" and brokers' negligence. He has also lectured on the proposed legislative changes. Reported cases include:

- *Beazley v Horizon Offshore Contractors Inc* [2005] Lloyd's Rep IR 231 - Robert acted for the Claimant insurers, who were seeking negative declaratory relief by reason of misrepresentation and non-disclosure.
- Robert successfully obtained an anti-suit injunction to restrain proceedings on a marine insurance policy by the assured in Texas, in breach of an exclusive jurisdiction clause nominating the English courts.

- ***Advent Capital Plc v Ellinas Imports-Exports Ltd*** [2005] 2 Lloyd's Rep. 607- Robert acted as a junior to Michael Howard QC on behalf of the Claimant insurers under a cargo policy. The policy contained an exclusive jurisdiction clause in favour of England, and the Claimants had obtained an anti-suit injunction against proceedings by the Defendant Assureds in Cyprus. Since Cyprus subsequently became a member of the European Union and therefore subject to the Judgments Regulation, the question was whether the anti-suit injunction should be discharged, and whether the insurers' subsequent claim for negative declaratory relief contravened the "first seized" rule under the Regulation.

Practice & Procedure

As a commercial practitioner, Robert regularly addressed matters of practice and procedure. He commonly advises in respect of and, as necessary, obtains Freezing Orders and Anti-Suit Injunctions.

- In ***The Africa Reefer*** [2015] EWHC 1950, Robert represented cargo interests in an application under section 12 of the Arbitration Act 1996 for an extension of time for commencing arbitration.
- In ***Vitol Bahrain EC v Nasdec General Trading LLC and Others***, [2013] EWHC 3359 Robert successfully applied to set aside an anti-suit injunction obtained against his clients, thus enabling them to pursue foreign proceedings in the UAE.
- In ***Access Bank Plc v Rofos & others*** [2012] Folio 1300 and ***Antonio Gramsci Shipping Corp v Recoletos Ltd*** [2011] EWHC 2242 (Comm), Robert represented Claimants in disputes relating to the appropriateness of a Worldwide Freezing Injunction and successfully resisted the setting aside of the Orders on various grounds including alleged non-disclosure, absence of a risk of dissipation and delay.
- In ***Moondance II*** [2013] 1 LI Rep 269 represented charterers in its successful defence against claims of misrepresentation and subsequently argued successfully for security for costs in owners' section 68 application.

For other cases relating to anti-suit injunctions, see:

- ***Tryggvafelagio Fororar P/F v CPT Empresas Maritimas SA*** [2011] 1 CLC 425 - this case raised issues relating to the Court's substantive jurisdiction, anti-suit injunctions and the point at and terms upon which a contract came into being in the specialist context of off-shore emergencies; and
- ***Verity Shipping SA and Another v NV Norexia and others (The "SKIER STAR")*** [2008] 1 Lloyd's Rep. 652: Robert acted for the Defendant bill of lading holders successfully applying to set aside an anti-suit injunction on the grounds of delay and risk of inconsistent decisions.
- Robert appeared before the Court of Appeal in ***E. D. & F. Man Liquid Products Ltd v. Patel and Another Times Law Reports 18th April 2003 (CA)***, one of the leading cases on the meaning of 'real prospect of successfully defending the claim' in CPR rules 13.3(1)(a) and 24.2(a)(ii).

Jurisdictional Disputes and Conflicts of Laws

Robert's core practice areas in shipping and insurance mean that he encounters issues relating to conflicts of laws and jurisdiction on a very regular basis. Recent reported decisions on the conflicts of laws include:

- ***The Africa Reefer*** [2015] EWHC 1950, Robert represented cargo interests in an application under section 12 of the Arbitration Act 1996 for an extension of time for commencing arbitration.
- In ***Vitol Bahrain EC v Nasdec General Trading LLC and Others***, [2013] EWHC 3359 Robert successfully applied to set aside an anti-suit injunction obtained against his clients, thus enabling them to pursue foreign proceedings in the UAE.
- ***Antonio Gramsci Shipping Corp v Recoletos Ltd*** [2012] EWHC 1887 (Comm): Robert represented and argued the case on behalf of Claimants in a re-run of the jurisdictional dispute reported at [2011] 1 LI Rep 647 (see below) following judgments in other cases raising similar issues. The issue of nature and effect of lifting the corporate veil and its relevance from the jurisdictional point of view is currently the subject of an application for permission to appeal to the Supreme Court.
- ***Antonio Gramsci Shipping Corp v Recoletos Ltd*** [2011] 1 LI Rep 647: This ground-breaking decision concerned the scope and application of the Brussels Regulation in the context of lifting the corporate veil. Robert was instrumental in developing and successfully advanced arguments to persuade the Court to accept jurisdiction under the EU Regulation over a claim against those alleged to stand behind a massive commercial fraud.
- ***Dolphin Maritime and Aviation Services Ltd v Sveriges Angartygs Assurans Forening*** [2009] LI Rep Plus 50 - this decision relates to the application of the EU Judgments Regulation to the torts of inducing a breach of contract and unlawful means conspiracy.

- *Verity Shipping SA and Another v NV Norexia and others (The "SKIER STAR")* [2008] 1 Lloyd's Rep. 652: Robert acted for the Defendant bill of lading holders successfully applying to set aside an anti-suit injunction on the grounds of delay and risk of inconsistent decisions.
- *Beazley v Horizon Offshore Contractors Inc* [2005] Lloyd's Rep IR 231 and *Advent Capital Plc v. Ellinas Imports-Exports Ltd* [2005] 2 Lloyd's Rep. 607 (for both see above under insurance)

Alternative Dispute Resolution

Robert has experience in attending mediations on behalf of clients. He also sits as an arbitrator on a regular basis.

Academic

MA (Cantab)

Lic Spec Dr Eur (ULB)

BCL (Oxon)

Ranking



Presentations

Numerous papers and lectures on issues relating to shipping and insurance

Memberships

LMAA, BILA, COMBAR, LCIA, DIFC

Languages

French, German and working knowledge of Spanish