



Michael Nolan QC

Called: 1981 Silk: 2015
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Practice Overview

Michael Nolan's practice covers all aspects of the law relating to ships, the international carriage and sale of goods, insurance and reinsurance, harbour law, commercial contracts, private international law and professional negligence. He appears regularly in arbitration, is a supporting member of the LMAA, a member of the SCMA and accepts appointments as an arbitrator. He is a member of COMBAR and was on the executive committee from 1998 to 2001. He has strong links with Singapore and travels there regularly.

He is recommended for Shipping and Commodities in the current editions of the Legal 500 and Legal 500 Asia Pacific, as well as in Chambers UK and Chambers Global.

What the directories say

"Exceptionally brilliant when there is a need to untangle complicated legal issues with different factors in play."

(Legal 500 Asia Pacific, 2020)

"His knowledge and expertise in all fields of maritime and admiralty law is exceptional."

(Chambers UK, 2020)

"He's a very careful, thoughtful advocate and a good opponent in court."

(Chambers UK, 2020)

"He is very effective and analytical."

(Chambers UK, 2020)

"He easily understands the commercial background of legal disputes and his replies are concise and easily understood."

(Legal 500, 2020)

"An effective and meticulous advocate."

(Legal 500, 2020)

"He has fantastic breadth and depth of experience in virtually all areas of shipping. His advice is thoughtful and practical. He always takes the time to understand the client's commercial perspective and the background to the matter."

(Chambers UK 2019)

"Superb value, hard work and dedication."
(Chambers UK 2019)

"User-friendly and approachable."
(Chambers UK, 2018)

"First-class. He is very professional and good to work with."
(Chambers UK, 2018)

"...He has an excellent ability to dissect case law and has the ability to be quite disarming..."
(Legal 500, 2017)

"...always there when you need him, he's very responsive..."
(Chambers UK, 2016)

"...very knowledgeable, thorough and pleasant..."
(Legal 500, 2015)

"...he is tenacious at arguing our cases..."; "...he is considerably experienced, very knowledgeable and a good team player..."
(Chambers UK, 2015)

"...a real professional, who is very bright, highly effective and very hardworking..."
(The Legal 500, 2014)

"...he is a very diligent counsel whose analytical skills are most useful when fine distinctions may determine the outcome of a case..."
(Chambers UK, 2014)

"...combines astute analysis with a clear appreciation of commercial challenges..."; "...always first-class..."
(The Legal 500, 2011)

"...approachable and able to handle complicated matters excellently..."
(Chambers UK, 2011)

"...highly intellectual, persuasive, gets to the point and has a tremendous eye for detail..."
(The Legal 500, 2010)

Shipping & Maritime

Dry Shipping

A very substantial part of Michael Nolan's practice involves shipping disputes under charterparties, bills of lading, ship sale and building contracts and marine insurance policies. He also has particular experience of disputes arising in the sea fishing industry and of harbour law. He has acted or advised in several disputes involving pollution of the sea including the Sea Empress incident off Milford Haven and the loss of the Levoli Sun. He has acted in numerous reported shipping cases including *Caltex v BP Shipping* [1996] 1 Lloyd's Rep 286 (jurisdiction), *The Happy Fellow* [1997] 1 Lloyd's Rep 130 Court of Appeal (Brussels Convention), *Reeman v The Dept of Transport* [1997] 2 Lloyd's Rep 648, Court of Appeal (fishing vessel certification), *The Darya Tara* [1997] 1 Lloyd's Rep. 42 (time charter implied indemnity), *Baghlah al Zafer V Pakistan National Shipping Company*, Court of Appeal

(exclusive jurisdiction clause) [1998] 2 Lloyd's Rep. 229 and [2000] 1 Lloyd's Rep 1, *General Feeds v Slobodna Plovidba (The Krapanj)* [1999] 1 Lloyd's Rep 168 (dangerous cargo) and the *Smaro* [1999] 1 Lloyd's Rep.225 (Ship-sale arbitration – time-bar). Reported cases include:

- **The Styliani Z** [2016] 1 Ll. Rep. 395. Admiralty Court. Cargo Claim. Action in rem started on wrong form. Court's power to remedy "error of procedure."
- **The Glory Sanye** [2015] 1 Ll. Rep. 210. Commercial Court. Arbitration Appeal. Voyage Charter. Scope of indemnity. Whether Charterers liable for costs of transit of Suez Canal.
- **Zhoushan Jinhaiwan v Golden Exquisite Inc.** [2015] 1 Ll. Rep. 283. Commercial Court. Arbitration Appeal. Shipbuilding Contract. Termination for delay. Whether delay permissible or otherwise left out of account if caused by Buyers. Whether interest payable on refund of price on termination
- **The Athena** [2013] 2 Ll. Rep. 673. Court of Appeal. Off hire. Meaning of clause 15 (net loss of time clause) in NYPE Time Charterparty.
- **The Dimitris L** [2012] 2 Ll. Rep. 354. Commercial Court. Time Charterparty. Construction of US Tax Reform 1986 Clause.
- **The Triton Lark** [2012] 1 Ll. Rep. 151 and 457. Commercial Court. Time Charterparty. Construction of Conwartime 1993 in the context of the recent piracy problems in the Gulf of Aden.
- **Elafonissos Shipping v Aigaion Insurance** [2012] All ER (D) 169. Insurance. Claim for damage to fishing vessel in cyclone Bondo. Construction of warranty.
- **X v Y** [2011] 1 Ll. Rep. 294. Charterparty. Construction of Centrocon arbitration clause.
- **Pratt v Aigaion Insurance** [2009] 1 Ll. Rep 225. Court of Appeal. Marine Insurance. Effect of warranty as to presence of Owner and skipper on board "at all times."; Reported at first instance at [2008] Lloyd's Rep IR 610
- **The Count** [2008] 1 Lloyd's Rep. 72. Commercial Court. Voyage charter. Safe port warranty.
- **The Kitsa** [2005] 1 Lloyd's Rep 432. Commercial Court. Time charter, implied indemnity, liability for bottom fouling in course of charter.
- **Dart Harbour and Navigation Authority v Sec of State for Transport Local Govt and the Regions** [2003] 2 Lloyd's Rep. 607. Administrative Court. Judicial review of decision by Sec State for Transport relating to the licensing of moorings in Dart Harbour involving amongst other things consideration of what a mooring is.
- **The Margaretha Maria** [2002] 2 Lloyd's Rep 293, Court of Appeal decision relating to the 1976 Limitation Convention. First Court of Appeal authority on the employment status of share fishermen.
- **Gannet Shipping v Easttrade Commodities** [2002] 1 Lloyd's Rep. 713. Commercial Court. Arbitrators' jurisdiction to correct mistakes in award.

Recent representative shipping arbitrations include:

- Time charter – whether Chinese port in process of extensive development safe for purposes of safe port

warranty.

- Time charter – Meaning of “Rightship approved.”
- Series of multi-million dollar shipbuilding disputes arising out of early termination of contracts for late delivery.
- shipbuilding – whether vessel complied with description. Damages for late delivery.
- voyage charterparty – liability for damage to tanks of chemical carrier.
- voyage charterparty – liability for damage to cargo of tuna.
- time charter. Force majeure and quantification of damages for alleged renunciation of long term charter.
- shipbuilding dispute - provision of refund guarantees.
- multi-million euro dispute arising out of construction of a Superyacht.
- Time charter. Dispute about extent of lien on sub-freights.
- Dispute between shipping line and former director arising out of proposed management buyout.
- a multi-million dollar dispute arising out of a bare-boat charter of a drilling ship and an application for relief from forfeiture.

Wet Shipping

Michael Nolan has extensive experience of all forms of Admiralty dispute but in particular those involving ship arrest, disputes as to jurisdiction and limitation claims. Amongst the reported cases in this area in which he has been involved are **The Margaretha Maria** [2002] 2 Lloyd’s Rep. 293, Court of Appeal (1976 Limitation Convention. First Court of Appeal authority on the employment status of share fishermen), **The Happy Fellow** [1997] 1 Lloyd’s Rep. 130 Court of Appeal (Brussels Convention/limitation), **Caltex v BP Shipping** [1996] 1 Lloyd’s Rep 286 (jurisdiction/ limitation), **The Honshu Gloria** [1986] Lloyd’s Rep (appraisal and sale, Marshal’s fees), **The Vanessa Ann** [1985] 1 Lloyd’s Rep. 549 (release from arrest). He acted for the claimants in one of the very few General Average cases reported in the last 20 years - **The Alpha** [1991] 2 Lloyds Rep. 515. He has acted or advised in several of the recent disputes involving pollution of the sea including the Sea Empress incident off Milford Haven and the loss of the Levoli Sun.

International Trade & Commodities

Commodities

Michael Nolan acts regularly in disputes involving the international sale of goods. Many of the disputes he has been involved in have been in the fields of oil and grain but he has acted in cases involving the gamut of goods from bowling equipment to sulphur. He appeared in 3 of the recent reported cases on final and binding determination clauses in oil contracts. Recent representative cases include:

- SIAC arbitration. Claim for reimbursement of overpayment under long term contract for the supply of blast furnace pellet feed.
- **SARPD Oil v Addax Energy** [2016] EWCA Civ 120. Court of Appeal. Oil sale contract. Dispute as to quality. Security for Costs.
- **Ramburs Inc v Agrifert SA** [2015] EWHC 3548. Commercial Court. Appeal from GAFTA Board of Appeal. Sale of Maize FOB. Whether nomination of substitute vessel valid and in time.
- **Seagrain v Glencore** [2014] 1 Lloyd's Rep. 598, CA and [2013] 2 Lloyd's Rep. 590. Commercial Court. GAFTA Prohibition Clause in context of steps taken by Russian and Ukrainian authorities restricting export of grain.
- **RG Grain Trade v Feed Factors** [2011] 2 LI.Rep. 432. Commercial Court. Arbitration appeal from GAFTA appeal board. Final and binding certificates. Right of rejection.
- Arbitration before GAFTA Board of Appeal about export of Russian and Ukrainian grain.
- Three substantial actions arising out of contracts for the sale of oil.
- **Midgulf v Groupe Chimiche Tunisien** [2010] 2 Lloyd's Rep 543. High value claim arising out of international sale of sulphur. Anti-suit injunction.
- **Petroplus Marketing AG v Shell Trading International Ltd** [2009] 2 Lloyd's Rep. 611. Oil sale contract. No set-off clause.
- **CTI v Transclear** [2008] 2 Lloyd's Rep. 526. Court of Appeal. Whether contract for sale of cement frustrated by commercial embargo imposed by Mexican cartel. **CTI v Transclear (No2)** [2008] 1 Lloyd's Rep.250. Grounds upon which Respondent can uphold award under section 69 of the Arbitration Act 1996.
- **Exxonmobil v Texaco** [2003] 2 Lloyd's Rep. 686. Commercial Court. Acted for Exxonmobil in a dispute relating to the contract for the sale of oil, involving the effect of a "final and binding determination"; and an "entire agreement"; clause.
- **Veba Oil v Petrotrade** [2002] 1 Lloyd's Rep. 295. Court of Appeal, effect of final and binding determination clause.
- **Petrotrade v Texaco** [2002] 1 WLR 947, Court of Appeal, oil sale contract. Final and binding determination.

In addition to transport by sea, Michael has extensive experience of disputes involving the international carriage of goods by road. Reported cases include:

- **Denfleet v TNT Global** [2007] 2 Lloyd's Rep. 504, Court of Appeal. Whether falling asleep at the wheel amounts to "wilful misconduct"; for the purposes of Articles 29 and 32 of the CMR.
- **Sandeman Coprimar v Transitos y Transportes Integrales** [2003] Q.B. 1270, Court of Appeal. Significant decision on the scope of Article 23(4) of the CMR, on the interrelationship between domestic law relating to sub-bailment and the successive carriage provisions of the CMR and on remoteness.

Commercial Dispute Resolution

Michael Nolan has extensive experience in all forms of disputes arising out of commercial contracts, ranging from a long running dispute arising from a Russian Joint Venture for the production of sanitary ware to a claim arising from the breakdown of a tele-marketing venture. He acts regularly in commodity disputes both in court and arbitration, as well as in cases involving jurisdiction challenges and applications for freezing orders and anti-suit injunctions.

Recent representative cases:

- **Kaefer Aislamientos SA v. AMS Drilling Mexico SA & Ors** [2019] EWCA Civ 10 - reconciles the various strands of authority on 'good arguable case' and provides guidance on the approach to be taken in jurisdiction disputes, particularly ones where the evidence before the court is incomplete.
- Obtained a world-wide freezing order for one of the big 4 clearing banks in support of a substantial claim arising out of mortgage irregularities.
- Acted in dispute arising out of sale of company as to whether an accountant's expert valuation of the company's assets was final and binding.
- Acted in arbitration between director and shipping line arising out of failed management buyout. Assignment issues.
- Dispute arising out of attempt to terminate agency agreement.
- **Rayner v Davis** [2003] 1 All E.R. (Comm) 394, Court of Appeal. Jurisdiction dispute arising out of claim for negligence against surveyor. Scope of Article 13 of the Brussels Convention.
- **Norwegian Cruise Lines v Thomson Holidays Limited**. Commercial Court. Contractual dispute between cruise line and holiday company involving long term agreement for use of cabins on cruise liner.
- **Exxonmobil v Texaco** [2003] 2 Lloyd's Rep. 686. Commercial Court. Acted for Exxonmobil in a dispute relating to the contract for the sale of oil, involving the effect of a "final and binding determination"; and an "entire agreement"; clause.
- **Veba Oil v Petrotrade** [2002] 1 Lloyd's Rep. 295. Court of Appeal, effect of final and binding determination clause.
- **Petrotrade v Texaco** [2002] 1 WLR 947, Court of Appeal, oil sale contract. Final and binding determination. Effect of Part 36 offer.

International Arbitration

Michael Nolan has very substantial experience in arbitration in all forms of disputes, ranging from a long running dispute arising from a Russian Joint Venture for the production of sanitary wear to a claim for relief from forfeiture in a long term demise charter of a drilling ship and a multi-million pound claim for damages arising out of the failure of a tele-marketing venture.

He acts regularly in commodity disputes both in court and arbitration, as well as in cases involving jurisdiction challenges and applications for freezing orders and anti-suit injunctions. He has acted in several of the cases in which the scope and meaning of the Arbitration Act 1996 have been considered including **CTI v Transclear (No2)** [2008] 1 Lloyd's Rep.250 (grounds upon which Respondent can uphold award under section 69), **Hawk Navigation v Cron Shipping** [2003] EWHC 1828 (Comm) (ss 57, 68 slip rule), **The Gannet** [2002] 1 Lloyd's Rep. 713 (section 57 slip rule), **Cuflet Chartering v Carousel Shipping** [2001] 1 Lloyd's Rep 707 (s 68 serious irregularity – contrary to public policy), **Rustal Trading v Gill & Duffus** [2000] 1 Lloyd's Rep. 14 (s 68, apparent bias, s 73 waiver of irregularity), **The Catherine Helen** [1998] 2 Lloyd's Rep. 511 (extension under s 12).

He is a supporting member of the LMAA and a member of the SCMA and is happy to accept appointments as an arbitrator.

Reported cases include:

- **Ramburs Inc v Agrifert SA** [2015] EWHC 3548. Commercial Court. Appeal from GAFTA Board of Appeal. Sale of Maize FOB. Whether nomination of substitute vessel valid and in time.
- **The Glory Sanye** [2015] 1 Ll. Rep. 210. Commercial Court. Arbitration Appeal. Voyage Charter. Scope of indemnity. Whether Charterers liable for costs of transit of Suez Canal.
- **Zhoushan Jinhaiwan v Golden Exquisite Inc.** [2015] 1 Ll. Rep. 283. Commercial Court. Arbitration Appeal. Shipbuilding Contract. Termination for delay. Whether delay permissible or otherwise left out of account if caused by Buyers. Whether interest payable on refund of price on termination.
- **Seagrain v Glencore** [2014] 1 Lloyd's Rep. 598, CA and [2013] 2 Lloyd's Rep. 590. Commercial Court. Appeal from GAFTA Board of Appeal. GAFTA Prohibition Clause in context of steps taken by Russian and Ukrainian authorities restricting export of grain.
- **X v Y** [2011] 1 Ll. Rep. 294. Construction of Centrocon arbitration clause. Whether claim in arbitration brought out of time.
- **Midgulf v Groupe Chimiche Tunisien** [2009] 2 Lloyd's Rep 411. International sale of sulphur. Appointment of arbitrator. Anti-suit injunction.
- **CTI v Transclear** [2008] 2 Lloyd's Rep. 526. Court of Appeal. Appeal under section 69 of Arbitration Act 1996 from ad hoc arbitration. Whether contract for sale of cement frustrated by commercial embargo imposed by Mexican cartel.
- **The Count** [2008] 1 Lloyd's Rep. 72. Commercial Court. Appeal from LMAA arbitration. Voyage charter. Safe port warranty.
- **The Kitsa** [2005] 1 Lloyd's Rep 432. Commercial Court. Appeal from LMAA arbitration. Time charter, implied indemnity, liability for bottom fouling in course of charter.

Michael Nolan has recently been involved in a series of multimillion dollar arbitrations arising out of the termination of shipbuilding contracts for delay and involving issues such as whether the prevention principle applies, whether the delay was permissible or not and force majeure. Other recent arbitrations included a SIAC arbitration involving

a claim for reimbursement under a contract for the long term supply of blast furnace feed pellets, a safe port dispute and a dispute as to the meaning of "RightShip approved" in a time charterparty. He has been involved both as counsel and as arbitrator in several arbitrations involving contracts for the construction of Superyachts as well as numerous arbitrations involving disputes under charterparties and the sale of commodities.

Insurance & Reinsurance

Michael Nolan has acted for insurers and assureds in claims arising out of a wide variety of policies covering subject matters ranging from race-horses through lease credit, pregnancy testing kits and crop sowing aircraft to film-editing suites. Much of his work in this area involves acting for and against insurers of marine risks, including P & I Clubs. A particular speciality is yacht insurance; he acted for the successful insurers in **The Dora** [1989] 1 Lloyd's Rep 69, **The Moonacre** [1992] 2 Lloyd's Rep. 501 and **The Arabesque** (unreported 1998) and has advised or acted in numerous other cases. Recent representative cases:

- **Elafonissos Shipping v Aigaion Insurance** [2012] All ER (D) 169. Commercial Court. Claim for damage to fishing vessel in cyclone Bondo. Construction of warranty.
- **Pratt v Aigaion Insurance** [2009] 1 Ll. Rep 225. Court of Appeal. Marine Insurance. Effect of warranty as to presence of Owner and skipper on board "at all times."; Reported at first instance at [2008] Lloyd's Rep IR 610
- **Bayview Motors v Mitsui Fire and Marine Insurance** [2003] 1 Lloyd's Rep 131. Court of Appeal. Whether theft of cars by customs officials amounted to seizure for the purposes of the F.C.& S. clause. Duration of cover under warehouse to warehouse clause.
- acting for assured in multi-million dollar claim arising out of seizure of vessel by pirates in the Gulf of Aden.
- acting for insurers in a dispute arising out of the insurance cover of a fleet of canal cruisers in France and a loss by fire of part of the fleet.
- acting for a P&I Club defending a claim for an indemnity against a substantial judgment for cargo damage.
- acting for a shipping line defending a substantial claim by a P&I Club for outstanding calls.

Shipbuilding

Michael has extensive experience in Shipbuilding disputes. Recent cases include:

- **Zhoushan Jinhaiwan Shipyard Co Ltd v Golden Exquisite Inc** [2015] 1 Lloyd's Rep. 283, Arbitration appeals arising out of substantial disputes arising out of cancellation for delay of shipbuilding contracts. Meaning of "permissible delay" and "non-permissible delay."
- A series of high value arbitrations arising from the cancellation of contracts for the building of bulk carriers and VLCCs by a Chinese yard. Prevention principle.
- Very high value dispute (about €100 million) arising out of variations of contract for construction of mega-yacht and late provision of design drawings.

- Acting for yard in high value dispute arising out of alleged failure by yard to perform its guarantee obligations in relation to super-yacht
- Acting for Owners in dispute with yard about failure to fit clutch and delay in delivery. Whether delays “force majeure.”
- Acting for owners in dispute arising out of cancellation of shipbuilding contract for non-payment of instalment of price.

Alternative Dispute Resolution

Michael Nolan is occasionally instructed to represent clients at, or advise them during, mediations.

Academic

MA (Oxon), Dip Law (City)

Awards

Astbury Scholar, Winston Churchill Pupillage Award

Languages

Reads French

Publications

Butterworth’s Commercial Court and Arbitration Pleadings (Contributor).

Memberships

COMBAR, LCLBA, LMAA (supporting member), SCMA

Pro Bono

Michael is willing to accept pro bono work.