



Nigel Jacobs QC

Called: 1983 Silk: 2006
nigel.jacobs@quadrantchambers.com

Practice Overview

Nigel Jacobs QC is a specialist in shipping, insurance, commodity and commercial disputes. His work covers the full range from casualty work (collisions, salvage, unsafe port and limitation) through to disputes in relation to commodities, marine insurance, joint ventures, guarantees, and letters of credit, as well as "traditional" charterparty, carriage of goods by sea and contractual claims. He appears both in the High Court and in arbitration. He is also regularly instructed in (worldwide) freezing injunction, anti-suit injunctions and jurisdictional disputes. His recent arbitrations (2019) include the shipment of a cargo of rail damaged during transit, a claim by brokers to commission and the construction of a Pool Agreement. He is currently involved in an unsafe port case (South America) and a number of other casualties, including the "Ever Smart" and the "Saga Sky". He also accepts appointments as an arbitrator.

Over the past three years Nigel led the team (on behalf of cargo underwriters) in the substantial "ATLANTIK CONFIDENCE" litigation. This involved a 29-day "scuttling" trial in which cargo interests successfully challenged the shipowner's right to limit under the Limitation Convention 1996 on the grounds that the vessel was the subject-matter of a deliberate casualty. This was the first occasion in which the right to limit had been successfully challenged in this jurisdiction. The litigation subsequently involved proceedings against the shipowners' *alter ego* and between the cargo interests themselves.

Consistently ranked as a 'Leading Silk' in Chambers UK, Chambers Global and The Legal 500 directories where he has been praised as "...excellent under pressure with good judgement and an effective courtroom manner..."

Praised by Chambers UK 2014 as "...a guru in jurisdictional disputes..." Nigel has a strong international practice. He was specially called to the Hong Kong bar to represent the Master of the NEFTEGAZ 67 in his appeal against conviction arising from a collision in Hong Kong waters; he has appeared in the Kuala Lumpur Arbitration Centre representing a substantial Malaysian company in a commodity and letter of credit dispute. He has also given expert evidence in international jurisdictions including in marine insurance disputes in the Spanish High Court.

Nigel has acted on many ground-breaking cases during his career, including The "ATLANTIK CONFIDENCE", *Kulemesin Yuriy v. HKSAR* [2013] 2 L.I.R. 367 where Nigel appeared for the Master of the "NEFTEGAZ 67" in a criminal appeal involving a dispute as to the application of the narrow channel and the crossing rules, in the Marchioness Public Inquiry and in The "Ikarian Reefer". During the last year Nigel represented the Owners of the "EVER SMART" in Court of Appeal in collision liability proceedings ([2019] 1 L.I.R. 130) and at the subsequent High Court trial on damages ([2019] EWHC 163 Admlty). The Supreme Court has historically granted permission to appeal in the collision liability proceedings.

Nigel lectures on Litigation and Arbitration at the World Maritime University's Postgraduate Diploma in Maritime Law and also gives talks and seminars to firms and P&I Clubs.

He was Chairman of Chambers' Management Committee from 2011 to 2015 and has regularly served on other Chambers' Committees.

What the directories say

"Extremely competent and very experienced."

(Who's Who Legal, 2020)

"His style is painstaking and he can wear down opposing witnesses because he is so well-prepared."

(Legal 500 Asia Pacific, 2020)

"He's very good on his feet and very thorough."

(Chambers UK, 2020)

"He is very precise and analytical."

(Chambers UK, 2020)

"He is very good on his feet and his forensic preparation of the case is incredible thorough and detailed."

(Legal 500, 2020)

"Very thorough, his knowledge of the law is superb and he is very easy to work with."

(Legal 500 Asia Pacific, 2019)

..."Very impressive. He has a really good grasp on technical details and he is very thorough."... "A real team player."...

(Chambers UK 2019)

"Very user-friendly and good on his feet." "He brings a strong intellect to the work. He's very approachable and incredibly diligent."

(Chambers UK, 2018)

..."He is very good on big-picture strategy, doesn't micro-manage and is calm under pressure"...

(Legal 500, 2017)

..."He did a fantastic job on his feet."... "He's very hard-working and good with juniors."...

(Chambers UK 2016)

..."He is very responsive and his advice is strategically very good."

(Chambers UK, 2015)

..."First class advocate"...

(The Legal 500, 2014)

..."He is very responsive, not grand, and has a commercial attitude."... "He is a guru in jurisdictional disputes."...

(Chambers UK, 2014)

Shipping & Maritime

Dry Shipping

Nigel is regularly instructed in a whole range of dry shipping and commodity disputes including charterparty and bill of lading disputes (unsafe port, off-hire, unseaworthiness, identity of carrier claims and alternative liability in tort and bailment), and ship sale/MOA disputes in both Court and arbitration. In the past few months he has been instructed in arbitrations involving the carriage of cargoes of rail from Japan to the USA and the construction of a Pool Agreement. He has also been instructed in GAFTA and RSA disputes (including appearance before the GAFTA Board of Appeal) and in disputes involving commodities, foodstuffs and oil trading. In 2015 he appeared in a 'rice' dispute in the Kuala Lumpur Arbitration Centre. Illustrative cases include:

- Recently led the cargo interests team in **The "Atlantik Confidence"** [2016] 2 LI.R. 525 in which the right to limit under Article 4 of the 1976 Limitation Convention was successfully challenged by reference to the (alleged) scuttling of the vessel. This was the first time that a challenge to the right to limit had reached a trial in this jurisdiction since the enactment of the 1976 Limitation Convention (in 1990). Several aspects of this case are still on-going.
- Recently appeared upon behalf of Owners of a chemical tanker in a case involving duties and obligations under a Pool Agreement.
- **Shagang South-Asia (Hong Kong) Trading Co Ltd v Daewoo Logistics** [2015] EWHC 194 (Comm): an application under s.67 of the Arbitration Act 1996. This was an important case in relation to the seat of an arbitration.
- **Greatship (India) Ltd v Oceanografia SA de CV, The "Greatship Dhiriti"** [2013] 2 LI.R. 359 This was an appeal from an arbitration award in respect of an owners' right to suspend the performance of services under the BIMCO Supplytime 1989 form without notice to charterers and the first case in which the Court gave detailed consideration to the right to suspend services in the context of Supplytime form.
- **The "Western Moscow"** [2012] 2 LI.R. 163 involving the nature and scope of an owner's lien on sub-freight.
- **The "Genius Star"** [2012] 1 LI.R. 222 involving an Inter Club Agreement.

Wet Shipping

Nigel is regularly instructed in marine casualties, including safe port disputes, collision, salvage, towage and pilotage disputes and limitation cases. Illustrative cases include:

- Led the team in the Court of Appeal in the **"EVER SMART"** [2019] 1 LI.R. 130. This was the first collision appeal in Court of Appeal for about 15 years. The Supreme Court has granted permission to appeal in the collision liability proceedings.
- Led the **"EVER SMART"** team at the subsequent High Court trial on damages ([2019] EWHC 163 Admlty) reducing the claim of ALEXANDRA 1 from about US \$38m to US \$10m.
- Instructed in the **"SAGA SKY"** collision and limitation litigation due for trial in early 2020.
- Led the First Appellant's team in the Hong Kong Court of Final Appeal in the criminal appeal of Captain Yuriy Kulemesin in relation to the scope and application of the "narrow channel" rule: [2013] 2 LI.R. 367. This case examined whether an undesignated stretch of waterway in Hong Kong waters constituted a "narrow channel"

and the inter-relationship between Rule 9 of the Col Regs, general rules of good seamanship and Rules 17.

- Acted as counsel in **The "Samco Europe"** [2011] 2 LI.R. 579 (an application of the crossing rules) and related costs issues (the effect of the withdrawal of a Part 61 offer).
- Acted as successful counsel in **MIOM 1 v. Sea Echo** [2012] 1 LI. R. 140 involving counterclaims and costs in collision proceedings and the application of the single liability principle.
- Also represented one of the family action groups in the Marchioness Public Enquiry (2000).

Nigel is currently involved in a number of collision and unsafe port cases.

Nigel has been involved in cases involving the construction of the Pilotage Act 1987 and local harbour authority statutory powers, in the context of claims for breach of statutory duty, judicial review and public misfeasance.

Shipbuilding

Nigel is instructed in a wide range of shipbuilding and related construction projects, including ship repair cases and pipeline construction and damage incidents.

International Trade & Commodities

Nigel is also regularly instructed in oil trading contracts: see, for example, **The "Mercini Lady"** [2011] 1 LI.R. 442 (a leading case on FOB contracts and implied terms). He regularly acts in relation to other commodities: e.g. grain, sugar, and fertilisers.

Energy & Natural Resources

Nigel has substantial experience in the field of energy and natural resources and off and on shore construction. Recent illustrative cases include **Cho Offshore v. PDVS**, which concerned the provision of offshore tugs to the Venezuelan oil industry and subsequent dispute as to commission and **The Greatship Dhriti**, involving tug supply vessels in the Gulf of Mexico.

Insurance & Reinsurance

Marine and Non-Marine Insurance and Reinsurance: including coverage disputes, non-disclosure and misrepresentation, fraudulent claims and scuttling. Nigel has also been involved in disputes involving P&I cover under Club Rules and liability between Clubs under the International Pooling Agreement. Recent cases include:

- **The "DC Merwestone"** [2013] 2 LI.R. 131 (the meaning and scope of "perils of the sea" cover, the effect of the Inchmaree provision and the effect of the fraudulent or reckless presentation of an otherwise valid claim upon recovery under the policy);

- **The "Buana Dua"** [2011] 2 LI.R. 655 (construction of "follow the leader" clause and its effect on a breach of warranty defence and fraudulent presentation of a claim);
- **The "Dina"** (2008: early neutral evaluation): coverage and non-disclosure/misrepresentation dispute);
- **Eagle Star v. Games Video, The "Game Boy"** [2004] 1 LI.R. 238 (misrepresentation and fraudulent claim);
- **Project Asia Line v. Shone** [2002] 1 LI.R. 659 (statutory seaworthiness warranty and coverage dispute);

Banking & Financial Services

Nigel has substantial experience in letters of credit, guarantees, loan agreements and ship mortgages and related financial instruments and insurance products. He regularly appears and/or advises in cases involving liens on hire and sub-freight. Illustrative cases include:

- Representing the Greek trustee in bankruptcy in personal cross-border insolvency proceedings in **Alpha Bank SA v Vardinoyiannis** [2013] EWHC 4220 (Comm) involving the discharge of a freezing injunction and the release of shares to the receiver.
- The **"Western Moscow"** [2012] 2 LI.R. 163 involving the nature and scope of an owner's lien on sub-freight.

International Arbitration

Nigel is regularly instructed in general contractual and related disputes. Illustrative cases include:

- Loss of goods from warehouses as a result of fire or theft ([2004] 2 LI.R. 241).
- Theft of mobile telephones from bailee's warehouse caused by wilful default of bailee's employees, whether bailee vicariously liable for employee wilful default and whether bailee was entitled to limit liability under cl. 27(A) of BIFA (including the application of the Unfair Contract Terms Act, 1977).
- Also instructed in judicial review cases (arising from the exercise of harbour authority and pilotage powers) and public misfeasance.
- **The "Julia"** [2003] LI.R.I.R (recovery of interest)
- **The "Siben" (No.2.)** [1996] 1 LI.R. 35 (fraudulent misrepresentation and rescission).

Commercial Dispute Resolution

Nigel is regularly instructed in general contractual and related disputes. Illustrative cases include:

- Loss of goods from warehouses as a result of fire or theft ([2004] 2 LI.R. 241).

- theft of mobile telephones from bailee's warehouse caused by willful default of bailee's employees, whether bailee vicariously liable for employee willful default and whether bailee was entitled to limit liability under cl. 27(A) of BIFA (including the application of the Unfair Contract Terms Act, 1977).
- Also instructed in judicial review cases (arising from the exercise of harbour authority and pilotage powers) and public misfeasance.
- **The "Julia"** [2003] LI.R.I.R (recovery of interest)
- **The "Siben"** (No.2.) [1996] 1 LI.R. 35 (fraudulent misrepresentation and rescission).

Alternative Dispute Resolution

Nigel has acted as mediator and as counsel in mediations on several occasions (in shipping and insurance disputes) during the past few years.

Civil Fraud

Nigel has substantial experience in insurance fraud including claims in respect of the fraudulent presentation of claims and the use of fraudulent devices. Illustrative cases include:

- He led the cargo interests team in **The "Atlantik Confidence"** in which the right to limit under Article 4 of the 1976 Limitation Convention was successfully challenged by reference to the (alleged) scuttling of the vessel. The case was heard over the course of 29 days from April to July 2016.
- **The "DC Merwestone"** [2013] 2 LI.R. 131 (the effect of the fraudulent or reckless presentation of an otherwise valid claim upon recovery under the policy);
- **The "Buana Dua"** [2011] 2 LI.R. 655 (construction of "follow the leader" clause and its effect on a breach of warranty defence and fraudulent presentation of a claim);
- **Eagle Star v. Games Video, The "Game Boy"** [2004] 1 LI.R. 238 (misrepresentation and fraudulent claim);
- **Frans Maas v. Samsung UK** [2004] 2 LI.R. 241 (wilful default and theft in a warehouse contract);

Academic

M.A. (Pembroke College Cambridge)
LL.M (Trinity College Cambridge)

Awards

Middle Temple Entrance Scholarship

Other Qualifications

Lecturer (Litigation, Mediation and Arbitration): Diploma in Maritime Law (World Maritime University)

Appointments

Arbitrator, Mediator, Examiner (for foreign proceedings), expert witness on English law in foreign proceedings.

Presentations

Regularly presents seminars at solicitors' offices. Recent talks have included:
Liens on Freight and Hire, Time Limits and Charterparty Indemnity Claims; Damages for Breach of Charterparty and Related Issues; Recent Developments in relation to the prosecution of claims under the Inter-Club Agreement; The Single Liability Principle (in the context of collision actions); The "Astra" and the obligation to make puntual payment.

Memberships

COMBAR

Personal

Married with two daughters.

Interests

Travel, Theatre, Cinema and Sport.