



## Poonam Melwani QC

Called: 1989 Silk: 2011  
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### Practice Overview

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Poonam Melwani QC is a commercial silk who practises across the full spectrum of commercial, insurance, energy and shipping law, providing advisory and advocacy services. Praised as "...always in demand, she is as good on her feet as she is adept at mastering complex legal, factual and expert material..." (Chambers UK) Poonam has been ranked as a 'Leading Silk' over many years by the Legal Directories. She represents clients in a wide variety of jurisdictions and arbitral regimes including ICC, LCIA, LMAA and ad hoc, as well as English High Court Litigation, mainly in the Commercial Court and the Appellate Courts.

Poonam's clients want her for their "difficult cases" where innovative thinking and oversight of a large team, complex issues and multi-strands are necessary. In **Commerzbank v Pauline Shipping** [2017] 1 WLR 3497 Poonam successfully argued that asymmetrical jurisdiction clauses, prevalent in banking agreements, are exclusive jurisdiction clauses for the purposes of Brussels 1 Recast, an issue and judgment which has attracted widespread attention. She concluded the **CSAV v Hin Pro Litigation** [2015] 2 Lloyd's Rep 1 (Court of Appeal) and [2015] 1 Lloyd's Rep 301 where a new approach to damages for breach of exclusive jurisdiction clause was adopted. Poonam recently concluded **Latin American Investments v Maroil Trading** involving joint venture shareholders of a fleet of vessels and complex allegations of breach of fiduciary duty, secret profits and fraud and where Poonam successfully obtained a WWFO of over US\$60 million. Poonam led an entirely new team in the action of **Zumax v FCMB** on the imposition of trusts/equitable obligations in the context of international bank transfers involving correspondent banks, successfully overturning the judgment entered against the bank, in a claim pleaded at over US\$210 million.

Poonam has also acted on an enormous amount of marine insurance work and significant re-insurance work. Cases include: The US\$20 million reinsurance dispute of **Beazley Underwriting Ltd v Al Ahleia Insurance Co** [2013] Lloyd's Rep I.R. 561 where Poonam successfully represented insurers and made new law and two recent confidential scuttling cases.

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### What the directories say

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**"Pragmatic, clear-sighted and very user-friendly." "Very much dedicated to the case and a pleasure to work with."**

(Chambers UK, 2019)

**'She has in-depth knowledge and experience.'**

(Legal 500 2019)

**"...Very impressive." "User-friendly, practical, quick and bright. She is responsive and very good on her feet...."**

(Chambers UK, 2018)

**"...A fantastic advocate..."**  
(Legal 500, 2017)

**"...Incredibly hard-working, she will leave no stone unturned to fight your case..."**  
(Chambers UK, 2017)

**"...Excellent..."**  
(Legal 500, 2016)

**"...she is a phenomenal advocate. When she fights a case for her clients, she leaves no stone unturned..."**  
(Chambers UK 2016)

**"...she has a good ability to think outside the box." "She is very tenacious and hard-working..."**  
(Chambers UK, 2015)

**"...stands out from the crowd, because of her confident approach and particularly strong advocacy..."**  
(Legal 500 2014)

**"...exudes intellect and approaches matters in highly analytical fashion..."**  
(Chambers UK 2010)

**"...always in demand, she is as good on her feet as she is adept at mastering complex legal, factual and expert material..."**  
(Chambers UK 2010)

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## Shipping & Maritime

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### **Dry Shipping**

Dry Shipping forms a large part of Poonam's practice, with instructions covering all types of charterparty, bill of lading, sale of goods and ship-sale disputes. The cases raise legal issues, proper ship-management issues as well as technical expert issues of all types e.g. proper carriage techniques, training of crew, ship stability, fatigue cracking, engine breakdowns, bunker disputes and explosive cargoes are just some of the areas where Poonam has extensive experience. Illustrative cases include:-

- **Latin American Investments v Maroil Trading** (2016-17) involving joint venture shareholders of a fleet of vessels and complex allegations of breach of fiduciary duty, secret profits and fraud and where Poonam successfully obtained a WWFO of over US\$60 million.
- **Compania Sud Americana de Vapores SA v Hin-Pro International Logistics Limited** [2015] All ER (D) 206 (Apr) A US\$25 million dispute involving alleged mis-deliveries of cargo and the commencement of 23 sets of proceedings by Chinese freight forwarders in China in breach of an exclusive jurisdiction clause. Poonam obtained orders and judgments which have made new law and which are of importance not just in shipping but in any area of commercial litigation.
- **DS Rendite Fonds NR 106 VLCC Titan Glory GmbH & GmbH and 7 others v Titan Maritime & 8 others.** 2014 Commercial Court. Poonam acted for 8 shipowners claiming over US\$250 million. Disputes arose as regards these CRAs and then, even whilst litigation was on-going, further disputes arose as regards the parties' obligations of good faith to each other. Poonam obtained judgment for over US\$250 million [2015] EWHC 248

with the Court indicating disagreement with earlier first instance authority and accepting Poonam's argument that obligations to negotiate in good faith in settlement agreements here were unenforceable.

- **Xiamen C&D Minerals v SCIT Trading** (on-going) A consolidated action involving 5 parties concerning delivery of cargo said to be worth over US\$10 million without production of original bills of lading and said to have jeopardised a Bank's security interest. The case concerns the proper construction of Letters of Indemnity when arising in the varying contexts of a time charter, COAs and sale contracts and is proceeding to trial here whilst parallel proceedings are ongoing both in China and Hong Kong.
- **Magellan Spirit ApS v Mansel Oil Ltd** (on-going) A commercial court action concerning an LNG carrier where over US\$50 million is being claim for early termination, with issues arising in relation to, inter alia, as yet untested clauses in the SHELLLNG form.
- **Enviroco Ltd v Farstad Supply A/S** [2011] UKSC 16 in the Supreme Court concerning the proper construction of exemption and indemnity clauses in a charterparty providing for risk allocation between groups of companies and their affiliates.
- Charter party and ship-building disputes, such as **The Ailsa Craig** [2009] 2 Lloyds Rep 371 (CA) where previous Court of Appeal decisions were reconciled and guidance was given as to the inter-relationship between nomination obligations and cancellation rights and **The Socol 3** [2010] 2 Lloyds Rep 221 examining risk allocation and the NYPE deck cargo provisions.

### Wet Shipping

Poonam has experience of collision cases and the important procedural and jurisdictional issues that arise in the Admiralty Court concerning arrests, forced sales and sister ship arrests. She has also acted on cases as to arrest powers and collision cases

- Poonam acted on behalf of the Milford Haven Port Authority following the *Sea Empress* grounding, raising issues of pilot training, oil pollution and as to the liability of the port for the economic and physical consequences of the oil spill.
- Poonam also acted in **Vitol SA v Capri Marine Ltd** [2011] 1 All ER 366 and **Vitol SA v Capri Marine Ltd** [2009] Bus L.R. 271, important cases concerning post-judgment enforcement abroad, US alter-ego issues and cross-examination of foreign judgment debtors.
- Poonam has also been involved in several arbitrations and applications concerning Cross-Border Insolvency difficulties.

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## Commercial Dispute Resolution

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Poonam is often instructed in substantial commercial disputes requiring a mastery of voluminous documentation, an understanding of wider commercial relationships and needs and innovative analyses.

She is also regularly involved in a large number of cases requiring pre-emptive and other-procedural remedies such as freezing and anti-suit injunctions. Poonam has obtained several injunctions against substantive proceedings, security and arrest measures and obtained orders for imprisonment for contempt when injunctions are not obeyed – see e.g **CSAV v Hin-Pro Intl Logistics Ltd** [2013] EWHC 987. She has also acted on behalf of

a number of high profile international companies resisting wide ranging asset disclosure and freezing injunctions.

Other illustrative cases include:

- **Zumax v FCMB** Poonam led an entirely new team in the action of Zumax v FCMB on the imposition of trusts/equitable obligations in the context of international bank transfers involving correspondent banks, successfully overturning the judgment entered against the bank, in a claim pleaded at over US\$210 million.
- **Commerzbank v Pauline Shipping** [2017] 1 WLR 3497 Poonam successfully argued that asymmetrical jurisdiction clauses, prevalent in banking agreements, are exclusive jurisdiction clauses for the purposes of Brussels 1 Recast, an issue and judgment which has attracted widespread attention.
- **CSAV v Hin Pro Litigation** [2015] 2 Lloyds Rep 1 (Court of Appeal) and [2015] 1 Lloyds Rep 301 where a new approach to damages for breach of exclusive jurisdiction clause was adopted.
- The US\$20 million reinsurance dispute of **Beazley Underwriting Ltd v Al Ahleia Insurance Co** [2013] Lloyds Rep I.R. 561 where reinsurers alleged breaches of a claims control clause against insurers and thereby sought to avoid liability for a collapsed crude oil storage tank. In this unusual case, which involved a split amongst lead reinsurers, Poonam successfully represented insurers and made new law with her argument that the CCC entitled insurers to follow different reinsurers separately in respect of their different “slices” of the risk.
- A high value commercial dispute between joint venture parties with one party claiming to be entitled both to the full shareholding and to payment of substantial sums. Issues include “alter-ego” allegations with Poonam successfully obtaining an injunction restraining alter-ego security measures.
- **Lail v Maroil** (2012); a US\$50 million pound dispute in the commercial court concerning the collapse of a 15 year joint venture relationship in respect of several vessels including the two (then) largest VLCCs in the world. Issues included the financing of the joint venture, alleged economic duress, conspiracy and fraudulent misrepresentations.
- A multi million investment treaty dispute concerning alleged unlawful expropriation of factories in Venezuela
- **Enviroco Ltd v Farstad Supply A/S** [2011] UKSC 16 a complex case reaching the Supreme Court concerning the subsidiary/holding company definitions in the Companies Act legislation and affecting diverse commercial and employment contracts, and risk allocation clauses, utilising those definitions. The anomalies exposed by the case have caused practitioners to amend their boilerplate definitions and may lead to Parliamentary amendments of the Companies Act.

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## Insurance & Reinsurance

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Poonam has done an enormous amount of marine insurance work and significant re-insurance work where successful advice and litigation in this area require an appreciation of the unique policy and commercial considerations applicable to the insurance field. Illustrative cases include:-

- The US\$20 million reinsurance dispute of **Beazley Underwriting Ltd v Al Ahleia Insurance Co** [2013] Lloyds Rep I.R. 561 where reinsurers alleged breaches of a claims control clause against insurers and thereby sought to avoid liability for a collapsed crude oil storage tank. In this unusual case, which involved a split amongst lead reinsurers, Poonam successfully represented insurers and made new law with her argument that the CCC entitled insurers to follow different reinsurers separately in respect of their different “slices” of the risk. On-going

issues now centre on alleged design defects and the application of the London Engineering Group 2 exclusion clause.

- **Ma'Aden Aluminium Company v Tawuniya Insurance Corp** – 2014 Comm Court acting for the Saudi Reassured/Insurers in a business interruption claim worth S\$70 million. The case involves factual and expert issues and issues as to whether the insurance contract was ever entered. The complex placing arrangement for this project (worth billions of dollars) with entities in several different jurisdictions and some 15 + potential reinsurers are all in issue
- A dispute between London reinsurers and reinsured regarding the scope and effect of a claims co-operation clause and remedies arising for a breach.
- A substantial dispute between reinsurers and the reinsured arising in relation to a gas processing plant in Kurdistan regarding coverage for legal and public authority requirements.
- **Swiss Re-Insurance v United India Insurance** [2005] Lloyds Rep IR 341 a re-insurance dispute arising out of the mothballing of the construction of power plants in India and raising issues as to the nature of premium payments and material alteration of risk.

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## Jurisdictional Disputes

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- Jurisdictional and conflict of law issues frequently arise in general commercial litigation and Poonam has extensive experience of conflicts issues, including the very important House of Lords decision in **Airbus Industrie v Patel** [1998] 1 Lloyds Rep 631 and [1997] 2 Lloyds Rep 8.
- Poonam is regularly involved in a large number of cases requiring pre-emptive and other-procedural remedies such as freezing and anti-suit injunctions. In 2013 and 2014 Poonam has obtained several injunctions against substantive proceedings, security and arrest measures and obtained orders for imprisonment for contempt when injunctions are not obeyed – see e.g **CSAV v Hin-Pro Intl Logistics Ltd** [2013] EWHC 987. She has also acted on behalf of a number of high profile international companies resisting wide ranging asset disclosure and freezing injunctions.
- See also **Vitol SA v Capri Marine Ltd** [2011] 1 All ER 366 and **Vitol SA v Capri Marine Ltd** [2009] Bus L.R. 271, important cases concerning post-judgment enforcement abroad, US alter-ego issues and cross-examination of foreign judgment debtors.
- Poonam has also been involved in several arbitrations and applications concerning Cross-Border Insolvency difficulties.

## Academic

MA Cantab (Law)

## Memberships

COMBAR, Supporting Member LMAA

## Pro Bono

Acted on behalf of “CORE”; in a judicial review application against the decision of the HFEA to allow research into animal-human hybrid embryos.

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**Personal**  
Married, 4 Children.