



“HEAD-ON” or “CROSSING” SITUATION – The Court of Appeal decides

Nigel Cooper KC & Robert Ward

11 March 2026

Today the Court of Appeal handed down judgment in **Monford Management Ltd (the owners of the KIVELI) v Afina Navigation Limited (the owners of the AFINA I)** [2026] EWCA Civ 251, the first Court of Appeal decision to directly consider the interpretation of Rule 14 of the 1972 Collision Regulations, the “head-on situation”. The judgment provides important guidance as to when a “head-on situation” exists rather than a “crossing situation” and reinforces the precedence of Rule 14 over Rule 15.

Specifically, the judgment determines that the application of Rule 14(b) is not limited by the arc of visibility of a vessel’s sidelights and that it is not necessary for a vessel to be able to see both sidelights of the other vessel for a head-on situation to exist if the other vessel’s masthead lights are in line or nearly in line.

The judgment also offers guidance as to the appropriate procedure for the appointment of nautical assessors in future collision appeals.

The Judgment of Bryan J

On 13 March 2021, two bulk carriers, KIVELI and AFINA I, collided off the south coast of Greece. Following a trial on liability, Mr Justice Bryan apportioned fault 80% to KIVELI and 20% to AFINA I ([2025] EWHC 1185 (Admlty)). Rule 14 states:

“(a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

“(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line and/or both sidelights and by day she observes the corresponding aspect of the other vessel.

“(c) When a vessel is in any doubt as to whether such a situation exists, she shall assume that it does and act accordingly.”

The Judge’s key factual findings were that at the time the risk of collision arose at C-22 (i.e. 22 minutes prior to the collision): (1) the difference between the vessels’ courses was 6.9 degrees; (2) the AFINA was located 2.1 degrees off the port bow of KIVELI; (3) the KIVELI was located 4.9 degrees off the starboard bow of AFINA I; and (4) each vessel could see the other ahead or nearly ahead and with her masthead lights in a line or nearly in a line.

Bryan J found that Rule 14 applied on the basis that Rule 14(a) provided a standalone objective test for a head-on situation and was satisfied by the vessels’ respective courses, but alternatively that the requirements of Rule 14(b) were satisfied by the observation of masthead lights in a line or nearly in a line by one or both vessels.

Issues in the Appeal

Before Bryan J, and again before the Court of Appeal, KIVELI sought to argue that the situation was a crossing situation within Rule 15 and that pursuant to that rule KIVELI was the “stand-on” vessel and AFINA I the “give way” vessel. On that basis, it was argued that the Judge’s apportionment could not stand.

The Court was asked to resolve, among others, the following issues of interpretation concerning the application of Rule 14:

(1) Whether Rule 14(a) provides a definition for a head-on situation, or whether Rule 14(b) is exhaustive of the circumstances in which a head-on situation arises (“the Definitional Issue”);

(2) Whether for the purposes of Rule 14(b), a vessel must be visible within a 6-degree arc over the other’s centreline (that



being the arc of visibility of a vessel's sidelights) to be considered "*ahead or nearly ahead*" and for the masthead lights to be "*in a line or nearly in a line*" (described as "the geometric test");

(3) Whether Rule 14(b) should be read as requiring visibility of sidelights where vessels are within visible range of those lights ("the And/or Issue");

(4) Whether for Rule 14(b) to be engaged, the conditions therein had to be satisfied by one or by both vessels ("the A Vessel Issue").

Further, KIVELI argued that even if Rule 14 was engaged, it should cease to apply where any of the conditions in Rules 14(a) or (b) ceased to be satisfied, which she argued was the case at about C-7.5, even if risk of collision continued.

The Court of Appeal's Decision

Foxton LJ, delivering the lead judgment, dismissed the appeal on the basis that Bryan J had correctly applied Rule 14(b) to the facts of the case. Since it was therefore unnecessary to do so, he declined to pronounce on the Definitional Issue.

In relation to Rule 14(b), he rejected the geometric test, holding that as a matter of the language of the provision:

(1) Rule 14(b) contained no reference to the arc used in the geometric test which was formulated in language whose ordinary meaning was very different to the phrases "*nearly ahead*" and "*nearly in a line*" [87].

(2) The geometric test is derived from the arc of visibility of sidelights contained in Annex I paragraph 9 of the Collision Regulations which is not referred to in Rule 14 or any of the Rules of Part B, of which Rule 14 forms part [88].

(3) The terms of Annex I paragraph 9 made it an unlikely candidate for the source of the geometric test because the range of practical cut off for the visibility of sidelights is "*between 1 degree and 3 degrees*" across the centreline, with the intensity of the lights decreasing over that arc [89].

(4) The geometric test meant that the reference to masthead lights in Rule 14(b) had very little function [90].

Further, there was nothing in the *travaux préparatoires* indicating any attempt to link Rule 14 with Annex I paragraph 9 [93].

In relation to "the And/or Issue", Foxton LJ concluded that the ordinary meaning of "and/or" led to the conclusion that it was sufficient to engage Rule 14(b) that the observing vessel can see the masthead lights of the other in a line or nearly in a line, regardless of whether sidelights could also be seen [112]-[113]. That conclusion was also supported by a decision of the United States Court of Appeals for the Fifth Circuit [123]-[124].

Having concluded that Bryan J was correct to find the Rule 14(b) test was satisfied by both vessels, it was unnecessary to decide the "A Vessel Issue".

On the basis that Rule 14 was therefore applicable as at C-22, Foxton LJ went on to hold that the rule applied until the risk of collision had passed [134]. The text of Rule 14 itself indicated this interpretation, requiring a course change such that "*each shall pass on the port side of the other*" [134(iii)]. This was also consistent with Rule 8(d) which contemplates that actions taken to avoid collision will be "*such as to result in passing at a safe distance*". Finally, that interpretation better advanced the object and purpose of the Collision Regulations by avoiding the need to switch between rules whilst a risk of collision continued [135].

Nautical Assessors in the Court of Appeal

Paragraph 26B of Practice Direction 52C currently provides for two nautical assessors to be appointed by default where there is an appeal from a collision action in the Admiralty Court.

In a separate judgment, Lord Justice Coulson expressed the view (with which Foxton and Nugee LJJ agreed) that this seemed contrary to the overriding objective and inconsistent with the modern approach to challenges of findings of fact [148].

Coulson LJ continued by setting out guidance for future collision appeals, stating that an appellant ought to spell out in its notice of appeal any opinion of the first instance assessor which is challenged and the grounds of appeal which require the opinion of



further nautical assessors, with explanatory reasoning [149]. He further encouraged Judges determining permission to appeal applications to state whether assessors were necessary and identify the scope of the assessors' role [150].

It is not yet known whether KIVELI will apply to the Supreme Court for permission to appeal the judgment.

Nigel Cooper KC and Robert Ward, acting on behalf of AFINA I, were instructed by Mark Seward, Nico Saunders and Joel George of MFB Solicitors and Simon Tatham, Chris Farmer, and Tom Dingwall of Tatham & Co.

Andrew Carruth (led by Christopher Smith KC of Essex Court Chambers) acting on behalf of KIVELI, was instructed by HFW.



Nigel Cooper KC

"Nigel is a silk who is not afraid to roll his sleeves up and is very approachable..." (Chambers UK, 2026)

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

[>See Nigel's full profile here](#)

nigel.cooper@quadrantchambers.com



Robert Ward

Rob has developed a busy practice spanning the breadth of Chambers' practice areas including shipping, commercial disputes, international arbitration and aviation. He has appeared as sole counsel in the High Court and County Court and as a junior in several high value matters. Prior to joining Chambers, Rob was a judicial assistant to Lord Justice Longmore in the Court of Appeal and worked on a number of large commercial disputes such as Banco Santander Totta SA v Companhia de Carris de Ferro de Lisboa SA [2016] EWCA Civ 1267, in which the Court addressed the proper interpretation of Article 3 of the Rome Convention. Rob has also completed a 3-month secondment at the Financial Conduct Authority in the Insurance and Pensions team of its in-house legal department.

[>See Robert's full profile here](#)

robert.ward@quadrantchambers.com