



- Litigation & Arbitration
- Shipping & Maritime
- Commodities & Int. Trade
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Henry Ellis

Call: 2008

MA (Hons) History (First Class) (Cantab)
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Henry works on a broad range of commercial matters for a variety of clients. He has been instructed to appear as both sole and junior Counsel in the Commercial Court and regularly acts in arbitration. During 2011 Henry spent three months on secondment to the Shipping and Transport Litigation Department of Holman Fenwick Willan LLP, where he assisted on a wide range of both dry and wet shipping disputes.

The following are some examples of ongoing cases and recent work that he has undertaken:

Shipping & International Trade:

Cargo claims

- Henry is currently acting for shippers/charterers in an arbitration over alleged moisture damage to a cargo of fertiliser worth in excess of US\$12m.
- Henry has recently advised a major P&I Club on issues relating to a US\$1.6m claim for damage to cargo. Henry advised *inter alia*, on package limitation under USCOGSA and owners' liability under the Inter-Club Agreement.
- Henry provided advice to a Charterer on issues arising out of the loss of containers overboard in heavy weather. Henry's advice focussed on the charterer's liability under the Inter-Club agreement as well as the effect on a stayed London Arbitration of the judgment of a Shanghai Maritime Court.

Charterparty disputes

- Currently instructed as junior Counsel to Mark Jones in a US\$1m demurrage dispute in the Commercial Court.
- Henry is currently instructed to draft defence and counterclaim and reply submissions up and down the chain in an arbitration involving off hire and speed and consumption claims arising out of three NYPE time charterparties.
- Henry is currently instructed by a major P&I Club as junior to Timothy Hill QC in an arbitration of a multi-million dollar claim arising out of a failure to perform under a contract of affreightment due to alleged force majeure.
- Instructed on behalf of Charterers Henry recently successfully resisted an application on paper in a LMAA arbitration to rectify a charterparty in order to narrow the speed and performance warranty.
- Instructed as Sole Counsel, Henry has considerable experience of speed and performance claims in arbitration, usually under the LMAA Rules.

Jurisdictional disputes

- In *SAPI SpA v Sunshine Oil* (2010) (Blair J) Henry was instructed as Sole Counsel in a dispute between Italian shippers and Nigerian receivers of tallow, Henry, acting for the Italian shippers, won a contested application for the Commercial Court to exercise its discretion to appoint an arbitrator in the dispute between the parties. Henry then drafted submissions for the subsequent arbitration (which was conducted on paper), in which his clients were successful on all points.



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- Currently instructed for ship owners in an application in arbitration for the tribunal to declare that it has no jurisdiction pursuant to s.30 of the Arbitration Act 1996 alternatively stay the arbitration on the grounds that it is an abuse of process given the existence of parallel court proceedings in Turkey with charterers.

Shipbuilding

- Henry assisted in drafting defence and counterclaim submissions for a Chinese shipyard in two LMAA ship-building arbitrations with a combined value of over US\$32 million.
- Henry recently assisted a two-Counsel Stone Chambers team on twin shipbuilding arbitrations with a combined value of US\$52 million. The second arbitration settled, but in the first arbitration the Stone Chambers team were successful on all points.
- Drafted submissions in support of a successful security for costs application made against a Spanish shipyard that had entered administration.

General Average

- Currently instructed by ship owners as junior to Vasanti Selvaratnam QC in a claim for a US\$3m contribution under a General Average adjustment from cargo interests.

General Commercial Litigation:

Carriage of Goods by Road: the CMR

- In late 2010 Henry won a one day trial in Nottingham County Court on behalf of insurers arguing successfully that repair costs were recoverable under the CMR in the case of damage goods for which there was no available market.
- Henry is currently instructed in two non-CMR cases relating the carriage of goods by road within the UK.

Insurance and Reinsurance

Prior to joining Stone Chambers Henry underwent pupillage at 7 King's Bench Walk, during which time he gained extensive experience of insurance matters both marine and non-marine.

These included:

- Disputes involving coverage and notification issues under professional indemnity policies as well as disputes involving avoidance of policies for material non-disclosure and misrepresentation.
- Marine insurance disputes involving alleged constructive total loss of goods due to piracy in the Gulf of Aden; and disputes concerning avoidance for material non-disclosure following the actual total loss of a vessel.
- Reinsurance disputes centred on the applicability of 'follow-the-settlements' clauses; and disputes involving avoidance for misrepresentation.

Henry is accordingly happy to accept instructions in all aspects of insurance law.

Banking, Finance and Consumer Credit

- Henry is regularly instructed to appear in a wide range of banking-related cases.
- Recently advised one of the UK's largest providers of asset finance on its potential remedies when faced with a complex and wide-ranging fraud involving the dishonest appropriation and subsequent disposal of many motor vehicles. Henry also provided full advice on appropriate preventative measures to reduce the risk of the fraud being perpetrated again.
- In *FGA Capital v Hipwood* (2011) (HHJ Oppenheimer), Henry successfully resisted an appeal by the Defendant against a ruling at first instance that recovery of protected goods under the CCA 1974 from HM Revenue and Customs (following seizure) was not 'from the debtor' within the meaning of s. 90 of the Act.
- Henry often appears in the County Court in asset finance litigation, and has acted for many of the UK's biggest lenders successfully at trial and in applications, primarily at the strike out/summary judgment stage.
- Henry also has considerable experience in all aspects of possession proceedings and mortgage disputes. He has appeared at all stages of possession proceedings, from the obtaining of the original possession order, right through to successfully resisting appeals from rejected applications under section 36 of the Administration of Justice Act 1970.



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- Together with three other members of Stone Chambers, Henry is the author of a talk entitled 'Effective Possession Proceedings' which he has delivered to various firms of solicitors.
- Henry has also appeared many times in the bankruptcy division on behalf of a wide range of creditors.
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Academic:

Henry is currently teaching the International Trade module on the BTPC at BPP law school.

Scholarships and Prizes:

- Levitt Scholarship, Lincoln's Inn - 2008
- Lord Denning Scholar, Lincoln's Inn - 2007
- Lord Haldane Scholar, Lincoln's Inn - 2006
- Hardwicke Entrance Award, Lincoln's Inn - 2006
- Senior Scholarship, Trinity College, Cambridge - 2006
- Junior Scholarship, Trinity College, Cambridge - 2004, (reawarded) 2005
- Tripos Prizes, Trinity College, Cambridge - 2004, 2005, 2006