

James Shirley

Call: 2002

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BCL (Distinction) - New College, Oxford

LLB (First Class) - University College London

Profile

James does a good balance of advisory work, drafting, and advocacy. He is often led by the silks in Chambers but is an experienced advocate and has cross-examined experts in a variety of fields. His practice extends to all areas of shipping and commercial litigation.

James Shirley is entitled to accept instructions of a Public Access basis.

Fields of practice

- Shipping and international trade
- Insurance and reinsurance
- Arbitration
- Interlocutory work
- Conflicts of law and jurisdictional disputes
- Banking and finance
- General commercial

Particular Areas of Expertise

Shipping and International Trade

Charterparty disputes

Advising and drafting submissions; all aspects including the construction of charterparty clauses, redelivery and termination disputes, hold-cleaning disputes, off-hire disputes, speed and performance claims; sub-lien cases, indemnity claims, general average, formation issues, laytime and demurrage and cargo claims including InterClub Agreement issues. Recent work includes:

- Acting for intermediate charterers challenging arbitral award concerning a trading limits dispute raising complicated estoppel issues, led by Vasanti Selvaratnam QC;

- Advising on a dispute concerning the use of pilots;
- Acting for owners in a demurrage dispute raising demurrage time bar issues;
- Acting for owners pursuing cargo interests for general average contributions;
- Advising on minimum hire payment/penalty clause in a time charter;
- Advising on laycan-narrowing clauses;
- Advising on charterparty formation and repudiatory breach issues;
- Advising on disputes involving the Cross-border Insolvency Regulations and the European Insolvency Regulation.

Bill of lading claims

All aspects including sea waybill claims and the incorporation of charterparty terms; complex issues of bailment on terms and jurisdictional issues. Recent work includes:

- Advising on delivery rights/obligations under a straight bill of lading;
- Acting for fruit importer bringing chill damage claims.

“Wet” shipping/admiralty claims

Including jurisdictional and procedural issues, arrest, salvage and collisions. Recent work includes:

- Acting for shipowners defending collision action in the Admiralty Court, led by Timothy Hill QC;
- Advised and acted for shipowners seeking anti-suit injunction against foreign arrest.

Shipping derivatives including forward freight agreements

Recent work includes:

- Acting for shipowner in claim arising out of complex compromise of forward freight contracts involving fraud, conspiracy, knowing receipt, dishonest assistance and challenging a fraudulent transaction under s. 423 Insolvency Act 1986, led by Vasanti Selvaratnam QC.

Ship finance

Ship sale and purchase and mortgages including options in charterparties and availability of specific performance. Recent work:

- Acting in \$50M ship sale dispute concerning issues of NOR validity and effect;
- Acting in arbitration relating to damage caused by premature service of NOR;
- Advising yacht-sellers on issues arising out of their export of yachts on an “ex-works” basis;
- Acting for and advising good faith purchaser of an unregistered ship alleged to be subject to a ship mortgage.

Sale of goods and commodities

Specification/quality claims, construction of contracts, quantum issues and import and export controls. Recent work includes:

- Advising purchaser of complicated machinery on issues of incorporation of standard terms, misrepresentation and mistake;
- Advising the manufacturer of dual-use goods on issues arising out of the Export Control Act 2002 and related legislation.

Carriage by road, rail, air and multimodal carriage

Domestic and international disputes, bailment, quasi-bailment, CMR, RHA, BIFA and FTA conditions. Recent work includes:

- Acting for and advising consignees of lost goods in relation to CMR time bar issues;
- Acting for and advising carriers in relation to CMR claims involving issues of wilful misconduct and contribution between carriers.

James has a particular interest in West African shipping. He spoke at workshop in Accra, Ghana for the Nigerian shipping industry in March 2008.

Insurance/reinsurance

Including marine and non-marine, policy/coverage disputes and disclosure/non-disclosure/fraudulent claims; currently giving a series of seminars to firms of solicitors on hull and machinery insurance. Recent work includes:

- Multimillion-dollar hull insurance claim – proceedings issued in Commercial Court;
- Recovering payment mistakenly made by insurer to insured.

Arbitration

Including s. 68 appeals on grounds of serious irregularity, s. 69 appeals on points of law and jurisdictional challenges. Recent work includes:

- Acting for intermediate charterers challenging arbitral award under s. 68 and s. 69 and seeking further reasons from the tribunal under s. 57, led by Vasanti Selvaratnam QC.

Interlocutory work

Freezing injunctions, disclosure applications and ship inspection orders. Recent work includes:

- Acting for seller of biodiesel against buyers domiciled in another Member State and obtained a worldwide 12.5M Euros freezing injunction in support of multiple arbitrations: case involved numerous interesting issues of arbitration and jurisdiction including Scott v. Avery clauses and the scope of the English court's Van Uden jurisdiction as well as complex evidential issues in relation to dissipation and good arguable case, led by Timothy Hill QC;
- Obtaining urgent ship inspection/disclosure order on behalf of cargo interests.

Conflict of laws/jurisdictional disputes

Including jurisdiction challenges and anti-suit injunctions. Recent work includes:

- Obtaining an order setting aside service at a day's contested hearing; application raised interesting issues under the Judgments Regulation (44/2001) – jurisdiction agreements, lis pendens – and of time/method of service;
- Advising on disputes involving the Cross-border Insolvency Regulations and the European Insolvency Regulation.

Banking and finance

Recent matters include:

- Acting for the lenders in the North East Property Buyers litigation arising out of sale and leaseback transactions and involving allegations of nationwide fraud on borrowers by property-buying companies – involved fundamental issues of land law including the scope of the decision of the House of Lords in *Abbey National v. Cann*.

General Commercial

Contract, tort and unjust enrichment/restitution

James acts in disputes of all kinds including interpretation/construction issues, formation/variation, mistake/misrepresentation, economic torts, claims for fraud, knowing receipt and dishonest assistance and issues of subrogation, assignment and damages. Recent work includes:

- Acting and advising in relation to disputes involving forgery and expert handwriting evidence;
- Advising on data protection and defamation issues.

Education

LLB (First Class) - UCL

BCL (First Class/Distinction) - New College, Oxford (specialising in Conflict of Laws, Restitution and Jurisprudence)

BVC (Very Competent) - ICSL

Appointments

Editor of Sweet and Maxwell's *Administrative Court Digest*