



Charles Holroyd

Call: 1997

cholroyd@7kbw.co.uk

'A highly experienced junior'

The Legal 500

Practice Profile

Charles specialises in commercial law. He has a broad practice which includes general commercial disputes, insurance and reinsurance, sale of goods, shipping, international trade and conflicts of law.

Charles has wide experience of shipping arbitrations, including both charterparty and shipbuilding disputes. He has also acted in a number of substantial insurance and reinsurance arbitrations. He has frequently appeared before the Commercial Court.

Banking & Finance

Charles has acted in a number of banking and financial disputes. He also has experience of disputes concerning guarantees.

Selected cases:

- Acted with Robert Bright QC in a successful claim in arbitration for approximately \$95m under a number of guarantees issued by Indian banks. The case raised issues of illegality, the correct identification of the place of performance and the relevance or otherwise of payment under the guarantees being a breach of an injunction granted in the defendant banks' home jurisdiction.
- ***Highland Crusader Offshore Partners v Deutsche Bank AG (Court of Appeal)*** [2010] 1 WLR 1023. Charles acted for Highland Crusader, both in the Court of Appeal in relation to resisting an anti-suit injunction and in the underlying substantive proceedings in the Commercial Court. These concerned disputed margin calls under Global Master Repurchase Agreements.

Commercial Litigation

Selected cases:

- Acted with Gavin Kealey QC in a \$20m negligence claim against the suppliers of the engineering design/specifications for a propane dehydrogenation plant in Saudi Arabia, following a serious incident at the plant which had caused extensive physical and economic loss. The case settled in 2017.
- Acted with Robert Bright QC in a successful claim in arbitration for approximately \$95m under a number of guarantees issued by Indian banks. The case raised issues of illegality, the correct identification of the place of performance and the relevance or otherwise of payment under the guarantees being a breach of an injunction granted in the defendant banks' home jurisdiction.
- ***Luxe Holding Ltd v Midland Resources Holding Ltd*** [2010] EWHC 1908 (Ch). Charles acted with Jonathan Gaisman QC in an interlocutory dispute concerning an injunction restraining the sale of shares in private company and/or freezing the proceeds of sale.
- ***Balmoral Group Ltd v Borealis UK Ltd & Ors*** [2006] 6 Lloyd's Rep. 629. Acted with David Allen in successfully defending a £40m claim brought by an oil tank manufacturer against its supplier of polyethylene. This was heavy litigation which involved a 2-month Commercial Court trial and extensive factual and technical evidence. The claim failed in its entirety.
- ***Petrotrade Inc. & Ors. v Smith & Ors*** [2000] 1 Lloyd's Rep. 486. Charles acted with Stephen Hofmeyr in this case concerning claims in tort and restitution in respect of secret payments made to individuals in connection with the appointment of the defendant as a port agent in Rotterdam.

Insurance & Reinsurance

Selected cases:

- Currently acting for marine cargo insurers in a dispute concerning the loss of vintage wine in a warehouse fire.
- Acted with Peter MacDonald Eggers QC for a mortgagee bank in a \$9m marine insurance dispute in relation to the total loss of a vessel.
- Acted for one set of insurers in a four-party arbitration concerning a claim under solicitors' professional indemnity policies in circumstances where there is a dispute as to when a claim was first made against the insured and thus which insurer is on risk.
- Advised on insurance issues arising out of the terrorist bombing of the Manchester Arena in May 2017.
- Acted for insurers resisting a claim under a Retailer Combined Insurance policy following destruction of retail property

by fire. The claim raised issues of breach of warranty, misrepresentation and non-disclosure. The claim against insurers was settled in 2017 on very favourable terms following an interlocutory hearing.

- Advised in a dispute between insurers as to the operation of a Discharge of Liability clause and the correct calculation of any contribution owed by one insurer to the other.
- ***ARC Capital Partners Ltd v Brit Syndicates Ltd*** [2016] Lloyd's Rep. I.R. 253. Represented an investment management company (with Gavin Kealey QC) in a successful claim against professional indemnity insurers. The issues concerned the construction of a retroactive date clause, whether certain communications amounted to the making of a claim against the insured, and the interrelationship of the obligation to notify claims and an extension of cover in respect of claims which should have been notified under earlier year policies.
- ***Hellenic Mutual War Risks Association v Minimal Enterprises Co ("Liquid Velvet")***. Charles acted for war risks insurers in resisting a \$7.5m claim for alleged damage to a ship occurring as a result of seizure and detention by pirates while carrying a cargo of acid. Conducted numerous interlocutory hearings during 2015; the case settled before trial. Charles led Sushma Ananda.
- ***ABB Brown Boveri v Hiscox Dedicated*** [2007] EWHC 1150 (Comm) - a claim against insurers and brokers on a programme of contract frustration indemnity insurance.
- ***The "Martin P"*** [2004] 1 Lloyd's Rep. 389. Acted for shipowners and managers in a complex dispute involving double insurance and contribution claims between insurers. Issues included insurable interest, mistake, the authority of agents and whether rights of contribution between insurers were affected by a post-loss cancellation of one of the policies.

Jurisdiction/Conflicts of Laws

Questions of jurisdiction and the conflict of laws arise frequently in the sorts of cases with which Charles deals. He has wide experience of such issues and has frequently advised upon them.

Selected cases:

- ***MSC Mediterranean Shipping Co. v Sektor Afikim Ltd & Anr.*** Acting for MSC, Charles successfully obtained an anti-suit injunction against consignees under Bills of Lading to restrain class action proceedings commenced against MSC in Israel.
- ***CIMC Raffles Offshore (Singapore) Pte Ltd & Anr. v Schahin Holding S.A.*** [2014] EWHC 1742 (Comm). Acted for two officers of a Brazilian company against whom the claimant had obtained an order requiring them to attend Court to provide information on the company's assets. Charles successfully obtained the discharge of the order on the basis the Court had no jurisdiction under CPR Part 71 to make an order against a corporate officer who was out of the jurisdiction at the time when the order was applied for and/or made.

- ***Highland Crusader Offshore Partners v Deutsche Bank AG (Court of Appeal)*** [2010] 1 WLR 1023 Acted for Highland with Tim Saloman QC in successfully overturning an anti-suit injunction obtained by Deutsche Bank which prohibited Highland from continuing proceedings in Texas. This is one of the leading authorities on anti-suit injunctions in the context of parallel proceedings where there is a non-exclusive English jurisdiction clause.
- ***Luxe Holding Ltd v Midland Resources Holding Ltd*** [2010] EWHC 1908 (Ch). Charles acted with Jonathan Gaisman QC in an interlocutory dispute concerning an injunction restraining the sale of shares in private company and/or freezing the proceeds of sale. The case involved consideration of whether the law of the *situs* of the shares should affect the transmission under English law of a beneficial interest in the shares to the buyer.

Procedure

Selected cases:

- ***Balmoral Group Limited v. Borealis A/S and others*** [2006] EWHC 2228 (Comm.) (Procedure, whether the trial judge can, after the conclusion of the hearing at which a decision sought to be appealed is made, extend time for an application to himself for permission to appeal to the Court of Appeal).

Shipping & Transport

Charles has extensive experience of all aspects of shipping law and the international carriage of goods. He has acted in numerous charterparty and bill of lading disputes and disputes under long-term COAs, covering such issues as unseaworthiness, cargoworthiness, dangerous cargoes, unsafe ports, stevedore damage, off-hire, laytime and demurrage and speed and consumption. Charles also has substantial experience of ship construction or ship repair/modification disputes, and has acted in disputes arising under ship management agreements. He has provided expert opinions on English shipping law for use in foreign legal proceedings.

Examples of cases in which he has been involved include the following:

Selected cases:

- ***Stallion Eight Shipping Co. S.A. v Natwest Markets Plc*** [2018] EWCH Civ 2760. Acted for a mortgagee bank, successfully resisting an appeal against the Admiralty Judge's decision that the bank need not give a cross-undertaking in damages to the shipowners, following the bank's arrest of the mortgaged vessel.
- ***TMF Trustee Ltd v Fire Navigation & Ors.*** [2018] EWHC 2790. Charles successfully obtained an interim injunction requiring the owners of a vessel to surrender possession of it to the security trustee under a loan agreement, in circumstances where the owners had been hiding the vessel at sea in order to avoid arrest.
- Charles assisted Peter MacDonald Eggers QC in acting for the owners of a refinery and the suppliers of a pilot in a \$22m claim against shipowners in respect of damage caused to the refinery's berth. The matter settled shortly before its

February 2018 hearing date. It raised important issues concerning the respective responsibilities of a vessel's master and a maritime pilot.

- Acted with Julia Dias QC in a successful application by a mortgagee bank to vary a freezing injunction to permit the sale of a vessel where the claimant alleged that the bank had wrongfully repudiated a concluded agreement to sell the vessel to the claimant.
- ***Saga Cruises BDF Ltd & Anr v Fincantieri SPA*** [2016] EWHC 1875 (Comm); 167 Con LR 29. Leading Stephen Du, Charles acted for the owners of a cruise ship against an Italian shipyard in a £4m claim under a refit agreement. The case involved complex issues of fact and law and is an important authority on issues of concurrent causes of delay in a claim for liquidated damages for delay in completion.
- ***Glory Wealth Shipping PTE Ltd v Flame S.A.*** [2016] EWHC 293 (Comm); [2016] 1 Lloyd's Rep. 571. Charles acted with Robert Bright QC for Flame SA, both in the underlying arbitration and on appeal, in a dispute concerning non-performance of a COA. The appeal concerned whether loss had been suffered by a disponent owner in circumstances where the revenue from the non-performed fixture would have been diverted to an offshore company.
- Acted with Peter MacDonald Eggers QC for the successful shipowner in a \$60million arbitration for the return of instalments paid under a shipbuilding contract, following the disputed cancellation of the contract. This involved a number of legal and technical issues, not only on the cancellation issue but also arising from the insolvency of one of the Respondents.
- ***Central Trading & Exports v Fioralba Shipping Co (The "KALISTI")*** [2014] 2 Lloyd's Rep. 449. Represented a shipowner, with Robert Bright QC, in successfully resisting an application to adduce further evidence on a section 67 appeal from an arbitration award. This is believed to be the first case in which a court has declined to permit further evidence on such an appeal, and it meant that the appeal would necessarily fail.
- Acted as Counsel with Stephen Hofmeyr QC for a Chinese shipyard in a series of three arbitrations raising legal and highly technical issues concerning the construction of nine 16,500 dwt product oil/chemical IMO II tankers.
- ***Guangzhou Dockyards Co Ltd v ENE Aegiali I*** [2011] 1 Lloyd's Rep. 30. Charles acted for a Chinese shipyard, both in the underlying arbitration and on this appeal, in a dispute concerning the termination of a ship conversion contract following the vessel's inability to proceed upriver to the shipyard. The appeal concerned whether the parties to an arbitration agreement could confer jurisdiction on the Court to hear appeals on issues of fact.
- ***Omak Maritime Ltd v Mamola Challenger Shipping Co & Ors*** [2011] 1 Lloyd's Rep. 47. Charles acted for the shipowner, both in the arbitration and (with Tim Brenton QC) on this appeal, in a dispute concerning whether a long term charterparty had been concluded. The appeal concerned the recovery of damages on the reliance basis in circumstances where profits under the replacement fixture exceeded the profits that would have been earned under the

repudiated fixture.

- **Trafigura Beheer BV v Mediterranean Shipping Company SA (“MSC Amsterdam”)** [2007] Lloyd’s Rep. 622
Charles acted for the cargo owner (with Dominic Kendrick QC) in the Court of Appeal in this claim under a Bill of Lading for delivery up or damages in respect of cargo mis-delivered to fraudsters. The case involved issues of construction, the Hague Rules and the date at which damages for conversion should be assessed.
- **Sabo S.A. v United Arab Shipping Company (SAG)** [2005] EWHC 307 (Comm). Charles acted for the shipper in a claim against a shipping line in respect of alleged misrepresentations in a Bill of Lading concerning the absence of transshipment.
- **The “Ruta”** [2000] 1 Lloyd’s Rep. 359; [2000] 1 WLR 2068 (Admiralty, relative priority of maritime liens).

Education

1989-1992 New College, Oxford University (B.A., First Class)

1994-1995 University of Geneva (Diplôme d’études supérieures)

1995-1996 City University, London (Diploma in Law)

1996-1997 Inns of Court School of Law

Holker Award (Gray’s Inn)

Mould Senior Scholarship (Gray’s Inn)

Languages: German (fluent), French (working knowledge).

Memberships

COMBAR, British Insurance Law Association, London Shipping Law Centre, Supporting Member of the LMAA

Directories

- A strong junior for shipping, commodities and international trade. Legal 500 2021
- Strong in shipping and international trade. Legal 500 2020
- A shipping and international trade specialist with a strong track record in arbitration. Legal 500 2018
- A highly experienced junior with a clear style of advocacy. Legal 500 2017
- Very measured in his advocacy, careful but clear. Legal 500 2016
- A superb performer and a good cross-examiner. Legal 500 2015
- A skilled advocate with a wide-ranging commercial practice. Legal 500 2014
- a “talented junior”. Legal 500 2011
- “very smooth” in presentation and manner. Legal 500 2009