



## Philip Aspin

Call: 2014

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## Practice Profile

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Philip maintains a broad practice encompassing shipping, insurance, civil fraud, and general commercial litigation. He has appeared as sole counsel in the Commercial Court and County Court, as well as being led in the Commercial Court and in arbitration. To give just a flavour of his practice, Philip's current or recent instructions include a US\$ 100m LCIA arbitration claim arising out of a coal offtake agreement, a Bermuda Form arbitration arising out of extensive criminal wrongdoing in a prominent US religious organisation, and a number of LMAA shipping matters ranging from a time charter safe port dispute to a claim by the bareboat charterers of a fleet of chemical tankers against the vessels' former managers.

Philip has spent time on secondment at two leading solicitors' firms. On his first secondment, Philip worked on an arbitration claim against a sovereign state involving allegations of abuse of power and corruption, as well as on a Commercial Court claim arising out of equities and derivatives trading in Dubai. He also carried out a range of research and advisory work relating to questions of jurisdiction, conflict of laws and state immunity. During the second secondment, Philip was exclusively involved in an extensive regulatory review of a complex programme of international reinsurance arrangements.

Philip is happy to accept instructions, on his own or led, in any commercial dispute.

### Shipping & Transport

Shipping work is at the core of Philip's practice. He has acted (both led and as sole counsel) in a wide range of charterparty, COA, bill of lading and other marine disputes.

- Appeared (led by Richard Southern QC) for the successful owners in a three-handed LMAA arbitration arising out of an

unperformed COA for the carriage of iron ore out of Sierra Leone, defeating charterers' defence of force majeure based on the alleged effects of the Ebola outbreak.

- Appeared (led by Richard Southern QC) for charterers in LMAA arbitration arising out of an unperformed COA for the carriage of iron ore from Australia, turning on issues of force majeure and frustration.
- Instructed (led by Robert Bright QC) for time charterers in a three-handed LMAA arbitration arising from the detention of a bulk carrier, defending a \$20+ million claim for cargo damage brought by voyage charterers and claiming up the chain against disponent owners. The case raised issues of construction of the exceptions clause in the Norgrain charter, the Inter-Club Agreement and the Hague Rules time-bar. (Settled favourably on the eve of trial).
- Appeared (led by Gavin Geary) for claimant owners in an LMAA arbitration arising from the repudiation of a COA, involving consideration of the 'minimum performance' rule in assessing damages.
- Advised (as sole counsel) on a US\$ 20m+ claim arising out of a bunker barging contract, raising issues of contractual variation, res judicata, estoppel by convention and duress.
- Advised on procedural issues relating to enforcement of an LOF salvage award.
- Advised on liability in negligent misstatement and deceit for false statements in a cargo survey report.
- Advised on the measure of damages under a time charter for owners' breach of the obligation to present with clean holds ready for loading, causing a shipment window to be missed.
- Advised on the availability of a claim under English law for wrongful arrest following the arrest of a tanker in South Korea on the basis of a claimed right to pierce the corporate veil.
- Acted for claimant shipbrokers in claim for unpaid brokerage under a time charter.
- Instructed in relation to a claim for cargo damage resulting from a collision between a cruise ship and a tanker in the Dardanelles, involving complicated questions of assignment and limitation.
- Acted for disponent owners in assigned claim against shipper for freight due under bills of lading, raising issues concerning the incorporation of charterparty terms into bills of lading.
- Settled pleadings in demurrage claims under charterparties on the BPVOY 4 and Gencon 1994 forms.
- Acted for owners in claim for late redelivery, raising issues concerning the identification of the relevant market for assessing damages.
- Instructed in relation to an application to dismiss an arbitration claim alleging breach of a safe port warranty for inordinate and inexcusable delay.

- Advised on merits of a claim by owners under a charterparty on the Gencon 1994 form following purported termination by charterers after stevedores refused to load.
- Acted for charterers in dispute raising numerous issues, including damages for early redelivery, underperformance, offhire, and liability for delay arising from master's refusal to accept bunkers.
- Advised owners on a demurrage dispute arising from a charterparty on the Synacomex 2000 form.
- Acted for time charterers defending disponent owners' safe port/implied indemnity claim in LMAA arbitration.
- Acting (as sole counsel) in US\$4 million LMAA arbitration claim by the bareboat charterers of a fleet of chemical tankers against the vessels' former managers.

## Insurance & Reinsurance

Philip has extensive experience acting for both insurers and assureds in cases arising across a range of sectors, including marine, professional liability, property, cargo, business interruption and travel risks.

- Acted (as sole counsel) for insurers in marine insurance arbitration claim for a constructive total loss arising out of the arrest of a bulk carrier in Turkey, involving the 'ordinary judicial process' exception in the Institute War Clauses.
- Advised on coverage under the professional liability policy of an investment fund manager for the costs of defending Part 64 proceedings brought by a creditor seeking an order for the winding-up of the fund.
- Advised on coverage for medical costs under multiple consumer travel insurance policies.
- Advised in relation to the property and public liability insurance of a major national charity.
- Advised on coverage issues under the property risks policy of a motor vehicle repair/garage business.
- Acted for insurers defending a claim by an independent financial adviser under a professional indemnity policy.
- Advised in relation to the property and business interruption risks policies of a major property development company.
- Advised on a claim under an all-risks transit policy for loss and damage to various works of art and household effects, raising issues concerning under-insurance and the operation of the Consumer Insurance (Disclosure and Representations) Act 2012.
- Instructed in relation to a claim under a cargo risks policy arising out of the theft of industrial machinery from a warehouse.
- Instructed as part of an extensive regulatory review of a complex programme of international reinsurance arrangements.

- Advised a property management company on a potential complaint to the Financial Ombudsman Service arising out of the renewal terms offered by the company's property risks insurers following a claim.
- Instructed on behalf of insurers in Bermuda Form dispute over a claim for indemnity by a prominent US religious organisation in respect of multiple allegations of sexual abuse.

## International Arbitration

Much of Philip's work takes place in arbitration, and he is familiar with proceedings conducted under LMAA, LCIA and other institutional rules, as well as ad hoc arbitrations.

- Currently instructed (led by Robert Bright QC) in US\$ 100m LCIA arbitration claim arising out of a coal offtake agreement, governed by Queensland law, raising a number of complex issues including the enforceability of agreements to negotiate in good faith and the assessment of 'loss of a chance' damages.
- Appeared (led by Richard Southern QC) for the successful owners in a three-handed LMAA arbitration arising out of an unperformed COA for the carriage of iron ore out of Sierra Leone, defeating charterers' defence of force majeure based on the alleged effects of the Ebola outbreak.
- Appeared (led by Richard Southern QC) for charterers in LMAA arbitration arising out of an unperformed COA for the carriage of iron ore from Australia, turning on issues of force majeure and frustration.
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- Appeared (led by Gavin Geary) for claimant owners in an LMAA arbitration arising from the repudiation of a COA, involving consideration of the 'minimum performance' rule in assessing damages.
- Acted (as sole counsel) for insurers in marine insurance arbitration claim for a constructive total loss arising out of the arrest of a bulk carrier in Turkey, involving the 'ordinary judicial process' exception in the Institute War Clauses.
- Acted for claimant shipbrokers in claim for unpaid brokerage under a time charter.
- Instructed in relation to a UNCITRAL arbitration concerning a long-term offshore oil drilling contract.
- Instructed on behalf of insurers in Bermuda Form dispute over a claim for indemnity by a prominent US religious organisation in respect of multiple allegations of sexual abuse.

## Civil Fraud

Philip's civil fraud experience includes being led on a major Commercial Court trial arising out of the collapse of a ponzi scheme, as well as acting alone in smaller cases with a fraud element.

- Appeared (led by Clive Freedman QC and Jo Higgs) on behalf of the Claimants in ***Simetra Global Assets Ltd & Or v IKON Finance Ltd & Ors*** [2018] EWHC 2624 (Comm), involving a 3-week trial in the Commercial Court of claims in dishonest assistance, deceit and conspiracy arising out of a long-running ponzi scheme.
- ***Accident Exchange Ltd v Colin Mclean and others*** (2017-8). Instructed on behalf of solicitor defendants to assist in relation to this major fraud claim arising out of the alleged deployment of misleading evidence in credit hire disputes over many years.
- ***Slater and Gordon (UK) Ltd v Watchstone Group PLC*** (2017-8). Instructed to assist on questions of legal professional privilege in this very high value claim for damages for fraudulent misrepresentation and breach of contract in connection with the Claimant's acquisition of the professional services division of the Defendant.
- Advised on the remedies available to the purchaser of the assets and goodwill of an engineering company arising following the misappropriation of its plant and equipment and diversion of its business by its former management.
- Acted for a firm of solicitors who had been the victims of an opportunistic fraud; obtained final judgment on the claim at the CCMC.
- Instructed to draft written submissions for use in proceedings in the High Court of Singapore arising out of the grant of a freezing injunction in support of a USD 50 million claim for breach of fiduciary duty.

## Commercial Litigation

Beyond his shipping, insurance and civil fraud work, over the past few years Philip has also acted (led and unled) in a wide variety of other commercial disputes.

- Currently instructed (led by Robert Bright QC) in US\$ 100m LCIA arbitration claim arising out of a coal offtake agreement, governed by Queensland law, raising a number of complex issues including the enforceability of agreements to negotiate in good faith and the assessment of 'loss of a chance' damages.
- Acted (led by Peter MacDonald Eggers QC) for the claimant bank in ***Aegean Baltic Bank S.A. v v Renzlor Shipping Ltd & Ors*** (CL-2018-000706), an US\$ 8m Commercial Court claim under a loan agreement and associated guarantees against the owner of a tanker and its corporate and personal guarantors, raising issues including the requirements for a constructive total loss under the Italian law of marine insurance, the equitable duties of a mortgagee in exercising its security rights, and the effect of Articles 281, 288, 330, 862 and 863 of the Greek Civil Code.
- Acted for the Second Defendant in ***Thomas v Ritz Property (2013) Ltd & Ors***, a £10 million Commercial Court claim

in breach of contract and debt arising out of the breakdown of a property development venture in Brazil.

- ***Aircraft Purchase Fleet v Alitalia*** (2017). Instructed as part of a larger 7KBW team on behalf of the Defendant in this €300m claim for non-acceptance of Airbus aircraft.
- Instructed in relation to a UNCITRAL arbitration concerning a long-term offshore oil drilling contract.
- ***Lycalopex (Dubai) Ltd v Merrill Lynch International***. Whilst on secondment Philip worked on this Commercial Court claim by a high-frequency trading firm against its prime brokers for failure to realise anticipated profits from equities trading.
- Advised on a potential claim for misrepresentation arising out of the sale of a yacht.
- Instructed to assist with disclosure in relation to a Part 20 claim for professional negligence against a firm of solicitors, arising out of the drafting of a clause in an insurance policy.

## Carriage of Goods

- In addition to the shipping cases outlined above, Philip also has experience of settling pleadings and appearing in a number of disputes arising from the carriage of goods by land and air.

## Other

In addition to his work in chambers' core practice areas, Philip has also been involved in a variety of cases falling outside those specialisms:

- Advised in relation to the validity of the acquisition, by the trustees of a deceased estate, of a beneficiary's interest.
- Acted for claimant landowner in dispute with contractors and subcontractors arising from damage to land caused by oil/diesel spillage.
- Extensive research into the effect of financial services, consumer credit and consumer protection legislation on the operation of the student loan system in England and Wales in the context of a potential challenge to the enforceability of student loans.
- Acted for flying club in a claim against former member for negligent damage to a light aircraft.
- Advised and acted for a warehousing and delivery company in a claim against a customer for unpaid invoices in which it was alleged that invoices had been settled by payment to the personal account of one of the claimant's employees, raising issues concerning ostensible authority.

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## Education

November 2014: called to the Bar by Gray's Inn

2013-14: Bar Professional Training Course, City University London (Very Competent)

2012-13: Graduate Diploma in Law, City University London (Commendation)

2009-13: D.Phil History, Oxford University

2008-9: MSt Historical Research, Oxford University

2005-8: BA History, Oxford University (First Class)

### Scholarships and Awards

Senior scholarship, Corpus Christi College Oxford, 2011-12

Arts and Humanities Research Council doctoral scholarship, 2009-12

Hawksmoor Essay Medal, Society of Architectural Historians of Great Britain, 2009

Undergraduate scholarship, Corpus Christi College Oxford, 2006-8

Christopher Bushell Prize for History, Corpus Christi College Oxford, 2007 and 2008