

JOINTLY ORGANISED BY:



SCMA PERSPECTIVES SEMINAR: BILLS OF LADING & TITLE TO SUE

28 JUNE 2023, WEDNESDAY

9.30AM - 2.00PM

MARITIME & PORT

AUTHORITY OF SINGAPORE

460 ALEXANDRA ROAD

MTOWER, 25TH FLOOR

SINGAPORE 119963



Public CPD Points: 2.5
Practice Area: Admiralty Practice/Shipping
Training Level: Intermediate



GUEST OF HONOUR:
THE HONOURABLE
JUSTICE JUDITH PRAKASH
JUSTICE OF THE COURT OF APPEAL



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NO REGISTRATION FEE

There are only 100 seats in the physical venue. Registration is on a first come, first served basis.

The Singapore Chamber of Maritime Arbitration and 36 Stone have partnered to organise an in-person seminars to explore the most relevant issues concerning Bills of Lading today.

Session 1: Electronic Bills of Lading

International trade is worth c. SG\$1.37 trillion and £1.266 trillion to Singapore and the UK respectively. Transporting goods across borders involves numerous stakeholders: carriers and other logistics providers, insurers, and banks, to name a few.

The legal framework for international trade is based on practices developed by merchants and states hundreds of years ago. At the centre of a tangled web of transactions lies the bill of lading, the “lawful holder” of which, has special rights under both English and Singapore law. The bill of lading has traditionally been in paper form: unsurprisingly, however, in the era of computers and blockchain, there has been increasing clamour for the paper document to morph into electronic form.

Following Singapore’s recent recognition of electronic bills of lading (by virtue of the Electronic Transactions Act 2010) and the UK Electronic Trade Document Bill making its way through the Houses of Parliament, the speakers will provide an overview of (a) the Singapore and UK legislation and (b) discuss the opportunities, implications, and challenges electronic bills of lading bring to the industry.

Moderator: Colin Wright (Barrister, 36 Stone)

Panelists:

Dr Colin Ong KC (Barrister, 36 Stone; Counsel, Eldan Law LLP)

Prof Charles Debattista (Barrister, 36 Stone)

Emile Yusupoff (Barrister, 36 Stone)

Ben Chandler (Senior Claims Executive, NorthStandard)

Participants who wish to obtain CPD Points are reminded that they must comply strictly with the Attendance Policy set out in the CPD Guidelines. For this activity, this includes signing in on arrival and signing out at the conclusion of the activity in the manner required by the organiser, and not being absent from the entire activity for more than 15 minutes. Participants who do not comply with the Attendance Policy will not be able to obtain CPD Points for attending the activity. Please refer to <http://www.sileCPDcentre.sg> for more information.

SCMA PERSPECTIVES SERIES: BILLS OF LADINGS & TITLE TO SUE

Programme

9.30am - 10am: Registration

10am - 10.10am: Opening Address by Guest of Honour

10.10am - 11.10am: Session 1

11.10am - 12.10pm: Session 2

12.10pm - 12.30pm: Session 3

12.30pm - 12.40pm: Closing Address

12.40pm - 2pm: Networking Lunch

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Session 2: Banks and their Title to Sue

Banks often insist on having some 'interest' to the cargo which they fund, with the most common means include being an endorsee of the bill of lading and/or requiring the applicant under the letter of credit to pledge the goods (or the bill of lading) in favour of the bank. Most of the time, such security is never tested as the bank will have a direct recourse as against the applicant for any losses suffered. But what happens if the applicant becomes insolvent? Do banks actually have title (vis a vis the carrier) to sue under the Singapore Bills of Lading Act / UK Carriage of Goods by Sea Act?

Following the collapse of Hin Leong Trading, and the subsequent string of misdelivery claims, both in Singapore (e.g. *The STI Orchard* [2022] SGHCR 6 and *Standard Chartered Bank (Singapore) Ltd v Maersk Tankers Singapore Pte Ltd* [2022] SGHC 242) and UK (*Unicredit Bank A.G. Euronav N.V.* [2022] EWHC 957 (Comm)), the speakers will discuss (a) the common methods used by banks to secure an interest in the title, (b) the implications of these cases and (c) whether these methods do in fact provide banks with title to sue.

Moderator: Jamsheed Peroo (Barrister, 36 Stone)

Panelists:

Prof Charles Debattista (Barrister, 36 Stone)

Andrew Ng (Barrister, 36 Stone)

Prakaash Silvam (Partner & Head of Shipping Practice, Oon & Bazul LLP)

Session 3: Which Charterparty Terms are Incorporated in Bills of Lading? - The UK Supreme Court in "The Polar"

The "MT Polar" concerned an arbitration appeal to the English High Court relating to the vessel's hijacking in 2010 and 2011 and subsequent general average claim by shipowners following the ransom payment for release. The bill of lading holders sought to defend a claim in general average on the basis of the 'war risk' provision in the charterparty was effectively incorporated into the bill of lading.

Although this is a piracy case, it is of wider interest as it involves a comprehensive review of the principles that apply when considering whether charterparty terms are incorporated into bills of lading. The matter is scheduled to be heard in the UK Supreme Court in June 2023.

Join Mark Jones, Barrister of 36 Stone and counsel for the Owners, as he discusses the history of the matter and what a decision from the UK Supreme Court may mean for incorporation of charterparty terms into bills of lading more generally.

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SPEAKERS



Colin Wright
Barrister, 36 Stone

Colin Wright is a practising barrister who acts as adviser and advocate in disputes before courts and arbitral tribunals. He has particular experience in cases involving the carriage of goods and international trade. His clients include leading shipping companies, P&I Clubs, insurers and financial institutions. Colin practices from London and Hong Kong.

Before commencing in practice as a barrister, Colin Wright worked with two leading firms of maritime solicitors where he acquired extensive experience of handling cases relating to the carriage of goods by sea. He has been a Fellow of the Chartered Institute of Arbitrators since 1998. He is a member of the London Court of International Arbitration and a supporting member of the London Maritime Arbitrators' Association.



Dr Colin Ong KC
Barrister, 36 Stone
Counsel, Eldan Law

Dr Colin Ong KC is a member of the Brunei, English and Singapore Bars. He has broad experiences as counsel and arbitrator in commercial matters, including banking and finance, construction and infrastructure projects (airports, bridges, pipe-lines; ports; roads), insurance, mining and minerals disputes, energy disputes (coal mining and supply disputes, production sharing contracts, electricity supply, gas contracts and oil exploration joint ventures), information technology, shipping, telecoms, technology transfer, and general commercial trade related matters.

He qualified as a barrister in England and Wales in 1991 and is a master of the bench of the Inner Temple in England. He has acted as counsel in many arbitrations governed under civil law as well as under common law applying most major institutional rules as well as UNCITRAL rules. He was the first ASEAN national lawyer to be appointed silk.



Prof Charles Debattista
Barrister, 36 Stone

Professor Charles Debattista is one of the world's leading shipping barristers. He is widely sought after, both as an advocate and as an arbitrator, in dry shipping and international trade disputes, by clients across the globe. He has extensive experience in charterparty work, bills of lading, CIF and FOB disputes, letters of credit, ship management issues, and general commercial contract disputes. Charles is a member of the Baltic Exchange, of the Chartered Institute of Arbitrators, of the Singapore Chamber of Maritime Arbitration, of the Hong Kong International Arbitration Centre and a Supporting Member of the London Maritime Arbitrators Association.

Before practising as a barrister, Charles was a Professor of Commercial Law and Director of the Institute of Maritime Law at the University of Southampton.



Emile Yusupoff
Barrister, 36 Stone

Emile is building a litigation and arbitration practice in shipping, commodities, and international trade law. He has broad experience in these specialist fields and in general commercial and international law. He accepts instructions on all shipping and international arbitration matters, both as a junior and as sole counsel.

Prior to joining 36 Stone, Emile completed pupillage at Quadrant Chambers and worked as a paralegal in Stephenson Harwood's Maritime and International Trade department and at Bridge Law Solicitors (a boutique commercial chancery firm in Manchester). During pupillage, he worked on a range of shipping, commodities, and commercial cases. These involved advisory work, drafting for litigation and arbitrations, and attending hearings.

Emile spent the summer of 2018 at the US firm Critelli Law for Middle Temple's Anglo-American Exchange. He gained valuable experience of litigation and ADR in a different jurisdiction.



Ben Chandler
Senior Claims Executive,
North Standard

Ben is a Senior Claims Executive at NorthStandard, where he regularly assists on a full range of P&I, FD&D, Strike & Delay and sanctions-related queries. He is also a Member of the Standard Asia Strike & Delay Claims Handling Team.

Ben graduated from University of Durham, England with BA (Hons) English Literature in 2008 and was admitted as a Solicitor in England & Wales in September 2012. He trained and practised at two City law firms in London between 2010 and 2013, specialising in shipping litigation following qualification. Prior to joining NorthStandard in 2015, Ben worked for another International Group P&I Club in Hong Kong.

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SPEAKERS



Jamsheed Peeroo
Barrister, 36 Stone

Jamsheed is an arbitrator, an arbitration counsel and a dual-qualified barrister practising at the Bar of England and Wales and at the Mauritian Bar. He also has full rights of audience before DIFC Courts.

His practice focuses on international commercial and investor-State arbitration, on complex commercial and corporate cross-border litigation and on arbitration-related court proceedings.

Over the years, Jamsheed has worked on a wide range of high-profile matters, often relating to or within the African and Asian continents, in various sectors and areas including infrastructure, offshore corporations and trusts, mergers and acquisitions, hotel and tourism, shipping and fisheries, insurance, construction, telecoms and IT, technology products, renewable energy and mining.



Andrew Ng
Barrister, 36 Stone

Andrew has experience in a broad range of commercial disputes, with an increasing proportion of his practice involving international commercial arbitration, international trade, and offshore disputes.

He is regularly instructed as sole counsel in the High Court as well as in international arbitrations (where he often appears against opposing counsel many years his senior) and has also assisted as junior counsel with cases in the High Court, Court of Appeal and Supreme Court. Examples of his recent work include (a) misdelivery claims for approximately US\$100 million, (b) claims for over US\$60 million arising from alleged fraudulent presentations of letters of credit, (c) a US\$40 million contractual dispute concerning the supply of Ukrainian cereal under the Belt and Road Initiative to Chinese state-owned entities and (d) a £65 million fraud / unlawful means conspiracy claim in the British Virgin Islands.



Prakaash Silvam
Partner &
Head of Shipping,
Oon & Bazul

Prakaash is Head of the Shipping Department in Oon & Bazul.

Prakaash specialises in commercial litigation and arbitration with a focus on international commodity trade, trade finance, marine insurance and “dry” shipping work (including charterparty and bill of lading disputes).

Prakaash has been spotlighted by Legal 500 and Chambers & Partners as being “business-oriented and practical” and for providing “timely, practical, and focused solutions on a cost-effective basis”.

He has substantial expertise in handling disputes involving misdelivery claims and also the knock-on indemnity claims under letters of indemnity which are issued for the delivery of cargo without presentation of original bills of lading. He also has particular expertise handling trade finance disputes including letters of credit and bills of exchange. He has also advised trade financing banks and commodity trading houses on trade finance litigation, including the ICC DOCDEX disputes.

Mark’s practice encompasses a wide range of commercial litigation and arbitration.

He acts in arbitrations both in London and abroad, and appears regularly in the English Courts, including the specialist Commercial Court, Admiralty Court and the Court of Appeal. During the last few years, he has been instructed to act as sole counsel for clients on appeals to the Court of Appeal on 4 occasions. In many of his cases, Mark is regularly pitted against leading KCs.

His commercial practice has a particular focus on all matters relating to shipping and international trade. His expertise extends to all corners of the shipping industry, from charterparties and bills of lading to salvage, from cargo claims to collisions, from ship finance to performance guarantees, and from marine insurance to general average.



Mark Jones
Barrister, 36 Stone

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