

SCMA TEA TALK

“Arbitration & the Doctrine of Precedent – must arbitrators follow judicial case-law?”

Featuring
Andrew Baker
QC
20 Essex
Street
Chambers

VENUE:

80 Raffles Place
#33-00 UOB Plaza 1
Rodyk & Davidson LLP Conference
Room

FEE:

SCMA Members: FREE
Guests/Public: S\$10.00

R.S.V.P.

Kindly RSVP including details of
guest, if any) to Ms Tammy Tan by
28 May 2014 at tammy@scma.org.sg

2 June 2014,
Monday
3.00pm
to
5.00pm

LIMITED SEATS ONLY!!

Organized by:
Singapore Chamber of Maritime Arbitration

For further information, please log on to
our website www.scma.org.sg

PROGRAMME

SCMA is pleased to present the above as part of its continuing education series for members. The presentation will be conducted by Mr. Andrew Baker QC. Andrew is a member of the SCMA Panel of Arbitrators, the KLRCA Panel of Arbitrators and the Baltic Exchange. He is also a supporting member of the LMAA and a CEDR Accredited Mediator. Andrew is also registered as a practitioner with rights of audience before the DIFC Courts. He has been in practice since 1989, took silk in 2006 and was appointed as a Recorder in 2012.

Programme	Time
Registration	2.30pm
Opening by Lee Wai Pong, Executive Director of SCMA	3.00pm
Speech by Andrew Baker QC, 20 Essex Street Chambers	3.05pm
Q & A Session	3.45pm – 4.00pm
Tea Break / Networking	4.00pm – 5.00pm
End of Programme	5.00pm

PROGRAMME SYNOPSIS

In Singapore arbitrations generally, but particularly in the maritime field, English law frequently governs the merits, usually because of an express choice of law in the applicable contract. This talk will consider the nature of an arbitrator's obligation to decide cases in accordance with the law and its relationship to the formal doctrine of precedent in the English courts, where English law indeed governs the merits, examining the matter both from a theoretical perspective and also with an eye on the practical issues that arise.

There are difficulties with the view that arbitrators are subject to the doctrine of *stare decisis* under English law, so as to be bound to follow prior judicial decisions; but to claim that they are not is also difficult without a “declaratory theory” of English common law. The talk will consider the arguments and will also consider whether the (English) Arbitration Act 1996 supports any particular solution as being correct and whether (if the seat of arbitration is Singapore) the (Singapore) International Arbitration Act 1994 offers any assistance.

In considering the arguments, the practical realities will be identified, with a particular focus on how an arbitrator might react to a prior judicial decision they consider to be 'bad law'. Should he follow it, and so issue an Award he believes gives the wrong answer to the case before him? Or should he not follow it, explaining in his reasons why he considers it bad law, and so issue an Award he believes to be correct?

ABOUT THE SPEAKER



Andrew Baker QC
Queen's Counsel, 20 Essex Street Chambers

"Andrew Baker QC is an English barrister who sits regularly as an arbitrator. Within a commercial litigation practice, his principal fields of expertise are dry shipping, international sale of goods/commodities, insurance and reinsurance, conflicts of laws, arbitration and international banking/derivatives.

He has been appointed as arbitrator under *inter alia* ICC, LCIA, LMAA and SCMA rules, as well as on *ad hoc* terms.

He is also a Recorder of the English Crown Court, a CEDR Accredited Mediator, a co-author of *Time Charters* in the Lloyd's Shipping Law Library and a Series Editor of that Library.

For a fuller c.v., see <http://www.20essexst.com/member/andrew-baker>."

ABOUT THE MODERATOR



Lawrence TEH
Partner, Litigation & Arbitration
Rodyk & Davidson LLP

Lawrence Teh is a partner in Rodyk & Davidson LLP's Litigation & Arbitration Practice Group.

Lawrence advises clients and acts as an advocate in all areas of commercial law and appears regularly as leading counsel in the Singapore Courts, in arbitration and in other forms of dispute resolution. He is also appointed regularly as an arbitrator in international disputes.

He has particular experience in international trade and commodities, maritime and aviation, banking and financial services, onshore and offshore construction, mergers acquisitions joint ventures and other investments, and insurance in related fields.

Lawrence is currently the Chairman of the Alternative Dispute Resolution (ADR) Committee at TheLaw Society of Singapore. He is a Fellow of the Chartered Institute of Arbitrators, a Fellow of the Singapore Institute of Arbitrators, a panel arbitrator at the Singapore International Arbitration Centre, and the Secretary of the Maritime Law Association of Singapore. He chaired the committee that drafted the Law Society Arbitration Rules and is a panel arbitrator of the Law Society Arbitration Scheme. He is named in numerous legal guides and directories including the Asia Pacific Legal 500, International Who's Who for Commercial Litigation, International Who's Who of Shipping & Maritime, Asialaw Leading Lawyers for Shipping, Maritime & Aviation and on the Guide to the World's Leading Aviation Lawyers.