

Name : MARCUS GORDON

Date of Birth : 12 November 1971

Nationality : British

Country of Residence : Singapore

Languages(s) : Spoken English

Languages(s) : Written English



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Profession : Partner

#### Academic & Professional Qualification(S) :

1996 to 1997 Legal Practice Course: College of Law Guildford

1995 to 1996 C.P.E: College of Law Guildford

1993 Superior Diploma in French: Tours University (France)

1990 to 1995 French literature & language: London University

#### Professional Membership(S) :

Member Law Society of England and Wales Member London Court of International Arbitration.

Marcus is a practicing arbitrator and is on the following international panels:

SIAC International Panel of Arbitrators.

KLRCA International Panel of Arbitrators.

SIAC SGX-DC: Futures Contract Arbitration Panel.

SIAC Emergency Arbitrator Panel.

Marcus has sat, or is sitting, as arbitrator in 20 arbitrations, primarily in the oil & gas, shipping or commodity sectors. He has written several arbitration awards.

Marcus is a member of the Society of Construction Law (Singapore). Marcus is also a committee member of the Singapore Institute of Arbitrators.

#### Career & Professional Experience :

Marcus is the head of the Watson Farley & Williams Litigation and Dispute Resolution Group in Singapore. He specialises in heavy engineering disputes with a focus on oil and gas disputes, including in particular FPSO disputes (charters, conversion, construction and operation), oil rig operation and construction disputes, liquidated damages claims, delay and disruption claims, cost overrun claims, oilfield development disputes, heavy equipment failures and shipbuilding disputes. Marcus has also advised on numerous charterparty disputes.

Marcus's relevant experience includes advising:

##### Oil & Gas

- Acting for an oil major in relation to US\$ billion+ claims relating to the construction and supply of an FPSO.
- Acting for an oil company in arbitration proceedings relating to a dispute over the valuation of reserves in the oil field.
- Acting for a contractor supplying topside modules for installation on an FPSO. This matter went to arbitration, where the contractor defeated the claims made against it and succeeded in its claims for damages and costs. An important part of this case turned on the contractor's successfully defeating a

multi-million dollar liquidated damages claim by arguing that the liquidated damages provisions were penal in nature.

- Representing an FPSO owner in proceedings where the oil company purported to terminate the charter.
- Representing the purchaser of an interest in an oil field where the purchaser successfully negotiating the termination of the agreement such that it was no longer bound to purchase the interest.
- Representing an oil company in disputes with a host government in relation to the development of an oil field. The dispute related, among other things, the interpretation and application of the PSC, several treaties and UNCLOS.
- Acting for the owner of an FPSO chartered to a bareboat charterer on the BARECON 89 standard. The dispute related to the allegedly poor condition of the FPSO on redelivery of the FPSO.
- Acting for the owner of an FPSO chartered to a bareboat charterer on the BARECON 2001 standard. The dispute related to various aspects of the performance of the vessel, including, speed and consumption, the condition of the FPSO on delivery, and whether terms requiring rectification of punch-list items had been properly complied with.
- Representing an oil field developer in relation to a dispute under a rig. The main issues in dispute related to the cause of damage allegedly sustained to the rig while in the field and who bore liability for that damage.
- Acting for an oil field operator in arbitration proceedings relating to the provision of a defective FPSO (including the mooring and riser system). The main issues in dispute relate to: (i) the causes of the repeated malfunctioning of the FPSO's "disconnectable" mooring system; (ii) the FPSO's inadequate DP station keeping system; and (iii) negligent operation of the FPSO resulting in damage and downtime. The inability of the FPSO to disconnect and reconnect as intended led to repeated and prolonged periods of lost production. The contractor has alleged that the downtime occurred due to force majeure events. The operator disputes this and has commenced arbitration proceedings against the contractor. The amount in dispute was US\$140m.
- Representing the oil field developer in a dispute relating to a defective FPSO. The main problems with the FPSO were its poorly designed turret mooring system, leaking swivels and inadequate process modules leading to shortfalls in production and off-specification hydrocarbons. The amount in dispute was US\$1bn.
- Acting for the oilfield developer in relation to a dispute arising out of the defective design and operation of an FPSO and classification issues.
- Representing a subcontractor in a dispute with an FPSO owner/operator relating to the supply and installation of gas compression topside processing modules on an FPSO intended for operations offshore Brazil. This matter went to arbitration, but before the hearing WFW successfully negotiated the withdrawal of the FPSO owner's US\$4m claims and obtained payment of US\$10m for the client.
- Acting for the owner of an FPSO against a yard in Singapore in connection with the yard's threatened refusal to redeliver the FPSO pending payment of disputed VORs. Securing the release of the FPSO and advising on builder's liens, rights of arrest and the owner's right to set off liquidated damages against claims made by the yard. Advising the owner in connection with delay and disruption and misrepresentation claims.
- Acting for the part-owner of an FPSO in a dispute with its joint venture partner relating to costs of refit works that were not pre-agreed prior to the works being undertaken.
- Acting for the part-owner of an FPSO against its joint venture partner following the wrongful sale of the asset without the agreement of the part-owner.
- Representing a publically listed oil field developer in a dispute with a yard in Thailand relating to the supply of a wellhead platform for operations offshore Thailand. The yard was claiming over US\$5m in respect of 54 variation order requests. The developer counterclaimed US\$1.5m in liquidated damages for delay and WFW successfully achieved a forced settlement in relation to this matter. The client's CEO described the performance of the legal team as being "above and beyond the call of duty", and the outcome as "a surprising and excellent result".
- Advising the same publically listed company in relation to a dispute with the owner/operator of a FPSO under the charterparty. The main issue in dispute was when Mechanical Completion of the FPSO was achieved and, correspondingly, when the Services Day Rate started to accrue. Also advising the field operator on the FPSO's failure to comply with contractual performance specifications.
- Acting for the contractor in connection with claims/issues arising out of a contract for the provision of topside gas compression modules on a full EPC basis for subsequent installation on a FPSO. The

contractor claimed milestone payments together with variations. The buyer is counterclaiming for liquidated damages and various back charges.

- Advising an owner/operator of FPSOs in relation to two multi-million dollar FPSO construction disputes with a Chinese yard. The disputes concern alleged outstanding milestone and other payments due from the owner and counterclaims for delay, liquidated damages, quality, etc under the construction contracts. Multiple proceedings were filed with the Singapore High Court, which WFW successfully stayed in favour of arbitration proceedings in London. The amounts in dispute are US\$15 and US\$60m respectively.
- Acting for Global Process Systems Inc in litigation in the Commercial Court (London) against Tablelands Development Ltd (part of the Tanker Pacific Group) in a dispute relating to the supply of five topside processing modules for installation on FPSO "Raroa" operating in the Maari field offshore New Zealand.
- Representing the sub-contractor against an FPSO owner/operator in rapid adjudication proceedings arising out of the fabrication and installation of five topside processing modules for installation on an FPSO for operations in the North Sea shelf. WFW assisted the sub-contractor to secure the release of the process modules and final documentation that were being withheld by the yard pending satisfaction of demands for payment. Successfully resisting all the yard's claims for payment in the rapid adjudication proceedings.
- Representing the charterer of a vessel under the SUPPLYTIME 89 standard form. The vessel was chartered to undertake seismic surveys. The main issues in dispute related to allegedly inadequate speed of the vessel, class issues, and the condition of the vessel generally.
- Representing a publically listed oil field developer in an ICC arbitration relating to disputes arising out of a production sharing contract, a joint operating agreement, two farmout agreements and a parent company guarantee. The main issues in dispute relate to late payments allegedly due in respect of cash-calls and other outstanding sums. This matter proceeded to a full trial and the developer was awarded 99.9% of its claims and 100% of its legal costs (which the Tribunal noted as being reasonable).
- Acting for Global Process Systems Inc (GPS), the Dubai-based owner/operator of a jack-up rig due to be converted into a MOPU in connection with its claims against the carriers, surveyors, warranty surveyors and underwriters following bad weather damage that caused its legs to be lost at sea while being towed from the USA to Malaysia. GPS was successful in the Court of Appeal and the Supreme Court (formerly the House of Lords), where the court ordered: (a) judgment in favour of GPS in the sum of US\$8m; (b) US\$3m interest; (c) costs on an indemnity basis; and (d) interest at 10.50% (reported as Global Process Systems Inc and another (Respondents) v Syarikat Takaful Malaysia Berhad (Appellant) [2011] UKSC 5).
- Advising the owner of a rig, and the lenders, in connection with an investigation into the cause of the total loss of the rig for the purposes of best protecting rights under insurance contracts.
- Acting for a yard in arbitration proceedings relating to the allegedly defective construction and operation of an oil rig.
- Advising a rig owner/operator in connection with claims under a rig charter.
- Acting for a joint venture partner in connection with a dispute regarding the defective construction of an oil & gas storage terminal.
- Acting for the purchaser in a dispute relating to the defective construction of two LNG carriers. Effectively forcing the yard to remove and replace defective components (at its own cost) and to accelerate the construction programme to achieve as early a delivery as possible and pay liquidated damages. In relation to the same projects, advising the owner of the two LNG carriers in relation to claims under the charterparties.
- Advising the buyer in a dispute relating to the construction of an ultra deep water drill rig. Assisting the buyer in negotiating revised terms with the yard.
- Advising a supplier and off-taker of petrochemicals in relation to an outage at a petrochemical refinery caused by the breakdown of a power production facility. The main issue related to whether the farm operator was entitled to assert that the outage was an event of force majeure.

#### Legal Knowledge relating to Shipping, Arbitration Practice and Procedure :

- Sitting as the sole arbitrator in 10 arbitrations relating to claims made by the disponent owner under 10 charterparties.
- Sitting as the sole arbitrator in an arbitration relating to delays in the transport of an allegedly dangerous cargo of iron ore.



- Sitting as the sole arbitrator in an arbitration relating to claims for freight, deadfreight, demurrage and damages in connection with a contract for the carriage of a consignment of asphalt.
- Sitting as the sole arbitrator in an arbitration relating to claims for freight and detention charges in connection with bills of lading relating to a cargo of sawn timber.
- Successfully representing a major Japanese trading corporation in ICC arbitration proceedings in Singapore brought by a Chinese company (the buyer) in relation to an allegedly off-specification consignment of 80,000 MT iron ore. The iron ore, which was purchased from an Indian supplier for import into China was found to be on-specification at the load port in India, but alleged to be off-specification when sampled in China. The claim for US\$13m was successfully resisted in its entirety.
- Successfully representing a major Japanese trading corporation (as Claimant) in ICC arbitration proceedings brought against an Indian supplier of iron ore. The iron ore, which was found to be on-specification at the load port in India, was found to be off-specification at the discharge port in China. The client was awarded 100% of the claim amount and all its legal costs.
- Acting for the buyer of a cargo of iron ore that was alleged to be off-specification on arrival at the discharge port in China.
- Acting for a trading house (as buyer) in relation to disputes with suppliers under long-term pre-payment supply agreements for coking coal.
- Acting for the purchaser of iron ore fines in a dispute arising out of the supply of 50,000 wet metric tonnes of Venezuelan Altamira Lump Ore from Puerto Ordaz to Beilun, China. The dispute raised complicated questions in respect of the arbitration agreement governing the dispute as well as the Letter of Credit as a method of payment by the buyer.
- Acting for a major oil trader as shippers/sellers of a 40,000 M/T consignment of crude oil to buyers in Singapore on CIF terms. Slow discharge resulted in a claim by shipowners against shippers for demurrage for which shippers claimed an indemnity against buyers under the sale/purchase agreement. The dispute revolved around the construction/application of the Pumping Warranty with clients ultimately succeeding in their claim against the buyers on grounds that the vessel complied with the Pumping Warranty and the slow discharge was attributable to the shore receiving facilities being incapable of accepting discharge of the cargo at the agreed rate.
- Successfully representing a major oil trader in relation to numerous disputes caused by the late delivery of several large consignments of crude oil. The late delivery was caused by the defective operation of an FPSO, and the consequent reduced production of hydrocarbons. WFW successfully deployed force majeure arguments against the purchasers (and successfully defeated similar arguments raised by the FPSO owner in associated proceedings).
- Acting for the owners of a vessel that grounded off Nicobar following a shift of her iron ore cargo. WFWAP was involved advising/assisting owners in regard to various cargo issues, including a prospective dangerous cargo claim against shippers.
- Advising a supplier and off-taker of petrochemicals in relation to an outage at a petrochemical refinery caused by the breakdown of a power production facility. The main issue related to whether the farm operator was entitled to assert that the outage was an event of force majeure.
- Advising a large trading company in relation to many disputes that arose in relation to FFA positions it had taken that badly affected its position due to adverse moments in the market.
- Advising a shipping company in relation to positive and adverse FFA positions and insolvency proceedings brought in various jurisdictions around the world relating to its associated companies and trading partners.
- Advising a trading company in relation to insolvency proceeding brought against its trading partner and debtor.

## Shipping

- Acting for the purchaser of capesize bulkers in arbitration proceedings following the cancellation of both shipbuilding contracts by the buyer. Following the cancellation, the yard claimed further installments and damages. The buyer (as Respondent) successfully resisted all the yard's claims in their entirety relying, among others, on arguments that the vessels were being built contrary to certain provisions of the SOLAS Convention, namely the "PSPC Regulations".
- Advising the buyer of several capesize vessels in relation to their right to cancel vessels not built in accordance with the SOLAS Convention.
- Advising a shipowner in relation to the termination of two five-year charterparties on the Supplytime 89 form.
- Advising the charterer in relation to a charterparty on the Supplytime 89 form.
- Advising a ship seller's insurers following the buyer's wrongful repudiation of a MOA.
- Advising numerous buyers and yards in relation to the drafting of shipbuilding contracts.
- Assisting numerous buyers of vessels renegotiate the terms of their shipbuilding contract following the decline in asset values.

## Onshore Power & Energy

- Acting for a small Thai independent power producer in a dispute relating to the failure and explosion of a 10MWe turbine.
- Advising an end-user in relation to a dispute arising from problems encountered with its travelling grate biomass boiler and facilities.
- Representing a multi-national manufacturer in an arbitration relating to the supply of a defective 100 MWe power station to one of its sites in Indonesia.
- Representing a Thai power producer in an ICC arbitration relating to the supply of a defective fluidised bed power station.
- Representing an industrial power producer in an arbitration relating to the supply of a defective 45 MWe power station that suffered from excessive erosion and stoppages.
- Advising Conergy AG, a major German company operating in the renewable energy sector, on the acquisition of an Indonesian solar energy engineering company. Our work involved advising the company on foreign investment regulations, due diligence and drafting the transaction documentation.
- Arranging a project consortium and advising Cambodian company on the implementation of a renewable biomass power station.

### Publications :

<http://www.wfw.com/wp-content/uploads/2014/12/WFW-Brochure-Financelitigation.pdf>

<http://www.wfw.com/wp-content/uploads/2014/09/WFW-IndiaExperience.pdf>

<http://www.wfw.com/wp-content/uploads/2014/12/WFW-CommercialDisputesBriefing-Dec2014.pdf>

<http://www.wfw.com/media-centre/brochures/>