



James M. Turner QC

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James specialises in cross-border commercial disputes in international arbitration, energy, shipbuilding, offshore construction, shipping and banking.

Well-known for his ability "*to crunch through the details of a very technical case*" (Legal 500), much of James's work requires a range of expert specialisms. Reflecting the invariably international character of his practice, James has extensive experience in dealing with foreign law and multi-jurisdictional disputes. He has a particular eye for appreciating and addressing cultural barriers in international arbitration.

James has a First Class Master's Degree in German Law and speaks and reads German and Dutch fluently. He accepts instructions and appointments in either language. He also reads French.

James accepts appointments as arbitrator in a range of international commercial disputes. His experience as arbitrator stretches back nearly 20 years and includes ad hoc, LMAA, ICC and LCIA references. He is on the arbitration and mediation panels of the Shanghai and the Asian (formerly Kuala Lumpur) International Arbitration Centres.

James qualified as a CEDR-Accredited mediator in 2001 and has extensive experience of mediation, both as mediator and as counsel.

Shipbuilding

"*A popular choice for offshore vessel construction cases*" (Legal 500 Asia Pacific), James has well over 20 years' experience in shipbuilding and ship-conversion disputes, gained through many dozens of instructions. Many of those have gone to full hearings or preliminary issues.

Often instructed at the first sign of trouble in the Buyer/Builder relationship, he provides real-time guidance to protect the client's position - under both the shipbuilding contract and related contracts such as refund and performance guarantees, loan agreements and charterparties - and to start to build the evidence to fight the case.

He is instructed by both owners and shipyards and has experience of contracts to build bulk carriers, MPVs, tankers (crude, product, LNG and chemical), barges (dumb, oil-carrying, pipe-laying and crane), tugs, superyachts, cruise ships, Rhine navigation vessels, ro-ro ferries, container carriers, gas carriers, MODUs, work-over units, jack-ups, heavy-lift vessels, FPSOs and even submarines and an LPD - as well as ancillary contracts such as sub-contracts for propulsion equipment and refund and performance guarantees.

The issues raised in the many disputes in which James has been instructed cover the full range of **regulatory** (Class and Flag, including SOLAS, PSPC and CSR), **technical** (coating failures; construction faults; defective propulsion units; speed & performance; stability; drivetrain; BOG rates; noise levels and outfit standards in superyachts; delay), **contractual** (contract effectiveness; design risk; drawing approvals; supervision; effect of insolvency; deliverability; exclusion clauses; termination; post-delivery termination clauses; effectiveness of notices; warranty claims and

repairs), **legal** (sanctions; illegality, especially in relation to backdating; consequential loss; intellectual property and confidentiality, including “negotiating damages” for breach of confidentiality in relation to ship design; arrest; anti-suit-injunctions) and **ancillary** (refund and performance guarantees; loans; brokers’ commission).

Shipbuilding disputes are almost exclusively referred to arbitration and James has appeared in arbitrations governed by most of the well-known arbitration rules (including LMAA, LCIA, ICC and HKIAC) and has taken several cases to mediation. He has on numerous occasions sought, obtained and successfully resisted permission to appeal under s. 69 Arbitration Act 1996.

James appeared with Peter Stevenson in the recent Commercial Court decision of *Shanghai Shipyard Co Ltd v Reignwood International Investment (Group) Company Limited* [2020] EWHC 803 (Comm), a US\$170m claim on a parent company guarantee given to secure a Buyer’s payment obligation under a drillship construction contract.

As a junior, James gave written expert evidence of English law in ancillary proceedings in the Italian Courts, and subsequently appeared at first instance and (with Simon Rainey QC) on appeal in the English Courts in *Ravennavi SpA v New Century Shipbuilding Co Ltd* [2006] 2 Lloyd’s Rep. 280, [2007] 2 Lloyd’s Rep. 24 CA. The dispute concerned the proper construction of an option agreement for the construction of up to two crude and product oil tankers. The case is now cited in Lewison on the Interpretation of Contracts in support of propositions advanced in James’s evidence in the Italian proceedings.

Energy

James has been acting in offshore construction and energy-related disputes since the mid-1990s. At Chambers’ 2018 Energy Seminar, he spoke about decommissioning disputes. His experience includes:

- Appearing, with Peter Stevenson, in the recent Commercial Court decision of *Shanghai Shipyard Co Ltd v Reignwood International Investment (Group) Company Limited* [2020] EWHC 803 (Comm), a US\$170m claim on a parent company guarantee given to secure a Buyer’s payment obligation under a drillship construction contract.
- An LCIA arbitration over entitlement to a block in a West African oilfield.
- Acting for and advising a Chinese Shipyard in a dispute over its termination of 4 drillship contracts and the deliverability of the first in the series.
- Acting for a European contractor in an ICC dispute with a co-venturer in relation to a port enhancement project in Morocco.
- Acting for the well-known builder of an ultra-deepwater semi-submersible MODU in a well-publicised dispute over delay and deliverability. James was brought in relatively late in the day to strengthen an international law firm’s in-house advocacy team.
- Advising a European offshore contractor in its dispute with a joint venturer over allocation of an arbitration award against the JV’s customer. The underlying contract concerned conversion of an existing offshore structure into a test-bed for a specialist decommissioning vessel.
- Advising a well-known Chinese shipyard on separate contracts for the construction of a jack-up rig and a semi-submersible light work-over unit.
- Advising South American buyers of two semi-submersible drilling rigs in relation to preserving and advancing their claims under the construction contracts’ warranty clause.
- Advising and acting for a South American broker on the recovery of commission in the wake of the Carwash scandal.
- Advising the main contractor on the termination of a two billion dollar pipe-laying contract.
- Advising the operators of an LNG storage facility in a dispute with their customers regarding the proper interpretation of their contract as regards boil-off and regasification.
- Acting for and advising the buyer of a semi-submersible drilling rig (with a contract price running into the hundreds of millions of dollars) in a fast-moving dispute with the builder regarding the unit’s deliverability.
- Advising and acting for diving contractors in a dispute over a misfitting underwater spool connection.
- A potential dispute between the owner/operator of an FPSO and the yard which had installed an allegedly faulty turret.
- Acting for co-venturers in a joint venture dispute arising from a project to construct an export oil pipeline from Kurdistan
- Acting for a Chinese shipyard in a dispute over a generic FPSO design.
- A US\$120m dispute regarding the maintenance of a semi-submersible MODU. It settled after three months of hearings - which made up only round 1 of a planned 5.

Shipping

Dry Shipping

James is frequently instructed in charterparty, bill of lading and sale of goods and ship-sale disputes of all hues, involving cargo damage, unseaworthiness, maintenance, due diligence, ISM, off-hire, withdrawal, safe port, bunker contamination, purchase options, demurrage and detention, cancellation, faulty repair, title, risk, rejection (and so on) - and the many and varied issues which arise in connection with them.

He is particularly adept at difficult issues of contractual construction; technical disputes requiring an ability to master engineering and scientific expert evidence; and cases requiring a good knowledge and understanding of ships and seamanship.

Illustrative cases include:

- Technical disputes arising out of ships' cranes collapsing or sustaining damage.
- A wide-ranging and bitterly-fought joint venture dispute for control of two oil tankers.
- Multiple complex cases arising from container fires, involving questions of jurisdiction, proper law, seaworthiness, due diligence, causation and general average.
- A *Mamidoil*-type dispute in relation to a Contract of Affreightment, in which James's client's claim was defended (unsuccessfully) on the ground that the contract was incomplete.
- An extensive and long-running three-handed bareboat charter maintenance dispute, acting for the demise charterers of an Aframax tanker.
- *Priyanka Shipping v Glory Bulk ("The Lory")* [2019] 1 WLR 6677, a dispute arising out of an MoA for the sale of a vessel for scrap which was subsequently traded. An important decision (and the first since the Supreme Court's judgment in *One Step*) on the availability of "negotiating damages" at common law for breach of contract.
- *The Alpha Harmony* [2020] 1 Lloyd's Rep. 409, a two-handed arbitration appeal on the proper construction of notice of readiness and cancellation clauses in two charterparties that were not on back-to-back terms.
- *The Atlantic Tonjer* [2020] 1 Lloyd's Rep. 171, an arbitration appeal on the proper construction of clause 12 of the SUPPLYTIME 2017 form.
- *Gard Marine & Energy Ltd v China National Chartering Co Ltd ("The Ocean Victory")* [2017] 1 Lloyd's Rep. 521 Sup Ct - one of the largest unsafe port claims of recent years, arising from the loss of a Capesize bulk carrier at Kashima, Japan in 2006 and resulting in a judgment for over US\$130 million (plus interest). The issues required experts on meteorology, waves, moorings, ISM, ship valuation, salvage, naval architecture, navigation and port design. James appeared at every stage of the case, from the trial to the Supreme Court.
- *Moran Yacht v Pisarev* [2014] 2 Lloyd's Rep. 88, [2016] 1 Lloyd's Rep. 625 CA, a claim for commission on the sale of a super-yacht. James won at trial in the Commercial Court and on appeal.
- *Bunge SA v Kyla Shipping Co Ltd ("The Kyla")* [2013] 1 Lloyd's Rep. 565 - a ground-breaking authority on the accommodation within the modern law of frustration of the *Bessie Morris* and Blane Steamships line of cases and the effect of detailed insurance clauses (such as cl. 39 of Shelltime 4) on the *res inter alios acta* principle.
- *Ravennavi SpA v New Century Shipbuilding Co Ltd* [2006] 2 Lloyd's Rep. 280, [2007] 2 Lloyd's Rep. 24 CA - an authority cited in Lewison on the Interpretation of Contracts for a number of propositions in the construction of commercial contracts both generally and in relation to "entire agreement" clauses in particular.
- *Western Bulk Carriers v. Li Hai Maritime* [2005] 2 Lloyd's Rep. 389 - the first reported trial following a withdrawal from a time charter for non-payment of hire since *The Lutetian* [1982] 2 Lloyd's Rep. 140, and the only reported case to reconsider the approach taken to anti-technicality notices by Gatehouse J. in *The Pamela* [1995] 2 Lloyd's Rep. 249 in the light of the House of Lords' decision in *Mannai* [1997] AC 749.
- *Action Navigation Inc. v. Bottigliere Di Navigazione S.p.A.* [2005] 1 Lloyd's Rep 432 - one of few reported cases since *The Island Archon* [1994] 2 Lloyd's Rep. 227 CA on the scope of the implied indemnity under the NYPE form of time charter, and of particular significance in relation to hull-fouling.

Banking

James has a solid track record in banking and finance disputes, with particular emphasis on financial instruments - letters of credit, bills of exchange, promissory notes and guarantees - as well as trade and asset (particularly ship) finance disputes and contracts for differences.

James is frequently involved in and advises on disputes involving refund guarantees and performance bonds given in connection with shipbuilding contracts. He has appeared in a number of reported cases and has given expert evidence of English law in foreign proceedings. Illustrative cases include:

- *Shanghai Shipyard Co Ltd v Reignwood International Investment (Group) Company Limited* [2020] EWHC 803 (Comm), a US\$170m claim on a parent company guarantee given to secure a Buyer's payment obligation under a drillship construction contract, in which James appeared with Peter Stevenson for the Claimant Shipyard.
- *GMAC Commercial Finance Ltd v Mint Apparel Ltd* [2010] EWHC 2452 (Comm), a complex summary judgment application in one of a series of cases brought for the funder of a trade finance house which had become insolvent. Under James's guidance, the bills of exchange which had been given as security were perfected and the ensuing litigation resulted in a full recovery by his client.
- *DCD Factors plc v Ramada Trading Ltd* [2008] Bus LR 654, in which James advanced a successful application on behalf of a bank to set aside an injunction restraining payment under a letter of credit, distinguishing *Banco Santander SA v Bayfern Ltd* [2000] 1 All ER (Comm) 776.
- *Habib Bank Ltd. v. Central Bank of Sudan* [2007] 1 WLR 470, [2007] 1 All ER (Comm) 53, [2006] 2 Lloyd's Rep. 412, representing the Claimant confirming bank in its reimbursement claim against the bank which had issued the letters of credit as long ago as 1982. The issues canvassed included limitation, proper law, jurisdiction, service and recoverability of compound interest. Judgment was awarded for over US\$100 million.
- *Ahmed v. Habib Bank Limited* [2002] 1 Lloyd's Rep. 444 (CA). James acted for the bank in its application under the Foreign Judgments (Reciprocal Enforcement) Act 1933 for registration of a judgment obtained in Pakistan on bank guarantees (which themselves reflected Sharia banking principles); issues of Pakistani law arose, as did allegations of fraud.
- *Cool Carriers v. HSBC* [2001] 2 Lloyd's Rep. 22, in which James acted for HSBC in defence of its rights to receive time charter hire under the terms of a financing agreement governed by New York law.

International Arbitration

Arbitration is the chosen forum in most matters on which James acts or advises. Many of those disputes come before LMAA panels, but James also has considerable experience of other arbitral settings, including the ICC, LCIA and HKIAC. He has frequently been instructed and appeared in cases for arbitration in other jurisdictions, such as Rotterdam, Singapore and Hong Kong.

He has appeared in several applications to dismiss claims for want of prosecution under s41(3) of the 1996 Act, on both sides of the argument (most recently in 2017). His experience in such applications (in Court and arbitration) goes back to the late 1990s and includes two cases in the Court of Appeal.

He is regularly instructed in relation to challenges to Tribunals and their Awards. Examples include:

- An application to remove an arbitrator for apparent bias (which fell away as the arbitrator resigned after being sent a copy of the application James had drafted).
- An application to remove an arbitrator on the ground of mental incapacity (which fell away when the other side was sent a copy of James's draft).
- Resisting a challenge under s68 of the Arbitration Act 1996 (the other side conceding defeat after the court rejected its concurrent application for permission to appeal under s69).
- Numerous occasions on which James has successfully resisted applications for permission to appeal under s69 of the 1996 Act.
- *Bunge SA v Kyla Shipping Co Ltd ("The Kyla")* [2013] 2 Lloyd's Rep. 463 CA, on the jurisdiction of the Court of Appeal to set aside a refusal by a first instance judge to grant permission to appeal against his own decision allowing an appeal from an arbitration award.
- *Good Challenger Navegante v. Metalimportexport* [2004] 1 Lloyd's Rep. 67 CA - an attempt to stave off enforcement of an ancient arbitration award, following a ruling against its enforceability by the Supreme Court of Romania.

James's other arbitration-related cases include:

- *Vrinera v. Eastern Rich ("The Vakis T")* [2004] 2 Lloyd's Rep. 465 – the leading decision on the recoverability, as damages, of costs incurred in a sub-arbitration.
- *Cool Carriers v. HSBC* [2001] 2 Lloyd's Rep. 22 - a leading case on the effect of an arbitration clause on an application for interpleader relief.
- In addition, he is regularly appointed arbitrator - primarily in shipping and commodities disputes - and has been appointed in LMAA, LCIA and ICC references.

Commercial Dispute Resolution

James is regularly instructed in a broad range of other substantial commercial disputes. Illustrative cases include:

- *Moran Yacht v Pisarev* [2014] 2 Lloyd's Rep. 88, [2016] 1 Lloyd's Rep. 625 CA, a claim for commission on the sale of a super-yacht. James won at trial in the Commercial Court and on appeal.
- *Marwan v Sawiris* [2010] EWHC 89 (Comm), a dispute arising out of a failed joint venture to establish a multi-media conglomerate in the Middle East.
- *Aboualsaud v Aboukhater* [2007] EWHC 2122, [2007] All ER (D) 107 (Sep), a €21 million claim for commission allegedly due on the sale of a Monaco hotel, which finally came to an end at the doors of the Court of Appeal in mid-2008.
- From 2005 to 2006 he appeared for the claimant company in an action to restrain a former contractor from publicising confidential information. The course of the proceedings included a "super-"injunction, mediation, committal application and trial.
- *Mazur Media Ltd. v. Mazur Media GmbH* [2004] 1 WLR 2966, [2005] 1 Lloyd's Rep. 41 - a dispute between the insolvency practitioners charged with the (English) administrative receivership and (German) liquidation of the respective protagonists, giving rise to issues regarding the lis pendens jurisdiction under the European Insolvency Regulation and s.130(2) of the Insolvency Act 1986; title to sue in conversion; and situs delicti under Art. 5 of the Judgments Regulation.

Mediation

James was accredited as a mediator by CEDR in 2001, achieving "registered" status the following year (which required a certain minimum number of mediations and CPD points). Since accreditation he has accumulated considerable experience of mediations, as mediator, assistant mediator and counsel.

As mediator, James brings to bear an individual blend of analytical skill, tenacity, humour and respect – without shrinking when appropriate to challenge – and an ability to think creatively, commercially and "outside the box" of the particular dispute.

He is particularly adept at analysing the value of the dispute to the parties, and the risks involved in pursuing it.

The mediations in which James has taken part have featured disputes involving banking, CMR, commercial contracts, commercial fraud, financial services, international sale of goods, professional negligence, and shipbuilding. More than half of these disputes settled at or as a result of the mediation.