



Kish Sharma

Year of call: 1986

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Practice Summary

Kish has some 25 years' experience of handling and representing clients' interests in international and domestic commercial litigation and arbitration of the highest difficulty, complexity and value; and of advising them on non-contentious legal issues arising out of such commercial transactions. His expertise is both wide and deep, spanning carriage by sea and storage of bulk and containerised goods, insurance (marine, and all classes of non-marine and reinsurance business), international trade, banking (including negotiable instruments and security for lending), commercial fraud, constructive trust / tracing actions, and corporate insolvency.

Kish's expertise has been gained in these Chambers and as an employed barrister / consultant in high - profile maritime and commercial City firms, Clyde & Co and (earlier) Waltons & Morse (now Kennedys Marine). He has regularly advised / acted for:

- London market and overseas insurers and reinsurers with regard to coverage and / or subrogated recoveries issues on a range of marine and non-marine covers, and coverage and / or defence of third-party claims under liability covers;
- Commodities traders (particularly of aggregates, coal and petroleum products) on issues relating to international sales, contracts of carriage, storage arrangements and indeed joint venture and share sale and purchase agreements;
- Cargo claimants, shipowners and / or their P & I Clubs on disputes relating to all forms of contract of affreightment. In addition, he has advised P & I Clubs and insurers on P & I and FDD coverage;
- Banks and other counterparties to various banking transactions, including documentary credits, performance bonds and other bankers' irrevocable undertakings; various types of lending agreement; negotiable instruments; security for advances; and proceedings and issues relating to corporate insolvency.

The values involved in the cases that he has advised and acted in have often been in the millions and, on occasion in the tens or even hundreds of millions of US dollars.

Understanding, protecting and serving the client's interests and needs in the most practical and cost-effective

manner possible is always at the heart of Kish's concerns. In Court or the arbitration room, he is dedicated to providing the highest standards of advocacy on his client's behalf. He is adept at working both as the sole or lead Counsel in a matter, and as part of a larger, structured team.

Mediation

Kish has represented clients in several mediations arising out of maritime / marine insurance disputes.

International Arbitration

Kish has acted and / or appeared in very many arbitrations under LMAA rules, as well as LCIA and ICC arbitrations and various commodities' arbitrations under the auspices of trade bodies. The subject matter has generally been maritime, international trade or reinsurance related, but the ICC arbitrations have involved high value joint venture / consultancy / share sale and purchase arrangements of some complexity.

Commercial & Chancery

Kish has frequently acted and / or appeared in the Commercial Court, including in a range of marine and non-marine insurance, reinsurance, shipping and admiralty cases, and arbitration claims. He has also appeared many times in the Chancery Division, particularly the Companies Court in insolvency proceedings. He has been led in the Court of Appeal several times.

Regulatory & Disciplinary

Kish has on several occasions advised on regulatory issues relating to the conduct of insurance business, and of insurance broking, arising under the FCA handbook / ICOBS. He has frequently advised on / acted in professional negligence cases relating to professionals involved in the substantive areas of his practice - in particular, insurance brokers, accountants and solicitors.

Scholarships, Prizes & Awards

David Karmel Scholarship in Commercial Law, Gray's Inn 1987

Professional Memberships

The London Shipping Law Centre

British Insurance Law Association

Relevant Cases

Notable cases include:

- HC Trading Malta Ltd v Tradeland Commodities S.L. [2016] 1 WLR 3120 (Jurisdiction of the Court to make a declaration as to the existence of an arbitration agreement prior to commencement of reference)
 - Tryggingarfelagio Foroyar P/F v CPT Empresas Maritimas S.A. (The "ATHENA") [2011] 1 C.L.C. 425 (Anti-suit)
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injunction in relation to dispute under contract for salvage services)

- C v S [1999] 2 All ER 343 CA (Scope of bankers' duties of compliance with Mareva injunction disclosure provision when customer "tipped off" under Drug Trafficking Act 1994)
 - Yona International Ltd v La Reunion Francaise and ors [1996] 2 Lloyd's Rep 84 (Political risks insurance and re-insurance)
 - Attaleia Marine Co Ltd v Bimeh Iran (The "ZEUS") [1993] 2 Lloyd's Rep 497 (Marine insurance, marine average adjustments)
 - Punjab National Bank v De Boinville FT 1.2.1991 (Political risks insurance; duties of insurance brokers)
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