Vasanti Selvaratnam QC

Vasanti Selvaratnam QC: Commercial Profile

Vasanti Selvaratnam QC practices in all aspects of international commercial litigation and arbitration, regularly handling international arbitrations under the rules of all the major arbitral institutions, and heavy weight commercial court litigation, including jurisdictional disputes, all forms of interim urgent relief, including freezing orders and anti-suit injunctions. She is particularly noted for her user friendly “hands on” approach to cases and for her ability quickly to get to grips with disputes raising complex factual and technical issues which require a sound grasp of expert evidence and mastery of detail.

Reported leading cases include: The Starsin (2003, House of Lords, commercial litigation, shipping); Arkin v Borchard Lines and ors (2003/04, Court of Appeal, commercial litigation; shipping; competition law); Noga v Abacha Defendants (2007, commercial litigation, civil fraud), The Wadi Sudr (2009/10, Court of Appeal, commercial litigation, EU jurisdiction dispute post West Tankers); Madoff Securities International Ltd (in liquidation) v Yacht Bull Corporation (2010, Conflict of laws, inter-relationship between EC Insolvency Regulation and Judgments Regulation) and BNP Paribas SA v (1) Open Joint Stock Co Russian Machines (2) Joint Stock Asset Management Co Ingostrakh-Investments (2012, Court of Appeal, a leading case on non–contractual anti-suit injunctions) and Emirates Trading Agency v PMEPL (2014, friendly discussions clause a condition precedent to right to commence arbitration).

Other recent noteworthy cases include: Nakanishi Marine v Gora Shipping and Attica Finance [2012] EWHC 3383 (Comm) which considers the effects of a tripartite subordination agreement on the rights of a junior lender as against the borrower and guarantor and RBS v Pal Oil Co Ltd and ors [2012] EWHC 3628 (Comm) which is a leading case on interim relief under section 25 CJJA 1982.

Vasanti Selvaratnam’s commercial practice embraces all aspects of:

- International commercial litigation and arbitration, including:
  - Energy
  - International Sale of Goods
  - Documentary credits
  - Enforceability of guarantees
  - Banking and finance
  - Insurance
  - JV disputes
- Conflict of laws, jurisdiction disputes
- All forms of interlocutory relief, including worldwide freezing orders and anti-suit injunctions
- International commercial arbitration under the rules of all major institutions
- Civil fraud
- Shipping, transport and commodities

Particular specialism in cases requiring technical expertise. Vasanti is recommended as a leading silk for international arbitration, shipping and commodities in the leading Legal Directories and is also noted for being a “poised and highly measured advocate”.

‘She has a very pleasant manner before tribunals and engages with them well. She is a forceful advocate who is not afraid to make difficult arguments and doesn’t let herself be bullied by tribunals. She is a pleasure to work with.’ (Chambers & Partners UK Bar 2016)
‘She is incredibly pragmatic, tactical in terms of the advice she gives and very eloquent.’ (Chambers & Partners UK Bar 2016)
‘Very thorough and quietly effective.’ (Legal 500 2015)
‘A tenacious advocate, and it is rare to get someone of her seniority who is so user-friendly.’ (Legal 500 2015)
‘Really gets stuck into a case; she voraciously reads all the documents and is a forceful advocate.’ (Legal 500 2015)
‘She is one of those QCs who does not show arrogance.’ (Chambers & Partners UK Bar 2015)
‘She is very calm and steady.’ (Chambers & Partners UK Bar 2015)
‘Very proactive and hands-on, and will not leave any stone unturned in case-handling.’ (Legal 500 2014)
‘Very hands on and friendly, but with a tenacious attitude.’ (Legal 500 2014)
‘An absolute pleasure to work with; she is thorough, articulate and easily gets into the detail.’ (Legal 500 2014)
‘She is excellent, as she’s intelligent, responsive and very approachable. Her advice is commercial and very well thought out.’ (Chambers & Partners UK Bar 2014)

‘Commercially astute’ (Legal 500 2013)

Stone Chambers’ Vasanti Selvaratnam QC is ‘a leading silk for matters requiring deep technical expertise in commodity trading’ (Legal 500 2013)

Vasanti Selvaratnam QC, a ‘fantastically responsive’ member of Stone Chambers, handles a wide range of commercial arbitration. She has recently acted in LCIA and ICC arbitrations, and is also able to sit as an arbitrator. Instructing solicitors note that she ‘ensures that she works as part of the team,’ and consider her advice to be ‘commercial and practical.’ (Chambers & Partners UK Bar 2013)

Vasanti Selvaratnam QC’s skills in cross-examinations are highly rated: ‘She comes across as incredibly calm and considered but leaves a trail of destruction in her wake.’ (Chambers & Partners UK Bar 2012)

Vasanti also regularly accepts appointments to act as arbitrator in a wide variety of commercial disputes reflecting her broad commercial practice under all major forms of institutional rules, including ICC, LCIA, SIAC, LMAA and LOF. Most recently, Vasanti was chair of an ICC Tribunal on a share sale and purchase dispute. Vasanti has also been authorised by Lloyds to sit as an arbitrator in LOF matters with effect from 1 January 2014.

Cases of interest:

PMEPL v ETA (2014): Vasanti is retained in this multi-million dollar ICC arbitration concerning a Long Term Contract for the supply of iron ore. Recent important decision by Teare J as to the enforceability of a multi-tiered clause providing for mandatory friendly discussions before invoking arbitration: [2014] EWHC 2014 (Comm).


Al Safat (2014): Anti suit injunction against Kuwaiti insurers in respect of commencement of proceedings in non-contractual forum raising issues of enforceability of the forum selection clause in the bill of lading as a matter of Kuwaiti law and effect of Article 23 of the Judgments Regulation.


Shepherds Select Fund and anor v Leach and ors (Isle of Man, Chancery Division) – Major litigation in the Isle of Man relating to the running of an Experienced Investor Fund investing in viaticals in the United States. Complex issues of foreign law and taxation as well as quantum. Instructed by Appleby on behalf of the 3rd Defendant.

Nakanishi Marine v Gora Shipping and Attica Finance [2012] EWHC 3383 (Comm): issues of construction relating to a tripartite
Deed of Co-Ordination entered into between junior and senior lenders and the borrower, raising questions as to the genuineness of the senior loan and leading to the obtaining by Nakanishi of a worldwide freezing order and an anti suit injunction following attempts by the senior lender to sell the vessel in Panama.


*Re “Sharjah Pride” and “Sea Lion”* [2012] EWHC 3628 (Comm) - worldwide freezing and disclosure orders obtained on behalf of RBS under section 25 Civil Jurisdiction and Judgments Act 1982 in support of proceedings in Sharjah in a case that will become the leading decision on the links to the jurisdiction which must be shown to justify section 25 relief.

*Aveng (Africa) Ltd v Government of the Gabonese Republic* [2012] All ER (D) 150 - enforcement of an arbitration award against a sovereign debtor.

*ZH 1006* [2012]: jurisdiction challenge by a Chinese Bank in the context of a non exclusive English jurisdiction clause raising issues as the applicability of Art 23 Judgments Regulation and relevance of a Chinese Court Order prohibiting payment by the Chinese Bank under a refund guarantee.

*BS* [2012]: LMAA commercial arbitration and related court proceedings concerning a freezing injunction and priorities as between the lending bank and a potential award creditor.


*Re: 22 Confidential arbitrations* (2012): Jurisdiction issues concerning whether assignor or assignee had title to commence arbitration and serve notices of termination and notices of demand under a guarantee following a deed of assignment executed in favour of the financing bank.

*Joint Stock Asset Management Co Ingosstrakh-Investments v BNP Paribas* [2012] 1 Lloyd's Rep 649 - anti suit injunction and related jurisdiction issues in quasi contractual/non contractual case involving London arbitration and Russian proceedings brought by a non party under a Russian statute.

*LCIA Arbitration* (2010) - instructed by Norton Rose on behalf of a global GDS distributor in a multi-million dollar dispute arising out of premature termination of exclusive distribution rights raising issues as to the ability of a party to rely on an entire agreement clause where the conduct of that party gives rise to an estoppel and/or waiver.

*Madoff Securities International Ltd (in liquidation) v Yacht Bull Corporation* [2010] EWHC 133 (Ch) - instructed on behalf of French company in multi-jurisdictional conflict with Madoff entities regarding title to the yacht Bull. The recent and important decision of the Chancellor considers the interrelationship between the Judgments Convention and the Insolvency Regulation in the context of a claim by the liquidator of MSIL to assets over which title was disputed. Ongoing action in France and ancillary proceedings in the Commercial Court under section 25 Civil Jurisdiction and Judgments Act 1982 in order to prevent dissipation of the proceeds of the yacht pending judgment in the underlying fraud action.

*The Wadi Sudr* [2009] EWCA Civ 1397; [2010] 1 Lloyd's Rep. 193; [2010] ILPr 10; The Times, February 8, 2010 - declaratory relief and injunction sought to restrain proceedings in Spain in support of London arbitration. First case to grapple with the issue of whether a judgment obtained in Spain on the issue of incorporation of a London arbitration clause into the bill of lading has to be recognised by the English Court.

*The Hijaz* (2010); The Ibn Hayyan (2010) - anti suit injunction, Kuwait, raising issues as the validity of the exercise of an option in favour of English jurisdiction post dispute.

*Rimpacific v Daehan Shipbuilding* (2009) EWHC 2941 - anti suit injunction, Korea, raising issues of separability of a jurisdiction agreement, ostensible authority to enter into a guarantee and proper law.

*Banga* (2008-2009) - multi-party Commercial Court action arising out of alleged vapour phase contamination of gasoil cargo raising technical issues as to mechanism, seaworthiness and due diligence.
Gerrards Cross Tunnel Collapse (2007) - acted on behalf of Tesco in connection with claims arising from collapse of tunnel at Gerrards Cross causing closure of railway line for 51 days.


Compagnie Noga D’Importation et D’Exportation SA v The Abacha Defendants, ANZ Bank and others - instructed on behalf of the claimants in multi billion dollar civil fraud action against numerous defendants. Worldwide tracing and freezing injunctions in support of Noga’s claim against the Abacha defendants and a well known bank arising out of their dealings with funds in which Noga claim a beneficial interest; whether Noga had an equitable proprietary interest in the bills of exchange and their proceeds under their contract with the Russian Federation; whether individuals in the governments of Russia and/or Nigeria acted fraudulently. Raises issues of Swiss, Russian and Nigerian law, banking practice, money laundering and forensic accountancy.

Huntsman v Petroplus - multi-million dollar dispute under an agreement for the supply of naphtha and LPG raising issues of construction (including whether the effect of an entire agreement clause is to exclude implied terms under the Sale of Goods Act 1979) and technical questions as to the cause of mercury contamination and whether it was such as to render the products unsatisfactory or unfit for purpose).

Starsin (House of Lords) [2004] 1 AC 715 - leading case on the identity of the contractual carrier under a bill of lading, the construction and effect of Himalaya Clauses and liability in tort. Consideration of the impact of UCP 500 on the importance to be attached to the form of signature when identifying the contractual carrier in a bill of lading.

Arkin v Borchard and ors [2003] 2 Lloyd’s Rep 225; [2004] 1 Lloyd’s Rep 88, 636, [2005] EWCA Civ 655 - Commercial Court litigation raising important competition law issues in the context of the activities of two liner shipping conferences; claim for damages based on alleged breaches of Articles 81 and 82 of the EC Treaty. First case under English law in which damages were sought under Articles 81 and 82 in respect of alleged predatory pricing by the members of two liner conferences during a price war in 1991. Now the leading case on the liability of a professional funder for the costs of successful defendants where the claimant is impecunious and the incidence of costs as between defendants and part 20 Defendants where the claimant is impecunious.

Metro litigation (1999/2000) - multi-party litigation involving conflict of laws, title to blended/commingled oil and priorities as between conflicting proprietary claims.

Memberships:

Other Professional Affiliations and Memberships: COMBAR, Chancery Bar Association, LCLBA, BMLA, LMAA, LCIA, IBA, London Shipping Law Centre (Head of education sub-committee), European Circuit, Bar European Group; Law Society European Group; Institute of Advanced Legal Studies, ICC’s Banking and Finance committee.

Rights of Audience:

England and Wales (1983)

Dubai International Financial Centre Courts (2008)

Licensed to appear as an advocate in Isle of Man in connection with a major piece of litigation (2013/2014)