

Neil Dowers

Call 2016



Neil Dowers has a commercial practice in both arbitration and litigation.

He has particular experience in shipping & shipbuilding, arbitration, construction, professional negligence, commercial disputes and property damage.

Neil also has a specialist interest in Jurisdiction and Conflict of Laws, which spans across his areas of practice and civil and commercial litigation generally.

Neil is recommended as a leading junior for shipping in the Legal 500, with comments including: *“good eye for detail, hard-working, accessible and conscientious”*.

Jurisdiction & Conflict of Laws

Neil has worked on several cases involving jurisdiction and conflict of laws issues

Featured Jurisdiction & Conflict of Laws cases

As junior counsel, advising on jurisdiction and applicable law in a winding-up petition and subsequent claims through the liquidator against directors and professional advisors.

Advising service out of the jurisdiction on a defendant domiciled in Spain following Brexit.

Advising on the impact of Brexit and the end of the EU-UK Withdrawal Agreement transition period on jurisdiction in a potential Part 20 claim against a defendant domiciled in an EU member state.

Appearing as junior counsel in the TCC in a successful application for default judgment against a defendant served outside the jurisdiction without permission under the Brussels I Regulation Recast and Service Regulation. This followed instructions to advise on jurisdiction and service out.

Appearing as sole counsel on an application disputing the jurisdiction of the London Circuit Commercial Court on the

basis of an exclusive jurisdiction agreement in favour of the courts of another EU member state.

Instructions as sole counsel to advise on service out of the jurisdiction in proceedings for the enforcement of an adjudicator's decision.

Instructions to advise on the prospects of challenging the jurisdiction of the TCC following service out of the jurisdiction on a US-based party to a contract for the supply and installation of goods.

Instructions to advise a claimant on a challenge to the jurisdiction of the English courts under the Civil Jurisdiction and Judgments Act 1982 in a small claim against a defendant company registered in Scotland.

Assisting in a case involving issues as to: the law applicable to legal subrogation to a debt under a contract; subrogation to jurisdiction clauses; competing jurisdiction clauses; and formal validity and applicability of jurisdiction clauses.

Assisting in a case involving issues as to: proof of foreign law by expert evidence; the status of case law in foreign law; and the possible application of the British Law Ascertainment Act 1859.

Involvement in preparing urgent advice as to potential interim relief in support of proceedings in a non-Brussels/Lugano court under section 25 Civil Jurisdiction and Judgments Act 1982 and (Interim Relief) Order 1997/302.

Research on an arbitration involving an issue as to the potential application of foreign law of termination of contract and nullity to a contract governed by English law.

Involvement in New York Convention arbitral award enforcement proceedings involving issues as to the scope of the public policy exception in section 103 Arbitration Act 1996, comity, and potential double recovery.

Shipping & Shipbuilding

Neil has experience working on a range of shipping and shipbuilding cases in LMAA, LCIA and *ad hoc* arbitration, as well as Commercial and Admiralty Court proceedings. He has worked on numerous disputes concerning time, voyage and bareboat charters, shipbuilding and sale contracts, cargo claims, average, damage to port and other shipping-related matters, including:

Featured Shipping & Shipbuilding cases

Instructions as junior counsel in a c.\$100m LCIA Arbitration about the operation of a container terminal.

Acting as junior counsel for claimant owners in ongoing Commercial Court claims against charterers and guarantors for non-payment of sums owing under bareboat charterparties and corresponding guarantees.

Instructions as junior counsel for the buyer in a multi-million pound dispute under a shipbuilding contract under LMAA rules.

Instructions as junior counsel to prepare submissions in a USD 3.5m *ad hoc* arbitration concerning the proper interpretation of the Conwartime 2013 War Risks clause, the line 27 trading limit, and various other clauses of an amended NYPE 2015 form charterparty.

Acting as junior counsel in a coverage dispute under mortgagee's interest insurance following a casualty.

Preparing stakeholder proceedings under CPR Part 86 with a view to determining to whom charter hire was due.

Acting as junior counsel for owners in a dispute under a time charter concerning off-hire and a counterclaim for breach of charterparty under the LMAA intermediate claims procedure in.

Instructions as junior counsel in an LMAA arbitration concerning physical and legal readiness and illegality in a claim for demurrage under an amended Shellvoy 5 form.

Instructions as junior counsel to draft claim submissions concerning multiple issues, including: a trading ban due to a Rightship score downgrade; underperformance and construction of performance warranties; and failure to maintain a vessel.

Acting as junior counsel in preparing GAFTA Appeal Board submissions concerning export restrictions and force majeure.

Acting as sole counsel in relation to various off-hire, demurrage, despatch and unpaid freight claims in LMAA arbitration.

Advising on time-bar provisions relating to claims for off-spec bunker supplies under an amended NYPE 1946 form.

An arbitration under a charterparty concerning a claim for damage to a vessel caused by contaminated cargo.

Providing urgent advice as sole counsel on live shipping matters, including the scope of Owners' lien under the NYPE form and arrest of a vessel for as security for salvage/general average costs.

As sole counsel, obtaining judgment for the claimant harbour authority in an Admiralty Court claim concerning the wreck and abandonment of a vessel in a harbour and damage caused to associated works.

Providing urgent ad-hoc advice to a major manufacturer on general average following the grounding of a vessel.

A potential claim against charterers under a charterparty for damages when a vessel was arrested in the hands of sub-charterers, also involving questions of rights and obligations under potentially forged bills of lading.

Advice on the interpretation of a termination clause in a shipbuilding contract.

Arbitration

Neil spent several months of his first year in practice on secondment to the directory-ranked international arbitration team of a global law firm. Neil's experience of arbitration cases in practice includes:

Featured Arbitration cases

Working as part of a team on a large-scale investor-state dispute under ICSID rules.

Instructions as junior counsel in drafting a response to a million-pound claim in CIArb arbitration.

Acting as junior counsel in an ICC Arbitration with a value of around £30 million.

Acting as junior counsel in a multi-million pound dispute under a shipbuilding contract in LMAA arbitration.

Advising on potential issues of waiver of jurisdictional challenges arising from part-payment of an arbitration award.

Assisting in preparation for an appeal on a point of law under section 69 Arbitration Act 1996.

Assisting in preparation of New York Convention enforcement proceedings involving the public policy exception under section 103.

Arbitrations under CIETAC, LMAA, CIArb and ICC rules, as well as various *ad hoc* arbitrations.

Neil has published several articles on the topic of arbitration, which also formed the subject of his doctoral dissertation, and sits on the Editorial Board of the International Arbitration Law Review.

Construction

Neil's experience of construction cases includes:

Featured Construction cases

As sole counsel, successfully obtaining summary judgment to enforce the decision of an adjudicator in *John Graham Construction Limited v Tecnicas Reunidas UK Limited* [2022] EWHC 155 (TCC). The case raised issues including whether the decision was consistent with an earlier arbitration award and to what extent there was such a thing as an “unwaivable” jurisdiction challenge.

As junior counsel, instructions on behalf of a housebuilder in a twenty-million-pound defects claim in the TCC, involving issues including contribution by subcontractors, liability under the Defective Premises Act 1972, and interpretation of contractual indemnities.

As junior counsel, instructions to represent a subcontractor in ICC Arbitration in a thirty-million-pound dispute as to the scope of work under a subcontract and subsequent final-account dispute.

As junior counsel, instructed by a developer to pursue a multi-million pound claim for a contractor's failure to progress works regularly and diligently under a JCT Design and Build Contract.

Advising on extended limitation periods for claims under the Defective Premises Act following the coming into force of the Building Safety Act 2022.

Successfully obtaining enforcement of an adjudicators' decisions by summary judgment in the TCC.

Being instructed off-panel by a government agency to assist in preparation for adjudication of a multi-million pound claim under an NEC contract.

Assisting with drafting advice on the terms on which a contractor started work under a JCT Standard-Form Subcontract when negotiations as to amendments were still ongoing.

Assisting with drafting advice on the enforceability of an adjudicator's decision involving potential challenges for lack of jurisdiction and breach of the rules of natural justice.

Assisting in preparing the defence of a multi-million pound claim for defects arising during refurbishment of a listed

building.

Neil's article (co-authored with Michael Davie KC) on the Court of Appeal's decision in *Triple Point Technology v PTT Public Company* [2019] EWCA Civ 230 was cited with approval in the judgment of Lord Leggatt in the Supreme Court [2021] UKSC 29.

Professional Negligence

Neil has acted in a large and growing number of professional negligence disputes, including:

Featured Professional Negligence cases

Successfully acting for a responding party architect in a multi-million pound adjudication concerning the specification of flammable insulation.

Acting for defendant surveyors in a claim regarding a land-referencing exercise for the purpose of railway improvement works.

Instructions as junior counsel in a million-pound claim under the Supply of Goods and Services Act 1982 concerning the supply of defective food-processing plant.

As junior counsel, acting for a developer claimant in a high-value professional negligence action against quantity surveyors for errors in preparing cost plans.

Advising on scope of duty and recoverable loss in professional negligence claims following the decision in *Manchester Building Society v Grant Thornton*.

Instructions to act for a web-design and marketing company in relation to a claim for its outstanding fees and defence of a counterclaim brought by customer alleging delayed delivery of services.

Instructions to act for a small business in in defence of a claim by a customer relating to the supply of hardware and software.

Instructions to act for various surveyors in the defence of professional negligence actions in residential property transactions.

Instructions to advise on a contractual clause purporting to extend indefinitely the right to reject goods under the Sale of Goods Act 1979.

Regularly acting for insurers on a variety of subrogated claims.

Assisting in preparing written advice on insurance coverage.

Assisting on both sides of professional negligence cases, including claims against barristers, solicitors, monitoring surveyors, building surveyors, and engineers.

Commercial Disputes

Neil has acted in commercial disputes, including:

Featured Commercial Disputes cases

As junior counsel in a multi-million pound TCC Claim concerning misrepresentations and breach of contract under an agreement for the construction and management of a hotel.

A high-value LMAA arbitration concerning expert determination of liquidated damages payable under a share purchase agreement.

Advising on a dispute concerning the formation and termination of an executory contract for the supply of goods.

As sole counsel on an ongoing claim concerning the termination of an agreement to supply a temporary warehouse.

Property Damage

Neil's has worked on several property-damage claims, including:

Featured Property Damage cases

As junior counsel, representing a contractor in a multi-million pound pipe-strike case.

Advising a contractor on potential liability for damage caused by water ingress during the extension of a block of flats.

Instructions as junior counsel in a million-pound subrogated recovery in the TCC arising out of fire damage.

As junior counsel, defending a multi-million pound claim for fire damage to commercial premises caused by arson.

As sole counsel, drafting a defence in relation to fire damage at a private home.

As sole counsel, giving advice on potential claims following flooding damage at a residential development.

As sole counsel, acting for a subcontractor in relation to a claim for damage to public water mains during works.

Other experience

Neil has a wealth of experience on his feet, having appeared regularly in county court hearings and trials on a wide range of topics since beginning his second six. Neil also volunteers for pro bono work through Advocate and Pro Bono Connect.

Publications

- “The Court of Appeal’s Look North for a Solution Goes South: Liquidated Damages and Termination in Triple Point Technology v PTT”, (2019) 23 Edinburgh Law Review 395
- “Arbitration in EU Jurisdiction Regulation: Brussels I Recast and a New Proposal” (2015) 3(1) Groningen Journal of International Law 125
- “First published decision under Arbitration (Scotland) Act 2010” (2013) 16(1) International Arbitration Law Review N3
- “Brussels I Regulation Recast passed” (2013) 16(2) International Arbitration Law Review N18
- “The anti-suit injunction and the EU: legal tradition and Europeanisation in International Private Law” (2013) 2(4) Cambridge Journal of International and Comparative Law 960

Education

- LLB (Hons), Law with German Language, University of Glasgow (2010)
 - First Class Honours
 - Distinction in Spoken German
- LLM, Cornell University (2011)
 - St Andrew’s Society of the State of New York Scholarship
 - CALI Excellence for the Future Awards (top of class) in:
 - International Commercial Arbitration;
 - Dispute Resolution: Negotiation, Mediation and Arbitration;
 - Global and Regional Economic Integration
- PhD in Law, The University of Edinburgh (2015)
 - Topic: “The interface between jurisdiction instruments and arbitration”
 - Edinburgh Law School PhD Scholarship
- GDL with partial exemptions, BPP (2015)
 - Lord Bowen Scholarship, Lincoln’s Inn
 - Hardwicke Entrance Award, Lincoln’s Inn
- BPTC, City University of London (2016)
 - Grade: Outstanding
 - Lord Denning Scholarship, Lincoln’s Inn

Languages

- German (working knowledge)

Accreditations



25 for 25
pro bono hours

25 years
advocate

The graphic features a central white diamond shape with a dark teal background. Inside the diamond, the text "25 for 25" is written in a large, bold, orange font, with "pro bono hours" below it in a smaller, dark teal font. Above and below the text are orange chevrons pointing towards each other. In the bottom-left corner of the diamond, the text "25 years" is written in a small, dark teal font, followed by "advocate" in a larger, bold, dark teal font, underlined. Below "advocate" is a small white chevron pointing upwards.