

# Nick Vineall KC

Call 1988 Silk 2006



Nick Vineall KC has a wide-ranging commercial practice, with particular experience in commercial litigation and arbitration, shipping, shipbuilding and offshore construction, energy and natural resources, construction and engineering and financial services.

Nick has represented clients in the UK Supreme Court, Court of Appeal, and High Court (Commercial Court, TCC and Chancery Divisions), and has extensive experience of ICC LCIA and LMAA arbitrations, both in London and abroad.

Recent work includes acting for one of the two competing Boards of the Central Bank of Venezuela in its successful appeal to the Court of Appeal over who was entitled to give instructions in relation to €2bn of Venezuelan gold stored in the vaults of the Bank of England; representing the LMAA in its intervention in the Halliburton case in the Supreme Court; and acting for the FCA in a £10m claim against an unregulated pensions introducer, Avacade.

Nick is regularly appointed as an arbitrator and sits as a Deputy High Court Judge in the Commercial Court and TCC.

## Commercial Disputes

Nick has been instructed on a wide range of commercial disputes both in litigation and arbitration, extending from shipping, banking, and financial services to a wide range of subject areas including in recent years international sanctions, and recognition of heads of state in public international law.

Directory comments include “Judges have immense respect for him and he is genuinely listened to by them. A brilliant all-rounder.”

He particularly enjoys appellate advocacy.

## Featured Commercial Disputes cases

Nick acted for the Maduro Board of the Central bank of Venezuela on its successful appeal in the dispute between it and a competing Board allegedly appointed by interim President Guaido. The Court of Appeal decision clarifies English law of

recognition and in particular the distinction between de jure and de facto recognition: [2020] EWCA Civ 1249. Control of €2bn of Venezuelan gold in the Bank of England's vaults rests on the outcome.

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Nick represented the LMAA as interveners in *Halliburton v Chubb* in the Supreme Court.

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Nick acted for the unlawfully sanctioned Iranian Bank, Bank Mellat in its quantum claim against the UK government – the largest Human Rights Act claim ever to come before the English Courts. This followed Bank's success in the Supreme Court, where Nick represented its shareholders: *Bank Mellat v HM Treasury* [2014] AC 700.

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Nick acted for a series of Indian guarantors of \$45m of bank borrowing who, on jurisdictional grounds, successfully resisted proceedings brought in London by Punjab National Bank (*Punjab v Srinivasan Vos, C*)

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Nick is very experienced in urgent interlocutory work in particular applications for freezing orders. He appeared for the FCA in the Supreme Court in the leading case on the giving of cross-undertakings by regulators when freezing orders are granted: *FSA v Sinaloa Gold* (Barclays Bank plc intervening) [2013] 2 AC 28. He has made over 40 applications for freezing orders over a diverse range of disputes.

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He acted in the Court of Appeal for a Canadian company accused of market manipulation in *FSA v Canada Inc* [2014] Lloyds Rep (FC) 207, and for the FSA on its first ever injunction to restrain market abuse. He has many years' experience of advising and appearing in FSMA perimeter policing disputes, particularly unauthorised collective investment schemes and investment scams of various kinds.

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He acted for over 1200 claimant investors in a GLO claim against Capita, the authorised corporate director of the collapsed Arch cru investment funds.

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## Shipping

Nick is ranked as a leading silk in Shipping/Shipping and Commodities: "Particularly highly regarded for his involvement in both offshore engineering and shipbuilding disputes: 'He has a very persuasive, eloquent style'; 'can be very innovative and come up with new points'. "He has a stellar shipbuilding practice."

Nick has particular expertise in dealing with technical disputes and with expert evidence on scheduling, design and engineering.

Experience in Commercial court, and in LMAA, HKIAC, SIAC, ICC, LCIA and VIAC (Vietnam) tribunals.

### Featured Shipping cases

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*RBRG Trading v Sinocore* [2018] EWCA Civ 838, The leading case on the public policy defence to enforcement of foreign arbitral awards, holding that Sinocore was able to enforce an award arising out of a sale contract despite having produced forged bills of lading in an attempt to procure payment.

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Instructed on a major wood pellet cargo fire claim.

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Instructed on a \$10m cargo claim arising from damage to poorly packaged water pipes.

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Instructed on a CoA dispute between Chinese aluminium exporter and HK shipping line.

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Advising on pool agreement disputes.

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Charterparty disputes.

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An Arbitration Act appeal from a charterparty dispute establishing that section 67 appeals are not available where an issue has been submitted to the tribunal but not resolved by it: *Sun United v Kasteli Marine* [2014] 2 Lloyd's Rep. 386.

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## Shipbuilding & Offshore Construction

Most work in this area is in arbitration, so details are confidential.

### Featured Shipbuilding & Offshore Construction cases

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Nick recently acted for the successful Respondent in *Mur Shipping v Louis Dreyfus* [2020] 2 Lloyds 153 which deals with time bars in the NYPE form.

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Acting for Owners on two disputed rig terminations at a Singapore yard.

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Instructed on a very large number of newbuild disputes for both buyers and yards, involving shipyards from all over the world, and a wide range of vessels including FPSOs, drill rigs, pipelay vessels, survey vessels, ferries, chemical tankers, and cargo and container ships.

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Acting on shipbuilding related refund guarantee disputes including SIAC arbitration application to restrain call on a performance guarantee.

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ICC arbitration for a Chinese client concerning a substantial port craneage installation.

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Acted for Awilco on two commercial court claims for charterhire of a North Sea drill rig (Crine Logic terms).

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Acting on a harbour construction scheme on NEC3 terms.

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Acted against Petrobras on the P36, P40, and P41 projects: [2007] 1 Lloyd's Rep 629, [2008] 1 Lloyd's Rep 305 CA.

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UNCITRAL rules arbitration of a delay claim arising from drilling in the Bonga oil field in Nigeria.

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ICC arbitration concerning a major oil installation in Turkmenistan.

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Advice on an offshore wind installation dispute.

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## Energy & Natural Resources

Nick is ranked as a leading silk in Chambers and Partners: "Very good to work with and very much part of the team. He is personable and client-facing, and has none of the old-style stuffiness which you still get with some silks."

## Featured Energy & Natural Resources cases

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Advising on a Hong Kong reverse takeover of a PRC exploration company.

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Acting for rig owners on a threatened North Sea drill contract cancellation.

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Acting for rig owners on a disputed drill contract cancellation (LCIA arbitration).

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Advice for insurers on the multiparty settlement of a major fire loss to an oil rig.

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UNCITRAL rules arbitration of a delay claim arising from drilling in the Bonga oil field.

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ICC arbitration of major oil installation in Turkmenistan.

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Advice on an offshore wind installation dispute.

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Advice on off-spec product claim concerning Nigerian FPSO.

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Acting for Vitol on a claim for fraudulent misrepresentation concerning a mineral supply contract with a Chilean mine.

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Acting against Petrobras on the P36, P40, and P41 projects [2007] 1 Lloyd's Rep 629, [2008] 1 Lloyd's Rep 305 CA.

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Acting for Sembawang in the Solitaire arbitration concerning a DP pipelay vessel.

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Acting as expert witness in Kazakhstan proceedings concerning a Chinese farm-in agreement.

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## Construction & Engineering

Nick is recommended for construction work in the Legal 500 where he is described as “enthusiastic, approachable and an effective cross-examiner.” He particularly enjoys working with – and cross-examining – technical experts.

Most of his construction work now involves engineering heavy projects, either onshore or offshore, including nuclear implicated designs.

## Featured Construction & Engineering cases

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Instructed by the MoD on the defence of a £100m+ claim by a major contractor in relation to the construction of a floating jetty for berthing the UK's fleet of nuclear submarines, let on an MPTC contract. The case involved the regulation of design and construction of nuclear implicated structures and systems.

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A large number of shipbuilding disputes in arbitration, raising a vast range of technical construction points including steelwork quality, NDT weld testing, main engine condition and performance, CFD analysis of heat transfer in oil tanks, and paint and coatings defects.

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Acting for the employer on a harbour construction contract on NEC3 terms.

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Acting for a Chinese contractor on a dispute concerning a major port offloading machinery installation.

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P36 – a long running dispute on the costs of an drill rig upgrade: [2007] 1 Lloyd’s Rep 629, [2008] 1 Lloyd’s Rep 305 CA.

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## Financial Services

Nick is as a leading silk for financial services regulation work. Comments include “He has a silken charm, and is a decent and honourable opponent.” “Immensely knowledgeable, completely clam and unflappable.” “He’s very confident, very smart and very friendly.” “An amazing silk who can simplify any matter in minutes.” “Provides us with high quality advice, and is willing to make difficult calls and put his neck on the line.”

Nick has 30 years’ experience acting on FSMA (and before that FSA and Banking Act) claims across a broad range of authorisation and enforcement proceedings involving the regulator, as well as consumer claims against providers and related professional negligence claims for and against advisers and promoters.

He has acted on claims arising in relation to pension transfers, tax mitigation schemes, interest rate swaps, collective investment schemes, death bonds, Ponzi frauds, landbanking, boiler room frauds, in addition to the mis-selling of rather less exotic products. He frequently advises on perimeter points concerning investment and/or insurance products, and has advised on the status of Sharia-compliant investment products.

## Featured Financial Services cases

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*Woodford*: acting for a Claimant group suing the ACD of the collapsed Woodford funds.

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*FCA v Avacade*: FCA claim against unregulated pensions introducer: meaning of RAO 25/26 [2020] EWHC 1673 Ch.

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*Adams v Options SIPP*: representing the FCA in its intervention in the CA hearing.

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*CGL Group Ltd v Royal Bank of Scotland Plc*, [2017] EWCA Civ 1073; whether Banks assuming responsibility to customers to carry out redress scheme according to Bank’s agreement with FCA.

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*Burns v FCA*, [2017] EWCA Civ 2140; conflict of interest and breach of fiduciary duty by non-executive director, whether rendering director not fit and proper.

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*Arch Cru*: Acting for 1200 investors in a £45m claim arising from the failed Arch cru investment Funds against Capita (the ACD) in a Chancery Division claim brought under a group litigation order.

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*FSA v Sinaloa Gold FSA v Sinaloa Gold* (Barclays Bank plc intervening) [2013] 2 AC 28 which established that public authorities need not give a cross-undertaking in damages to defendants or third parties when seeking injunctive relief.

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Acting for over 100 investors in a claim against the promoters of a failed Enterprise Zone tax mitigation schemes.

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Acting for investors against Zurich Advice Network on mis-selling claims concerning failed tax mitigation schemes (*Tower/UKFS scheme*).

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*Bank Mellat v HM Treasury* [2014] AC 700: Representing the shareholders of Bank Mellat in the successful Supreme Court challenge to a Treasury order sanctioning the Iranian bank on the grounds of involvement in nuclear proliferation activities.

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Representing the providers of an algorithmic trading platform accused of market manipulation: *FSA v Canada Inc* [2014]

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Lloyds Rep (FC) 207.

Acting for an IFA firm subject to a s.166 notice and PBR in relation to pensions transfers.

## International Arbitration

Much of Nick's work is in international arbitration, mostly under LMAA, LCIA, ICC, HKIAC or SIAC rules.

Nick recently represented the LMAA as interveners in *Chubb v Halliburton* in the Supreme Court.

Most arbitration decisions are confidential but reported cases on arbitral law, practice and procedure are included below.

### Featured International Arbitration cases

*Mur Shipping v Louis Dreyfus* [2020] 2 Lloyds 153 which deals with time bars in the NYPE form.

*RBRG Trading v Sinocore* [2018] EWCA Civ 838, The leading case on the public policy defence to enforcement of foreign arbitral awards, holding that Sinocore was able to enforce an award arising out of a sale contract despite having produced forged bills of lading in an attempt to procure payment.

*A v B* [2017] EWHC 3417 (Comm). Whether permissible to start two linked LCIA arbitrations with a single request for arbitration, whether right to object waived.

*BV Scheepswerf Damen Gorinchem v Marine Institute*; [2015] EWHC 1810 (Comm); [2015] 2 Lloyd's Rep. 351; length delay by arbitrator in rendering award, whether serious irregularity, whether prejudice shown.

*Sun United Maritime Ltd v Kasteli Marine* [2014] EWHC 1476 (Comm); [2015] 1 W.L.R. 1527; [2014] 2 Lloyd's Rep. 386: scope and meaning of "substantive jurisdiction" in s67 Arbitration Act 1996.

*Prekons Insaat Sanayi AS v Rowlands Castle Contracting Group Ltd* [2006] EWHC 1367 (Comm); [2007] 1 Lloyd's Rep. 98 – whether a cross claim should be stayed to arbitration.

## Arbitration Appointments

Nick is a supporting member of the LMAA and a member of the CIETAC and KLRCA panels.

Nick has been appointed to arbitrate disputes as sole or panel arbitrator under LCIA, LMAA, HKIAC and VIAC terms, in London, Singapore, Hong Kong and Vietnam.

## Appointments

- Deputy High Court Judge (2017)

## Memberships

- CMAA panel arbitrator
- KLRC panel arbitrator
- SCMA panel arbitrator
- LCIA member
- LMAA Supporting member

## Education

- Dip Law (City)
- MA (Cambridge) Natural Sciences
- MA (Pittsburgh) History and Philosophy of Science (Harkness Fellow)

## Recommendations

Nick is recommended in the directories as a leading silk in:

- Commercial litigation
- Shipping & Commodities
- Energy & Natural Resources
- Financial Services
- Construction

Comments include:

- clear, succinct, compelling and authoritative
- a strong advocate and a real fighter, with excellent technical skills
- excellent, he cuts through the detail and simplifies the complicated
- inspires confidence and is a great team player
- incredibly sharp and user-friendly. He rapidly identifies the material issues and he delivers advice quickly, in a very commercial manner
- his technical grasp and ability in esoteric areas is exceptional.