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# Shipping lawyer offers remedy to US legal 'headaches'

*Chris Nolan of Holland & Knight appears before the US Supreme Court, but sees himself as a business adviser not litigator*

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Filing briefs with the US Supreme Court is only part of Mr Nolan's work, much of which involves counselling clients from around the world on the vagaries of the US legal system



LLOYD'S LIST TOP 10 LAWYER CHRIS NOLAN AT THE US SUPREME COURT.

Source: Chris Nolan

THE US legal system can be a minefield for the global maritime industry, with each of the nation's 50 states having its own laws.

That means "50 different headaches" to be faced by overseas clients, according to Chris Nolan, a lawyer with a background in international transport cases.

“It takes a bit of additional care to explain the US legal system to non-US companies,” he says. “They have seen culture and TV movies all the time, and there’s a concern level. But if you explain it, if you are able to tell them that you are in front of an arbitrator who works at a shipping company in the US, they’ll understand that better.”

Mr Nolan, who is a partner at Holland & Knight, started his career working on the billion-dollar oil spill case involving *MT Prestige* off the northwest coast of Spain.

The incident in 2002 resulted in the spillage of 63,000 tonnes of oil into the Bay of Biscay.

“Even though the oil spill was in Spain, there were lawsuits at work around the world and our work was in New York where the Kingdom of Spain was seeking relief against the classification society because of issues involving the condition of the vessel,” he says.

“That’s how cases end up in certain places and, based on where the venue is, you have different ways that you handle the cases and different explanations for foreign clients,” he says.

Not least, Mr Nolan says, he sometimes has to work around obstacles from unusual sources in dealing with foreign clients. Getting his clients to understand the US legal system is a priority, he says.

“I’m listed as a litigator, but I consider myself a business adviser. It is not only about fighting it out in court, it is understanding the business of the clients and what their bottom line is. Understanding what they need and how quick they want it and under what terms is all I need to get to that result. And often that does not involve a trial.”

Earlier this year, Mr Nolan — who ranks as a Top 10 Lawyer with Lloyd’s List — wrote an amicus brief on the prevailing side of the *M/T Athos I* case heard by the US Supreme Court into the oil spill in the Delaware River in 2004.

“At a time where Covid-19 concerns are impacting every port in the world as to what is safe and not, shipping parties can revisit agreed contracts or fix new contracts with more certainty than they had yesterday,” he says.

Filing briefs with the US Supreme Court is only part of the work for Mr Nolan, much of which involves counselling clients on the US legal system.

“Most of my morning is taken up with dealing with instructions from the Far East and Europe.” His overseas clients “rely on us” to get them through “thorny issues”.

“Unlike most global maritime superpower countries, we do not have special maritime courts.” Instead, he says: “We have maritime cases that are heard by federal judges and they may have a maritime background.”

Still, he notes that “before they hear a maritime dispute about land rights, judges are listening to a criminal larceny hearing and ruling on that” — a priority based on practical considerations of judges.

“From a practical standpoint, you do not want an accused criminal in handcuffs sitting around your courtroom. You want to bring her or him in and you want to bring her or him out and then attend to the business.”

That lack of specifically maritime courts represents one of the most interesting perspective for clients as well as the many international law clerks who have trained with Holland & Knight – about 700 of them

over the years.

“In contrast to their own countries, where judges are focusing just on maritime issues, they see that our judges have a bigger picture,” says Mr Nolan.

While US judges may not be specifically orientated toward maritime law, however, Mr Nolan believes they “appreciate maritime cases because of the longstanding precedent”.

US judges also recognise that “the maritime bar is highly sophisticated and knows how to get down to business and cut a deal when necessary” and, while guided by the other cases they work on, they take a “keen interest” in maritime law.

“I’d say more than 50% of our work will involve arbitrations, as opposed to courts and there you get specialised background with shipping women and men” in the role of arbitrators, he says.

“That is easier for us to lay the foundation because we have to do less explaining in dealing with some of the maritime principles that judges don’t see with the same frequency. So, we can get down to business quicker.”

He believes “clients like that advantage more because, when they do have to testify, they are often talking to someone who is in shipping operations or maritime insurance who understands their business and the difficulties and pressures involved with it”.

The decision to go to arbitration or to court comes down to something simple: a contract. When contesting parties have an existing contract, it usually gives them the choice of arbitration or court.

In cases where there is no contract between the parties — such as two ships colliding or an oil spill — “you’re going to be in front of a court, because there was no prior understanding”.

Not least, “you are going to where it logically should be based. If you have a collision, there are witnesses in a particular port and security may have been posted there. So, you’re going to be there for a long period of time”.