



Sitpah Selvaratnam
LLB, LLM, DipICarb, FCI Arb, FMI Arb
Counsel, Arbitrator
sitpah@tommythomas.net

COUNSEL PRACTICE

Sitpah Selvaratnam is a leading maritime and commercial litigator, with more than 26 years' experience as Counsel in

- admiralty, shipping and maritime law, and international trade;
- corporate receivership, liquidation and special administration; and
- banking, company and commercial litigation.

Such experience has been gained from a wide array of disputes including :

- arrest and release of vessel, claims for wrongful arrest; claims and defence in relation to collisions with vessel, wharf and immovable, disruption of pipelines and telecommunication lines; damage and contamination to, and short/misdelivery of cargo; breach of charterparty and supply contracts; bunker claims; damage to ship and port; death/injury to crew; carriage/delivery/discharge of cargo including dangerous cargo and limitation of liabilities; sub-bailment on terms; exercise of lien; mandatory and mareva injunctions; marine insurance, subrogation, repudiation of insurance - upon instructions of shipowners, cargo interests, charterers, P&I Clubs, mortgagees, agents, suppliers, shipyards, ports, petroleum and telecommunication companies, insurers, hauliers, container yards;

- Petitions under Section 181 and Section 218 Companies Act, 1965 relating to shareholders' disputes, appointment of liquidator; liquidator's directions, injunction restraining a winding-up petition; claims, defence and injunctions relating to removal of directors, delivery of company documents and assets, recovery of banking debts, realization of security, priority of competing claims, documentary credit obligations, restraining appointment of Receivers and Managers; restructuring of debts by schemes of arrangements under Section 176 Companies Act; recovery of debts pursuant to statutory vesting under the Pengurusan Danaharta Nasional Berhad Act 1998; restraining performance by Special Administrators; and work-out proposals under the purview of the nation asset management corporation pursuant to the Pengurusan Danaharta Nasional Berhad Act 1998.

Her recent cases as Counsel are :

- in a complex collision case that resulted in the sinking of a vessel. Involved towage and pilotage principles, port authority regulations, and an indemnity claim under a knock-for-knock clause under a charterparty.
- for the Indemnity provider under a Charterparty, in a litigation against the shipowner by cargo interests for alleged wrongful delivery of cargo without the presentation of the bills of lading.
- for a shipowner and its holding company in their ground breaking and precedent setting litigation to secure an injunction against the arrest of their ships, in circumstances of a complicated novation of charterparty rights and set-off of claims.
- to obtain an urgent injunction before the Malaysian Admiralty Court to prevent dealings with cargo that was the subject of arbitration in London, and parallel Court proceedings in China. This Injunctive Order was instrumental in achieving the settlement of multiple proceedings over the purchase and sale of commodities.
- in numerous arrests, and release of vessels from arrest, including one where expedited Sheriff's consent was procured for the ship to ship transfer of cargo of fuel oil within hours of the tanker's arrest.
- for ING/OWB, successfully securing judgment for payment of the price of the bunker supplied, in the intricate challenge between the contractual supplier and physical supplier to the right of payment, and in the context of 2 sets of arrest proceedings.

- in the Court of Appeal in a precedent setting case, involving the carriage of dangerous cargo by sea, that caused the explosion on and sinking of the vessel; that delineated the respective duties of care and indemnity of the shipper and IMDG cargo carrier.
- to limit liability under the 1957 Limitation Convention for the owners of the offshore supply vessel 'Red Gold', which collided with an offshore oil platform.
- for a bunker supplier, successfully securing damages in excess of USD30 million for breach of a Fixed Price Bunker Contract, against one of the world's largest tanker owners.
- for an Indonesian subsidiary of a major Japanese company, in an international dispute for the mis-delivery of cargo in the Middle East involving switched Bills of Ladings.
- in a shareholder's dispute over the largest hyroelectric dam project in Southeast Asia.
- for a concessionaire whose right to manage advertising sites over a 20 year period was repudiated by a local authority.
- pertaining to a Power Purchase Agreement, where the total claim and counterclaim was in the region of USD40 million.

Appointed as expert to tender expert evidence on Malaysian shipping law in the High Court of Singapore and the Durban Court in South Africa.

ARBITRATION

Sitpah was appointed to the ICC International Court of Arbitration in June 2018, as Court Member for Malaysia.

Sitpah is regularly appointed in both ad hoc and institutional commercial arbitrations under the KLRCA/AIAC and SIAC Rules, as sole and presiding arbitrator. She has been nominated by co-arbitrators as presiding arbitrator in 2 HKIAC administered arbitrations.

Her appointments are in international, regional and domestic references involving charterparties, ship building, ship services agreement, international trade, and

commercial contracts including one for the sale of an insurance business. She has been appointed as arbitrator in more than 20 references.

Handed down 14 awards; 9 in relation to SIAC appointments, and 5 in relation to KLRCA/AIAC administered arbitration.

PROFESSIONAL ASSOCIATIONS

- Appointed to the ICC International Court of Arbitration as Court Member for Malaysia on 21 June 2018 for a term of 3 years.
- Member of General and Maritime Panel of Arbitrators of the Kuala Lumpur Regional Centre for Arbitration (KLRCA), now known as the Asian International Arbitration Centre (AIAC).
- Member of the Singapore International Arbitration Centre (SIAC) Panel of Arbitrators.
- Member of the Singapore Chamber of Maritime Arbitration (SCMA) Panel of Arbitrators.
- Member of the Hong Kong International Arbitration Centre (HKIAC) Panel of Arbitrators.
- Member of the Emirates Maritime Arbitration Centre (EMAC) Panel of Arbitrators.
- Member of the London Court of International Arbitration (LCIA) Panel of Arbitrators.
- Supporting Member of the London Maritime Arbitrators Association (LMAA).
- President of the International Malaysian Society of Maritime Law (IMSML).
- Chair of the Shipping and Admiralty Law Committee of the Bar Council.
- Co-Chair of the International Arbitration Committee of the International Association of Defense Counsel (IADC).
- Chair of the Maritime Law Committee of the Inter-Pacific Bar Association (IPBA) (2015 – 2017).

- Chair of the Women Business Lawyers Committee of the Inter-Pacific Bar Association (IPBA) (2009 -2011).
- Fellow of the Chartered Institute of Arbitrators (CIArb).
- Fellow of the Malaysian Institute of Arbitrators (MIArb).
- Accredited Mediator with the Malaysian Mediation Centre (MMC).
- Member of the ArbitralWomen.
- Chair of the Maritime Arbitration Working Committee of the Kuala Lumpur Regional Centre of Arbitration (KLRCA) empaneled in August 2011 to consider and recommend facilitative measures to promote maritime arbitration in Malaysia.
- Member of the Admiralty Court and Maritime Law Reform Taskforce empaneled by the Malaysian Judiciary in October 2010 to consider and facilitate the workings of the Malaysian Admiralty Court and reform of Malaysian maritime laws.
- Member of the Combined Rules of Court Committee of the Bar Council, to review amendments to the Rules of Court; designated to draft and review the amendments to the Admiralty and Arbitration provisions thereof.
- Appointed in June 2007 by the Attorney General’s Chambers of Malaysia to the Consultative Committee on the review of the Malaysian *Arbitration Act* 2005.
- Member of the Committee established by Maritime Insitute of Malaysia (MIMA) (2004 – 2005) to consider the need for an Admiralty Court in Malaysia.
- Appointed in March 2000 to the Consultative Committee established by the Securities Commission on asset securitization.
- Consultant to Danaharta Managers Sdn Bhd, national asset management corporation, at its inception from March to May 1999.

PUBLICATIONS

- Co-Author of the Admiralty Chapter to Bullen & Leake & Jacob's Malaysian Precedents of Pleadings.
- Country reporter for Malaysia to the Asia Pacific Arbitration Reporter of Singapore (2014 – 2017).
- Articles reproduced in the Malaysian Law Journal, Bar Council and KLRCA's publications, of papers presented at various fora and interviews by local media.

TEACHING AND SPEAKING ENGAGEMENTS

2012 – 2017

- Diploma in International Commercial Arbitration, conducted by CIArb (Malaysia) Lectured on Maritime arbitration

2017

- Bar Council Women Lawyers Conference (Malaysia) Presented on "*Finding Your Niche : Female Perspectives*"
- IMSML's 2nd Maritime Law Conference (Malaysia) Presented on "*Malaysian Admiralty Jurisdiction – Where we are and ... where we should head?*"
- 20th International Congress of Maritime Arbitrators (ICMA) (Copenhagen) Presented on "*The Right of Arrest – Are we making it too difficult? A Common Law Perspective*"
- IMSML's Certificate in Maritime Law (Malaysia) Lectured on "*Admiralty Law and Enforcement of Maritime Claims*"; "*Maritime Law and Sources*"; "*Bills of Lading*"; "*Dispute Resolutions : Litigation, Mediation and Arbitration*"
- Legal Plus Injunction Seminar (Malaysia) Presented on "*Injunction in Admiralty Cases*"

- Kuala Lumpur International Arbitration Week (KLIAW) (Malaysia) Moderated session on "*ADR & Women : Bridging the Gender Gap*"
- IPBA 27th Annual Meeting and Conference, Maritime Law Committee Session (Auckland) Moderated session on "*Growing Convergence in Asia Pacific Maritime Jurisprudence*"

2016

- IMSML's 1st Maritime Law Conference (Malaysia) Presented on "*Crafting the Claim*"
- IADC Asian Regional Meeting (Hong Kong) Presented on "*The Insolvency and The Right to Arbitrate*"
- IADC International Corporate Counsel College (Brussels) Presented on "*Can I lie about the Facts before the State Courts?*"
- Malaysia World Maritime Day Conference (Malaysia) Presented on "*Maritime Arbitration – Are We There?*"
- IPBA 26th Annual Meeting and Conference, Maritime Law Committee Session (Malaysia) Moderated session on "*Future of Maritime Security, 2015-2020*"
- 8th Asian Law Conference (Singapore) Presented on "*Claims Management*"
- IMSML Evening Series – KLRCA (Malaysia) Presented on "*Maritime Arbitration : Exercising Choice*"

2015

- IPBA-KLRCA Arbitration Day 2015 (Malaysia) Presented on "*Blind Spots in Maritime Arbitration*"

2014

- IADC Asian Regional Meeting (Hong Kong) Presented on "*Rethinking the Notion of Confidentiality – The Need for greater Arbitral Accountability*"

- KLRCIA International Arbitration Conference (Malaysia) Presented on "*Rethinking the Notion of Confidentiality – The Need for greater Arbitral Accountability*"

2013

- IPBA 23rd Annual Meeting and Conference, Dispute Resolution Committee Session (Korea) Moderated session on "*Women in Arbitration*"

2012

- IPBA 22nd Annual Meeting and Conference, Maritime Committee Session (New Delhi) Participated in debate on "*Limitation of Liability Convention 1957 vs. 1976*"

2010

- ArbitralWomen Forum (Singapore) Presented on "*Cultural Bias*"

2009

- 2nd Asian Maritime Law Conference (Singapore) Presented on "*Maritime Arrests, Attachments, Pre-emptive Remedies and Insolvency in a Global Shipping Crisis*"

2007

- National Maritime Conference (Malaysia) Presented on "*Maritime Legal Reform*".

2006

- Bonds Investors' Workshop (Malaysia) Addressing participants on "*Legal issues of the Bonds Market*"
- Advanced Advocacy Workshop (Malaysia) Joint trainer - Witness Statement preparation, objections and cross-examination

TESTIMONIALS

Chambers Asia

2018 – Shipping category

Notable practitioners

The **"outstanding"** Sitpah Selvaratnam is lauded by market commentators, with additional sources praising her as **"probably the best maritime lawyer in Malaysia"**. Her broad contentious practice covers cargo and charter party disputes, marine insurance and ship arrests, while she also acts as an arbitrator. Clients appreciate her **"quick response"**, describing her approach as **"to the point"**.

2017 – Shipping category

Notable practitioners

Sitpah Selvaratnam is highly respected in the market, with expertise covering ship arrests, contentious cargo matters and insurance disputes, as well as arbitration. She is singled out for praise by a client, who says : **"The way she handled the case was very effective and I was personally very satisfied with her – I trusted her."**

2015 – Shipping category

Notable practitioners

Sitpah Selvaratnam is a well-known name in this space and is noted for her strong track record in maritime and shipping disputes. She is also frequently called upon to act as an arbitrator for international trade disputes in the Kuala Lumpur and Singapore arbitration centres."

2014 – Shipping category

"Tommy Thomas Advocates & Solicitors

What the team is known for A widely recognized litigation boutique with a highly respected shipping arm. Frequently involved in landmark cases and regularly instructed on an array of matters, including dangerous cargo and bunker disputes and ship arrests.

Notable practitioners

Consultant Sitpah Selvaratnam is a pre-eminent shipping litigator in Malaysia, described as "an extremely hard-working and savvy advocate with a first-rate brain and the technical ability to match." She is also regularly appointed as an arbitrator in international trade and shipping cases."

2013 – Shipping category

"Tommy Thomas Advocates & Solicitors

THE FIRM This premier litigation boutique continues to play an important role in the market and is regularly sought after for its outstanding disputes litigation offering. Its enviable portfolio of clients includes Steamship Insurance Management Services, Shipowners Protection, Northport Malaysia and Pacific Richfield Group.

KEY INDIVIDUALS Co-founding partner Sitpah Selvaratnam is a consultant at the firm and has more than 20 years' experience in dealing with maritime disputes. She is particularly experienced in handling cases relating to damages at ports or in transit, and in international trade issues and marine insurance matters."

2011 – Shipping category

"Key Individuals Sources describe Sitpah Selvaratnam as a leading light in the shipping market. Specialising in dispute advisory work, she has 20 years of experience under her belt. Both peers and clients praise her diligent and professional approach."

2010 – Shipping category

"This compact practice of five practitioners exclusively handles dispute resolution matters. The shipping specialist at the firm is Sitpah Selvaratnam, a "skilled and professional litigator". She represents both international and domestic clients in charter party and cargo claims, and in collision and insurance claims. She also regularly writes and speaks on the reform and development of shipping law in Malaysia. Banking and insolvency matters also make up an important part of her practice."

The Asia Pacific Legal 500 – Sitpah received the following endorsements in the Shipping and Dispute Resolution categories.

2014 – Dispute Resolution category

"Consultant Sitpah Selvaratnam is highly regarded for shipping matters."

2014 – Shipping category

"Sitpah Selvaratnam of Tommy Thomas is highly regarded for her shipping expertise. Recent matters include successfully limiting liability for damages for shipowner clients at the Court of Appeal. Selvaratnam has also been advising clients on vessel arrests, acting for several bunker supply clients to secure arrest for the recovery of monies."

2010/2011 – Shipping category

"Sitpah Selvaratnam is a respected shipping specialist, with charterparty disputes and collision claims a key part of her practice."

2007/2008 – Dispute Resolution category

"Tommy Thomas is a very well thought of litigation boutique, boasting the 'foremost' Tommy Thomas and the 'brilliant' Sitpah Selvaratnam."

2007/2008 – Shipping category

"Sitpah Selvaratnam at Tommy Thomas enjoys a good reputation in contentious and non-contentious shipping-related matters."

2006/2007 – Dispute Resolution category

"Sitpah Selvaratnam is also seen as an exceptionally able lawyer."

2006/2007 – Shipping category

"Tommy Thomas has in Sitpah Selvaratnam one of its most technical and experienced partners for shipping-related issues, particularly on the contentious side."

Also ranked in **Who's Who Legal Transport (Shipping)** and singled out by Shipping Transport International published in London in 2008, as a significant maritime personality.

QUALIFICATIONS

| | | |
|--------------|--------|-------------------------------------------------------------------------------------------------------------|
| Diploma | (2008) | Diploma in International Commercial Arbitration – Chartered Institute of Arbitrators, Keble College, Oxford |
| Professional | (1990) | Advocate & Solicitor of the High Court of Malaya |
| | (1989) | Degree of Utter Barrister Honourable Society of Lincoln's Inn |
| Degree | (1991) | LLM University of Cambridge, Cambridge Queens' College Second Class Honours (Upper Division) |
| Degree | (1988) | LLB University of Wales, Cardiff (UWIST) First Class Honours |

EDUCATION

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|-----------------------|--------------------------------------|
| Sept 1990 - June 1991 | University of Cambridge, Cambridge |
| Sept 1988 - June 1989 | Holborn School of Law, London |
| Sept 1985 - June 1988 | University of Wales, Cardiff (UWIST) |
| Mar 1983 - Dec 1984 | Raffles Junior College, Singapore |
| Jan 1978 - Dec 1982 | Bukit Nanas Convent, Kuala Lumpur |

AWARDS AND SCHOLARSHIPS

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| June 1990 | British High Commissioner's Award Kuok Foundation Scholarship |
| June 1988 | University of Wales (UWIST) - Maxwell Award for Best Student, Law Faculty |

June 1987

University of Wales (UWIST) -
Philip E Philip Award for Law of Trusts

RELEVANT EMPLOYMENT

Since Jan 2012

Consultant, Tommy Thomas, Kuala Lumpur

Jan 2000 - Dec 2011

Partner, Tommy Thomas, Kuala Lumpur

Apr 1999 - Dec 1999

Partner, Skrine & Co., Kuala Lumpur

July 1990 - Sept 1990
and Aug 1991 - Mar 1999

Legal Assistant, Litigation Department
Skrine & Co, Kuala Lumpur