



Nik Azila Shuhada Nik Abdullah

Partner since 2023

Dispute Resolution

Shipping & Maritime

Land Acquisition & Town and Country Planning

Regulatory Compliance & Enforcement

Criminal Practice

nik.azila@shearndelamore.com

T +603 2027 2610

F +603 2034 2763

Qualifications

LL.B (Hons), Universiti Teknologi MARA (UiTM)

Advocate & Solicitor, High Court of Malaya

Languages

English, Malay

NIK AZILA SHUHADA NIK ABDULLAH

ABOUT NIK AZILA

Nik is experienced in all aspects of civil and commercial litigation both in court and arbitration. She has acted in a wide range of complex disputes involving commercial, contract and corporate matters.

Nik's shipping and maritime practice encompasses both wet and dry shipping and maritime work. Nik has advised comprehensive range of contentious and transactional matters which include arrest and release of ships and cargo, maritime transportation and insurance, marine cargo and hull / bunker claims, charterparty disputes, ship to ship (STS) transfer licensing, maritime casualty, salvage and collision claims, detention of vessels by authorities, marine environment and regulatory, ship building and registration, maritime liens and mortgages and maritime arbitration. Nik engages a diverse range of maritime clients that include ship owners, cargo interests, charterers, financial institutions, professional and indemnity clubs, shipyards, oil and gas multinationals, ports and maritime authorities, container terminal operators, freight forwarders and logistic companies. Aside from contentious practice, Nik oversees transactional matters such as registration of ocean-going vessels and yards, sale and purchase of vessels, agreements with shipyards from construction of vessel and ship mortgages.

Nik has also had conduct of land-based disputes and for Compulsory Land Acquisition matters, Nik conducts inquiries on behalf of affected landowners or the acquiring party before the Land Administrator under the Land Acquisition Act 1960. In the event of an objection, she undertakes Land Reference hearings and judicial reviews before the High Courts and any ensuing appeals to the appellate Courts. She also appears before the State Appeal Boards in planning permission hearings and appeals under the various town and country planning legislation.

Nik frequently advises on issues on regulatory compliance, relating to anti-money laundering, anti-corruption, breach of trust, and securities legislation as well as represent clients in proceedings brought by the Attorney General's Chambers and the Securities Commission.

Nik also advises on aboriginal / native customary rights and law in West Malaysia which of recent have come into conflict with rights alienated under the National Land Code.

EXPERIENCE

Shipping and Maritime

- Represent Master and 213 crew members of a passenger cruise vessel “MV Oriental Dragon” that was alleged to have been abandoned by its owners. The crew claims for unpaid wages and Master’s disbursements for the period between 2020 – 2021. “MV Oriental Dragon” was a 52-year-old passenger cruise vessel still serving in the industry (one of the oldest in the world). The team was approached by the International Transport Workers' Federation based in the UK to provide urgent legal representation to the 213 crew members and to assist with their claim for unpaid wages and repatriation costs to their home countries namely Ukraine, Myanmar and China. Also represented Maritime Labour Convention Insurers / Underwriters in this present suit.
- Represent a foreign bank to commence numerous and separate legal proceedings on behalf of the Bank against defaulting ship-owners / carriers for breach of contracts of carriage by mis-delivering the cargo of fuel to third parties without the production of original bills of lading which have been earlier pledged to client as security documents. This matter involves filing in rem proceedings and arresting two (2) vessels owned and linked to one of the world’s largest oil trader, Hin Leong Group.
- Acted for a foreign company in the business of chartering of ships, barges and boats with crew (freight) and owner of an offshore support vessel in a claim to recover outstanding hire and expenditure incurred under Time Charter Party.
- Represented the operators of the vessel “Star Pisces” under section 491(B)(1)(l) Merchant Shipping Ordinance 1952. The vessel was detained on 18.4.2021 by the Malaysian Maritime Enforcement Agency whilst she was anchored in the waters of Johor.
- Acted for a foreign bank in a claim for wrongful / mis-delivery of cargo without the production of the original bills of lading still within the Bank’s possessions.
- Acted for one of the largest shipping liners and carrier in the world, in a bunker dispute against a major local fuel supplier for fraudulent short delivery of marine fuel oil to its fleet.
- Represented a shipping liner and carrier in a claim against the Defendant, the owner and/or the demise charterer of the container ship “San Felipe”. The ship collided with another vessel which was berthed alongside her in Port Klang causing substantial damage to both vessels and thereby resulting in a fire on board.
- Acted for an international carrier to defend an action filed by the plaintiff cum shipper for unpaid freight and a declaration that the carrier was without a right of line over the plaintiff’s goods as full freight had been paid to a third-party freight provider which had since been liquidated. The plaintiff contended that since the freight provider was an agent of the carrier and payment of freight to the agent is deemed as payment to the principal/carrier. The carrier counterclaimed from the shipper for unpaid freight and other charges said to be due and owing by the plaintiff/shipper to the carrier in respect of the shipment of the plaintiff’s goods on board the carrier’s vessel as evidenced by 54 bills of lading. The High Court dismissed the plaintiff’s claim and allowed the carrier’s counterclaim with costs.
- Acted for a chemical company to file an application for leave to intervene, set aside the warrant of arrest on the vessel and to discharge its cargo on board of the ship “MT He Xie Hao” which was under arrest at the Kuantan Port. The application was allowed by the High Court.
- Acted for a subsidiary of a listed company in a claim filed by a company incorporated in the Netherland in a claim for breach of Charter Contract of a dipper dredger known as “Enola Gay”.
- Rendered advice on the creation and subsequent enforcement of mortgages to be created over sea-going vessels as the client is contemplating financing the purchase of sea-going vessels.

- Acted for Purchaser, from Beijing in a sale of an accommodation barge SIMGOOD1 registered under the Malaysian Flag and the accommodation barge was mortgaged to a local bank.
- Acted for a private limited company registered with the Dubai Multi Commodities Centre that caters to the freight needs and chartering operations. The company is the Time Charterer of the vessel "CAPTAIN SILVER" which was arrested in Sungai Udang, Melaka on 26.12.2016.
- Advised the receiver and manager of a company in a private treaty sale and delivery of a Malaysian flagged tanker vessel owned by the company to a foreign entity. The receiver and manager was appointed under a debenture instrument inked between the Lending Bank and the Borrower Company. The Lending Bank had arrested the vessel as part of its foreclosure proceedings against the Borrower Company.
- Acted for a major naval shipyard in respect of a breach of two shipbuilding contracts that include warranty claims, arising out the construction of the hulls for two vessels.
- Acted for the largest telecommunication company in the nation in a claim involving damage caused to its submarine telecommunications cable by vessels owned by the adverse party. The preparation for trial entailed engagement of marine expert as well telecommunication cabling experts from Singapore and Canada.
- Acted for a joint venture entity made up of leading petroleum and engineering companies, to represent them in a dispute relating to the transportation and installation of a Guyed Cassion Platform.
- Acted for cargo owners from Tahiti to arrest a vessel as security for cargo owner's claim against the owners. The vessel was arrested by the Sheriff of the High Court within Malaysian territorial waters but subsequently broke arrest. Nik advised clients on enforcement proceedings including committal proceedings by reason of the vessel breaking arrest.
- Acted for a telecommunication company in an admiralty proceeding against owners of barge and tugs for damage occasioned by the tug and barge to the marine cables belonging to clients.
- Advised a company on a bitumen spillage incident on 25.10.2020 during the loading operation of vessel "Mt Lilstella" in Tanjung Langsat Port Terminal.
- Advised a company in Sarawak on its exposure to demurrage claims for the delay in unloading the cargo from different ships within the agreed lay time period due to the Movement Control Order (MCO) imposed by the Malaysian Government pursuant to its powers under the Prevention and Control of Infectious Diseases Act 1988.
- Acted for a company from Beijing in a claim for damages pursuant to breach of contract in respect of the use and hire of the ship / vessel "Hong Bang 6".
- Advised the buyer in a dispute involving sale and purchase of the container ship / vessel "MV PDZ Maju".

Land and Compulsory Acquisition

- Advises and represents State-owned corporations and companies faced with judicial review challenges filed to quash compulsory acquisitions of lands sought by the landowner.
- Represented a state own company in the legal proceedings brought to quash the State Authority's decision to acquire a substantial portion of the lands intended for Independent Deepwater Petroleum Terminals (IDPT) in Pengerang Johor. Succeeded in defending the State Authority's decision to compulsory acquire the land before the High Court, Court of Appeal and ultimately the Federal Court.

- Advised private entities on judicially reviewed compulsory land acquisitions.
- Defended developers of Independent Deepwater Petroleum Terminals Johor, the first in Malaysia and by far the largest in the region in a claim brought by 124 fishermen for various losses including loss of livelihood.
- Advised a petrochemical company in relation to planning permission and development orders pertaining to the construction and maintenance of chemical products produced / manufactured by our client at its local plant in Malaysia. The project contemplated by the client involves a substantial expansion and enhancement of the client's existing integrated chemical sites.

Anti - Money Laundering and Anti Bribery

- Acts for individual or entities that are either investigated or prosecuted by the Public Prosecutor for alleged offences under the Malaysian Anti-Corruption Commission Act 2009 ("MACC Act"). She often advises on the provisions in the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 ("AMLA Act") and in the Penal Code for anti-bribery offences.
- Defended forfeiture proceedings brought by the Public Prosecutor against a media / advertising agency under the AMLA Act 2001.

Regulatory, Compliance & Enforcement

- Regularly gives talks and provides trainings on the MACC Act and the AMLA Act.
- Acted for 41 foreign employees of a company who were celebrating the "Thing Yan" festival within the company's factory. The employees were arrested and charged in Court for breaching the MCO Regulations and were sentenced with fine. Staved off custodial sentence which was prevalent then.
- Acted for an entity with headquarters located in Finland whose factory in Ipoh had been raided by the Ministry of International Trade and Industry (MITI) for allegedly violating MCO directives. Successfully appealed MITI's decision to shut down client's factory operation.
- Represented clients facing prosecution for alleged offences under the Penal Code, the Customs Act 1967, the Occupational Safety and Health Act 1994, the Fire Services Act 1988 and the Moneylenders Act 1951.

Native Customary Law

- Acted for registered owners of large tracks of development land in Johor. The plaintiffs in this action consist of 188 natives called the Orang Seletar and had brought a claim grounded on native customary rights and law in respect of those disputed lands and waters in Johor. Amongst the relief claim by the plaintiff include; a declaration that the alienation of customary land to our clients is null and void; a declaration that necessary steps be taken to ensure that the register of title be rectified to expunge the said alienation; an order that the customary land occupied by the plaintiffs be gazetted as aboriginal customary land and an order for trespass.

Environment law

- Advised and defended a Joint Venture Consortium who were the owners and operators of an Independent Deepwater Petroleum Terminal in connection with a claim by local inhabitants and

fishermen for alleged marine pollution and an environmental harm. Acted alongside the State Government, the other named defendant.

- Advised a foreign bank on liability for marine pollution resulting from spillage or leakage or escape of oil carried or stored on board Floating Production Storage and Offloading Units in Malaysian territorial waters.
- Represented clients against strict liability offences under the Environmental Quality Act 1974.

ACCOLADES

Asialaw Leading Lawyers (2016- 2023)

“Rising Star” in Dispute Resolution & Litigation

The Legal 500 Asia-Pacific (2023)

“Rising Star” in Shipping

APPOINTMENTS/MEMBERSHIPS

- Member, Malaysian Bar
- Member, International Bar Association (IBA)