

John Keough

Partner

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Profile

John Keough's practice focuses on maritime and shipping law and commercial litigation. He has litigated complex maritime, insurance and commercial disputes in state and federal courts throughout the United States. He also has extensive experience in arbitrating maritime and commercial matters. John has served as lead counsel at trial in state and federal courts, and has argued appeals in numerous cases in state and federal courts in New York and in other US courts of appeal. He regularly advises clients in the shipping, commodities and marine insurance sectors on US economic sanctions issues. John also advises and acts for clients in regulatory matters, ship finance, and commercial trading transactions and disputes. He has also advised clients in litigation in foreign courts, including such jurisdictions as Hong Kong, Greece and Italy. He was previously head of a well-respected New York shipping and litigation firm.

John's experience covers a wide array of cases, including disputes arising from cargo loss, commodities trading, international fraud, international sales contracts, marine and inland marine insurance, reinsurance, the arrest and attachment of ships, bank funds and other property, charter party disputes, federal bankruptcy and foreign liquidation proceedings, vessel sales, maritime criminal proceedings against ship owners and seafarers, and the defense of serious personal injury and death cases. John also has handled

the investigation and litigation of major marine casualties, including collisions, sinkings, fires and strandings. He has advised ship owners, managers, charterers, hull and liability insurers, cargo insurers and P&I Clubs. John has also represented major film companies in marine cases and has advised major shipping, commodities trading and food companies in a variety of litigation and transactional matters.

John was selected by his peers for recognition in *The Best Lawyers in America*® 2020 for his work in admiralty and maritime law. John is also recognized by *The Legal 500* as a recommended lawyer in shipping litigation.

Admissions

- New York
- US District Courts for the Southern and Eastern Districts of New York
- US Courts of Appeals for the Second, Third, Fifth and Eleventh Circuits
- Supreme Court of the United States

Education

- J.D., Vermont Law School, 1980
- B.A., with honors, University of Vermont, 1976

Memberships

- New York State Bar Association
- Maritime Law Association (MLA) of the United States, Committee on Practice and Procedure

Experience

Litigation

- Lead counsel in the successful appeal for bunker suppliers asserting maritime liens under US law for bunkers delivered to four vessels, in two test cases selected by US District Court for the Southern District of New York, in which the US Court of Appeals for the Second Circuit vacated the District Court's judgment denying a maritime lien and remanded to the District Court for trial. *U.S. Oil Trading LLC v. M/V VIENNA EXPRESS, et al.*, No. 17-0922-cv, and *Hapag-Lloyd Aktiengesellschaft v. U.S. Oil Trading LLC, et al.*, No. 17-0931-cv, 2018 WL 6626583 (2d Circuit, December 19, 2018); and in prior appeal on jurisdictional issues in *Hapag-Lloyd Aktiengesellschaft v. U.S. Oil Trading LLC*, 814 F.3d 146 (2d Cir. 2016).
- Local and co-lead counsel in a lawsuit in which the US District Court for the Southern District of New York granted summary judgment dismissal in favor of our client-defendants, allowing release of escrow funds under an asset purchase agreement relating to the sale of business developing, manufacturing and marketing Ethernet network infrastructure equipment designed to work on wind turbines in marine and industrial environments). *N-Tron Corp. v. Nicholson*, No. 12 CIV. 3568 GBD, 2015 WL 5305765 (S.D.N.Y. 2015).
- Represented major foreign insurer Itaú Seguros/ACE Group in successfully defending lawsuit in US District Court for the Southern District of New York for declaratory judgment by air carrier for multi-million dollar claim of damage to shipment of pharmaceuticals shipped to Brazil in 2012, obtaining judgment of dismissal on motion in October 2014. *DHL Global Forwarding Mgmt. Latin America, Inc. v. Pfizer, Inc.*, No. 13-cv-8218(KBF), 2014 WL 5169033 (S.D.N.Y. Oct. 14, 2014).
- Represented vessel owners, hull insurers and P&I club in successfully defending against claims by fishing vessel operator for damages of more than \$2 million from collision at sea with M/V Indian Ocean off the

Pacific coast of Ecuador.

- Lead counsel representing steel trader in successful defense against lawsuit by shipowner for interpleader of cargo on vessel at the port of Houston, Texas in October 2014, refusing to deliver steel cargo, and obtaining dismissal on a motion in November 2014. *Owl Shipping LLC v. Dalian Suntime Int'l Transp. Co., Ltd.*, No. G-14-270(EW), 2014 WL6610788 (S.D. Tex. Nov. 20, 2014).
- Lead counsel for plaintiff in lawsuit in successfully obtaining trial verdict for theft of a shipment of electronics at a storage facility at Miami in 2012, before the Chief Judge of the US District Court for the Southern District of Florida in Miami, achieving judgment in favor of clients in October 2013 and in obtaining affirmance on appeal in the Eleventh Circuit in January 2014. *LIG Ins. Co. Ltd. v. Inter-Florida Container Transport, Inc.*, No. 12-20990-CIV(FAM), 2013 WL4516104 (S.D. Fla. Aug. 23, 2013); *LIG Ins. Co. Ltd. v. Inter-Florida Container Transp., Inc.*, 564 Fed.App'x. 495 (11th Cir. 2014).
- Represented vessel owners and P&I club in successfully defending lawsuit in federal court in Miami to enforce multi-million dollar bank guarantee, for release of ship from arrest in France, by obtaining dismissal of case on motion in 2013.
- Lead counsel for international oil trading firm in successful defense of multi-million dollar claims for breach of sales contracts and recovery of damages in arbitration and lawsuit in federal district court in New York in 2013.

Transactions

- Lead maritime counsel in the United States closely advising two leading private equity funds during 2014 in connection with a financing transaction (valued at more than \$100 million) to acquire a fleet of offshore support vessels, advising on maritime, pollution and environmental risks.
- Lead maritime counsel in the United States advising owner of global cruise line in successfully concluding a multi-billion dollar transaction in 2014, including financing for fleet of luxury cruise ships, and coordinating closing and advice with lead counsel in our London office.

Sanctions

- Lead US counsel advising on US sanctions for P&I Clubs (including the International Group of P&I Clubs), interested hull insurers and Glencore in ongoing engagement from May 2015 through January 2020 with OFAC and the US Department of State in respect to claims by the Government of Iran for more than \$700 million arising from an allision of the M/T ALPINE ETERNITY with an Iran-owned oil rig in the Persian Gulf and an attack by Iran on the ship in May 2015, one of the largest sanctions matters ever for the IG P&I Clubs.
- Lead US counsel advising major vessel owner, manager and operator on US sanctions compliance and risks, and representing clients with OFAC and US State Department, in respect to their fleet of ocean vessels chartered to a sanctioned entity, and related advice on sanctions in resolving charter party disputes and coordinating with OFAC the successful withdrawal of management, registry, charter and operation of the vessels during March 2019 through the present.
- Lead US counsel advising leading owner/operator of vessels and their leading Lloyd's London-based insurers in successfully securing safe release of the ship's captain and multiple crew members who were kidnapped at gunpoint from the ocean vessel by pirates during attack off Cameroon in August-September 2019, on US sanctions and sanctions coverage issues, and obtaining emergency time-sensitive clearances from Nigerian authorities and US Treasury/OFAC.
- Lead US counsel advising P&I insurers on US sanctions issues arising from claims for damages resulting from multiple collisions of ocean vessel in the Suez Canal in July 2018.
- Lead US counsel advising major Chinese bank as lender on a multi-billion dollar sale and lease transaction to finance ocean product tankers for operation in foreign trade, and advising on US

Ukraine/Russia sanctions risks and related negotiations of various charter parties during January-February 2018.

- Represented major international trading company in 2014, advising on commercial, bill of lading and regulatory issues related to US trade sanctions in multimillion dollar purchase and sale contracts for ocean shipment of commodities, and successfully negotiating resolution.
- Advised commodities trading companies during 2014 on sanctions issues and related risks on Iran, Russia, Syria, Cuba and other sanctions regimes.
- Moderated panel in September 2014 on recent developments in fuel oil markets and impact of Iran and Russia sanctions at the Global Commodities, Energy and Freight Forum in New York City, and co-authored article on sanctions issues published in the Forum's journal, *The Perils of Causing a Counterparty to Breach US Sanctions*.
- Coordinated attendance in September 2014 for shipowners' P&I Club interests/clients at a sanctions conference hosted in the firm's London office for maritime, insurance and commercial trade representatives covering US and EU sanctions on Iran and Russia, with senior US government officials on finance and sanctions of US Bureau of Economic and Business Affairs, on compliance programs of the US Office of Foreign Assets Control, and on terrorism and financial crimes of the US Treasury Department.

Illustrative Experience

- Prevailed at trial and on appeal in defense of former officer and director of insurance brokerage firm, obtaining directed verdict dismissing multi-million dollar claims by bankruptcy trustee for alleged breach of fiduciary duties.
- Lead counsel for international oil trading firm in successful recovery of damages against major oil company for breach of commodities trading contracts arising from oil terminal operations, including recovery of attorneys' fees and costs.
- Lead counsel of international legal team in *The Coral Sea* case in the successful defense of an innocent ship's captain and two crew members wrongly arrested and tried in Greece on charges of drugs found in cargo, and in representing the ship owner in successfully releasing the M/V Coral Sea from seizure by the Greek authorities. Defense verdict of innocent after trial for two crew members and the ship owner in July 2008 and appeal verdict after a retrial, overturning the conviction of the ship's captain in November 2008.
- Lead counsel for successful defense of ship owner and manager by dismissal on summary judgment of serious personal injury claim by longshoreman for hand crushed loading cargo container on ship at New York Container Terminal. *DeBiase v. Cat Island Shipping, Ltd.*, 2009 WL 3077193 (E.D.N.Y. 2009).
- Prevailed for ship operator and major fruit importer in obtaining preliminary injunction in US District Court against New York container terminal, after an evidentiary hearing, preventing terminal from refusing to discharge ships carrying fruit to the New York metropolitan and northeast markets. *South Pacific Shipping Co., Ltd. v. New York Container Terminal, Inc.*, 07-cv-06317 (RJH) (S.D.N.Y. August 27, 2007).
- Counsel of record representing a mutual fund company's senior executive in resolving investigations by the New York Attorney General and the SEC concerning so-called "market-timing" practices, and advising in defense of multiple class actions and derivative actions.
- Represented fruit company importers and their cargo insurers in recovering multi-million dollar settlements for cargo losses during voyages to various ports around the world, including US east and west coast ports and ports in Germany, Italy, the Mediterranean, China, New Zealand and Japan.
- Successfully defended US Military Sealift Command ship's owner against claims of racial discrimination by ship's officer by obtaining summary judgment dismissal of claims in US District Court in Houston and in the Fifth Circuit Court of Appeals.
- Represented foreign ship owners and their P&I insurers in successfully defending and settling claims for

cargo losses on voyages to US and foreign ports.

- Represented ship owner and P&I insurers in successful defense and settlement of wrongful death and products liability claims by family of ship's officer who died after explosion in engine room on refrigerated cargo ship on high seas.
- Represented foreign fruit importer in successfully defending class action litigation against all major fruit importers (including co-defendants Chiquita Brands International, Dole and Fresh Del Monte), seeking millions of dollars in damages for alleged price-fixing and anti-trust claims in federal court in Miami in 2007.
- Counsel of record in successfully defending major insurance companies in the United States in obtaining dismissal on summary judgment of a \$30 million claim for the sinking loss at sea of a shipment of Thai statues of Buddha and fablegods, based on the insured's failure to disclose a material fact to the insurers. *Knight v U.S. Fire Insurance Co.*, 804 F.2d 9 (2d Cir. 1986), cert. denied, 480 U.S. 932 (1987).
- Prevailed for major aluminum company and its insurers in effecting multi-million dollar recovery for cargo loss in the collision of the M/V Explorer with the M/V Qarouh, which sank in the Atlantic Ocean off the Florida coast.
- Counsel of record for ship owner in successful appeal in a leading case on burdens of proof under the US Carriage of Goods by Sea Act, reversing the district court's judgment after trial and dismissing the complaint. *Caemint Food, Inc. v. Lloyd Brasileiro*, 647 F.2d 347 (2d Cir. 1981).

Sectors



Marine: Casualty



Marine: Charterparties



Marine: Insurance



Marine: Superyachts



Trade & Commodities

Services



Commercial



Commercial Litigation & ADR



Regulatory & Investigations:
Sanctions

Regional experience



The Americas