

**Off To London And Arbitration. Nfld Court Of Appeal Overturns Lower Court’s Refusal To Grant Insurer Stay Of Canadian Proceeding**

<b>Reported Case:</b>	Midnight Marine Ltd. v. Lloyd’s Underwriters
<b>Citation:</b>	2010 NLCA 64
<b>The Court:</b>	Newfoundland and Labrador Court of Appeal
<b>Judgment Rendered:</b>	October 22, 2010
<b>At Issue:</b>	Whether proceeding should be stayed.
<b>Factual Summary:</b>	Cargo on insured’s barge and towed by insured’s ship was lost during voyage. Owner of cargo commenced action against insured and the parties settled. Insured sought payment from insurer, ultimately bringing action in Newfoundland and Labrador courts. Insurer applied for stay of proceeding. Insurance certificate provided that policy was subject to English law and to non-exclusive jurisdiction of English courts. However, specific clause in policy provided that disputes were to be referred to arbitration in London and that clause prevailed in event of conflict between it and other provisions.
<b>At Trial:</b>	Judge hearing application concluded that clause was not exclusive jurisdiction clause. Insurer appealed.
<b>On Appeal:</b>	Appeal allowed. Applications judge failed to apply proper principles of contractual interpretation. Clause clearly and “unambiguously expressed the intention of the parties to have any dispute arising under the policy referred exclusively to arbitration in the first instance.”