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JOHN ROWLAND Q.C.

Qualifications

BEcon (University of Western Australia)
LLB (London)
Year of Call 1979
Queen's Counsel 1996
Also admitted to practice in New South Wales and Victoria
Registered to appear before the Dubai International Financial Centre Courts

ADR

Arbitrator/Mediator
Member ADR Chambers

Publications

Contributing editor to *Professional Negligence and Liability*; chapter on Underwriting Agents

Recommendations

John Rowland is recommended in Legal 500, Chambers and Partners and Legal Experts where the following descriptions appear:

- an advocate of the highest order
- user-friendly and very able
- demonstrating good commercial sense and striking a good rapport with judges
- arbitrators and judges always warm to him
- clients like him for his commercial understanding of their needs
- tough stuff; he handles vigorous demanding cases with the utmost ease
- renowned as an irrepressible enthusiast
- the commercially astute John Rowland is known as a very effective court room operator

Practice

John has an extensive commercial practice with particular focus on:

- insurance and reinsurance disputes and general advisory work
- national and international energy projects

- construction projects, particularly engineering and mining projects
- commercial disputes
- international arbitrations

He also sits as an arbitrator on a wide range of disputes as well as acting as a mediator.

Insurance and reinsurance

John's practice in this area has involved him in almost every major topic of interest to the London and North American markets over the last 20 years. He has extensive experience with US product liability disputes including asbestos related illnesses, health and toxic torts and environmental claims.

His experience in these areas runs from direct claims to large reinsurance treaty disputes. He was involved in most of the Lloyd's names actions, disputes over the implementation and development of the Wellington Agreement and the Lloyd's reconstruction plan.

He has extensive knowledge of the London market and Lloyd's as well as the reinsurance markets in Bermuda, the USA and Australia. He has acted for most of the major reinsurers in the London market, a significant number of US insurers and many European reinsurers and insurers.

In recent years his cases have included:

- Advising a number of large insurers on D&O coverage in the wake of the global economic and banking crisis with particular emphasis on Insured v Insured clauses, aggregation and fraud/dishonesty clauses;
- Numerous disputes arising out of Business Interruption claims including two very large claims involving flooding of mines in Queensland and Western Australia;
- Disputes arising under Delay in Start Up/Liquidated damages policies for large construction projects;
- Major finite reinsurance disputes including claims under one of the world's largest single policies for reinsurance of asbestos-related claims for a major asbestos producer;
- Several residual value policies including a major dispute concerning a very large fleet of leased motor vehicles and a number of policies written in Bermuda covering aggregate losses;
- A dispute concerning a reinsurance protecting the future estimated income from a leased aircraft fleet of more than 400 aircraft;
- Involvement with many of the problems associated with insurance company insolvencies. He has advised on schemes of arrangement and coverage issues associated with long tail business. These have involved cross border insolvencies involving England and USA, Australia, Bermuda and Singapore;
- A significant number of disputes over trade credits/political risk insurance. In recent years he has been involved in several arbitrations concerning non-payment and confiscation and expropriation claims (for example in relation to sugar losses in Cuba, timber concessions in Africa, infrastructure investments in Argentina following the Argentine crisis of 2001/2, infrastructure assets in Chile and several claims relating to non-payment arising from former eastern bloc countries) as well as losses arising out of civil war;
- Disputes involving the provision of insurance cover for film financing;
- Litigation in relation to coverage for an expropriation/confiscation claim in respect of the shut-down of the Dabhol power plant in India;

- A damages claim for delays caused by defective work in respect of an Australian mining and mineral processing plant;
- Insolvency recoveries;
- Several major market arbitrations involving Workers' Compensation coverage, personal health and accident coverage and similar issues.

His work also includes advisory work on policy wordings, treaty wordings and considering the interpretation of policy terms. He has advised Lloyd's on regulatory issues and represented brokers and underwriters before Lloyd's Disciplinary Committee and Appeal Tribunal.

In addition to acting directly for parties to insurance and reinsurance coverage disputes, John Rowland is prominent in professional negligence disputes for a variety of professionals involved in the insurance and reinsurance field. He has frequently represented auditors, underwriting agents and brokers where their professional competence has been under attack. In the same context he has represented insureds in claims against insurance intermediaries where insurance coverage has been deficient or where advice given has been inadequate.

Commercial disputes

Allied to his considerable practice in insurance, John has acted in a number of commercial disputes involving financial transactions, often involving insurance aspects. Particular cases have involved advising on questions of insurable interest in derivatives including credit default swaps and CDOs, disputes over foreign exchange derivatives and back-to-back foreign exchange transactions, securitization of assets using stochastic modelling, advising on fraudulent Collateralized Debt Obligations/Collateralized Mortgage Obligations transactions, banking claims on fidelity policies and fraudulent securities. Other arbitrations have involved oil futures, long term take or pay agreements, commodities and back-to-back trade agreements.

National and international energy projects

John has had a long involvement with energy projects dating from the 1980s when he was retained by British Gas to advise on its "Take or Pay" contracts in the North Sea.

Since then he has been involved in major arbitrations in connection with desalination plants, electricity generating plants, gas platforms and nuclear power. These disputes have ranged from aspects of computer control, load shedding capabilities, manufacturing faults in turbines and disputes over Power Purchase Agreements and performance warranties.

He advised on the much publicized Dabhol Power plant in India, essentially on the insurance and reinsurance aspects of the project and acted for the employer in a major arbitration in Australia concerning defects in an unmanned gas platform located in the Bass Strait and its associated onshore processing facility.

He is currently advising on a claim involving the failure of turbines in a major electricity generator in the Gulf.

Construction, Mining and IT Projects

John's professional negligence work has expanded beyond the insurance field to encompass claims involving large construction projects, mainly in the mining/processing and power sectors. He has acted for power plant owners and operators in claims against contractors arising from disputes concerning performance of the plant (see above).

In addition he has been involved in a number of disputes over engineering projects both on behalf of

employers and contractors. These include computer control problems, performance of mechanical equipment installed and process design. He had a four year involvement in an arbitration concerning the design and construction of a large nickel and cobalt facility in Australia having originally represented the client in an arbitration with insurers over the liquidated damages insurance coverage dispute.

Other cases have involved environmental clean up contracts, off shore patrol boats for military use, computer aided training equipment and a carbon black facility in India.

Outside of the professional negligence area, he has been involved in major arbitrations concerning commercial disputes in the construction and mining industries (see below) and in the IT Sector. He was instructed in a substantial ICC arbitration concerning a dispute for \$100 million dollars arising from the failure of a computer system to perform dynamic optimisation. The arbitration involved four hearings totaling sixteen weeks.

International arbitration

John's insurance, energy and mining practice has inevitably resulted in his involvement in many high value and high profile international arbitrations. He has been involved as counsel in arbitrations in England, France, Switzerland, Bermuda, Singapore, Australia, Spain and the USA.

These have included large mining disputes, large construction disputes and commercial disputes involving long term commodity transactions or financing arrangements. In the latter area he has had cases involving "take or pay" contracts covering mineral resources, losses arising from forward exchange transactions and hedging operations and sales of assets.

He is familiar with all the major international arbitration bodies and their rules. Many of his arbitrations have been conducted under the auspices of the ICC and LCIA.

Arbitral and mediation appointments

John is frequently appointed as arbitrator in a variety of disputes. His appointments have ranged from party appointed arbitrator, chairman and appointment as sole arbitrator.

Recent appointments have included appointments as sole arbitrator in a dispute concerning a computer simulator, sole arbitrator in a dispute concerning the sale of a large international insurance and reinsurance company, sole arbitrator in a large commission claim, chairman appointed by the LCIA in an arbitration concerned with a dispute over telecommunications components, chairman in an LCIA arbitration involving political risk insurance of a gold mining operation in the Pacific and as party appointed arbitrator in an ICC arbitration involving mining operation in Uganda. Within the insurance field he has been appointed as chairman or party appointed arbitrator in many London market insurance arbitrations, including involvement in the WCA/personal accident spiral disputes still prominent in the London market; reinsurance disputes concerning Life treaties. He has been appointed to a number of Bermuda form arbitrations. He has also been chairman of a panel appointed by ARIAS in a reinsurance dispute in the USA and in several other USA based insurance arbitrations has been a party appointed arbitrator. In addition he has been appointed to sit on arbitration panels in Paris, Australia, Germany and Singapore.

He recently successfully mediated a coverage and quantum dispute involving insurers, insured and brokers.