
GBRW

EXPERT WITNESS



Introduction

GBRW Expert Witness Limited is a specialised company based in the City of London which provides expert support, in the form of expert reports and/or advice, on banking, insurance and financial sector issues. Our directors and associates engaged by us have been instructed in more than 500 disputes over the past ten years. These have involved banking, investment management, insurance, derivatives and related areas.

Five of our directors - Paul Rex, David Croft, Tim Dowlen, David Ellis and John Turnbull - are active as experts and our pool of around 50 experienced associates is probably the widest in the UK for financial sector cases.

Our experience includes civil and criminal court proceedings, arbitrations and mediations and our experts have given evidence in jurisdictions which include England and Wales, Scotland, Australia, Bahamas, Cayman Islands, Dubai, France, Hong Kong, Ireland, Jersey, Poland, New Zealand, Singapore and Sweden.

Martin Edwards, our Director, Asia, is based in Singapore and is responsible for our relationships with law firms in the region, especially those in Hong Kong and Singapore.

Finding The Right Expert

Law firms looking for expert witnesses or advisers in financial sector litigation face a number of challenges:

- ❑ Identifying the right expert in a specialised discipline
- ❑ Developing a short list of suitable candidates on a discreet basis
- ❑ Avoiding individual experts “shoe-horning” themselves into roles for which they are not properly equipped
- ❑ Assessing individuals’ strengths and weaknesses and prior track records

Our experience - as experts ourselves and from working with our associates over an extended period - normally enables us to propose one or more candidates whom we consider the best equipped to address specific issues on which expert evidence is required. On occasions, we may suggest using more than one expert where the requirements of the case cannot be covered by a single individual.

Our consulting activities also enable us to identify potential “new” experts, particularly when recent industry experience is important. These will not appear in the usual expert directories and websites and we invest a lot of time to help develop them in the expert role.

Where individuals have had little or no prior experience, we assist them where necessary with research and presentation issues and carry out a detailed critical review of their first draft and final reports. If required, we can also help prepare experts for cross-examination.

Contractual Approach

When an expert is selected, GBRW Expert Witness signs an engagement letter with the instructing law firm and a matching engagement with the expert concerned. The law firm issues a letter of instruction directly to the expert and communicates directly with him or her from that point.

Billing is on an hourly basis, with supporting time records. We do not make any charge for the expert search.

Our Experience

Paul Rex oversees GBRW Expert Witness's activities. He has dealt personally with a range of areas which include lending and credit approval procedures, trade finance and other forms of specialised lending. He has given oral evidence in several cases, most recently in a London Arbitration (2015), IRD v Westpac New Zealand (2009, High Court of New Zealand) and KBC & BOTM UFJ v Ferrero & Others (2009, High Court).

David Croft has given evidence in a number of high value cases involving structured finance, complex investment products, capital markets and bank treasury/risk issues. His oral evidence includes Thornbridge Limited v Barclays Bank PLC (2015, High Court), Alliance Bank JSC v Metropol (Cyprus) Ltd (2013, LCIA), Central Bank of Ecuador v Contincorp/Ortegas (2010, Supreme Court, Bahamas) and Deutsche Bank Group Services (UK) v Commissioners for HMRC (2010, Tax and Chancery Chamber).

Tim Dowlen is a former Senior Examiner in Liability Insurance for the Chartered Insurance Institute and an experienced insurance broking expert who also practices as an insurance broker. He has been instructed in more than 100 cases (including six court appearances) and oversees the development of GBRW EW's insurance work.

Dr David Ellis has given testimony in cases involving fixed income, derivatives, structured finance, credit analysis, trading patterns in Libor and other interest rate benchmarks, the CDS market and the FX market and the impact of illiquidity on securities prices. Recent cases have included Shah v HSBC (2012, High Court), CRSM v Barclays (2010, High Court), IRD v Westpac (2009, High Court of New Zealand), ConEd v United States (2008, U.S. Court of Federal Claims), Boeing v. Airbus (2008, WTO).

Formerly Joint General Manager and Global Head of Structured Trade and Commodity Finance at Sumitomo Mitsui Banking Corporation Europe, **John Turnbull** has acted as expert witness in a number of high-profile trade finance legal cases. He has been Chair of the Association of Foreign Banks Trade Finance Committee, Chairman of the ICC UK Banking Committee and a member of the ICC Banking Commission Global Financial Crime Committee.

Our Clients

We have been engaged by 75% of the Legal Week Top 50 UK firms and overseas practices. Brief descriptions of some current and past assignments can be found overleaf. Our clients include:

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|---|--|
| <input type="checkbox"/> Addleshaw Goddard | <input type="checkbox"/> Kennedys |
| <input type="checkbox"/> Allen & Overy | <input type="checkbox"/> Linklaters |
| <input type="checkbox"/> Arthur Cox (Dublin) | <input type="checkbox"/> McCann Fitzgerald (Dublin) |
| <input type="checkbox"/> Ashurst | <input type="checkbox"/> Mills & Reeve |
| <input type="checkbox"/> Baker & McKenzie | <input type="checkbox"/> Norton Rose Fulbright |
| <input type="checkbox"/> DAC Beachcroft | <input type="checkbox"/> Quinn Emanuel |
| <input type="checkbox"/> Berwin Leighton Paisner | <input type="checkbox"/> RPC |
| <input type="checkbox"/> Clifford Chance | <input type="checkbox"/> Simmons & Simmons |
| <input type="checkbox"/> Collyer Bristow | <input type="checkbox"/> Signature Litigation |
| <input type="checkbox"/> CMS Cameron McKenna | <input type="checkbox"/> Simpson Grierson (Auckland) |
| <input type="checkbox"/> Clyde & Co | <input type="checkbox"/> Slaughter & May |
| <input type="checkbox"/> DLA Piper | <input type="checkbox"/> SNR Denton |
| <input type="checkbox"/> Eversheds | <input type="checkbox"/> Stewarts Law |
| <input type="checkbox"/> Herbert Smith Freehills | <input type="checkbox"/> Taylor Wessing |
| <input type="checkbox"/> Freshfields Bruckhaus Deringer | <input type="checkbox"/> Withers |
| <input type="checkbox"/> Irwin Mitchell | <input type="checkbox"/> WongPartnership (Singapore) |

Banking

Derivatives: Disputes over derivatives contracts, including interest and currency swaps; assessing actions taken by parties; regulatory issues; use of models and input data; analysis of alternative scenarios; and calculations of quantum.

Commercial property lending: Prudent approval procedures; contributory negligence; relationships between banks and their professional advisors; loan to value ratios; use of interest swaps/options; Mortgage Indemnity Policies; loan documentation; and reckless/negligent lending.

Syndicated lending: Duties of an Agent bank; litigation between syndicate members and Agent; interpretation of loan documentation; secondary market trading in distressed debt; and different mechanisms for risk participation.

Residential property lending. Market conditions at various points and their impact on loan to value ratios; buy to let mortgages; non-status mortgages; the role of mortgage brokers.

Employment issues: Loss of earnings following road traffic and other accidents; performance bonus disputes; severance claims; industry norms for employee benefit packages.

Trade finance: Financing approaches; contributory negligence issues; pre-financing in emerging markets; bank' responsibilities when presented with fraudulent documents; use of Bills of Exchange; banks' duties to clients; responsibilities of a negotiating bank to an issuing bank; credit evaluation and monitoring procedures.

Banking operations: Advice on a range of branch and head office issues, including Know Your Customer and Anti-Money Laundering procedures; use of debit and credit cards; the operation of the Direct Debit system; international funds transfers; and cheque, electronic payment and ATM frauds.

Borrowing frauds: Expert reports dealing with high value claims against corporates whose officers entered into fraudulent borrowing facilities with a range of banks. Areas covered include credit analysis and approval procedures, due diligence and KYC/AML procedures in different jurisdictions.

Structured finance: Project and limited recourse approaches; use of Single Purpose Companies and Special Purpose Entities in securitisation; analyses of tax-based financing structures, including credit, funding and risk-rating issues.

Investment

Investment manager's responsibilities: Appropriateness of investments made; customers' risk appetites and fact finding; execution of instructions; and whether regulatory requirements have been met.

Complex investments: Investment instruments involving derivatives; securitisation; credit support mechanisms; leverage; split caps; traded endowment policies; and complex structures.

**Investment
(continued)**

Quantum calculations: Calculation of quantum for alternative portfolios or investment scenarios; valuations of existing or assumed portfolios at various past dates; impact of losses of tax relief or of pension fund constraints.

Fraud: Cases involving the roles and responsibilities of parties such as wealth managers, IFAs, custodians, auditors and other professional advisers in situations where fraud has taken place.

Investment performance: Performance analysis across a wide range of investment portfolios (UK and non-UK equities, bonds, structured investments and derivatives), benchmarked to historic data and/or performance targets.

Market practice: Trading practices and settlement procedures.

Insurance

Broking: Brokers' duties to clients on preparation of proposals, notification of insured events and other communications with underwriters for a wide range of policies, including commercial all risks, professional indemnity, directors and officers, marine cargo, intellectual property and title insurance .

Avoidance: Reports for both insured parties and underwriters in cases where underwriters are seeking to avoid a policy, commenting on the grounds put forward for avoidance, whether cover would have been available on a full disclosure and, if so, what impact this would have had on premium levels.

Disputes between insurers: Commentary on claims made under policies involving a number of insurers and reinsurers, including market practice in handling claims; allocation of costs and liabilities; and disputes between lead insurers and reinsurers.

Personal insurance cover: cases involving life and health insurance, residential property insurance, PPI and motor claims.

Website

Our website at www.gbrwexpertwitness.com provides further information on our activities, including a series of Briefing Papers on disputes in different fields and our semi-annual newsletter, *Expertise*.

**Contact
Us**

To discuss any requirements for expert evidence or advice, please contact any of our directors at:

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