

EXPERTISE

The Newsletter of GBRW Expert Witness

Sharp rise in investment dispute engagements

Our latest analysis of enquiries in our core business areas of banking, investment and insurance is shown below. The first pie chart covers the period from January 2013 to June 2014 (about 200 enquiries) and the second, July 2014 to July 2015 (about 150 enquiries).

The pattern is similar for both, with one major exception. Enquiries about investment disputes, which had fallen from 21% to 14% in the previous period, have increased sharply to 24%.

The focus of many disputes has moved from investment underperformance (a continuing feature since 2008) to a broader range of issues, including pension valuations in marital disputes, regulatory

questions and custody and fiduciary issues.

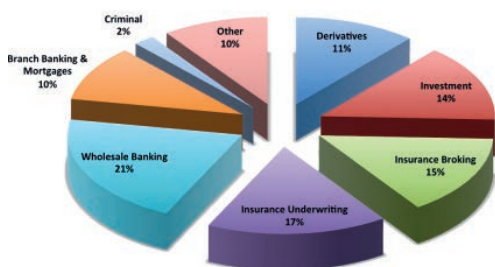
Most wholesale banking disputes (18% of enquiries) still involve commercial property lending and trade finance, while insurance cases (36% of enquiries, covering broking and underwriting) remain at around one third of our workload.

As always, we are on standby to respond as quickly as possible to lawyers seeking experts as they return from their holidays!

Paul Rex

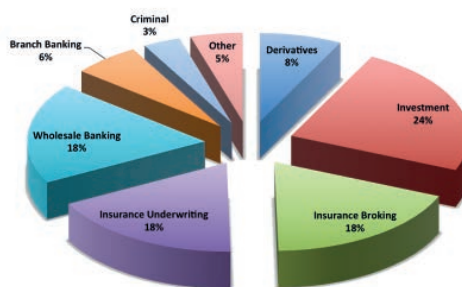
Managing Director
GBRW Expert Witness
August 2015

Pattern of enquiries: 2013-14



GBRW Expert Witness: Enquiries for 18 months ending June 2014

Pattern of enquiries: 2014-15



GBRW Expert Witness: Enquiries for 13 months ending July 2015

A reminder that we moved in March...
...and changed our telephone number. Please see contact details below.

New experts

We continue to add new experts to ensure that we are able to offer recent and relevant experience. In the insurance field, these have included new broking and underwriting experts, including life assurance and motor underwriting; in banking, foreign payments and interest, foreign exchange and equity derivatives; and in the investment field, Asian market and financial institution equity specialists.

Enquiries

GBRW Expert Witness Limited
Paul Rex, Jeremy Denton-Clark,
David Croft, Tim Dowlen
Level 17, Dashwood House
69 Old Broad Street
London EC2M 1QS
T: +44 (0) 20 7562 8390
F: +44 (0) 20 7681 2012
E: experts@gbrowexpertwitness.com

Website: www.gbrwexpertwitness.com
Singapore office:
Martin Edwards, Director Asia
E: martin.edwards@gbrwexpertwitness.com
T: +65 9623 1657



Areas of Expertise include:

BANKING & FINANCIAL

- Corporate Lending
- Personal Lending
- Risk Management
- Investment Banking
- Corporate Finance
- International Banking
- Correspondent Relationships
- Commercial Property
- Residential Mortgages
- Syndicated Lending
- Loan Workouts
- Recoveries and Realisations
- Back Office Procedures
- Trade Finance
- Letters of Credit
- Leasing
- Credit and Debit Cards
- Know Your Customer
- Anti Money Laundering
- Anti Terrorist Financing

INVESTMENT MANAGEMENT

- Investment Services
- Investment Advice
- Fund Management
- Structured Investment Funds
- Stockbroking
- Hedge Funds
- Options, Swaps, Derivatives
- Treating Customers Fairly
- Pensions

FINANCIAL MARKETS

- Money Markets
- Commodities Markets
- Securities Trading
- Financial Instruments

INSURANCE

- Property Insurance
- Professional Indemnity
- Life Assurance
- Broking
- Underwriting
- Reinsurance
- Regulation
- Actuarial Issues
- Loss Adjustment
- Treating Customers Fairly

BUSINESS FINANCE

- Limited Companies
- Partnerships
- Private Companies
- Sole Traders
- Mergers & Acquisitions
- Treasury Management
- Sales of Businesses
- Property Finance
- Business Planning
- Company Valuation
- Venture Capital

OTHER AREAS

- Employment Disputes
- Loss of Earnings
- Compensation Calculations
- Arbitration and Mediation

Title indemnity insurance can transfer risk for clients – but lawyers should beware of creating new risks for themselves



Brian Chrystal is a Scottish qualified lawyer, economist and expert witness in insurance matters. He has direct underwriting experience with major UK insurers and has developed innovative insurance structures in Eastern Europe and elsewhere. Brian is technical director of IREDD (Intelligent Real Estate Due Diligence Ltd).

Even the best property lawyer cannot expect to remove all the uncertainties which can affect a real estate transaction. “Uncertainty” may mean doubts about ownership, about a buyer’s ability to use the land for the intended purpose, or about its acceptability as security for a lender.

Looking for a solution takes time, costs the client money, and may not give a conclusive result. Clients have short memories – a risk which client and lawyer considered acceptable on the way in to the transaction may become contentious if it affects terms at exit. For peace of mind, risk needs to be identified and transferred away from both client and lawyer.

Title indemnity insurance is a proven and cost-effective way of identifying and encapsulating the risk created by uncertainty and of transferring the risk of a damaging financial outcome to a third party. Properly used, title insurance can help transactions complete on time or, in some cases, at all. It can give both client and lawyer greater confidence that the asset will be acceptable to a subsequent purchaser and a lender, and that its value will be protected.

Properly used, title insurance can help transactions complete on time or, in some cases, at all.

The lawyer needs to be aware that insurance may be the best approach but, crucially, also needs to be careful how the solution is applied. To do its job effectively, any title insurance needs to pass a few simple tests. In effect, the lawyer who takes on the job of obtaining insurance may be deciding that:

- the problem is properly expressed as an insurance risk and the policy requested is suitable (but is the risk the lawyer has asked to be covered the real root of the problem?)
- the insurer chosen is the best in the circumstances (but could another insurer have offered a better solution?)
- the cover meets the client’s current and likely future needs (but will the policy respond in the way the client expects?)
- the level of indemnity is sufficient (but does it represent the whole extent of the property which may be affected?)
- the structure of the indemnity is appropriate (but should it also cover delay cost and revenue losses as well as capital loss?).

Lawyers do not receive training in this area other than insurers’ occasional CPD sessions, so their potential exposure is obvious if a client facing a loss decides that the lawyer neglected to give thought to all of these criteria.



GBRW Expert Witness in Asia

We opened our Asia Regional Office in Singapore in 2011. Martin Edwards, our Director Asia, has more than 27 years of banking

experience in Asia, during which he was based in Singapore and Hong Kong.

Our focus in Asia matches that in London: providing banking, investment and insurance experts to international and local law firms in Singapore, Hong Kong and Kuala Lumpur.

Dispute resolution in these countries involves both court proceedings and arbitration. The most prominent centres for arbitration are the Singapore International Arbitration Centre and the Hong Kong International Arbitration Centre. The activity of the Kuala Lumpur Regional Centre for Arbitration is growing, while the Singapore International Commercial Court offers dispute resolution within a court-based mechanism.

GBRW Expert Witness targets all these institutions. While many of our UK-based experts have extensive international experience, we are also building a pool of Asia-based experts who have the advantage of local presence and experience.

Background briefing papers

GBRW Expert Witness produces briefing papers for the topics on which we are approached most often. The series includes:

- Instructing an expert
- Commercial property lending disputes
- Insurance disputes
- Interest rate swap disputes
- Investment disputes
- Trade finance disputes

The briefing papers can be downloaded from
www.gbrwexpertwitness.com/Expert-Witness/briefings

GBRW Expert Witness

Our directors and associates contracted by us are instructed as experts in banking, investment and insurance disputes. We advise on civil and criminal court proceedings, arbitrations and mediations in jurisdictions including England and Wales, Scotland, Australia, Bahamas, Cayman Islands, Hong Kong, Ireland, Jersey, New Zealand, Singapore and Sweden.