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John McCaughran KC

Barrister
Call 1982 Silk 2003

Scope of Practice

• Arbitration • Commercial Litigation • Energy and Natural Resources • Banking and Financial Services • Civil Fraud and Investigations • Constructive Trusts • Insurance and Reinsurance • Jurisdiction and Conflict of Laws • Professional Liability • Fine Art Litigation

Overview

John McCaughran's practice covers a broad spectrum of commercial litigation and arbitration, with an emphasis on banking and finance, energy/oil and gas, and civil fraud cases.

He is an experienced advocate, regularly appearing before the UK Courts at all levels and he is also called to the Bars of the British Virgin Islands (BVI) and the Cayman Islands.

John has also conducted arbitrations before a wide range of arbitral tribunals, often with a foreign seat and he is familiar with the rules particular to a variety of institutions, including ICC, LCIA, SCC and UNCITRAL.

Recent notable cases include: ***Singularis Holdings Ltd (In Liq) v Daiwa Capital Markets Europe Ltd*** (with Michael Watkins) defending a claim in the Chancery Division (Financial List), which has now been before the Supreme Court on appeal, against a broker for c. USD 204 million arising out of a stock lending transaction, which gives rise to issues about the scope of a broker's contractual duties and the illegality principle; ***BG Global Energy Ltd & ors v. Talisman Sinopec Energy UK Limited & ors*** [2015] EWHC 110 (Comm) in a trial of a number of preliminary issues relating to the proper interpretation of a transportation, processing and operating services agreement; and ***Transocean Drilling UK Ltd v. Providence Resources Plc*** [2014] EWHC 4260 (Comm) in a dispute concerning the financial consequences which occurred to the drilling of an appraisal well in the Barryroe Field off the south coast of Ireland.

Examples of Recent Cases

Arbitration

John has extensive experience over many years of acting as counsel in arbitrations, including in relation to claims on JOAs, claims on long term gas supply agreements, gas price reviews, force majeure issues, and contractual claims in the wider commercial sector.

He also accepts appointments to sit as an arbitrator, having sat as a sole arbitrator or as co-arbitrator or President on arbitral panels in recent years. He is currently appointed in a number of on-going arbitrations under LCIA, Uncitral and ICC rules. In one case he is President (ICC), and in the others he is a co-arbitrator. Current arbitral appointments are in the energy and pharmaceutical sectors.

"Understated but compelling on his feet and a good team player." Legal 500 2020 - International Arbitration

- **SCC Proceedings (2014)** Appearing in Stockholm Chamber of Commerce arbitration proceedings (Stockholm seat) in relation to a dispute concerned with a price review under three long-term gas sales agreements.
- **ICC proceedings (2014)** Appearing in a multibillion dollar international dispute between a national electricity company and national gas companies heard at the ICC in Paris (Geneva seat).
- **ICC proceedings (2014)** Appeared in a dispute concerning the interpretation and application of pre-emption provisions in a joint venture operating agreement.
- International arbitration under **LCIA rules**: consumer electronics industry involving allegations of breach of contract and fraud
- International arbitration under **ICC rules**: petrochemicals industry involving allegations of breach of contract and fraud
- International arbitration under **UNCITRAL rules**: drinks industry; agency; whether commission payable
- Domestic arbitration under **LCIA rules**: energy industry; sulphur emissions; applicability of Large Combustible Plants Directive
- International arbitration under **ICC rules**: drinks industry, involving allegations of breach of contract, misrepresentation and bribery
- Domestic arbitration under **LCIA rules**: dispute concerning newspaper printing contract
- Torch Offshore LLC & Anr v. Cable Shipping Inc [2004] Lloyd's Rep 446; [2004] EWHC 787 (Comm) - an arbitration and subsequently High Court proceedings concerning the charter of a vessel for deep water cable laying; structural alterations to vessel needed to strengthen deck; whether charter induced by misrepresentation; whether charterer entitled to rescind. The Arbitration Award was subsequently challenged in the High Court under sections 57, 67, 68 and 69 of the Arbitration Act 1996.

Energy and Natural Resources

John has a substantial energy practice, in particular in relation to the oil and gas sectors. He advises regularly in relation to price review disputes, joint operating agreements; exploration and production sharing agreements; licensing disputes; and gas processing and transportation agreements, and is an experienced advocate in high-value energy sector High Court and arbitration proceedings.

"Understated but compelling, he has a great skill for presenting very complex contractual arrangements clearly and coherently." Legal 500 2020 - Energy

- **BG Global Energy Ltd & ors v. Talisman Sinopec Energy UK Limited & ors** [2015] EWHC 110 (Comm) in a trial of a number of preliminary issues relating to the proper interpretation of a transportation, processing and operating services agreement
- **Scottish Power UK plc v BP** (2015) Exploration Operating Company Limited
  Acting for Scottish Power in relation to a dispute over a lengthy outage in production from the Andrew Field. The issues include the nature of the sellers' obligations to maintain and operate facilities under a long-term gas supply agreement.
- **Transocean Drilling U.K. Ltd v Providence Resources plc ("The Arctic III")** [2014] EWHC 4260 (Comm)
  Acted for Providence Resources, the hirer of a drilling rig which proved to be defective. The case involved complex technical issues as to the operation of well control equipment (particularly a blow-out preventer), well construction and the progress of drilling operations; as well as legal issues relating to the interpretation of the rig hire contract.
- **BHP Billiton Petroleum GB Ltd and ors v. E.ON UK PLC** (2013) Appearing in an expedited Commercial Court dispute relating to the interpretation and possible rectification of Gas Sales Agreements, with sums at stake in the hundreds of millions of pounds.
- **Ansan Wikfs (Northern Region) Limited**
  Advisng Ansan Wikfs in relation to a dispute arising out of the purported termination of two Funding

Agreements and two Payment Entitlement Agreements between Ansan Wikfs and another.

- Advising ConocoPhillips on the issue of contractual and termination rights pursuant to the agreement for processing and delivery services.
- **Shell Egypt West Qantara GmbH and Shell Egypt West Manzala GmbH v. Centurion Petroleum**
  Represented Shell in a dispute relating to a contract for petroleum exploration in Egypt and claim for repudiatory breach. Permission was granted by the High Court to appeal under S.69 of the Arbitration Act and the case is now the leading authority on whether the words "final" and "binding" in an arbitration agreement exclude a right of appeal.
- **Caister Gas Sales**
  Advice regarding the potential termination of a long term UK GSA. Acting for E.ON Ruhrgas UK Caister Limited, the Operator of the Caister Field, which is situated in the Southern Gas Basin of the UK Continental Shelf.
- Acting for X in relation to a price review dispute arising out of a long term and very significant value liquefied natural gas sale and supply contract entered into between X, as buyer, and Y, as seller.
- **Centrica Plc & British Gas Trading Limited -and- Premier Power Limited**
  Acting for BGTL / Centrica in relation to the construction and operation of Gas Supply Agreements in light of Network Code changes and postalisation in Northern Ireland.
- **GALP Gas Natural S.A**
  Acting for GALP Gas Natural in relation to a price review dispute arising out of three long-term and very significant value liquefied natural gas sale and supply contracts each entered into between GALP, as buyer, and another as seller.
- WesternGeco Limited v. ATP Oil & Gas (UK) Limited (Commercial Court 2006) - whether indemnity provision in contract for oil exploration services covered the consequences of contractor's own negligence.
- Advising BG International as operator of the Easington Catchment Area fields in UKCS in relation to the rights of BP as owner and operator of the Southern North Sea Pipeline System. Advising BG International as operator of the Blake field in UKCS in relation to the Interpretation of Transportation Processing and Operating Services Agreement (TPOSA) between the Blake Field Owners and the Ross Field.
- British Gas Trading Ltd v. (1) Amerada Hess Ltd (2) Perenco UK Ltd [2006] EWHC 233 (Comm) - whether reasons provided in notices to terminate gas depletion contracts were sufficient.
- Npower v. First Contact Ltd (Comm Ct, Jan 05) - whether Commercial Agents Regulations apply to agency contracts for the sale of gas and electricity; whether a bribe was offered by agent.
- Conoco and Chevron v. BG Plc - whether contract to expand National Transmission System; whether breach of contract.
- United Gas v. National Power (LTL 7/7/98); (LTL 9/10/98) - a Commercial Court action involving a dispute on a gas supply contract. The case raises important issues as to how gas is bought, sold and transported in the UK.
- ARCO v. Eastern Electricity - a Commercial Court action involving a dispute on a gas supply contract. The case raised issues concerning the allocation and attribution of gas bought and sold in a commingled stream.
- British Gas Trading Ltd v. Premier Power Ltd (Commercial Court 2006) - Acting for BGTL/Centrica in relation to the construction and operation of Gas Supply Agreements in light of Network Code changes and postalisation in Northern Ireland.

Banking and Financial Services

- **Singularis Holdings Ltd (In Liq) v Daiwa Capital Markets Europe Ltd**
  Defending a claim in the Chancery Division (Financial List), which has now been before the Supreme Court on appeal, against a broker for c. USD 204 million arising out of a stock lending transaction, which gives rise to issues about the scope of a broker's
- **Standard Bank London Ltd v. Omimex De Colombia Ltd** (2006)
  Acting for Omimex in relation to collateral hedging arrangements.
- **The Argo Fund Limited v. Essar Steel Limited** [2004] EWHC 128 (Comm)
  Acting in a Summary Judgment Application in relation to $40 million loan agreement.
- **Phillips & Drew v. UBS & Ors** - whether payments and disposals made without authority; bankers duty of care.
- **Czarnikow-Rionda v. Standard Bank** [1999] 1 All ER (Comm) 890 - payment under letter of credit.

- X v. Y
  Claim against a major international bank involving issues relating to constructive trusts and the contractual duties owed by a paying bank.

Civil Fraud and Investigations

- **Sir Owen Glenn v Eric Watson** Acting (with Hannah Brown KC & Eleanor Campbell) for the Defendant in a £129 million dispute between two prominent New Zealand Businessmen arising out of proposed investments in ground rents and other forms of investment in UK property. The proceedings culminated in a three month trial in the Chancery Division in summer 2017. Involving complex issues of trust law and allegations of fraud.
- **Singularis Holdings Limited (in liquidation) v. Daiwa Capital Markets Europe Limited** (2015) - defending claims of alleged dishonest assistance and alleged negligence amounting to over US$200m.
- **Smith New Court Securities v. Scrimgeour Vickers (Asset Management) & Citibank NA** (HL) [1997] AC 254; [1996] 3 WLR 1051; [1996] 4 All ER 769; [1997] 1 BCLC 350; [1996] CLC 1958 - the leading case in English law on the measure of damages for fraudulent misrepresentation.
- Grupo Torras v. Fahad & Ors - a claim for damages for conspiracy to defraud. The case raised numerous interim issues which went to the Court of Appeal including issues as to: jurisdiction both under the former Order 11 and under the Brussels Convention; worldwide freezing and disclosure orders; disclosure of documents in English litigation.

Jurisdiction and Conflict of Laws

- **Reichhold Chemicals v. Goldman Sachs** [2000] 1 WLR 173 (CA) - stay of English proceedings pending foreign arbitration.
- **Grupo Torras v. Fahad & Ors** - see above.

Professional Liability

- **Feltrim/Cuthbert Heath Names v. Auditors** - these were two actions against the same auditors, a large firm of international accountants. The cases involved issues relating to the existence of a duty of care and the measure of damages for negligent misstatement, as well as issues relating to the regulations and practices of the Lloyds' insurance market.

Fine Art Litigation

- **Taylor Thomson v. Christie's / Marquess of Cholmondeley** [2004] PNLR 42; [2004] EWHC 1101 (QB) - whether auction house / seller are liable in respect of sale of antique vases.
- **Marcq v. Christie's** [2003] EWCA Civ 731; [2004] QB 286 - whether auction house committed the tort of conversion by returning a painting to its consignor.
- **Richard Drake v. Thos Agnew & Sons Ltd** [2002] EWHC 294 (QB) - whether a painting sold by Agnews was by Van Dyck and whether it was warranted as such.
- Advising major auction houses on a number of potential disputes.

Commercial Litigation

"Has a great skill for presenting very complex contractual arrangements clearly and coherently." Legal 500 2020 - Commercial Litigation

Other Notable Cases

- **Peter Robert Wilkinson v. West Coast Capital & Ors. - 'The New Gadget Shop'** [2005] EWHC 3009 (Ch)
  The shareholders of a company had not caused unfair prejudice to a fellow shareholder by acquiring another company, since it had been clear that the company in which the shares were held had not been able to and would not have purchased the acquired company, and that no financial loss had been suffered as a result of the acquisition.
- **Bass & Britvic v. Messer UK Ltd & Terra Nitrogen** [2002] EWCA Civ 548; [2002] 2 All ER (Comm) 321; [2002] 2 Lloyd's Rep 368
  Contamination of soft drinks by benzene in CO2.

- **Lewis v. Commissioner of Inland Revenue** (Re Floor Fourteen Limited) [2001] 3 All ER 499
  Whether litigation costs are liquidation expenses.
- **Director General of Fair Trading v. FNB** [2001] 3 WLR 1297 (HL)
  Unfair contractual term relating to post judgment interest.
- **Bland v. Amateur Swimming Association** (CA 7.12.99)
  Termination of contract for services for conduct tending to bring ASA into disrepute.
- **Koch Hightex v. New Millennium Experience Co** (CA 3.11.99)
  Whether non-fulfilment of condition precedent bar to contractual compensation provision.
- **Philips/Tatung & Ors v. BSkyB**
  These were a series of cases (two of which went to the Court of Appeal) arising out of the merger between BSB and Sky. The cases raised issues concerning the implication of terms into commercial contracts.

What the Directories Say

"John is great - no pretensions and very engaged and engaging. It felt like he could do the job with his eyes closed." **(Chambers UK 2026)**

"John is a fantastic advocate; his manner with a tribunal is calm and understated but he has them eating out of his hand. A pleasure to behold." **(Chambers UK 2026)**

"Phenomenally bright and gets the right answer." **(Chambers UK 2026)**

"A true class act, and a stand out lawyer." **(Legal 500 2026)**

"John McCaughran is a go-to lawyer for energy disputes. He is a real industry expert with a very strong client-following." **(Chambers UK 2024 - Energy and Natural Resources)**

"He's incredibly responsive and user-friendly, offering top-notch legal analysis. For contractual interpretation questions in the energy industry, he's second to none." **(Chambers UK 2024 - Energy and Natural Resources)**

"John is super bright. Once he's analysed something and worked it through, that's the answer." **(Chambers UK 2024 - Energy and Natural Resources)**

"John is an understated but really effective advocate." **(Chambers UK 2024 - Commercial Dispute Resolution)**

"An excellent, thoughtful performer." **(Chambers UK 2024 - Commercial Dispute Resolution)**

"The best silk in the City for complex contractual disputes. He is excellent with clients and has the ability to simplify even the most complex issues." "John is very user-friendly and provides an excellent level of service." **(Chambers Global 2021 - Commercial Dispute Resolution)**

"Excellent intellectually and a brilliant advocate who uses quiet but firm questioning to elicit the required answers." "Hugely experienced in the energy sector." **(Chambers Global 2021 - Energy & Natural Resources)**

"He is very good on his feet." "He is a very calm and measured advocate who is very thorough and detailed. He has the ability to communicate dry and complex material in a way that is understandable." "He is absolutely first rate." **(Chambers UK 2022 - Energy & Natural Resources)**

"Very thorough, very detailed and someone with the ability to communicate dry and complex material in a way that is understandable." **(Chambers UK 2022 - Commercial Dispute Resolution)**

"He has an excellent legal mind and great knowledge of the energy sector, combined with a commercial approach." **(Legal 500 2021 - International Arbitration (Counsel)**

"He has an excellent legal mind and great knowledge of the energy sector, combined with a commercial approach. His advocacy is highly effective, and he is easy to work with." **(Legal 500 2021 - Commercial Litigation)**

"John has an excellent legal brain and a great knowledge of the oil and gas sector, and is both commercial in approach and easy to work with." (Legal 500 2021 - Energy)

"Has a great skill for presenting very complex contractual arrangements clearly and coherently." (Legal 500 2020 - Commercial Litigation)

"Understated but compelling, he has a great skill for presenting very complex contractual arrangements clearly and coherently." (Legal 500 2020 - Energy)

"Understated but compelling on his feet and a good team player."(Legal 500 2020 - International Arbitration Counsel)

"The best contracts lawyer alive, and someone who can explain things to anyone in the simplest terms." "He's a brilliant advocate who uses quiet but firm questioning to elicit the required answers." (Chambers UK 2020 - Commercial Dispute Resolution)

"He is as accessible and easy to work alongside as he is intelligent and insightful. His strengths are his legal knowledge, his commerciality and clever advocacy." "He is a fantastically bright lawyer, hugely knowledgeable about the energy sector and a go-to on big-ticket energy disputes." "John is technically brilliant and is very persuasive on his feet." (Chambers UK 2020 - Energy & Natural Resources)

"Combines great legal intelligence and knowledge with commerciality and common sense." (Legal 500 2019 - Commercial Litigation)

"A leading advocate in this area who combines great intelligence with commerciality" (Legal 500 2019 - Energy)

"He is someone who has a splendid reputation at the Energy Bar and has a genuine knowledge of the industry. He produces sensible, considered views on difficult points of contractual interpretation." (Chambers UK 2019 - Energy & Natural Resources)

"Extremely impressive quality of work, availability and approachability." (Legal 500 2019 - International Arbitration)

"Extremely bright, very experienced and commercial in his outlook." "John is an extremely impressive advocate who handles trials involving huge amounts of documents and evidence with great skill." (Chambers UK 2019 - Commercial Dispute Resolution)

"An intellectual and a brilliant advocate who uses quiet but firm questioning to elicit the required answers." (Chambers UK 2019 - Energy & Natural Resources)

'A brilliant mind and an excellent advocate – calm, assured and easy to work with.' (Legal 500 2018 - Commercial Litigation)

'Extremely calm and great to be with in a crisis, and also exceptionally good with clients.' (Legal 500 2018 - International Arbitration)

"Brilliant advocate who uses quiet but firm questioning to elicit the required answers." "Has a very good understanding of how a High Court judge will view a dispute." (Chambers UK 2018 - Commercial Dispute Resolution)

"He is a shrewd advocate - on any client's list of top oil and gas silks." "Technically brilliant and a very persuasive advocate." (Chambers UK 2018 - Energy & Natural Resources)

'A legend.' (Legal 500 2018 - Energy)

'A phenomenal advocate who is a go to silk for many magic circle firms. "He's fabulous to work with, as he's bright, hard-working and extremely good company." (Chambers UK 2017 - Commercial Dispute Resolution)

"He's incredibly good with clients and conveys his advice in a way which is very well received. He's very much loved by clients. He's very insightful, very good and dials in at the right level." "He's up there with the best oil and gas barristers." (Chambers UK 2017 - Energy & Natural Resources)

Awards

Legal500 LEADING SILK 2023

2027 Chambers Top Ranked UK Bar One Essex Court

ONE ESSEX COURT

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