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Rory Cochrane

Year of Call: 2013

Rory Cochrane joined the Bar following a career as a solicitor advocate in the dispute resolution division of Herbert Smith Freehills in London. He has particular expertise in telecommunications and IT, banking (including FCA enforcement proceedings), insurance and reinsurance, and international commercial litigation and arbitration.

Rory is ranked as a leading junior in telecommunications and IT in the directories, and was nominated in the Legal 500 Bar Awards 2023 for Technology, Crypto and Data Junior of the Year.

- **Legal 500, Tier 2, IT and Telecoms (Infrastructure and Contracts): “Rory is very good on his feet, personable and easy to work with."**
- **Chambers & Partners, Band 4, Telecommunications: “Rory Cochrane is noted for his handling of commercial disputes in the telecoms sector, as well as regulatory matters relating to the Electronic Communications Code (ECC). He benefits from a wealth of prior experience gathered as a solicitor advocate at a prominent international firm. "He is extremely bright, very efficient and a pleasure to work with."**

Rory contributed to the 2015 edition of MacGillvray on Insurance Law (Sweet & Maxwell), Chapter 13 (Conflict of Laws) and was a Teaching Fellow in Private International Law at University College London (2013 to 2017). While in Australia, he was associate to the Hon Justice Susan Kenny, in the Federal Court of Australia.

Recommendations

‘Rory is a fantastic barrister. He has excellent judgement and good creative ideas, is very on top of the detail, very smart and extremely hard-working. He has a fantastic team ethos and is a pleasure to work with.’ - IT and Telecoms, Legal 500 2024

‘Rory is very good on his feet, personable and easy to work with.' - *IT and Telecoms (Infrastructure and Contracts), Legal 500 2023*

Noted for his handling of commercial disputes in the telecoms sector, as well as regulatory matters relating to the Electronic Communications Code (ECC). He benefits from a wealth of prior experience gathered as a solicitor advocate at a prominent international firm. **"He has encyclopaedic knowledge of the Code."** - *Telecommunications, Chambers UK Bar 2022.*

Ranked as a Leading Junior - *IT and Telecoms, Legal 500 2022.*

"He is wonderful, and someone who can do it all in telecoms - commercial work, regulatory work, cases relating to land etc. He is a really strong all-rounder." Acted for BT in 24Seven Communications Limited v British Telecommunications PLC. The case concerned 24Seven’s alleged creation of AIT (Artificial Inflation of Traffic) under BT’s industry-wide Standard Interconnect Agreement and the contractual consequences that follow from that. - *Telecommunications, Chambers UK Bar 2021*

‘He has a specific expertise in the field of so-called "multi-site agreements" and the application of the Electronic Communications Code to those.’

- IT and Telecommunications (Excluding Regulatory), Legal 500 2021

Highlighted as an *up-and-coming junior*.**"He is helpful, amenable and clear in his advice." "Rory is very bright and has a very positive attitude. Clients really like him and he is both pleasant and charming."** - *Telecommunications, Chambers UK Bar 2020*

Commercial Litigation

Rory has considerable experience in commercial disputes in a wide range of industries including banking and finance, insurance and reinsurance, telecommunications, stockbroking, aviation and energy. He has particular experience in arbitration, which makes up a significant part of his practice.

Selected instructions include:

A confidential LCIA arbitration: led by Andrew Burns KC on an arbitration arising out of a partnership dispute in Russia and England (instructed by Duane Morris).

Hoare Fareham Ltd: Rory was instructed unled in a 6-day unfair prejudice petition in the High Court (Chancery) relating to the management of a construction company.

An Energy Supply Company v British Telecommunications: Acted as sole counsel for BT in a dispute in which an energy supply company alleged BT was liable to pay a Total Close-Out Loss pursuant to an agreement for the forward purchase of electricity.

An Australian Firm v A UK Contractor: Instructed by an Australian firm providing surveillance, video analytics, and passenger information systems to a UK contractor in a cross-border contractual dispute.

Construction Industry Vetting Group Information litigation: one of The Lawyer's Top 20 Cases of 2016 – Group Litigation involving claims by over 700 claimants bringing claims for defamation, unlawful means conspiracy, misuse of confidential and private information and breach of the DPA.

Cattles v PwC: acting on disclosure issues for PwC in a £1.6bn auditor's negligence claim arising out of the collapse of sub-prime lender the Wellcome Group. One of The Lawyer's Top 20 Cases of 2015.

Shagang Shipping Company Limited (in liquidation) v HNA Group Company Limited: appeared in the Commercial Court for the Claimant responding to an application for an order under CPR 31.22 for documents in the proceeding to be able to be used by a third party in an unrelated arbitration (instructed by Herbert Smith Freehills).

Secondment to Linklaters Financial Regulation Group: acting on a contentious regulatory matter for a major European bank in proceedings before the Financial Conduct Authority.

A Company v British Telecommunications Plc: advising BT regarding a restitution claim arising out of alleged overpayments in respect of cancelled services.

Re: Property Development Companies: a shareholders' dispute and unfair prejudice petition regarding control of a property finance company.

Re: A Nuisance/Property Damage Case: Instructed by BT Legal in an ongoing dispute relating to nuisance and property damage allegedly caused by water escaping a telecommunications chamber.

White v Transalis Ltd: a shareholders' dispute regarding ownership and control over a company involved in developing online invoicing software. The matter involved an unfair prejudice petition application in the High Court, a dispute over share ownership, as well as a dispute over the ownership of valuable intellectual property.

Deraven Limited v GT Steel Recycling DMCC: led by Graham Read KC, acting in English High Court proceedings for a Cypriot company in guarantee enforcement proceedings against a United Arab Emirates company.

Re: Shareholders in a UK Company: Rory was instructed as sole counsel in a shareholders' dispute in a small 3D printing and design company.

A Company v The Cabinet Office: instructed to assist with disclosure on a £100m procurement dispute.

Overy v Transport for London: successfully appeared at trial for TfL in a County Court payment dispute with a former contractor.

Rory has been instructed in a number of insolvency matters in the High Court and County Court, and has frequently appeared in the Companies Court winding up list on winding up petitions.

Selected insolvency instructions include:

McDoom v Warkton Roofing: instructed on an application to set aside a statutory demand in bankruptcy. (Instructed by Richards Solicitors)

Lynch v HMRC: acting for a purchaser of a property in validation order proceedings.

British Gas: acting for British Gas in the Companies Court winding up list on numerous winding up petitions.

Aerial Vision International S.P.A v Olivemist Ltd: advising an Italian sunglasses distributor in relation to claims against a UK-based distributor's insolvent estate.

A Healthcare Services Company (In Liq): advising former directors of an insolvent company in relation to director's duties claims brought by the company liquidator.

Funding Circle Recoveries Ltd v Palmer: appearing on a personal bankruptcy application in the County Court.

Rory' experience as a solicitor encompassed litigation in the High Court and Court of Appeal, as well as ICC and LCIA arbitrations. His practice focussed on large cross-border insolvencies, financial services misselling claims, and competition disputes in telecommunications and other regulated industries.

His experience as a solicitor includes:

Nortel Networks (In Administration): insolvency proceedings in the UK, Canada and the US. Acted on proceedings in 19 European states, as well as in the US and Canada, in relation to complicated claims arising out of alleged breaches of de facto and shadow directors' duties, and proprietary remedies.

BSkyB Ltd v HP Enterprise Services (as a member of The Lawyer's Litigation Team of the Year 2008): acted in relation to a successful £200m+ claim for fraud and negligence arising out of a $50 million IT contract to design and implement a Customer Relationship Management (CRM) system.

Purple Parking v Heathrow Airport: acted for Heathrow Airport in relation to a competition law dispute arising out of valet parking businesses.

Ryanair Limited v Gatwick Airport Limited: acted for Gatwick Airport on a number of competition disputes in relation to check-in and baggage charging at the airport. Appeared as junior counsel in a hearing before the Civil Aviation Authority.

LCIA arbitration on behalf of a sovereign wealth fund arising out of a US $2 billion investment in a major investment bank.

LCIA arbitration for a major insurance company arising out of losses sustained as a result of a multi-billion pound stock-lending programme.

LCIA arbitration, with associated Norwich Pharmacal applications, on behalf of a high net worth Russian businessman relating to the control of a multi-billion dollar resources group.

Advised an English company in a dispute with a US company in relation to the development and commercialisation of a genetic sequencing technology.

Seconded to a market-leading private bank for 10 months in late 2008 to mid-2009. Advised in relation to a high profile investment dispute and media campaign by a prominent investor (including advice in relation to defamation, privacy regulations, and the protection of confidential information).

Advised on around 100 misselling claims in relation to retail sales of an investment fund in the Financial Ombudsman Service, or through litigation in the High Court.

Advised a major US private equity firm in relation to a transaction in Ukraine, involving consideration of points of conflict of laws and sovereign immunity.

Acted in High Court litigation on behalf of a number of US companies in relation to fraud and insolvency proceedings arising out of the management of a US$2 billion property portfolio.

Telecommunications & IT

Rory has considerable experience in telecommunications and IT disputes, particularly in regulatory and competition telecommunications matters (often working with experts in relation to telecommunications cost modelling issues). Since coming to the Bar, he has also been instructed regularly in a number of disputes relating to telecommunications apparatus under the Communications Code, appearing frequently in the Upper Tribunal (Lands Chamber).

Recent instructions include:

British Telecommunications v TalkTalk: Rory is instructed for Openreach (led by Robert Palmer KC, Monckton Chambers) on a £20m+ dispute relating to BT's obligations to pay service level guarantee compensation payments under BT's Connectivity Services Agreement.

24 Seven Communications Ltd v British Telecommunications Ltd: led by Graham Read KC, this case concerns 24 Seven's alleged creation of "Artificial Inflation of Traffic" ("AIT") under BT's industry wide Standard Interconnect Agreement. 24 Seven commenced a multi-million pound claim for allegedly unpaid termination charges, while BT counterclaims for £7 million in respect of charges previously paid which has now been identified as AIT.

Virgin Media Limited v Durham County Council: Rory was instructed by Virgin Media (led by Graham Read KC) in this test case under the New Electronic Communications Code. Virgin Media, as part of its plan to roll out fibre broadband to 4 million homes in the UK (Project Lightening) sought orders in the Upper Tribunal (Lands Chamber) to lay fibre cable to hundreds of premises in Chester Le Street across Durham CC's land.

Numerous cases for British Telecommunications, *Everything Everywhere and Cornerstone Telecommunications Infrastructure under the Electronic Communications Code:* Rory is regularly instructed and appears (primarily for operators) in disputes under the Electronic Communications Code arising out of the siting of apparatus.

A UK IT Contractor v Global IT Contractor: instructed unled for a UK IT contractor in an action to recover several million in unpaid fees for services delivered by to a global telecommunications contractor as part of an IT infrastructure overhaul to a creative/technology group.

NSC Global Limited v Atos IT Services UK Limited: led by Graham Read QC in an action for recovery of a break fee arising out of a User Application Management agreement. Proceedings commenced in the London Circuit Commercial Court.

The Reducing the Cost of Broadband Directive: advising the Department of Culture, Media and Sport on the implementation of the Reducing the Cost of Broadband Directive (Directive 2014/61/EU). This far-reaching directive provides for access to the passive infrastructure of telecommunications providers, as well as gas, electricity, water and transport providers.

Funeven Ltd v British Telecommunications Plc: led by Graham Read KC for BT in a dispute regarding wayleaves pricing under the Communications Code.

A Private Equity Firm: advising a private equity firm regarding due diligence connected with an investment in a trans-Atlantic submarine cable.

White v Transalis Ltd: a shareholders' dispute regarding ownership and control over a company involved in developing online invoicing software. The matter involved an unfair prejudice petition application in the High Court, a dispute over share ownership, as well as a dispute over the ownership of valuable intellectual property.

His experience as a solicitor includes:

Nortel Networks (In Administration): acted for 19 European Nortel subsidiaries in insolvency proceedings in the UK, Canada and the US. This involved proceedings in the UK and Europe, as well as in the US and Canada, and concerned complicated claims arising out of alleged breaches of de facto and shadow directors' duties, and proprietary remedies. Rory also advised over a considerable period of time in relation to the contentious break up of Nortel's global IT system.

BSkyB Ltd v HP Enterprise Services (as a member of The Lawyer's Litigation Team of the Year 2008): acted in relation to a successful £200m+ claim for fraud and negligence arising out of a £50 million IT contract to design and implement a Customer Relationship Management system.

BSkyB v Virgin Media: acted for Sky in a dispute regarding prices charged to Virgin Media for wholesale access to Sky's premium sports channels.

In Australia, Rory acted on a number of disputes in the Australian Competition Tribunal between the incumbent telecommunications provider, Telstra, and the Australian Competition and Consumer Commission, in relation to access pricing disputes. This included advising on regulatory telecommunications issues, primarily in relation to local loop unbundling, but also fixed-line and mobile interconnection disputes.

Advised Telstra's search and directory subsidiary in relation to a number of matters arising out of its marketing and online search business.

Advised Telstra's mobile and broadband businesses on a range of regulatory issues including consumer protection legislation, data protection issues, disputes with advertisers, and interconnection agreements.

Advised in relation to the Telstra and Hutchison 3G network joint venture, particularly in relation to contractual

matters and the Australian telecommunications regime.

Rory has also acted in disputes for telecommunications companies in general contractual disputes, and in relation to ancillary businesses such as search and online businesses.

Rory has presented a number of seminars with Graham Read KC on trends and issues in telecommunications and competition litigation.

Banking and Financial Services

Rory has extensive experience as a solicitor in acting for financial institutions in relation to a range of disputes, in particular in FCA/PRA regulatory disputes, and has completed a secondment in the contentious financial regulation group at Linklaters LLP.

Selected instructions include:

Stifel Nicolaus Europe Limited v Currentbody.com Ltd: instructed as sole counsel on an action to enforce payment of a success fee by Stifel pursuant to a financial advisory agreement. Matter settled with successful settlement for Stifel. (Instructed by Herbert Smith Freehills)

Various actions for Hargreaves Lansdown Asset Management: Rory is regularly instructed by HLAM in disputes arising out of Self Invested Pension Products (SIPPs) and Individual Savings Accounts (ISAs).

A confidential FOREX fixing and fraud claim: instructed on behalf of a large global mining corporation in a FOREX fixing/fraud claim against an international bank.

Re: NEM Ventures: Instructed on a series of multi-jurisdictional disputes arising out of a restructuring programme undertaken by a cryptocurrency organisation (NEM) based in Gibraltar (2018). Advised in 2020 on the terms of the issue of a new cryptocurrency token as part of the launch of the Symbol blockchain and network.

Secondment to Linklaters Financial Regulation Group: Acting on a large FCA enforcement matter for a major European bank concerning the management of probate and bereavement accounts.

Forex Market Fixing and Fraud: seconded to a boutique law firm to assist on a large case involving official foreign exchange rate manipulation and fraudulent misrepresentation.

Re: A UK Bank: Instructed by Herbert Smith Freehills to advise a major bank in relation to the investigation and prosecution of a number of former employees of the bank. Instructions focussed on reviewing documents for relevance and legal privilege (including complicated issues of joint and common interest privilege).

An Agricultural Products Company v A Finance Company: Instructed as sole counsel for the Claimant in a breach of contract/fiduciary duty claim against a finance company.

Glenmore Capital v Mason: concerned the enforceability of a mortgage against an investor and wife.

Residential Loans Ltd v Vines: appearing on a mortgage possession hearing.

IS Trading v Matten: appearing at a possession hearing for a borrower in default of loan obligations.

His experience as a solicitor includes:

Seconded to a market-leading private bank for 10 months in late 2008 to mid-2009, and continued to advise for a

number of years following. This included advising in relation to a high profile investment dispute and media campaign by a prominent investor (including advice in relation to defamation, privacy regulations, and the protection of confidential information).

Advised on around 100 misselling claims in relation to retail sales of an investment fund. These claims were resolved through the bank's complaints handling procedures, in the Financial Ombudsman Service, or through litigation in the High Court.

Acted for a prominent foreign bank in relation to losses arising out of investments in a fund invested in collateralised debt obligations, floating rate notes and other securities.

Advised a stockbroking firm regarding claims arising out of alleged market abuse under the Financial Services and Markets Act 2000.

LCIA arbitration for a major insurance company arising out losses sustained as a result of a multi-billion pound stock-lending programme.

Advised a number of major banks in relation to alleged breaches of FCA/FSA handbook principles and rules.

Rory has recently published an article on conflict of laws issues in European capital markets in the Journal of International Banking and Financial Law.

Insurance & Reinsurance

Rory has been instructed in a wide range of insurance and reinsurance disputes. He also regularly provides advice on coverage and other a range of policy wording issues.

He assisted Richard Harrison in obtaining an anti-suit injunction in the Commercial Court in support of arbitration. Rory assisted the FCA's counsel team in the acted for the Financial Conduct Authority in the High Court stage of the Covid-19 Business Interruption test case (FCA v Arch Insurance (UK) Limited & Ors [2021] UKSC 1). He has also advised businesses on potential business interruption claims arising out of the Covid-19 pandemic.

Rory has also acted in a number of international and domestic insurance arbitrations. He was recently instructed (led by Colin Edelman KC) in a high-value insurance arbitration relating to coverage issues in product liability insurance policies in the United States.

Rory was instructed as sole counsel by a professional indemnity insurer in ad hoc arbitration proceedings to recover run-off premiums and excess payments from the directors of an incorporated law firm. The hearing took place in November 2018 with a confidential award issued January 2019. Nicholas Strauss QC of One Essex Court sat as arbitrator..

Other select instructions include:

Advising a claimant home building organisation on potential claims on a policy covering repair and damage to property, including on limitations and latent defect issues.

Drafting a defence for an insurer to claims under a judicial review policy arising out of a windfarm development (led by Colin Edelman KC and Richard Harrison).

Advising underwriters on notification issues arising out of a medical malpractice policy.

Advising a dental practice on potential claims under a business interruption insurance policy.

Advising a consumer products company on regulatory issues associated with the sale of a bundled insurance product.

He has presented seminars to leading insurance firms on matters including stockbrokers' negligence, the Insurance Act 2015, and the Late Payment of Insurance Claims provisions. Rory also contributed to the 13th edition of MacGillvray on Insurance Law (2015, Sweet & Maxwell), Chapter 13 (Conflict of Laws).

He has experience as a solicitor in acting for insurers in general insurance matters including business interruption and life assurance. He also spent 6 months in an Insurance and Corporate Risk division as a trainee solicitor and was exposed to a range of general insurance disputes.

At Herbert Smith Freehills, Rory also acted in a confidential arbitration on behalf of a large insurance group in respect of losses arising out of a stock-lending programme, and while on secondment to a major private bank, advised on issues arising out of the sales of a whole of life assurance policy.

Arbitration

Rory has considerable experience in international arbitration both as a solicitor and at the bar, complemented by academic experience as a Teaching Fellow in Conflict of Laws at University College London (2013 to 2017). He has most recently been instructed as junior counsel (led by Andrew Burns KC) on an LCIA arbitration arising out of a partnership dispute in Russia and England (instructed by Duane Morris). He was also instructed (led by Colin Edelman KC) in a high-value insurance arbitration relating to coverage issues in product liability insurance policies in the United States.

Examples of other matters Rory has worked on as a solicitor include:

LCIA arbitration on behalf of a sovereign wealth fund arising out of a US $2 billion investment in a major investment bank.

LCIA arbitration for a major insurance company arising out of losses sustained as a result of a multi-billion pound stock-lending programme.

LCIA arbitration, with associated Norwich Pharmacal applications, on behalf of a high net worth Russian businessman relating to the control of a multi-billion dollar resources group.

Professional Negligence

Rory has advised as a solicitor in relation to professional negligence issues in particular in defending solicitor's negligence claims, negligent advice in the banking industry and in relation to IT contracts.

Recent cases include:

Cattles v PwC: acting on disclosure issues for PwC in a £1.6bn auditor's negligence claim arising out of the collapse of sub-prime lender the Wellcome Group. One of The Lawyer's Top 20 Cases of 2015.

A Property Developer v A Firm: advising a firm of solicitors in relation to professional negligence allegations arising out of the conduct of property development litigation.

A Property Developer v A Finance Broker: advising a property developer in County Court litigation arising out of an alleged failure by a finance broker to secure agreed finance.

Davidson v Lea & Company Solicitors: advising on the defence of a firm of solicitors arising out of Stamp Duty Land Tax mitigation schemes.

Howard Stone Solicitors v Hamilton Downing Quinn LLP: instructed by a firm in relation to the recovery of disputed fees in circumstances of allegations of professional negligence.

His experience as a solicitor includes:

Acted for a market leading private bank in relation to a large number of claims for alleged professional negligence arising out of the sales of an investment product.

BSkyB Ltd v HP Enterprise Services (as a member of The Lawyer's Litigation Team of the Year 2008): Acted in relation to a successful claim for fraud and professional negligence arising out of a $50 million IT contract to design and implement a Customer Relationship Management system.

Rory has presented to leading City firms in relation to insurance broker's negligence, and the Insurance Act 2015.

Conflicts of Laws

Rory has considerable experience advising on private international law issues in the context of cross-border disputes, obtained both at the Bar and as a solicitor-advocate with Herbert Smith Freehills. In addition, Rory was a Teaching Fellow in Conflict of Laws at University College London from 2013 to 2017, and has recently published an article on conflict of laws issues in European capital markets in the Journal of International Banking and Financial Law.

Financial Mis-Selling and Consumer Credit

Rory has considerable experience in financial mis-selling cases, particularly in the context of FCA regulatory enforcement action. Rory recently completed a secondment in the contentious financial regulation group at Linklaters LLP. While a solicitor with Herbert Smith Freehills, Rory advised on over 100 mis-selling claims arising out an asset-backed life assurance bond, and acted for Coutts in a high-profile mis-selling dispute in the High Court (settled at trial). Rory was also seconded to RBS Legal for 10 months.

Rory has acted regularly on mis-selling claims for borrowers against finance brokers and/or banks.

Energy & Natural Resources

Rory has advised as a solicitor a number of disputes in energy and mining.

Examples of matters Rory has worked on include:

- A multi-million pound contractual dispute arising out of a hire contract for a mobile oil platform.
- A dispute between parties to a joint venture regarding exploration obligations.
- Dispute between electricity generators supplying major mining projects.

Additional Information

Call:

- **2005**
  : Australia (Practised with King & Wood Mallesons, and as Associate to the Hon. Justice Susan Kenny, Federal Court of Australia)
- **2008**: England and Wales (solicitor)
- **2013**: England and Wales (barrister)

Academic

Teaching Fellow, Conflict of Laws - University College London (2013 to 2017)

Master of Laws - University of Melbourne (2006)

Bachelor of Laws, Bachelor of Arts – University of Western Australia (2004)

Memberships and Associations

COMBAR (former Junior COMBAR Committee member)

Chancery Bar Association

Competition Law Association

Society for Computers and Law

British Insurance Law Association

Revenue Bar Association