

BRIEF

Encounters

John McMillan discusses his move to Keating Chambers and the highlights of his legal career so far.

John McMillan joined Keating in February 2020 following five years in the international arbitration group at WilmerHale. He specialises in high-value, complex arbitration and litigation, with a particular focus on the construction, engineering, energy, and technology sectors. He has advised on or acted in arbitrations under the ICC, LCIA, SIAC, UNCITRAL, SCC, NAI and ICSID rules, involving common-law, civil-law and international-law issues.

How have you found your first few months at Keating?

It's been a strange time to start a new job. I knew a few people at Keating before joining and had a month in chambers before the lockdown came into force. Since then, Chambers has been good at keeping the social side of things ticking over. There is a Chambers social network so we can post photos and messages and a Chambers Strava group so people can race each other. Chambers also remains busy and it is relatively straightforward for barristers to work at home. We are all very aware that others in the profession (and outside it) are having a far more difficult time.

What have you particularly enjoyed since joining Keating?

I've been working on a couple of disputes relating to big infrastructure projects as part of a Keating team, as well as working on some commercial disputes and smaller construction disputes on my own. I wouldn't be without any of them, but it's the smaller things that I've particularly enjoyed. There is often a very short distance between providing advice and that advice being put into action, which is satisfying, and the stakes for small and medium-sized businesses involved in litigation are often very high.

“Understanding the successes and disasters that can occur at each stage [of a dispute’s lifespan] is important.”

What do you think you have learnt from the law firm environment that will be of benefit to clients?

At a law firm you get a lot of exposure to clients' decision-making processes. It can be uncomfortable for a lawyer to see a beautiful 30-page opinion reduced to a few slides to be shown at a board meeting, but it focuses you on the client's priorities. There is always a tension between providing advice that is cautious enough to be accurate, but clear enough to be useful. Getting that balance right is part of giving good advice, whether you are at a law firm or the bar.

I was also able to see disputes throughout their lifespan, from building the case to bringing the claim to enforcing a judgment or award if the client is successful. Sometimes a case turns on a crucial cross-examination (and it's fun when that happens), but sometimes it turns on whether the client finds the right documents to support its case, instructs the right experts, or makes the right procedural applications. Understanding the successes and disasters that can occur at each stage is important when you are considering the best way to pursue or defend a claim.

You studied Chinese at University; how has this helped in your practice?

Having a good grounding in Chinese can save clients time and money in a dispute for or against a Chinese company. I have acted on cases where large volumes of documents had to be translated before they could be reviewed by the legal team and it's not ideal to say the least. On one occasion, a client was gearing up to accuse a Chinese counterparty of fraud based, in part, on a mistranslation. Being able to read the original document avoided a potentially serious misunderstanding.

What has been the highlight of your career so far?

Perhaps the first time I cross-examined a witness. It was in an arbitration about an oil concession off West Africa and I was cross-examining an expert witness. I told myself that he was more afraid of me than I was of him. Anyway, it went well and I got a couple of concessions. A lot of legal life is slaving away behind a desk, but hearings and cross-examination are always exciting and throw up surprises. As Mike Tyson said about disputes, everyone has a plan until they get punched in the mouth.