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## Johan Beyers

**Call Cape Bar:** 1992

**jbeyers@keatingchambers.com**

### Areas of Practice

- Construction & Engineering
- Energy & Natural Resources
- International Arbitration
- Professional Negligence
- IT & Technology

### Clerks Details

**Declan Redmond**

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### Practice Overview

Johan Beyers has practiced as an advocate at the Cape Town Bar since 1992, specialising in construction, engineering and commercial disputes, often of substantial commercial value and involving complex technical, factual and legal issues. He is admitted to appear in the Courts of both South Africa and the Kingdom of Lesotho. Johan joined Keating Chambers as an international member in January 2017.

He has held acting positions as High Court judge and magistrate in the Magistrate's Court, and appointments as appeal arbitrator, arbitrator and legal expert.

Johan has extensive experience of a wide range of disputes and advisory work relating to infrastructure and building projects. Significant cases have included long term retainers as counsel on an underground tunnelling project in Lesotho and a large marine quarrying and breakwater project in South Africa, both arbitration disputes of considerable commercial value.

He has advised international and South African contractors and employers on large engineering, building and mining projects in South Africa, Lesotho, Namibia, the Middle East, Scotland and South America.

Johan is a co-founder and the chairperson of the Society of Construction Law for Africa and was awarded an MSc degree in Construction Law and Dispute Resolution at King's College, London in December 2017, winning the prize for the highest exam mark in the International Arbitration and Dispute Resolution module.

## Recent Cases

### Construction & Engineering

- Counsel for international contractor in respect of R250 million claim arising from bespoke design and supply contract for construction of gas turbine power station in South Africa.
- Lead counsel, assisted by junior counsel, instructed by international client in arbitration in respect of defects to luxury house in Llandudno, in terms of JBCC contract.
- Counsel for international contractor in respect of R100 million claim arising from Fidic Yellow Book contract in respect of Medupi Power Station.
- Counsel for national roads contractor on significant claims relating to force majeure arising from strike action within context of Fidic Yellow Book contract.
- Counsel for metropolitan municipality in High Court against service provider in dispute relating to turnkey construction project with bespoke contract involving housing refurbishment and upgrade project.
- Counsel for parastatal in Lesotho in respect of a claim by a contractor relating to the construction of water reticulation infrastructure.
- Advisory work for international consulting engineers in respect of an infrastructure project in Lesotho.
- Advisory work for an international contractor in respect of a damages claim to the value of some GBP 50 million relating to the designer's liability in respect of the design of a large suspension bridge in Scotland.
- Co-counsel on behalf of an international contractor before the Competition Tribunal in respect of alleged infringements of the Competition Act within the context of the Competition Commission's investigation into prohibited practices in the construction industry.
- Counsel for international contractor in respect of Construction Industry Development Board formal enquiry into contraventions of Code of Conduct.
- Advisory work for an international contractor in respect of a construction security bond in respect of a project in the Middle East.
- Advisory work for an international contractor on the tender contract conditions in respect of a large container terminal project in Namibia.
- Counsel for professional indemnity insurer in respect of a claim of some R13 million against an architect relating to the allegedly negligent execution by the architect of his duties as principal agent in terms of a JBCC building contract.
- Lead counsel for large property developer in claims in the High Court relating to a loss of subjacent support and resulting damages claims in respect of a new development at Tyger Valley Waterfront.

### Energy & Natural Resources

- Co-counsel for a mining company in a dispute in the High Court of the Kingdom of Lesotho relating to its rights arising from a joint venture agreement involving diamond exploitation rights in the Kingdom of Lesotho worth some R1.5 billion.
- Lead counsel, assisted by junior counsel, on behalf of a mining contractor against a parastatal in respect of a claim in the High Court of some R30 million relating to damages suffered by the mining contractor pursuant to contract-inducing misrepresentations by employees of the parastatal regarding the past and future diamond yields of a mining operation.

### International Arbitration

- Counsel on full-time retainer to represent an international joint venture contractor on adjudication and arbitration in a construction claim for some R300 million against a parastatal for additional time and additional costs attributable to adverse subsurface conditions experienced during the construction of a major marine breakwater project in South Africa. Also represented the same contractor on adjudications before international panel in several other construction claims of significant value during the course of this project.
- Co-counsel on full-time retainer representing international joint venture contractor in an international arbitration in respect of a construction claim of some R300 million against a parastatal for additional time and costs attributable to adverse subsurface conditions

experienced during the construction of a TBM water transfer tunnel in the Lesotho Highlands, in terms of Fidic Red Book contract.

### Professional Negligence

- Counsel on behalf of a professional indemnity insurer in a matter where a short term insurance intermediary was sued for damages of some R20 million in the High Court after a client's building was destroyed by fire and found to have been under-insured.

### IT & Technology

- Co-counsel in dispute on arbitration relating to a joint venture between a municipality and international software developer for the development of a municipal software system.

### Appointments

- Acting appointment as Judge of the High Court of South Africa.
- Several acting appointments as civil magistrate in the Cape Town Magistrate's Court. Appointment as Commissioner of the Small Claims Court.
- Several appointments as appeal arbitrator, arbitrator and legal expert, respectively.

### Other

- Counsel for parastatal micro-lender in discussions with the Reserve Bank relating to anti-competitive conduct of major banks in South Africa in respect of access to and the operation of the banking transactional software system underpinning banking transactions in South Africa. Preparation of complaints and submissions to Competition Commission in this regard.
- Counsel for donor and trustees in a commercial trust dispute involving assets in excess of R100 million.
- Lead counsel, assisted by junior counsel, in eight matters in the High Court involving some R250 million relating to contractual disputes between egg producers and a large national food company in respect of the price at which eggs are to be purchased from the producers.
- Counsel to advise an investment association regarding the possible infringement of banking and consumer protection legislation in respect of an investment structure involving investments of some R150 million.
- Co-counsel in the High Court, concerning the incidence in aviation law of the risk of the loss or destruction of a helicopter in the case of a charter and a lease.
- Lead counsel, assisted by junior counsel, on behalf of a maize silo operator in an arbitration dispute to the value of some R100 million relating to the claims of a bank based upon silo certificates issued to it pursuant to a grain storage agreement that had been concluded between the parties.

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## Selected Reported Cases

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- Janse van Rensburg v Grieve Trust CC [1999] 3 All SA 597 (C)
- Kriel v Terblanche NO en andere 2002 (6) SA 132 (NC)
- HT Group (Pty) Ltd v Hazelhurst and Another [2003] 2 All SA 262 (C)
- Gore and Others NNO v Shell South Africa (Pty) Ltd 2004 (2) SA 521 (C); [2003] 4 All SA 370 (C)
- Frank v Premier Hangers CC 2008 (3) SA 594 (C)

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## Education & Professional Career

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MSc degree (Construction Law and Dispute Resolution), King's College  
London, United Kingdom

2017

Joined Keating Chambers as an International Member	2017
Admitted as advocate of the High Court in the Kingdom of Lesotho	2010
Admitted as advocate of the High Court of South Africa and enrolled as practicing member of the Cape Bar	1992
Admitted as attorney of the High Court of South Africa	1991
LLB degree, University of Stellenbosch, South Africa	1989
BA (Law) degree, University of Stellenbosch, South Africa	1987

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## Membership

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Practicing member of the Cape Bar since December 1992

Co-founder and current chairperson of The Society of Construction Law for Africa

International Board Member – SCL International

Member of the Arbitration Foundation of South Africa

Member of the South African Development Community Lawyers' Association (SADCLA)

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## Seminars, Publication & Papers

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- Facilitator and co-presenter of introductory construction law course in Zambia for the Zambian Law Society and the SADC Lawyers' Association (2016)
- Speaker at the SCL Africa International Conference in Cape Town, South Africa (2016)
- Speaker at the SCL International Conference in Sao Paulo, Brazil (2016)
- Speaker at the SADC International Conference in Cape Town, South Africa (2016)
- Speaker at Society of Construction Law for Africa (2015) International Conference 2015: statutory adjudication in South Africa
- Presented workshop for Eskom senior legal advisors and attorneys on "Efficient Arbitration - best practice in international construction arbitration and its applicability in South Africa" (2015)
- Beyers, J and Murphy, G, A South African Comparative Review of Time Bar Provisions, The Driver Digest, 9th Issue, addressing the impact of recent Constitutional Court and Supreme Court of Appeal judgements on the enforceability of time-bar provisions in construction disputes (2015)
- Co-presenter for an introductory construction law workshop presented to advocates of the Pretoria Bar: adjudication, arbitration, litigation and mediation in respect of construction law disputes (2014)
- Presentation of a lecture on ADR and mediation of construction disputes for the CPD programme of the Royal Institute of Chartered Surveyors in South Africa (2013)
- Beyers, J, Book review of the 6th edition of Ramsden, McKenzie The Law of Building and Engineering Contracts and Arbitration, Stellenbosch Law Review, Vol 21, Issue 1, pp 207-210 (2010)
- Co-presenter of an Information Technology Law seminar held by the Commercial Law Department of the University of the Western Cape, addressing dispute resolution in the information technology industry (1999)

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## Additional Information

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Johan was awarded an MSc degree in Construction Law and Dispute Resolution from King's College London in December 2017. He won the Society of Construction Law UK prize for the highest exam mark in the International Arbitration and Dispute Resolution module.