



Jawdat Khurshid QC

Silk: 2018 | Call: 1994

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“He’s a very commercial, user-friendly silk.”

Chambers & Partners 2020

Practice Profile

Jawdat specialises in all aspects commercial litigation and arbitration, with a particular prominence in insurance and reinsurance disputes, where he has long been acknowledged as a leading practitioner at the bar, and in cases concerned with civil fraud.

As part of a broad commercial litigation and arbitration practice, Jawdat acts as an advocate and as an adviser in a wide range of commercial disputes, many of which are complex and have an international element. In addition to insurance and reinsurance disputes and matters involving civil fraud, Jawdat is also regularly engaged in the fields of energy and natural resources, shipping and commodities, banking and finance, injunctions and arrests, and sanctions.

Recent cases include ***Munich Re v Ascot*** [2019] EWHC 2768 (Comm) (a dispute as to the proper construction of a facultative reinsurance policy provided in connection with an offshore construction project in the Gulf of Mexico); ***Yukos Finance BV & Others v Lynch & Others*** [2019] EWHC 2621 (Comm) (a dispute concerning an alleged fraudulent conspiracy to rig a bankruptcy auction in Russia); ***Stavrinides & Others v Bank of Cyprus*** [2019] EWHC 1328 (Ch) (a fraudulent claim for the specific performance of an alleged settlement agreement); ***Harcus Sinclair LLP v Your Lawyers Limited*** [2019] EWCA Civ 335, [2019] 4 WLR 81 (CA) (the discharge of an injunction preventing a firm of solicitors from acting in the Volkswagen diesel emissions scandal); and ***Mamancochet Mining v Aegis Managing Agency & Others*** [2018] EWHC 2643 (Comm), [2018] 2 Lloyd’s Rep. 441 (an expedited claim for an indemnity under a marine cargo insurance policy raising questions as to the applicability of US sanctions).

Jawdat is ranked in the directories in the fields of insurance and reinsurance, commercial litigation and international arbitration. As well as being described as ‘top class’ and an ‘incredibly able lawyer’, Jawdat is an ‘excellent advocate who is approachable and always on hand’ and a ‘very persuasive and polished performer’. He is ‘extremely user-friendly’ and has

‘a very commercial and practical approach that clients love’.

Insurance & Reinsurance

Jawdat has acted in, and advised upon, a wide range of insurance and reinsurance disputes across a number of classes of business, including disputes relating to life, accident and health products, carve-out business, and the PA LMX spiral, film finance, professional liability, marine and energy insurance issues, contingency risks such as event cancellation, construction all risks policies, war and political risks, and underwriting agency, claims administration and similar contracts. Examples include:

- Advising with respect to a dispute concerned with the loss of tendons on the Chevron Bigfoot project (2017).
- A dispute concerned with the question whether a term obliging a reinsured to exercise due skill and care was to be implied into a contract of reinsurance protecting a book of French property business (2016).
- A dispute concerned with the avoidance of a policy of property owners’ insurance for the failure to disclose the non-disclosure in previous years of a serious criminal conviction (2016).
- A dispute concerned with the recoverability under a policy of insurance of the costs of an investigation conducted by the SEC in the US (2016).
- Advising with respect to the issue of fortuity under a marine insurance policy (2015).
- ***The Federal Mogul Asbestos Personal Injury Trust v Federal-Mogul Limited and Others*** [2014] EWHC 2002 (Comm), a case concerning the extent to which an asbestos personal injury trust was entitled to intervene in the contractual relations between an insured, its insurer and reinsurers, and to prescribe how asbestos claims, to be brought by the trust in the US, should be administered, defended and disposed of by the reinsurers on behalf of insured under the terms of an asbestos liability policy and corresponding reinsurance agreement.
- Two arbitrations (2013, 2014) concerned with an insurer’s liability to indemnify its insured under a policy of patent infringement liability insurance in connection with the settlement by the insured of claims that had been brought by two different brand-name manufacturers of pharmaceutical products.
- An arbitration (2014) concerned with an insurer’s liability to indemnify its insured under a Bermuda Form policy in connection with claims for thromboembolic events allegedly suffered by women as a result of the use of the insured’s transdermal contraceptive patch.
- An arbitration (2013) concerned with an insurers’ liability to indemnify its insured under a Bermuda Form policy in connection with claims for breast cancer allegedly suffered by post-menopausal women as a result of using the insured’s hormone replacement therapy drug products.

- A dispute (2013) concerning an insurer's liability to indemnify an insured under a builder's all-risks policy of insurance in respect of physical damage to steel that had been used in the construction of jack-up rigs.

Selected earlier examples include:

- An arbitration (2011) concerned with a captive insurer's liability to indemnify its insured under a Bermuda Form policy in connection with the cracking and severance of a structural brace on a major offshore platform.
- An arbitration (2010) brought by a bank against its political risks insurers in connection with the failure by a State-owned storage facility to store a cargo of petroleum products in favour of the bank until such time as it received instruction from the bank to release the same.
- An arbitration (2010) brought by a steel trader against its insurers under a policy of export credit insurance upon the failure by a supplier to ship goods under an underlying contract with the trader.
- Arbitrations (2010, 2009 and 2007) brought by reinsureds against their respective reinsurers which raised various issues concerned with the writing of gross loss-making business in the PA LMX reinsurance market in the 1990s.
- ***Crane v Hannover Re*** [2010] Lloyd's Rep. IR 93, a claim brought by a Lloyd's syndicate seeking to avoid certain contracts of excess of loss reinsurance protecting a reinsured's participation in an underlying book of casualty business.
- A claim brought by project managers and consulting engineers under a policy of liability insurance (2008) concerning the notification of a circumstance in a connection with the construction of a recycling and energy plant.
- ***Bank of Scotland v Euclidian*** [2008] Lloyd's Rep. IR 182, a claim brought by the Bank of Scotland against its insurers in connection with a failed after the event insurance scheme. Jawdat also acted for the bank in related claims brought in arbitration.
- An arbitration (2008) brought by a Lloyd's syndicate against its catastrophe reinsurer concerning the maintenance of zonal aggregates for US hurricane and earthquake risks.
- ***Sun Life & Phoenix v Lincoln National*** [2005] 1 Lloyd's Rep. 606, CA, an arbitration brought by reinsureds against whole account reinsurers in connection with a portfolio of accident and health business, the reinsureds having previously made a claim against specific reinsurers. The appeal from this arbitration concerned the effect in a reinsurance dispute of a previous award and defined the limits of issue estoppel.
- ***Beazley v Horizon Offshore*** (2005), a claim brought by the US owners of the pipelay barge 'Gulf Horizon' against their insurers involving issues of misrepresentation, non-disclosure and unseaworthiness in connection with a policy of marine towage insurance.

- ***International Management Group v Simmonds*** [2004] Lloyd's Rep. IR 247, a claim brought by an assured under a policy of contingency insurance against Lloyd's and company insurers in connection with the cancellation of a cricket tournament between India and Pakistan. The issues included whether there was a breach of warranty, whether 'rumours' were material to be disclosed, and whether there was a non-disclosure to the following market of an unfair presentation to the leaders.
- ***The Gold Medal v Hopewell arbitration*** (2001), which was brought in Bermuda by the captive insurer of a large Minnesotan food producer against a Bermudian reinsurer in connection with the unlawful application of a pesticide in the US. The case involved questions, as a matter of Minnesotan law, as to the proper construction of the underlying insurance contract, physical loss and damage, and mitigation; as well as questions, as a matter of Bermudian law, as to the conduct of the captive insurer's defence.
- ***CNA International v Companhia de Seguros Tranquilidade*** [1999] Lloyd's Rep. IR 289, a claim concerned with the cancellation of a concert by Placido Domingo in Lisbon due to the illness of the performer's mother.
- ***The State of the Netherlands v Youell*** [1998] 1 Lloyd's Rep. 236, CA, a claim concerning allegations of wilful misconduct by the shipyard and of a failure to sue and labour during the construction of two submarines within the meaning of sections 55(2) and 78(4) of the Marine Insurance Act 1906 respectively.

Commercial Litigation

Commercial disputes are a mainstay of Jawdat's practice. Recent examples include:

- ***Yukos Finance v Lynch***, a case concerned with alleged wrongdoing in connection with a bankruptcy auction in Russia.
- ***Harcus Sinclair v Your Lawyers*** (2017), a case concerned with allegations of professional misconduct on the part of a firm of solicitors in connection with an undertaking and allegations of breach of confidence in connection with the use of information produced under a non-disclosure agreement.
- ***Meerza v Al Baho*** (2017), a case concerned with allegations of dishonesty in connection with the purchase of a property in London.
- ***C&S Associates v Enterprise Insurance Co*** [2015] EWHC 3757 (Comm), a case concerned with the repudiation by insurers of a claims handling agreement.

Selected earlier examples include:

- ***Demco Investment v Interamerican Life*** (2010), a claim concerned with the allocation of liabilities in the context of a share sale and purchase agreement.

- ***Magenta v British Telecom*** (2009), a claim brought by a provider of network optimisation consultancy services against a large telecommunications company for breach of contract.

International Arbitration

Many of the disputes in connection with which Jawdat is engaged are resolved through confidential arbitration. Recent examples include:

- A reinsurance dispute (2016) concerned with the question whether a term obliging a reinsured to exercise due skill and care was to be implied into a contract of reinsurance protecting a book of French property business.
- An insurance dispute (2016) concerned with the recoverability under a policy of insurance of the costs of an investigation conducted by the SEC in the US.
- Two arbitrations (2013, 2014) concerned with an insurer's liability to indemnify its insured under a policy of patent infringement liability insurance in connection with the settlement by the insured of claims that had been brought by two different brand-name manufacturers of pharmaceutical products.
- An arbitration (2013) concerned with an insurers' liability to indemnify its insured under a Bermuda Form policy in connection with claims for breast cancer allegedly suffered by post-menopausal women as a result of using the insured's hormone replacement therapy drug products
- An arbitration (2013) concerned with an insurer's liability to indemnify its insured under a Bermuda Form policy in connection with claims for thromboembolic events allegedly suffered by women as a result of the use of the insured's transdermal contraceptive patch.

Selected earlier examples include:

- A series of three arbitrations (2011) concerned with a claim by the buyer of vessels on a bank refund guarantee, which had been provided by the seller as security for the first instalment of the purchase price of the vessels, and with allegations of fraudulent misrepresentation as to the identity of the seller of the vessels.
- An arbitration (2011) concerned with a captive insurer's liability to indemnify its insured under a Bermuda Form policy in connection with the cracking and severance of a structural brace on a major offshore platform.
- An arbitration (2010) brought by a bank against its political risks insurers in connection with the failure by a State-owned storage facility to store a cargo of petroleum products in favour of the bank until such time as it received instruction from the bank to release the same.
- An arbitration (2010) brought by a steel trader against its insurers under a policy of export credit insurance upon the

failure by a supplier to ship goods under an underlying contract with the trader.

- Arbitrations (2010, 2009 and 2007) brought by reinsureds against their respective reinsurers which raised various issues concerned with the writing of gross loss-making business in the PA LMX reinsurance market in the 1990s.
- ***Sun Life & Phoenix v Lincoln National*** [2005] 1 Lloyd's Rep 606, CA, an arbitration by reinsureds against whole account reinsurers in connection with a portfolio of accident and health business, the reinsureds having previously made a claim against specific reinsurers. The appeal from this arbitration concerned the effect in a reinsurance dispute of a previous award and defined the limits of issue estoppel.
- ***The Gold Medal v Hopewell arbitration*** (2001), which was brought in Bermuda by the captive insurer of a large Minnesotan food producer against a Bermudian reinsurer in connection with the unlawful application of a pesticide in the US. The dispute involved questions, as a matter of Minnesotan law, as to the proper construction of the underlying insurance contract, physical loss and damage, and mitigation; as well as questions, as a matter of Bermudian law, as to the conduct of the captive insurer's defence.

Jawdat also regularly advises on issues of arbitration law and appears on arbitration and related applications. Examples include:

- An arbitration application (2014) for mandatory and prohibitory injunctions in connection with a letter of credit relating to a cargo of naphtha.
- ***Cadogan Maritime v Turner Shipping*** [2013] EWHC 138, an application to challenge an arbitration award made in connection with the sale of a newbuild vessel.
- ***Cargill International v Afra General Trading*** (2012), an application for an anti-suit injunction restraining the defendant from prosecuting proceedings that had been commenced in Iran in breach of arbitration clauses in contracts for the supply of cargoes of sugar and grain.
- ***Noble Denton Middle East v Noble International*** (2010), an application to appoint an arbitrator pursuant to section 18 of the Arbitration Act 1996, which raised issues as to the scheme of the Act and the appropriate test to be applied on a section 18 application.
- ***Caisse Nationale de Prévoyance v Croft*** (2010), an application to remove a sole arbitrator for apparent (not actual) bias under section 24 of the Arbitration Act 1996. The arbitrator had at one time been the run-off manager of a co-reinsurer of one of the risks in issue in the arbitration, but had not underwritten the risk himself or personally been involved in its run off. Gross J decided that, as some negotiations with the co-reinsurer had taken place 'on his watch', there was still a real risk of bias.

- ***Sun Life v CX Reinsurance*** [2004] Lloyd's Rep. IR 58, CA, an application for a stay of proceedings under section 9 of the Arbitration Act 1996. The application raised issues as to the formation of contract, incorporation of terms and the existence of arbitration agreement.

Jurisdiction

Jawdat is regularly instructed in connection with jurisdictional disputes. Examples include:

- ***Augusta Due v Furtrans*** (2017), an application for an order for the committal to prison of a director of a company upon a finding of contempt for breach of an anti-suit injunction by continuing to pursue foreign proceedings.
- ***Quadra Commodities v Zar Macaron*** (2016), an application for an anti-suit injunction restraining a party from pursuing foreign proceedings in breach of an arbitration clause.
- ***Impala Warehousing v Wanxiang Resources*** [2015] EWHC 811 (Comm), an application for a mandatory injunction requiring a defendant to discontinue foreign proceedings and a prohibitory injunction restraining the defendant from commencing proceedings otherwise than in accordance with an exclusive English jurisdiction clause in a warehousing contract.
- ***Cargill International v Afra General Trading*** (2012), an application for an anti-suit injunction restraining the defendant from prosecuting proceedings that had been commenced in Iran in breach of arbitration clauses in contracts for the supply of cargoes of sugar and grain.
- ***FVH v Norstar*** (2009), an application for an order declaring that the Court should not exercise its jurisdiction to try an action brought by sellers of vessels against their brokers, in which the sellers sought a declaration of non-liability for brokerage commission.
- A claim in arbitration (2007) to determine the law governing two transportation contracts subject to arbitration under the UNCITRAL Rules.
- ***ESG v ACE*** (2006), a claim concerning the meaning and effect of the words "Norwegian Arbitration Clause" in the context of Article 17(4) of the Lugano Convention.
- ***Beazley v Horizon Offshore*** [2005] Lloyd's Rep. IR 231, where an anti-suit injunction was obtained by insurers at the outset of the proceedings.

Commercial Fraud

The cases in connection with which Jawdat is instructed often involve an element of commercial fraud. Examples include:

- ***Yukos Finance v Lynch***, a case concerned with alleged wrongdoing in connection with a bankruptcy auction in Russia.

- ***Meerza v Al Baho*** (2017), a case concerned with allegations of dishonesty in connection with the purchase of a property in London.
- Advising a bank in relation to a possible fraud in a connection with US\$25 million credit facility (2010).
- ***Deutsche Bank & Others v Asia Pacific Telecom*** (2009), a claim which the new management of a Taiwanese mobile telecommunications company raised allegations of mis-selling and dishonest assistance against a major bank in connection with a US\$210 million syndicated loan.
- ***HSBC v 5th Avenue Partners & Others*** (2006), a claim in which private investors brought personal and proprietary claims against the perpetrator of a fraud and a major bank.
- ***Oceanic Bank and Trust Limited v MJ Select Global Ltd*** (2005), a claim before the Supreme Court of the Commonwealth of the Bahamas by the official liquidator of MJ Select, a US\$500 million international hedge fund, which raised issues of banking, regulatory and company law, as well as hedge fund management.
- ***Grupo Torras v Pictet Bank*** (2005), a claim before the Supreme Court of the Commonwealth of the Bahamas against the Bahamian subsidiaries of a Swiss private bank which raised issues of banking and trust law, dishonest assistance and knowing receipt.
- ***R+V Versicherung v RISK Insurance & Reinsurance*** [2006] Lloyd's Rep. IR 253, a claim brought by reinsurers against insurance intermediaries to determine whether a senior underwriter at the reinsurers conspired to defraud his employers by putting in place binding authorities with the intermediaries that paid large sums by way of commission to the detriment of the reinsurers.

Energy & Natural Resources

Jawdat has been instructed in a number of disputes in the field of energy and natural resources. Examples include:

- ***Impala Warehousing v Wanxiang Resources*** [2015] EWHC 811 (Comm), an application for a mandatory injunction requiring a defendant to discontinue foreign proceedings and a prohibitory injunction restraining the defendant from commencing proceedings otherwise than in accordance with an exclusive English jurisdiction clause in a warehousing contract.
- An arbitration application (2014) for mandatory and prohibitory injunctions in connection with a letter of credit relating to a cargo of naphtha.
- A dispute (2013) concerning an insurer's liability to indemnify an insured under a builder's all-risks policy of insurance in respect of physical damage to steel that had been used in the construction of jack-up rigs.
- ***Cargill International v Afra General Trading*** (2012), an application for an anti-suit injunction restraining the

defendant from prosecuting proceedings that had been commenced in Iran in breach of arbitration clauses in contracts for the supply of cargoes of sugar and grain.

- **Acergy Shipping v Sobrena** [2012] 1 All ER (Comm) 369, a claim brought by the owner of the pipe laying vessel 'Acergy Falcon' against a ship repair yard for loss and damage to the vessel caused by a fire.
- An arbitration (2011) concerned with a captive insurer's liability to indemnify its insured under a Bermuda Form policy in connection with the cracking and severance of a structural brace on a major offshore platform.
- Advising in **Noble Denton Middle East v Noble International** (2010) in connection with the move of a jack-up rig from Sharjah to Qatar.
- **Beazley v Horizon Offshore** (2005), a claim brought by the owners of the pipe laying vessel 'Gulf Horizon' against their insurers involving issues of misrepresentation, non-disclosure and unseaworthiness in connection with a policy of marine towage insurance.
- A claim in arbitration (2000) brought by the owners of a self-propelled semi-submersible drilling rig against her demise charterers in connection with the failure by the demise charterers properly to maintain and repair the rig.

Shipping

Jawdat is regularly instructed on disputes arising out of time charters, voyage charters and bill of lading contracts, as well as ship casualty situations such as fires and groundings, unsafe ports and berths, stevedore damage, vessel performance, and ship sale, construction and repair. Examples include:

- Advising with respect to the consequences on the rights of parties to a time charterparty of an allision in the Suez Canal (2017).
- A claim concerned with the alleged contamination of a cargo of low sulphur fuel oil and the question whether a load port certificate of quality was conclusive and binding on the parties (2016).
- A claim concerned with the safety of a port in West Africa following the outbreak of the Ebola virus (2016).
- A claim concerned with the alleged contamination of a cargo of jet fuel (2014).
- **Acergy Shipping v Sobrena** [2012] 1 All ER (Comm) 369, a claim brought by the owner of the pipe laying vessel 'Acergy Falcon' against a ship repair yard for loss and damage to the vessel caused by a fire.
- A series of three arbitrations (2011) concerned with a claim by the buyer of vessels on a bank refund guarantee, which had been provided by the seller as security for the first instalment of the purchase price of the vessels, and with allegations of fraudulent misrepresentation as to the identity of the seller of the vessels.

- An arbitration (2010) arising out of the grounding of a vessel in the Mississippi River, giving rise to a dispute as to the safety of the port for the vessel in question and the true cause of the groundings.
- An arbitration (2008) by an owner of a vessel to have been entitled to withdraw from or terminate a time charterparty for non-payment of hire, and a counterclaim by charterers to have been entitled to make various deductions from hire.

Banking & Finance

Jawdat 's practice regularly brings him into contact with banking and finance disputes, ranging from discrete issues arising under letters of credit to multi-million disputes arising under more complex arrangements. Examples include:

- Advising a trader in connection with a letter of credit relating to a cargo of naphtha (2014).
- Advising a bank in relation to a possible fraud in a connection with US\$25 million credit facility (2010).
- ***Deutsche Bank & Others v Asia Pacific Telecom*** (2009), a claim by the new management of a Taiwanese mobile telecommunications company which raised allegations of mis-selling and dishonest assistance against a major bank in connection with a US\$210 million syndicated loan.
- Advising an international bank in relation to a credit default swap transaction (2008).
- ***HSBC v 5th Avenue Partners & Others*** (2006), a claim in which private investors brought personal and proprietary claims against the perpetrator of a fraud and a major bank.
- ***Oceanic Bank and Trust Limited v MJ Select Global Ltd*** (2005), a claim before the Supreme Court of the Commonwealth of the Bahamas by the official liquidator of MJ Select, a US\$500 million international hedge fund, which raised issues of banking, regulatory and company law, as well as hedge fund management.
- ***Grupo Torras v Pictet Bank*** (2005), a claim before the Supreme Court of the Commonwealth of the Bahamas against the Bahamian subsidiaries of a Swiss private bank which raised issues of banking and trust law, dishonest assistance and knowing receipt.

Education

Jawdat was educated at Cranleigh School (1984-89) and then at St. Catherine's College, Oxford (1990-93) where he obtained a First Class Honours degree in Jurisprudence and was awarded the prize for the best performance in the

International Trade paper in finals. Jawdat was awarded the Denning Scholarship and a Sir Thomas More Bursary by Lincoln's Inn (1993-94).

Appointments

Having been called to the Bar in October 1994, Jawdat joined 7 King's Bench Walk the following year after the successful completion of his pupillage and has practised from there ever since. Jawdat has lectured in contract law at St. Catherine's College, Oxford.

Directories

Jawdat is ranked in the directories in the fields of insurance and reinsurance, commercial litigation and international arbitration.

- "He's personable and great with clients as well as being academically smart." "His advice is always pragmatic, succinct and practical."

Chambers UK 2021

- 'Has the ability to cut through complex issues, giving erudite practical advice that is rooted in a deep understanding of the underlying technical issues.'

Legal 500 2021

- "His advocacy is superb and polished, and his cross-examination is formidable." "He's a very commercial, user-friendly silk."

Chambers UK 2020

- "He has a real eye for detail." "Compelling written advocacy." "His judgement is spot on."

Legal 500 2019

- "An excellent advocate who is approachable and always on hand." "A very persuasive and polished performer."

Chambers UK 2019

- "Very user friendly and has a very commercial and practical approach that clients love." "Reliable and user friendly, with a pragmatic approach." "A very safe pair of hands and great on his feet."

Legal 500 2018

- “Has a very commercial approach, is very good at anticipating potential difficulties, and provides spot-on advice.”

Chambers UK 2018

- “Top-class – his work is of a very high standard.” “He retains clarity of thought under pressure and delivers commercially strategic advice.” “He has a very commercial approach and is very good at anticipating difficulties.”

Legal 500 2017

- “Extremely user-friendly and a good tactician.”

Chambers UK 2017

- “Superb.” “A creative legal mind.”

Legal 500 2016

- “He’s an incredibly able lawyer who is extraordinarily thorough, and if you instruct him you know that every corner and every crevice of a case will have been explored and thought through.”

Chambers UK 2016

- “Apart from being clever and easy to work with, he has a great desire to win.” “Very numerate and intelligent – a good man for complex calculations.”

Legal 500 2015

- “He is very bright, thorough and good at technical analysis.”

Chambers UK 2015

- “Diligent and careful in his work”, “effective advocacy style.” “A great all-rounder.”

Legal 500 2014

- “Very bright”; “great.”

Chambers UK 2014

- “Attracts praise”; “excellent” and “a great all-rounder.”

Legal 500 2013

- “Rated highly for his approachable manner and pragmatic attitude.”

Chambers UK 2013

- “dependable and very personable”; “gives advice which always instils confidence.”

Legal 500 2012

- “Wins great market respect.”

Chambers UK 2012

- “easy to work with”

Chambers UK 2011

- “well liked by all who work with him”: “He is a personable and enormously bright insurance practitioner who is easy to work with.”

Chambers UK 2010

- “Extremely polished and intelligent.”

Chambers UK 2009

- “can-do attitude”

Legal 500 2008

- “forceful”, “fluent and persuasive.”

Chambers UK 2008