



CIVIL LITIGATION

The way a dispute is handled is vital to the outcome – whether it is successfully resolved or not. With so many different methods of dispute resolution available these days, it can be hard to decide which path is the most appropriate. Here we take a look at the benefits of civil litigation by speaking to Georgina Squire, Head of Dispute Resolution at Rosling King LLP. Rosling King is a City of London Law Firm which specialises in providing advice in the financial institutions, private equity, commercial real estate & construction sectors.

What are the most common types of civil disputes that you advise on in the UK? How are these disputes usually resolved?

I handle all forms of litigation in the firm's work sectors but have in the last few years specialised in financial institution professional negligence claims and insurance disputes.

My aim is always to achieve a commercial resolution for the client – which is invariably to obtain a good out of court settlement preferably pre-action – either by negotiation or ADR/mediation. The only claims we have had to take to trial to obtain a result have been

reported precedent cases invariably pushed to trial by the opponent not our client.

You frequently advise on civil disputes for those involved in the financial services sector, what types of legal difficulties do these individuals encounter the most frequently? What can these professionals do to avoid civil disputes in the future?

We act for lenders private equity financial institutions and investors who always adopt a commercial approach to litigation. If Claimant they are looking to recover some of their business losses. Such losses can have arisen in mortgage or loan transactions or be as a result of them having been targeted with mortgage or borrower fraud. They can also arise from business arrangements which fall into difficulties – perhaps arising from a sale or purchase of a business or in attempting to claim on an insurance policy they hold.

Issues arise for the clients when they have to defend a claim as they may not be able to control the litigation in the same way as they can as Claimant. They can be forced to fight longer in Court than they would prefer.

It is hard for financial institutions to avoid civil litigation being brought against them. They are seen as having deep pockets and also despite all their best endeavours still sometimes have aggrieved customers.

How can mediation be used to resolve civil disputes? How do you assess which type of dispute resolution is most appropriate for each case?

Mediation is useful for all forms of commercial dispute in the financial sector. It would be sensible in my opinion to try to resolve a claim by direct negotiation first as mediation is costly and can take time to set up. However I would never refuse it as a way to resolve a claim. I find it is very effective when the case is well enough developed that everyone knows where they stand and one party cannot hide behind ignorance of some key element of the claim. Also it is only effective when both parties genuinely come to a mediation with a desire to settle otherwise it is an expensive waste of time. Court-ordered mediations often fail for this reason.

We always try to settle a claim by direct solicitor to solicitor negotiations first as that is usually the quickest cheapest and just as effective a result as any form of structured negotiation. I encourage my team to pick up the phone and talk to their opponent in the hope of building a rapport and negotiating a settlement.

When advising on professional negligence claims, what strategies do you typically implement to help the claimant receive the most favourable results? In what sectors do professional negligence claims usually arise the most frequently?

When advising on professional negligence claims for lenders/financial institutions/private equity investors we always investigate the claim fully at the outset. We leave no stone unturned and work out the strengths and weaknesses of the claim before we start as this dictates the strategy. We agree the goal with the client at the outset and then set the road map to achieve it. We find that this enables us to answer any question raised by our opponent and to be in control of the claim so we can navigate it to a speedy and effective solution.

We find that professional negligence claims arise primarily in the lender/financial institution and construction sectors.

How can individuals identify if they have a strong claim of professional negligence? What can clients expect when pursuing a case of professional negligence?

In order for a client to identify a claim they usually need an expert opinion from someone in the same discipline and with the same expertise as the original professional who is being criticised. That is key to any claim getting off the ground. It is important that the appointed expert is impartial and wholly

independent so that a fair view is given which the client can rely upon. Invariably there will be a margin of error allowed to the professional and so it is important to know that the expert is firmly of the view that the original work was done outside the boundaries permitted by such a margin and that the advice was wrong. The professional being sued will undoubtedly feel aggrieved and try to defend their reputation and that is why it is important that only strong solid claims are pursued. The client can then rely on their expert opinion to support their claim.

You have advised on some high profile cases, what are the challenges to advising on cases where there is a large amount of media coverage?

We have been very fortunate to handle a lot of cases that have been run as precedents in the lender professional negligence and insurance coverage sectors. It is a privilege to be able to experience a case being argued in the appellate courts and even more satisfying then to win. However my preference always remains to resolve a case pre-action and that can give equal if not greater satisfaction than a win at trial.

If there is media interest it remains important to concentrate on the claim and ensure that we give it all our attention to achieve the best result for the client and not be distracted by such media interest. Our retainer is to achieve the result the client wants and that has to be our sole concern.

It is fair to say that media cover can add pressure as everyone wants to do the best they can to win for their client and when in the media spotlight it is all the more important not to let anything slip up. **LM**



Georgina Squire, Head of Dispute Resolution at Rosling King
Rosling King LLP, 10 Old Bailey, London, EC4M 7NG
Tel: 0207246 8000 | Email: Georgina.squire@rkllp.com

RoslingKing
LLP