

James Brown in Burford Quarterly: ‘Expert insights: Trends in the Oil and Gas industry’

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PRACTICES Shipping, Energy, Power and Natural Resources, Oil and Gas

Haynes Boone London office Partner [James Brown](#) is featured in a Q&A in *Burford Quarterly* about risks and opportunities in the oil and gas industry following the pandemic.

Here is an excerpt:

In the spring of 2021, Burford Director Jeffery Commission and Vice President Reda Hicks asked a group of trial attorneys, arbitration leads and dispute resolution specialists in the energy sector about major risks and opportunities in the oil and gas industry following the pandemic.

Q: In many cases, we are beyond the point in the pandemic where force majeure can serve as a basis for handling commercial disputes, yet we are still feeling the ripple effects of Covid. How are you helping clients manage the continuing uncertainty caused by the ripples?

Brown: The impact of Covid-19 is still often a key issue for parties. Unlike an event of force majeure having a short duration, the pandemic has continued for well over a year and, with no end in sight, continues to impact projects. I have seen matters where parties are yet to agree on the pandemic’s impact to date and who have had a real difficulty in arriving at a deal on its impact on their contractual obligations and rights.

The difficulty arises from having to determine the pandemic’s current and future impact on their projects. Parties don’t want to preclude claiming further extensions of time if circumstances change, especially if they face another lockdown. So, there is that tension, which can make it hard for parties to move forward with a plan on an agreed footing.

Q: The supply chain is a significant source of risk and uncertainty for the oil and gas sector even in the best of times, and the last year’s events have further exacerbated that harsh reality. Can you address how you are helping clients navigate the heightened risk and uncertainty in their supply chains? What are the tools when it comes to commercial disputes?

Brown: Covid-19 has caused parties and their legal advisors to scrutinize force majeure clauses much more closely than before. Parties in the last 18 months have had to grapple with these clauses and apply them to seek to excuse contractual failures or extend the time that they have for performance. Often, the shortcomings in clauses agreed pre-pandemic became apparent. One way we are addressing the heightened current risks in supply chains is by including liquidated damages clauses in contracts and making sure that such clauses are prepared to be enforceable and as free from the potential for disputes to arise as possible. The pandemic has served as a driver to really focus on sharpening these clauses in new contracts.

Brown is featured on Pages 11, 12, 15, and 17 of the [publication](#).