

Arbitrators

[Edited and added by SM on 7.9.22]

What our arbitrators do

We have a significant number of highly regarded full-time international arbitrators, some of whom were previously senior judges in the UK, Australia, India and other overseas jurisdictions. Many of our barristers also act as arbitrators in addition to their counsel practice.

Our arbitrators have experience acting in arbitrations conducted under all major arbitration rules, including AAA, CAS, DIAC, HKIAC, ICC, ICSID, LCIA, LMAA, SIAC and UNCITRAL rules, as well as ad hoc arrangements.

Our arbitrators are appointed in arbitrations arising from a wide range of industry sectors, including commercial, commodities, company (shareholder and joint venture), construction and infrastructure, defence, energy, financial services, health, media and entertainment, mining and natural resources, sports, technology, transport and telecommunications.-

Our arbitrators are also appointed in investor-state disputes.

Where our arbitrators practise

Our arbitrators accept sole, party and chair appointments from parties and institutions across the world. They have experience in a variety of arbitrations seated in all prominent arbitral seats of the world.

We have a dedicated and separate team of arbitration clerks in London and Singapore to support our arbitrators. This also ensures confidentiality, separating the work of barristers acting as counsel in arbitrations and our arbitrators.

39 Essex Chambers
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Vivek Kapoor

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Year of call: 2008 (India) 2018 (England & Wales) 2022 (DIFC)

“Vivek Kapoor ... is an excellent litigator, is always well prepared and has an excellent grasp of facts and law.” The Legal 500

“... able and persuasive submissions” HHJ Stephen Davies in [2022] EWHC 1235 (TCC)

Vivek Kapoor is an experienced advocate and arbitrator specialising in complex commercial disputes and investor-state disputes. He has particular expertise in multi-jurisdictional disputes arising from energy and natural resources, infrastructure and construction, banking and financial services, and technology sectors.

He is recognised by independent legal directories in the field of International Arbitration and Public International Law. Vivek featured in the inaugural Legal 500 International Arbitration Powerlist, which listed 200 of the UK’s leading arbitration practitioners working in law firms and at the Bar.

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Vivek has full rights of audience in England & Wales, India, Dubai International Financial Centre, and Abu Dhabi Global Market. His substantial practice is as counsel in international arbitration and before the English and Indian Courts.

Vivek has a wide-ranging practice in the field of international arbitration. He has acted in arbitrations under a wide variety of international arbitration rules including ICSID, ICC, LCIA, SIAC, UNCITRAL, and ad-hoc arrangements. He has experience of arbitration applications before various international courts, including challenges to awards and enforcement under the New York Convention. He also regularly acts as arbitrator in ad-hoc and institutional arbitrations.

Prior to joining 39 Essex Chambers, Vivek spent a number of years in private practice with leading international law firms in London and Singapore, before which he practised at the Bar. He has lived and worked in UK, US, Singapore, and

India.

Areas of expertise

- International Litigation
- Public International Law
- Energy and Natural Resources

International Arbitration (as Counsel)

Cases of note

UNCITRAL Arbitration – Acted for a leading infrastructure company in a dispute under a bilateral investment treaty against an Asian State arising from the indirect expropriation of two power projects.

UNCITRAL Arbitration – Acted for European investors in a dispute under a bilateral investment treaty against a CIS State arising from the direct expropriation of a mining project.

UNCITRAL Arbitration – Acted for a British investor in a dispute against a CIS State under the State's Foreign Investment Law arising from the breach of the fair and equitable standard and indirect expropriation of a mining project.

UNCITRAL Arbitration - Acted for a Mauritian investor in a dispute pursuant to a bilateral investment treaty against an Asian State arising from the breach of the fair and equitable standard and indirect expropriation of an information technology venture.

UNCITRAL Arbitration – Acted for a Turkish contractor in a dispute pursuant to

a bilateral investment treaty against an African State arising from the expropriation of an EPC contract to build a power plant.

UNCITRAL Arbitration - Acting for a European defence contractor in a dispute pursuant to a bilateral investment treaty against a South American State arising from the expropriation of a defence services contract.

UNCITRAL Arbitration – Acted for a Turkish contractor in a dispute pursuant to a bilateral investment treaty against an African State arising from the expropriation of an EPC contract to build a new airport.

ICSID Arbitration – Advising a Central Asian State on a dispute pursuant to a bilateral investment treaty commenced by an investor alleging expropriation of a bank.

UNCITRAL Arbitration – Advising an African State on setting aside of the Final Award obtained by Chinese investors.

LCIA Arbitration – Acted for a one of the largest metals conglomerates in a dispute against a Canadian mining company in dispute arising from an offtake agreement in connection with a mine in Brazil.

UNCITRAL Arbitration – Acted for an African national oil company in a dispute against an international oil company arising from a production sharing contract.

UNCITRAL Arbitration – Acted for an African state-owned company in a dispute against a consortium arising from a joint operating agreement in relation to a production block in Africa.

UNCITRAL Arbitration – Advised an international oil company in a dispute against an Asian state concerning rights under a gas concession agreement.

UNCITRAL Arbitration – Advised the owner and operator of a major gas pipeline in Africa in a dispute regarding the participating interest and rights of two sovereign shareholders.

ICC Arbitration - Acting for an international oil company in a dispute to enforce

the payment of cash-calls by a defaulting joint venture partner under a joint operating agreement.

LCIA Arbitration – Acted for the former head of FX trading of a prominent British multinational bank in an insurance coverage dispute relating to ongoing DOJ, SEC and FCA investigations.

LCIA Arbitration – Acted for a one of the largest metals conglomerates in a dispute against a Middle-Eastern state-owned entity over non-performance of agreement for the supply of coal.

Singapore-seated ad-hoc Arbitration – Acted for a prominent metals conglomerate in a dispute against a south-east Asian state-owned company regarding allegations of misrepresentation and breach of contract in relation to a high-value transaction involving the Chinese-arm of a London-based investment bank.

SIAC Arbitration - Acting for an Indian mining company in a dispute against a Singaporean company specializing in the trade of minerals arising from a contract for the production and sale of iron pellets.

ICC Arbitration – Acted for one of the world's leading manufacturer of connectors and sensors in a dispute against one of the world's largest power generation companies in relation to energy production and distribution at a solar park in the Middle East.

SIAC Arbitration – Acting for a defence contractor against a South Asian State in a dispute arising out of the establishment of a major defence project in the State.

LCIA Arbitration – Acted for Russian private equity firm in a dispute against a prominent US real estate developer in relation to investment into a real estate project in Moscow.

SIAC Arbitration – Acted for leading South Asian sports entertainment media

companies in a joint venture dispute with one of the largest media conglomerates over the ownership and broadcast of leading sports channels in South Asia.

SIAC Arbitration – Acted for an Indonesian mining company in a dispute against a prominent commodity trader over the impact of regulatory changes in Indonesia’s mining sector on parties’ obligations under long-term agreements for the supply of coal.

London-seated ad-hoc Arbitration - Acted for the Brazilian subsidiary of a leading metals multinational company in a dispute against a Dutch company regarding its contractual performance in relation to a transaction with a Middle-eastern state-owned company.

London-seated ad-hoc Arbitration - Acted for an Indian mining company in a dispute against a British maritime company regarding the application and scope of force majeure under a charterparty.

ICC Arbitration – Acted for a sub-contractor in a dispute with the main contractor in relation to civil works at a gas exploration site in South Asia.

ICC Arbitration – Acted for a fund manager in a dispute over management of the fund focussed on telecom asset in West Africa.

ICC Arbitration – Acted for an engineering subcontractor against the contractor in a dispute pertaining to the design and engineering works forming part of the development of an oil field in West Asia.

International Arbitration (as Arbitrator)

Cases of note

LCIA Arbitration – Sole Arbitrator in a multiparty arbitration involving American, Canadian, Middle eastern and African parties, arising from the acquisition of a private security firm operating in a number of jurisdictions in Africa.

LCIA Arbitration – Co-arbitrator in an arbitration between a European oil and gas company and an African energy company in a dispute arising from the sale of a downstream oil and gas business in Africa.

LCIA Arbitration – Sole Arbitrator in an arbitration between British and German companies arising from a trade mark licence and supply agreement in relation to telecommunication accessories.

LCIA Arbitration – Sole Arbitrator in an arbitration between Chinese and British companies arising from an agreement for the provision of support services in relation to telecommunication devices.

SIAC Arbitration – Sole Arbitrator in an arbitration between African parties in arising from civil and electro-mechanical works in relation to the design, manufacture, construction and commissioning of a solar photovoltaic power generation plant located in East Africa

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International Litigation

Cases of note

England & Wales Acted for Liverpool City before the High Court (Technology and Commercial Court) in proceedings to resist an adjudicator's decision regarding a highways project. Leading case on the approach to a number of important issues related to jurisdiction, dispute under two contracts, service and appointment of an adjudicator, the question referred to an adjudicator, and

natural justice. [2022] EWHC 1235 (TCC).

England & Wales Acted for Brazilian restaurant chain Rodizio Rico before the High Court (Technology and Commercial Court) in a claim for loss and damages under contract and tort.

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England & Wales Acted for Country Land Conservation before the High Court (Chancery Division) in a claim for damages arising from the breach of a statute.

England & Wales Acted for The Purchasers before the High Court (Chancery Division) in a claim related to the insolvency of the historic Caer Rhun Hall Hotel in Wales.

England & Wales and **India** Acted for Punjab National Bank International in simultaneous enforcement proceedings before the High Court (Queen's Bench Division) in London and the Bombay High Court in Mumbai against 8 defendants arising from a multi-million-pound judgment of the English High Court.

England & Wales Acted for the Royal Bank of Scotland in numerous claims arising from allegations of mis-selling of payment protection insurance.

England & Wales Acted for National Westminster Bank in numerous claims arising from allegations of mis-selling of payment protection insurance.

Singapore Acted for Indonesian state-controlled natural gas corporation PT Perusahaan Gas Negara (Persero) in the much controvertible setting aside proceedings in Singapore before the Court of Appeal and High Court, arising from an ICC arbitration regarding a major gas pipeline project in Indonesia. Seminal case in the interpretation of the dispute resolution process under the FIDIC Red Book (1999), and prompted FIDIC Guidance Memorandum.

India Acted for PepsiCo India in proceedings against the state of Punjab before the Punjab & Haryana High Court in a matter pertaining to arbitrary withdrawal of tax concessions awarded for the setting up of three manufacturing units in Punjab.

Hong Kong Acted for PT First Media TBK in enforcement proceedings in Hong Kong before the Court of Appeal in the long running Astro/Lippo dispute related to the enforcement of five arbitration awards.

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India Acted for Punjab National Bank International before the Bombay High Court in enforcement proceedings against an IT company and its promoters arising from a multi-million-pound judgment of the English High Court.

India Acted for a trade body representing FMCG companies before the Supreme Court of India in a petition seeking judicial review of a new environmental regulation with a possible multi-million exposure to the entire FMCG industry.

India Acted for PepsiCo India before the Punjab & Haryana High Court in a series of litigations arising out of a dispute with the Indian state of Punjab over the imposition of market fee on agricultural procurement in the state.

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Public International Law

Vivek has been instructed by States and private entities on both contentious and non-contentious public international law related issues. He is regularly instructed in matters related to the protection of international investment under bilateral investment treaties, free trade agreements, and investor-state and concession contracts.

He advises on restructuring of investments to provide treaty protections, treaty interpretation, sovereign immunity, state succession, state sovereignty over natural resources, state responsibility for actions of public authorities, and international sanctions. He has also advised on civil liberties and human rights in the context of commercial disputes involving States and State entities.

Energy and Natural Resources

Vivek has extensive expertise of disputes arising from the energy and natural resources sectors. He has acted and advised in disputes related to-oil and gas, renewables,-nuclear, electricity and thermal power, energy transition technologies,-water, mining, and commodities (minerals and petrochemicals). He acts for and advises a broad spectrum of clients in the energy and natural resources sector – sovereign states, state-owned companies, developers, public and private utilities, independent power producers, energy tech companies, investors and lenders.

Vivek also works extensively in the Infrastructure and Construction sector and has experience of infrastructure-related disputes in the energy and natural resources sectors.

Admissions

- England & Wales India
- Dubai International Financial Centre (DIFC)
- Abu Dhabi Global Market (ADGM)

Memberships

- LCIA European Users' Council
- International Council for Commercial Arbitration (ICCA) Chartered Institute of Arbitrators (CIArb)
- Energy Arbitration Club Scottish Arbitration Centre
- International Centre for Alternative Dispute Resolution (ICADR)
- Editorial Advisory Board, LexisNexis Arbitration

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Proofread by SM, Uploaded by LT 28/7/22, needs to be checked-

Karishma has a busy commercial litigation and civil fraud practice representing companies and individuals in high value cases before the commercial court and

in arbitration.-

She specialises in mergers and acquisitions (M&A), banking and crypto disputes emanating from cross border transactions. Her sector expertise is in steel, metals, mining, diamonds, fintech and pharmaceutical industries.

She leads teams in heavy trials and interim proceedings. She is typically instructed on jurisdiction challenges, service out, anti-suit and summary judgment applications, Norwich Pharmacal claims and freezing injunctions before progressing to trial.-

Karishma is sought after for input on litigation strategy, especially in cases with multi-jurisdictional elements.-

Karishma frequently works with lawyers from foreign jurisdictions. She has the rare expertise of being triple qualified in England, India and the Dubai International Financial Centre (DIFC) and has reported judgments in all three jurisdictions. Karishma is ranked for commercial litigation by The Legal 500 in the UK and Europe Middle East and Africa (EMEA) (band 1), demonstrating the gravitas of her international practice. Her international practice includes running a set of chambers in India.

Karishma's significant international arbitration expertise includes being appointed as an arbitrator, and as counsel in arbitrations seated in London, Singapore and India in cases governed by the London Court of International

Arbitration (LCIA), International Chamber of Commerce (ICC), Singapore International Arbitration Centre (SIAC), London Metal Exchange (LME), RSA -and
Munich Institute for International Arbitration (MCIA) rules .-



Areas of expertise

- Banking and Financial Services
- Commercial Contracts
- International Arbitration
- Civil Fraud
- Alternative Dispute Resolution- Arbitrator
- International Practice- Middle East

Banking and Financial Services

“Very thorough and very committed – she knows her stuff, is tactically aware and sees the bigger picture and where we are going with it.” The Legal 500 EMEA 2021 (Tier 1)

Karishma is a specialist in cross border lending and guarantee defaults. She is adept at handling such litigation where the main facility agreement has a governing law that is different from some of the underlying guarantees/security

documents. Often, one or more legs of the proceedings are outside England, such as before courts and tribunals in India or the DIFC Court in Dubai.

She is instructed by banks, private equity and venture capital houses as well as by borrowers and guarantors and has had successes-for both sides, including when appearing against silks.

Cases of note

- *ICICI Bank v GVK Coal Developers* –Instructed by a consortium of banks to lead a team at trial before the Commercial Court in this loan and guarantee default worth US\$1.7bn borrowed for a mining project in Australia.
- *Punjab National Bank v Vishal Cruises and Passat Kreuzfahrten* [2020] EWHC 1962 - Defending guarantors in claims over €12m. Karishma argued an anti-suit injunction. Issues for trial concern misrepresentation, breach of India’s foreign exchange regulations and principles of agency.
- *Emirates NBD Bank v KBBO* DIFC Claim No. CFI-045-2020, order dated 18 August 2021 - Karishma, leading a team, successfully lifted a US\$300m freezing injunction for a guarantor at the DIFC Court. The banks settled with her client in this matter linked to the NMC Health scam.
- *Punjab National Bank v Srinivasan* [2019] EWHC 89 (Ch) - Successfully defended a personal guarantor of a US wind energy company in this US\$37m case on grounds of fraudulent misrepresentation and breach of full and frank disclosure by the bank during their application to serve out.
- *Barclays Bank Plc v Svizera* - Defended guarantors in a US\$35m trial concerning breach of a facility agreement and currency swap. Karishma was subsequently instructed to draft a US\$14m claim against the receivers for selling assets at undervalue pursuant to the primary case.

Commercial Contracts

“A very hard working lawyer, who is always ready to go the extra mile for her client. Her written advocacy is of a high standard and she is able to break some complicated issues and present them in a simplified and persuasive manner.” The Legal 500 UK

2022

Karishma has 16 years of experience as a commercial litigator. The average size of her matter is about US\$10-300m in dispute and many of her cases are reported. She is instructed by both investors and fund houses in breach of shareholder agreements and related transactions. She is herself an investor in startups and has had successful exits, making her a trusted choice as she gets the commercial angle in each case.

Cases of note

- *Cargill International v Uttam Galva Steels* [2018] EWHC 974 (Comm), [2018] EWHC 2977 (Comm) and [2019] EWHC 476 (Comm) - Instructed by Uttam Galva Steels to defend a US\$61.8m breach of an advance purchase and sale agreement. Karishma was instructed in three hearings against leading silks including for a summary judgment application
- *Kanji v Eros* [2021] EWHC 2859 (Comm) - Karishma is instructed by an ex-consultant of an NYSE-listed media company to seek damages following the grant of restricted shares under an employee stock ownership plan (ESOP) agreement. She successfully secured indemnity costs at a hearing for default judgment. Karishma previously successfully settled a similar matter for another ex-employee against the same company.
- *Malhotra v Malhotra* [2012] EWHC 3020 (Comm) - Successfully lifted an anti-suit injunction in England enabling the continuation of proceedings abroad in this dispute arising out of a private equity transaction and breach of a shareholders agreement worth US\$225m (led).-
- Instructed in an appeal to the Privy Council from the Cayman Islands Court of Appeal in a dispute between shareholders of an asset management company.
- Advised a majority shareholder on an unfair prejudice petition arising out of a £2.5m shareholders agreement concerning a 150-room hotel in the north of England-franchisee.
- Instructed to defend an allegation for breach of a franchise agreement by an English franchisee

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International Arbitration

“Her analytical and systematic approach to matters are just one of her many hidden strengths.” A client instructing her on an LCIA arbitration.

Karishma is instructed in arbitrations under the auspices of the ICC, LCIA, SIAC and MCIA rules and in commodity arbitrations such as under the LME and RSA rules. Her command over conflict of laws makes her an attractive choice for complex arbitrations. For example being instructed as counsel in a London seated ICC arbitration governed by Sudanese law.

She is appointed as arbitrator in London and India seated arbitrations.

Her being invited as a speaker by the Global Arbitration Review (GAR), at the Paris Arbitration Week is a demonstration of how well she is regarded in the field of international arbitration.

Cases of note

- *Uttam Galva Steels Ltd v Gunvor Singapore Pte Ltd* [2018] 2 Lloyd’s Rep 152—Defended a US\$35m claim under the London Metal Exchange arbitration rules and brought a section 67 challenge on whether an arbitrator has powers to grant summary judgment and whether bills of exchange can be arbitrated if the master sales agreement contained the arbitration clause.
- Instructed by a defence manufacturer in a dispute concerning a liquidated damages clause in a US\$200m contract.
- Instructed by a Thai company in an ad hoc, London-seated arbitration without a governing law clause stemming from a collateral management agreement worth US\$100m against an African bank.
- Represented Indian promoters in a Geneva seated, LCIA arbitration governed by English law in a US\$225m private equity dispute concerning breach of non-compete provisions.

- Instructed in an interim application at the Commercial Court in London in aid of a Singaporean arbitration pursuant to the trigger of a share pledge in the automobile industry.
- Defended a Southeast Asian company in a London-seated LCIA arbitration in the breach of a US\$79m acquisition agreement to buy a Russian coal mine.
- Instructed in a London-seated LCIA arbitration by a distributor of skincare products for the breach of a distribution agreement.

Civil Fraud

“Hard working, diligent, enthusiastic, good at building rapport with clients and instructing solicitors.”

The Legal 500 UK 2021

Karishma undertakes noteworthy civil fraud cases including banking fraud, crypto fraud and email compromise fraud. Owing to her interim application expertise, she is instructed on Norwich Pharmacal claim to ascertain the identity of the perpetrators of fraud, followed by bringing/defending worldwide freezing orders against them. Karishma has also been quoted by leading newspapers including on the Vijay Mallya-Kingfisher scam and on her experience of how fraud is pleaded in different jurisdictions.

Cases of note

- *Punjab National Bank v Srinivasan and others* [2019] EWHC 89 (Ch) - Successfully defended a guarantor of a US wind energy company in this US\$37m case on grounds of fraudulent misrepresentation and breach of full and frank disclosure by the bank during their application to serve out.
- Successfully sought permission to serve by alternate means, Norwich Pharmacal reliefs and a first of its kind worldwide freezing injunction over 183 bitcoin against the perpetrators of a crypto

fraud worth about £10m.-

- Successfully represented a Vietnamese company who were victims of an email compromise fraud. Obtained a settlement with banks, following the bringing of proprietary injunctions against them.-
- Instructed by a manufacturer of generic pharmaceuticals to bring an action worth about £14m against a big four accounting firm for breach of receivers' duties following the sale by them of a company at undervalue.
- Advised foreign investors in an online British jewellery business where the sweat-equity shareholder was siphoning sums via fraudulently programmed payment gateways.
- Advised a minority shareholder of a conferences business on bringing an unfair prejudice petition against majority shareholders who were desirous of launching the conference in cities outside the UK under the same brand but under a company structure that excluded the minority shareholder.

Alternative Dispute Resolution- Arbitrator

Karishma is familiar with the ICC, LCIA, SIAC, DIAC and MCIA rules as well as rules framed by commodity exchanges such as under the LME and RSA. She has particular expertise in cross-border arbitrations involving foreign law or foreign parties or both.

She has been invited as a speaker at GAR conferences, Paris Arbitration Week, Dubai Arbitration Week, Combar, Indian Council of Arbitration and Mumbai Centre for International Arbitration conference. This reflects the respect peers in the field have for her, making her a safe and reliable choice as arbitrator.

Cases of note

- Appointed as a sole arbitrator by the Mumbai Centre for International Arbitration (MCIA), India's premier arbitral institution, in an Indian-law governed arbitration concerning disputes between a

leading multi-national corporation and its distributor.

- Serving on a two-member tribunal of a London-seated, English-law governed ad hoc arbitration.

International Practice- India

Karishma was a litigator in Mumbai for six years before relocating to London and appeared before the Bombay High Court, Debt Recovery Tribunal and Company Law Board (predecessor to the NCLT), acting for clients such as Tata Motors, HDFC Bank, Calyon Bank, Bank of Baroda and family-run business conglomerates.

Her international practice includes running her own set of chambers in Mumbai with a well-stocked Indian-law library that is located in Fort, the legal district.

Karishma is instructed as counsel and arbitration in domestic Indian arbitrations and has become the go-to expert on Indian law before courts in England.

Cases of note

- Instructed by Ince & Co to represent a Middle Eastern client in a high stake arbitration against the Government of India seated in Delhi and governed by Indian law.
- *Montblanc v Dilip Doshi* - Instructed as an Indian law expert by Montblanc in a matter before the High Court in England on the invalidity of personal guarantees.
- Instructed by a leading Indian steel company in an INR 9 crore dispute against its stockyard in south India in a dispute concerning shortage and tampering of ERP software.
- Advised an English power company that supplies equipment to the national electricity board of the Government of India on how to exit a joint venture and frustration of contract under Indian law.
- Instructed as a joint expert in English proceedings disputes concerning remittance of funds out of India and provisions of India's Foreign Exchange Management Act (FEMA), oral contracts and

enforcement of English judgments in India.

- Previous experience as counsel in India:
 - Represented the supplier of industrial gases to a steel plant in a matter concerning the breach of a negative covenant. *Inox v SJK Steel*.
 - Successfully lifted an interim injunction that had been granted ex parte against the respondent bank in respect of a disputed letter of credit. *Glencore International v Calyon Bank*.
 - Defended a winding up petition for a company that was awarded a tender to supply wire to the Ethiopian government and had sub-contracted its manufacturing to the petitioner. *Sunderji Mulji v Jyoti Structures*.
 - Represented the claimant in a matter concerning the award of a tender to construct one phase of Mumbai's JNPT port. *Great Eastern Shipping v ONGC*.
 - Represented the respondent port in *Dighi Koli Samaj v Dighi Port*, a matter filed by local fishermen against the construction of a port.
 - Assisted in defending a summary suit at the Bombay High Court. *DBS Bank v Uttam Galva Steels*. (led)
 - Represented HDFC bank in a summary suit to enforce a corporate guarantee. *HDFC Bank v Priyadarshini*.
 - Represented a high net worth individual, whose equity derivative investments had been sold at a loss by his stock broking firm without instructions, despite sufficient margin monies.
 - Represented Bank of Baroda, Bank of Maharashtra, Bank of India and other banks in several hearings before the Debt Recovery Tribunal (a specialist tribunal for bank loan defaults having jurisdiction equivalent to that of the High Court).

International Practice- Middle East

“Very thorough and very committed – she knows her stuff, is tactically aware and sees the bigger picture and where we are going with it.” The Legal 500 EMEA 2021 (Tier

1)

Karishma is ranked by The Legal 500 in band 1 for commercial litigation in the Middle East and Africa. She has full rights of audience before the DIFC Court and is instructed in a range of high-stakes Middle Eastern matters including landmark and novel DIFC court litigation and DIAC arbitration.

Cases of note

- *Emirates NBD Bank v KBBO* DIFC Claim No. CFI-045-2020, order dated 18 August 2021
Karishma, leading a team, successfully lifted a US\$300m freezing injunction for a guarantor at the DIFC Court. The banks settled with her client in this matter linked to the NMC Health scam. Successful against a QC in setting aside a US\$294m freezing injunction at the DIFC Court on behalf of a Dubai-based cyber security company in a matter arising out of a forged corporate guarantee.
- Karishma represents a leading Dubai based venture capital firm and obtained a successful settlement for it against a South Korean company in a Singapore-seated ICC arbitration in relation to the non-payment of brokerage fees.
- Successfully represented an Abu Dhabi group in a mediation against a European defence manufacturer arising out of a distribution agreement for jet spare parts.
- Represented a sheikh in an application to set aside default judgment brought by an ex-employee before the High Court in London.
- Standing counsel for a well-known Dubai-based fund and vets all their agreements that are governed by English law. She recently advised on a convertible loan agreement for investment in a tech company.
- Advised an Indian company against a UAE investor on the forfeiture of shares in a contract governed by English law.
- Advised a group of investors on the effect of a DFSA regulatory finding against the Al Masah fund.

Recommendations

- *“A very hard working lawyer, who is always ready to go the extra mile for her client. Her written advocacy is of a high standard and she is able to break some complicated issues and present them in a simplified and persuasive manner.”* The Legal 500 UK 2022
- *“Hard working, diligent, enthusiastic, good at building rapport with clients and instructing solicitors”* The Legal 500 UK 2021
- *“Very thorough and very committed – she knows her stuff, is tactically aware and sees the bigger picture and where we are going with it.”* The Legal 500 EMEA 2021 (Tier 1)
- *“She is a forceful advocate who fights hard for her clients’ interests.”* The Legal 500 UK 2020
- *“Her analytical and systematic approach to matters are just one of her many hidden strengths.”* A client instructing her on an LCIA arbitration
- Mrs Justice Cockerill has said: *“Ms Vora... has done an excellent job of marshalling and presenting her many points.”*
- Mr Justice Teare has said: *“Miss Vora made her submissions with a marked degree of tenacity.”*
- Mr Justice Picken has said *“he was grateful for Ms Vora’s clear submissions”*.
- Mrs Justice Joanna Smith has said: *“Miss Karishma Vora... has provided a detailed skeleton argument for which I am most grateful.”*

Memberships

Committee Member

- Serving committee member on the COMBAR India Subcommittee the COMBAR UAE sub committee
- Served on the organising committee of the Annual Bar Conference 2018
- Gray’s Inn Barristers’ Committee (January 2014 – January 2017)

Memberships

- COMBAR (the Commercial Bar Association)

- The Chancery Bar Association
- African Arbitration Association, AfAA
- The London School of Economics Lawyers Alumni Association
- Indian Council of Arbitration, New Delhi Bombay Bar Association
- Life member of INTACH, Indian National Trust for Art and Cultural Heritage

Qualifications

Education

- Karishma is an alumna of and taught commercial law at the London School of Economics.
- 2003 London School of Economics and Political Science, BSc (Hons)
- 2006 Government Law College, Mumbai, LLB (first)

Scholarships and Prizes

- 2017 Karishma won the 'Commercial Disputes Lawyer of The Year Award' The Lawyer Monthly Women In Law Awards
- 2016 Karishma won the 'Rising Star Award' The Lawyer Monthly Women In Law Awards
- 2015 Karishma was nominated for the Rising Star Award at the Society of Asian Lawyers Annual Awards
- 1999-2003 London School of Economics entrance grant
- 1997-1999 The Mahindra United World College scholarship
- 1997 The Leela Moolgaokar Award for academic excellence at the ICSE
- 1997 The Bombay International School award for topping the ICSE examinations

Additional Information

Publications

- *"Anti-suit Injunctions"* in the book *Commercial Arbitration: International Trends and Practices* published by Thompson Reuters.
- *"Why not be less shy in the use of Worldwide Freezing Injunctions?"* (legaleraonline.com)
- *"ERP Software Disputes: Common Pitfalls"*.

News

- <https://timesofindia.indiatimes.com/business/india-business/pnbs-uk-subsiidiary-loses-rs-320cr-fraud-case/articleshow/67681096.cms>
- New UK ruling on PNB debt recovery stayed | World News - Hindustan Times
- Mallya could escape extradition through asylum route - Times of India (indiatimes.com)
- Vijay Mallya news: Vijay Mallya's extradition delayed, speculation mounts over his application for asylum - Times of India - New India Life
- meLAWnge2018-19.pdf (glcmag.com)
- From Bombay HC to London's Royal Courts of Justice: Karishma Vora's long journey to become an English barrister - Legally India - Career Intelligence for Lawyers, Law Students
- 'There is no dearth of work in India. In England, one has the luxury of time to prepare for a case.' Karishma Vora, Second dually qualified barrister in India and England after Salve (livelaw.in)

Webinars

- Karishma's webinars can be accessed on her YouTube channel here:-
<https://www.youtube.com/channel/Uck5iGBRWNw7rOZLmx7JG18Q>

Languages

- Hindi (fluent)
- Gujarati (fluent)
- Marathi (basic)

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Niraj Modha

Year of call: 2010

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"As far as barristers go, Niraj is one of the most approachable. He is measured, technically astute and very highly respected and regarded by his peers." The Legal 500 (2023)

Niraj is a property, commercial, and construction law specialist. His cases frequently involve issues relating to contested interests in land, civil fraud, insolvency, professional negligence, and disputes between shareholders, partners, and joint venturers. He acts for a range of clients including property developers, investors, local authorities, contractors, and multinational conglomerates.

Niraj appears as sole counsel in trials and applications in the Chancery and Queen's Bench Divisions of the High Court and in the appellate courts. He also

acts as counsel in arbitration proceedings (both institutional and ad hoc), invariably with an international element, and represents clients at mediation.

Niraj accepts appointments as an arbitrator. He is a Fellow of the Chartered Institute of Arbitrators and a member of several panels including the CI Arb Business Arbitration Scheme and the Law Society President's Panel. Niraj has been appointed as an arbitrator in more than 25 matters within the past three years. He is also available to act as a tribunal secretary.

Areas of expertise

- Property and Real Estate Litigation
- Commercial Dispute Resolution
- Construction, Engineering and Infrastructure Disputes
- Administrative and Public

Property and Real Estate Litigation

“A highly intelligent and careful junior with strong specialist knowledge. Ultra-responsive though very busy. I would not hesitate to recommend him for any property related dispute.” The Legal 500 (2022)

Niraj acts for property investors, developers, large estates, professional landlords, housing associations, management companies, residents' associations, and tenants. He accepts instructions in all aspects of real property and in commercial landlord and tenant disputes.

Niraj's current cases in the High Court (Property, Trusts and Probate List), County Court, and First-tier Tribunal (Property Chamber) include claims for prescriptive rights, adverse possession, encroachment by tenants, and boundary declarations.

Cases of note:

- *Axnoller Events Ltd v Brake v Brake* [2022] EWHC 365 (Ch) –Claim for possession of a 100-acre estate partly occupied by former employees. Led by Edwin Johnson QC.-
Judgment
- *A v R (ongoing)* –Claim against sellers following the exchange of contracts for the sale of development property, where prior to completion the registered title plan showing general boundaries was significantly altered.
- *Dollis Hill Traders v Ali & Hussain* –Occupation of commercial property pursuant to a document labelled a 'licence' created a tenancy protected under Landlord and Tenant Act 1954.
- *Free Trade Wharf, London* –Tribunal proceedings concerning the payability by leaseholders of mixed-use developments of service charge in respect of works to a jetty and wharf on the River Thames.

Commerical Dispute Resolution

Niraj frequently appears as sole counsel in the High Court in commercial and company law matters. He is familiar with a range of interim applications, including applications for injunctive relief, security for costs, specific disclosure, strike out, and summary judgment. He has appeared successfully in the Circuit Commercial Court, the Business List, and the Insolvency and Companies List, frequently against more experienced counsel.

Niraj's practice also involves applications for interim payments, default judgment, setting aside, and issues relating to the enforcement of foreign judgments.

Cases of note:

- *Homes of England v Horsham Holdings (various)* –Entitlement to interim injunctive relief in favour of a minority shareholder during the course of an unfair prejudice petition.
- *Homes of England v Nick Sellman (Holdings) Limited & Bromham Road Development LLP* [2020] EWHC 936 (Ch) –Correct test on an application by a member of an LLP to bring a derivative action.
Judgment
- *Confidential (Circuit Commercial Court)* –Claim in restitution/for repudiation of a contract following delays in the production, delivery, and installation of equipment at the claimant's premises (£1m+).
- *Confidential (Commercial Court)* –Claim by marine surveyor for damages following de-accreditation by an institution responsible for the inspection and audit of the transport and storage of chemicals at sea
- *Schettini v Silvestri* [2019] EWCA Civ 349 - Correct approach to challenging a cross-undertaking.-
Judgment
- *Leon v Her Majesty's Attorney General & others* [2018] EWHC 3026 (Ch); [2019] Bus LR 618 -
-Entitlement to a vesting order following the dissolution of a company and disclaimer by the Crown. Subject to two appeals
Judgment
- *Eastenders Cash and Carry plc & First Stop Wholesale Limited v Commissioners for Her Majesty's Customs and Revenue* [2014] UKSC 34; [2015] 1 AC 1101 –Customs officers' powers to detain goods under the Customs and Excise Management Act 1979 where reasonable grounds to suspect duty had not been paid and further enquiries were required to be made.
Judgment

Construction, Engineering and Infrastructure Disputes

Niraj advises and represents contractors, local authorities, developers, and project financiers in disputes arising out of construction and engineering projects. Much of Niraj's work is advisory in nature or determined at adjudication. Niraj is familiar with all major standard form contracts including JCT, FIDIC, RIBA, NEC, and ICE.

Cases of note:

- *Confidential* (Adjudication) –Claim by a major contractor for delay and disruption to a construction project involving issues of force majeure and changes in law during the Covid pandemic (£20m+).
- *Confidential* (Ad hoc, London) –Domestic construction arbitration between a landowner and developer of luxury pre-fabricated homes (£2m).-
- *Confidential* (Adjudication)–Disputes arising out of an EPC contract involving questions of force majeure and liquidated damages.

International Arbitration

Niraj practises as counsel in international commercial and construction arbitration. He has experience with court-related arbitration applications including the challenge of awards under ss67-69 Arbitration Act 1996.

Cases of note:

- *Confidential* (ICC, Doha) –Claims and counterclaims relating to the delayed construction of an industrial plant (\$350m).

- *Confidential* (ICC, Paris) –Arbitration proceedings between an East African government and a European contractor engaged in a road-building project. Claims for an extension of time and costs (\$30m).
- *Confidential* (AAA, New York) –Claim by an Asian telecommunications provider against an African mobile telecommunications company under a master services agreement for the provisions of telecommunications software, hardware, and services (\$3m).
- *Confidential* (CIArb, London) –Software licensing dispute between licensor and reseller (£1m).
- *Confidential* (Hunt Arbitration Service, London) –Franchising dispute relating to an online trading platform.
- *Confidential* (LCIA, London) –Claim by engineering consultancy firm for payment in debt or damages for breach of contract following the provision of design and planning services.

Administrative and Public

Niraj accepts nominations for appointment as arbitrator in all commercial and construction arbitration proceedings. He is a Fellow of the Chartered Institute of Arbitrators. Niraj has spoken at ICC Young Arbitrators Forum (YAF) and presented webinars on the procedure and theory of arbitration. He has been appointed as arbitrator in more than 30 disputes within the past three years in areas as diverse as consumer travel claims, software/licensing disputes, and disputes between leaseholders.

Recommendations

Niraj is ranked in The Legal 500 in Property and Real Estate Litigation:

- *“A highly intelligent and careful junior with strong specialist knowledge. Ultra-responsive though very busy. I would not hesitate to recommend him for any property related dispute.”*The Legal

500 (2022)

- *“User-friendly and a strong team player.”* The Legal 500 (2022)
- *“His attention to detail is superb and he has an ability to grasp difficult and detailed facts quickly. Ability to remain calm under pressure.”* The Legal 500 (2021)
- *“Whilst always meticulously prepared, he is also extremely good on his feet.”* The Legal 500 (2020)

Memberships

- Fellow of the Chartered Institute of Arbitrators (CIArb)
- Commercial Bar Association (COMBAR)
- International Bar Association (IBA)
- Property Bar Association (PBA)
- Chancery Bar Association (ChBA)
- Young Arbitrators’ Forum of the International Chamber of Commerce (YAF)
- Young International Arbitration Group of the London Court of International Arbitration (YIAG)

Qualifications

Education

- Diploma in International Commercial Arbitration (CIArb)
- BVC (Outstanding)
- GDL (Distinction)
- Qualified Teacher Status (2007)
- BA (First Class Honours), Robinson College, University of Cambridge (2006)

Scholarships and Prizes

- Travelling Scholarship in Dispute Resolution (The Worshipful Company of Arbitrators)
- Levitt Scholarship, Buchanan Prize, Lord Denning Scholarship, Lord Haldane Scholarship and Hardwicke Entrance Award (Lincoln's Inn)
- 3 Verulam Buildings Prize for best overall performance on the GDL (City Law School)
- Titular Scholarship and College Prize (Robinson College, University of Cambridge)

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Andrew Kearney

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Andrew is an experienced and highly regarded construction and engineering barrister. He is also a Chartered Arbitrator, has judicial experience, and is an experienced construction Adjudicator accredited by both TeCSA and TECBAR, and an accredited and active Civil Mediator. He acts nationally and

internationally in a wide range of energy, construction and engineering disputes and has almost 30 years' experience advising developers, end users, national and international contractors, subcontractors and consultants and their insurers.- He has acted for many household name main contractors.- He also acts in commercial and property cases.

Andrew originally qualified as a solicitor in 1992 and became a partner at Pinsent Masons, specialising in construction.- He was called to the Bar in 2007.

Areas of expertise

- Commercial
- Construction
- International Arbitration
- Mediators
- Property Damage & Insurance Disputes

Commercial

Andrew is available to act in a range of commercial disputes. He for example developed a niche specialism advising providers of social care in relation to the fees properly payable by local authorities. He acted as lead counsel in a long running and high profile arbitration and related High Court proceedings for one such provider, where the local authority was represented by a senior QC. Thereafter he advised over 40 care homes.

He also appeared at trial in the Mercantile Court in relation to a claim on a promissory note arising out of an informal joint venture to build luxury villas in France, involving a subsequent freezing order and an application to commit a party to prison for contempt.

Construction

Andrew has over 30 years' experience of construction disputes and is frequently instructed in sophisticated and high-profile cases.

He advises developers, end users, national and international contractors, subcontractors and consultants, and has acted for many household name main contractors. He is well known for his adroit handling of matters involving professional negligence elements. Andrew is noted for his cross examination of witnesses, including expert witnesses. He regularly appears in the TCC in London and on Circuit, and in adjudication and in domestic and international arbitration.

His recent construction work includes claims concerning an oil pipeline, a major Middle East highway, a landmark public building, an oil facility, flue gas desulphurisation, a biogas plant, a process plant, renewable energy facilities, offshore wind farms, solar farms, offshore pipeline activities, structural engineering failures, civil engineering and flooding, claims for time and money under various bespoke and standard form contracts, defects claims, fraud claims and deliberate over application, and claims against approved inspectors for deceit.

Andrew is highly experienced in adjudication under the HGCR Act 1996. As Adjudicator he has made over 70 decisions. He has been appointed to advise

other Adjudicators on jurisdiction mid-adjudication. He also regularly acts for parties in adjudication, either appointed direct or as part of a team with solicitors or claims consultants, and in adjudication enforcement (and Part 8 cross claims or pre-emptive strikes) in the TCC.

He is a regular speaker on adjudication or construction related topics.

International Arbitration

Andrew acts as lead counsel and co-counsel in international arbitration.

His recent international arbitration work includes acting as lead counsel in an ICC arbitration concerning an oil pipeline in Yemen; lead counsel in an ICC arbitration for a Turkish contractor concerning a major highway in Oman (both seated in Europe); lead counsel in a DIAC arbitration for a UAE contractor concerning a landmark public building in Abu Dhabi; resolving without a final hearing a London ICC dispute against a major Australian contractor concerning an oil facility in Iraq; as lead counsel in a dispute concerning an energy facility in the UK (English seat); and as co-counsel in an ICC arbitration seated in London concerning a process plant in Europe.

Andrew is also a Chartered Arbitrator, and a Fellow of the Chartered Institute of Arbitrators, and available for arbitral appointments.

Mediators

Andrew is an accredited and active Civil Mediator, and has been a mediator for-over 15 years. He has particular experience in construction and commercial disputes (including within the NHS and in respect of local authority funding of

social care).- He has recently mediated a range of construction disputes ranging from householder disputes to a number of multi-party construction disputes over multiple days, and commercial disputes alleged misuse of confidential data.- He is often agreed as mediator by solicitors representing professional indemnity insurers.

Andrew is a mediation panel member of specialist provider Mediation for Construction and Insurance (M4CI). Andrew is willing to consider appointment as evaluative mediator in construction dispute mediation if the participants request this approach.

Andrew is an experienced dispute resolver, having held various legal roles since 1985 and having a broad perspective as a result. He has been involved in the successful mediation of many apparently intractable disputes, His focus on identifying interests and facilitating solutions and his wide dispute resolution experience make him suitable for appointment as mediator in any civil dispute.

Andrew also has wide experience as a party representative in mediation, and is a specialist in mediation representation - which often requires a different skillset to traditional adversarial advocacy.

Professional Negligence

Andrew's construction cases often involve bringing or defending professional negligence claims against engineers, surveyors, architects and project managers, including in adjudication. He is often instructed by insurers, or acts as mediator, in such cases. He has also advised in respect of valuers' negligence in property purchases.

Andrew represented the project manager in a high profile claim arising out of the near destruction by fire of a landmark listed building during the course of a major construction project. He has acted for and against civil engineers, structural engineers, architects and others. He acted for a hotel owner in a claim against an internationally renowned architect. He is currently acting for a large number of leasehold owners in claims in respect of defective fire compartmentation and combustible cladding.

Property Damage & Insurance Disputes

Andrew has dealt with technical and defect or damage related disputes for almost 30 years.- He acted for a water undertaker defending a substantial subrogated claim by insurers in respect of the partial demolition and rebuilding of a property, where the allegation was that subsidence resulted from the washing away of fines caused by escape of water from pipes vested in the undertaker.

He has acted in cases involving escape of water during construction operations, the partial destruction by fire of a publicly owned landmark listed building and damage caused by tree roots.

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Nicholas Higgs

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Nicholas is a dual-qualified barrister and chartered civil engineer having come to the Bar from a previous career with Ove Arup & Partners. He has a busy practice in construction and engineering disputes and international commercial arbitration. Nicholas acts as both junior and sole counsel in disputes in the Technology and Construction Court (TCC), in domestic adjudication and in international arbitrations. He also undertakes instructions as tribunal secretary and in providing advice on construction contracts, in particular the International Federation of Consulting Engineers (FIDIC), and alternative dispute resolution such as mediation.

Prior to coming to the Bar, Nicholas had a varied career at Arup ranging from bridge engineering to secretary to the firm's management board, reporting to the group chief operating officer. He has considerable experience in procurement and project and commercial management having been UK infrastructure commercial manager and having led the procurement of several contracts for the Queensferry Crossing in Scotland and of the Garden Bridge in London.

Nicolas brings his client-side insight, commercial pragmatism and sector expertise to his work at the Bar.-

Areas of expertise

- Construction
- Commercial
- International Arbitration

Construction

Nicholas is instructed by employers, contractors and consultants in the construction and engineering sectors on disputes ranging from payment claims to multi-million-pound defects cases, including adjudications. His practice incorporates High Court work, including cases in the TCC, as both sole counsel and as junior counsel, as well as appearances in the lower courts. He is also developing a wider commercial practice and has a particular interest in international arbitration. His experience includes:

- A number of very large cases related to construction defects in private finance initiative (PFI) hospitals, in both adjudication and litigation, including The Lawyers' top 20 cases for 2022.
- A multi-million pound final account adjudication.
- Retained by CERN to provide contract drafting and dispute resolution advice in respect of the building and infrastructure works at the CERN site in Switzerland and France, in particular in relation to FIDIC-based contracts.
- Instructed as sole counsel in a five-day TCC trial regarding defective piling.
- Successful possession proceedings and claim for rental arrears.

- Advice regarding perjury in international commercial arbitration.
- Litigation concerning unlawful hacking of mobile telephones.
- An arbitration regarding a waste treatment plant in East Asia.

Commercial

While at Arup, in his role as commercial manager for the UK Infrastructure Practice, Nicholas was involved in the resolution of a number of disputes and the negotiation of commercial agreements including:

- A Court of Appeal case concerning design liability for asbestos and the effectiveness of exclusion clauses.
- A delay and disruption claim on a tunnelling contract in Scandinavia.
- Pre-arbitration negotiations on a multi-million pound fee claim with counter-claims for delay and disruption.
- Leading the negotiation of consultancy contracts on behalf of a three-way joint venture with a joint-venture contractor for complex concept and engineering design of a high-speed railway.
- Management of procurement of the design-build contractor for the Garden Bridge, including negotiations for termination following cancellation of the project.
- Leading the commercial management and close-out of £40m and £12m contracts on the Queensferry Crossing project.

International Arbitration

Nicholas has a growing practice in international arbitration where he has been instructed as counsel and as tribunal secretary.

- Junior counsel for an ICC arbitration for a water treatment plant in the Middle East.

- Tribunal secretary on an LCIA arbitration concerning claims on the construction of an offshore gas delivery platform.

Memberships

- Fellow, Chartered Institute of Arbitrators (FCIArb)
- Member, Institution of Civil Engineers (MICE)
- Chartered Engineer (CEng)
- Member, Society of Construction Law
- Member, the Honourable Society of the Middle Temple

Qualifications

Education

- BPTC, University of Law (Very Competent, academic prizes for top marks in Opinion Writing and International Commercial Practice) 2018
- GDL, University of Law (Distinction)-
- MSc, Construction Law and Dispute Resolution, King's College London (Merit) 2013
- MEng, Civil Engineering Design and Management, Cardiff University (First Class) 2003

Scholarships and prizes

- Baron Dr Ver Heyden de Lancey Prize for highest marks in BPTC, Middle Temple
- 25th Willem C Vis Moot, 2018: final sixteen
- Middle Temple Rosamund Smith Moot, 2017: winner
- University of Law GDL Moot, 2016: finalist

- Atkin Scholar, Middle Temple
- Blackstone Entrance Exhibitioner, Middle Temple

Additional information

Publications

- Contributing Author (former editor), Construction Law Quarterly Review, Management, Procurement and Law, Proceedings of the Institution of Civil Engineers.
- Chapters on Time for Completion and Adjudication (jointly) in Wilmot-Smith on Construction Contracts, Fourth Edition 2021, OUP
- Contributions to Shackleton on the Law and Practice of Meetings, Fifteenth Edition 2020, Sweet & Maxwell
- Chapter on Dispute Boards in The GAR Guide to Construction Arbitration – Third Edition 2019.

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Steven Lim

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“A vastly experienced arbitrator who is very well respected across Asia” Chambers and Partners 2022

Steven is an arbitrator and barrister. He has over 80 appointments as presiding, sole, co-arbitrator and emergency arbitrator, seated in Singapore, England, USA, India, South Korea, Thailand and Vietnam. He is also instructed as lead counsel in arbitrations.

He has extensive experience with SIAC, ICC, ICDR, SCMA, KCAB, UNCITRAL Rules, and ad hoc cases involving Asia-Pacific jurisdictions and farther afield, with parties from Singapore, India, People’s Republic of China, Hong Kong, Taiwan, South Korea, Japan, Malaysia, Indonesia, Thailand, Vietnam, Cambodia, Myanmar, Philippines, Brunei, Mongolia, Sri Lanka, Nepal, Saudi Arabia, Rwanda, Peru, USA, UK, Italy, Germany, Switzerland, Netherlands, Denmark, Hungary, Russia and Australia, in a broad range of commercial disputes including mergers and acquisitions, joint ventures, share options, agency, licensing, internet gaming, hotel management, commodities, oil and gas, energy, refund guarantees, performance bonds, ship and rig building, offshore engineering, and construction.

Steven is recommended as *“the perfect arbitrator”*, *“he is always on top of his cases and has a very good judgment and excellent manner”*, *“a fair-minded and extremely capable arbitrator”*, *“an outstanding up-and-coming superstar with a nice and sensible manner”*, *“a highly respected figure across the gamut of APAC-related commercial disputes”*, and *“an excellent counsel with excellent understanding of law and great commercial insight”*.

Areas of expertise

- Construction
- Energy and Natural Resources

International Arbitration (as Arbitrator)

"Steven is the perfect arbitrator... He is always on top of his cases and has a very good judgment and excellent manner" Who's Who Legal Arbitration 2022

Steven sits as sole, co-arbitrator and emergency arbitrator and has extensive experience with SIAC, ICC, ICDR, SCMA, KCAB, UNCITRAL rules, and ad hoc cases covering Asia-Pacific jurisdictions and farther afield, seated in Singapore, England, USA, India, South Korea, Thailand, and Vietnam, in a broad range of commercial, corporate, construction and energy disputes.

Cases of note

- ICC arbitration –Co-arbitrator in a US\$120m million English law governed arbitration seated in Singapore between Asian and African parties concerning construction of coal-fired power plant.
- ICC arbitration –Co-arbitrator in a US\$55m million Sri Lanka law governed arbitration seated in London between People's Republic of ChinaPRC and Sri Lankan parties involving the construction of a commercial development in Sri Lanka.
- ICC arbitration –Sole arbitrator in a US\$18m million Singapore law governed arbitration seated in Singapore between US, Dutch and Malaysian parties concerning a master supply agreement for the supply of medical equipment.
- ICC arbitration –Presiding arbitrator in US\$5 million Thai law governed arbitration seated in Bangkok between Asian parties over construction of a commercial and serviced apartments development in Thailand.

- SIAC Arbitration –Presiding arbitrator in a US\$40 million Indian law governed arbitration seated in Singapore between People’s Republic of ChinaPRC and Indian parties involving the supply of port machinery.
- SIAC Arbitration –Co-arbitrator in US\$200m million Singapore /People’s Republic of China PRC law governed commodities warehousing arbitration seated in Singapore between People’s Republic of ChinaPRC and Singapore parties.

Commercial

“An excellent counsel with excellent understanding of law and great commercial insight.” Who’s Who Legal Arbitration 2021

Steven is instructed as lead counsel in international commercial arbitrations including under SIAC, ICC, SCMA, and UNCITRAL rules covering Asia-Pacific jurisdictions and farther afield.

Cases of note

- SIAC Arbitration - Lead counsel in US\$35m million Indian law governed Singapore seated arbitration over breach of share purchase and shareholders agreements by Japanese investors in an Indian logistics business.-
- SIAC Arbitration - Lead counsel in US\$7m million Vietnamese law governed Singapore seated arbitration over breach of an alleged agreement between Hong Kong and Vietnamese parties to jointly develop residential and service apartment towers in Vietnam.-
- SCMA Arbitration - Lead counsel in €13 millionm English law governed Singapore seated arbitration concerning breach of the maintenance obligations under a vessel time charter between Singapore and Moroccan parties.-
- SIAC Arbitration - Co-lead counsel in Indian law governed Singapore seated arbitration involving international private equity funds’ subscription in convertible preference shares in a company managing airport assets in South Asia (more than US\$300 million min dispute)-

- SIAC Arbitration - Lead counsel in US\$20 million Singapore law governed Singapore seated arbitration over the exercise of a call option by a Korean investment fund against a Vietnamese real estate developer under a Singapore law governed shareholders' agreement.-
- SIAC Arbitration - Co-lead counsel in US\$173 million English law governed Singapore seated arbitration over the breach of a settlement deed involving UK and Indonesian parties.-
- SIAC Arbitration - Co-lead counsel in Singapore seated arbitration over acquisition of Singapore company by private equity fund.-

Energy and Natural Resources

“A respected arbitrator with extensive experience handling commercial arbitrations in the construction, infrastructure and energy sectors.” The Legal 500 2019

Steven appears as lead counsel in energy and natural resources arbitrations including under SIAC, ICC, SCMA and UNCITRAL rules covering Asia-Pacific jurisdictions and farther afield.

Cases of note

- SCMA Arbitration - Lead counsel in Singapore seated US\$200 million arbitration over buyer's termination of an English law governed rig building contract for construction delays and delay in renewing refund guarantees between Norwegian and Singapore parties.-
- SIAC Arbitration - Lead counsel in Singapore seated US\$11 million arbitration over defects in construction of self-elevating platform.-
- SIAC Arbitration - Lead counsel in Singapore seated S\$20m arbitration concerning construction of a power plant in Singapore between US and Singapore parties.-
- SIAC arbitration - Lead counsel in Singapore seated arbitration concerning a joint operating and farmout agreement for an onshore oil exploration project.-
- UNCITRAL arbitration - Co-lead counsel in related London seated arbitrations concerning gas sales and transportation agreements between Singapore and Indonesian parties.-

- ICC Arbitration - Co-lead counsel in Paris seated arbitration over civil works for petrochemical plant between Japanese and Singapore parties.-
- ICC Arbitration - Co-lead counsel in Singapore seated arbitration over construction of a polymer advanced material compounding plant in Southeast Asia between Belgium and Australian parties.-

Construction

“A respected arbitrator with extensive experience handling commercial arbitrations in the construction, infrastructure and energy sectors” The Legal 500 2019

Steven appears as lead counsel in construction arbitrations including under SIAC, ICC, SCMA, rules covering Asia-Pacific jurisdictions and farther afield.

Cases of note

- SIAC Arbitration - Lead counsel in Singapore seated SIAC arbitration over tunnelling works for underground transportation project in Southeast Asia.-
- ICC Arbitration - Co-lead counsel in Stockholm seated arbitration concerning construction of a class A office building in Eastern Europe.-
- Ad hoc arbitration - Lead counsel in Thai seated arbitration concerning construction of elevated frontage roads package for international airport in Southeast Asia.-

Recommendations

Steven is noted for his work as an arbitrator and advocate, and his *“peers point out his sharp intellect”*. His recommendations include:

“Steven is the perfect arbitrator... He is always on top of his cases and has a very good judgement and an excellent manner.” Who’s Who Legal Arbitration 2022

“A vastly experienced arbitrator who is very well respected across Asia.” Chambers and Partners 2022

“An outstanding up-and-coming superstar with a nice and very sensible manner.” Chambers and Partners 2022

“Steven is a fair-minded and extremely capable arbitrator... He is highly sought after.” Who’s Who Legal Arbitration 2022

“He is always on top of his cases, has excellent judgement and is very knowledgeable” The Legal 500 2022

“A popular choice...highly regarded particularly for China-related arbitrations.” Chambers and Partners 2022

“An excellent counsel with excellent understanding of law and great commercial insight.” Who’s Who Legal Arbitration 2021

“An excellent arbitrator who is very balanced... He has a thorough and thoughtful approach to cases.” Who’s Who Legal Arbitration 2021

“Highly respected figure across the gamut of APAC-related commercial disputes.” Who’s Who Legal SEA 2021

“A respected arbitrator with extensive experience handling commercial arbitrations in the construction, infrastructure and energy sectors.” The Legal 500 2019

Memberships

- Panel arbitrator, SIAC, HKIAC, ICDR, KCAB, JCAA, CIETAC, SHAC, CAAI, AIAC, THAC, HIAC, Qingdao Arbitration Commission and IDRC (India)

- Fellow, Chartered Institute of Arbitrators
- Fellow, Singapore Institute of Arbitrators
- Fellow, Asian Institute of Alternative Dispute Resolution

Qualifications

Education

1988 – 1991, London School of Economics and Political Science, LL.B. (Hons)

1992 – 1993, Columbia University School of Law, LL.M.

1994, Advocate and Solicitor, Singapore

2008, Solicitor

2018, Solicitor Advocate

Additional Information

Appointments

- 2018 – current, Director, CI Arb, Singapore Branch
- 2018 – 2020, Vice-Chair, IPBA Dispute Resolution and Arbitration Committee
- 2013 – 2017, Council Member, SI Arb

Languages

- Mandarin (conversational)

Publications

- Time to Re-evaluate the Common Law Approach to the Proper law of the Arbitration Agreement, Kluwer, 2020
- Enka v Chubb [2020] UKSC 38: Bringing the Validation Principle Into the Light, Kluwer 2020
- Singapore chapter, Arbitration World, 6th Edition, Sweet & Maxwell, 2018
- Discerning the Fine Line Between Disregard and Misapprehension – Appeals Under the Cloak of Natural Justice, Asia Pacific Arbitration Reporter, SAL, [2017] 1 APAR SG 50
- Interim Relief in International Arbitration, SIAC, 2014

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Anthony Edwards

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“Anthony is knowledgeable and experienced in the field of international disputes with the ability to master and distil complex issues, aided by a solid legal and engineering background.” The Legal 500 (2021)

Anthony specialises in heavy construction and engineering disputes arising from building and engineering projects in the UK and worldwide acting for employers, contractors and consultants relating to breach of contract, delay and disruption, time extensions, prolongation, payment provisions, acceleration, loss of productivity, final accounts and professional negligence actions against inter alia architects, engineers and surveyors.

He has extensive experience in litigation, arbitration, adjudication, expert determination and mediation and is conversant with all major standard forms of construction and engineering contracts in relation to projects including energy, power, natural resources, mining, retail, leisure, offices, hospitals, water treatment plants, roads, railways, power stations, petrochemical, chemical engineering plants, waste-to-energy plants, anaerobic digestion plants, biomass plants, port and harbour construction, mechanical and electrical services, bridges, irrigation, and house building developments.

Anthony acts as both counsel and tribunal as chartered arbitrator, accredited adjudicator, mediator, and expert determiner both in the UK and worldwide. He is registered on numerous approved arbitration, adjudication, and mediation panels, including the FIDIC President's International List, CIArb, IChemE, SHIAC, HKIAC, IDRC, LCIA and TECBAR.-

Anthony sits as sole tribunal, co-arbitrator, or chairman, and as standing or ad hoc DB (Dispute Board). Anthony is regularly involved with serial adjudications, enforcing adjudicator's decisions and challenging adjudicators' jurisdiction in the TCC. Anthony is frequently involved with expert determination claims and

mediations.

He frequently leads teams of professionals and experts on disputes in litigation, arbitration, adjudication and expert determination.

Anthony's combined qualifications as a lawyer, tribunal and quantity surveyor are an advantage.

Anthony was awarded CIArbs' Cedric Barclay Prize for best International Arbitrator Award Writer of 2005.

Areas of expertise

- Construction
- Alternative Dispute Resolution
- Energy and Natural Resources

Construction

Areas covered

- Adjudication
- Cladding and other building defects
- Construction professionals' liability
- Construction, engineering and infrastructure disputes
- Delay and disruption
- Energy

- Insurance
- International arbitration
- Property damage
- Ship building and offshore

Anthony regularly acts as both counsel and tribunal in heavy construction, engineering and infrastructure related disputes both in the UK and worldwide, acting for employers, contractors, and consultants, including architects, engineers, and surveyors. As a dual qualified professional, Anthony's combined skills as a lawyer, tribunal and quantity surveyor are an advantage.-

Anthony has extensive experience in litigation, arbitration, adjudication, mediation, and expert determination. He is experienced in analysing final accounts, complex programmes, critical path analysis for delay and disruption claims and is capable of digesting complicated drawings and specifications regarding preferred engineering disputes. Anthony is conversant with all major standard forms of contracts. He frequently leads teams of professionals and experts on disputes relating to roads/motorways, rail, hospitals, water treatment, power stations, anaerobic digestion plants, biomass and gasification plants, petrochemical plants, port and harbour engineering, mechanical engineering, processing plants, bridges, irrigation, land reclamation, hotels, apartment blocks and residential properties.-

Anthony is regularly involved with serial adjudications and enforcing adjudicators' decisions, and contesting adjudicators' jurisdiction in the TCC. He is also frequently involved with expert determination claims and mediations.

Anthony was awarded CIArbs' Cedric Barclay Prize for best International Arbitrator Award Writer of 2005.

Cases of note

- *Lumley v Foster & Co Group Ltd & Ors* [2022] EWHC 54 (TCC)
- *Universal Sealants (UK) Ltd (t/a USL Bridgecare) v Sanders Plant And Waste Management Ltd* [2019] EWHC 2360 (TCC)-
- *Lead Technical Services Ltd v CMS Medical Ltd* [2007] EWCA Civ 316
- Counsel, advising on a nuclear power station Hinkley Point
- Counsel and advocate, adjudicator's jurisdiction (TCC)
- Counsel and advocate, serial adjudication on facilities management contracts
- Counsel and advocate, formation of contract (TCC)
- Counsel and advocate, landfill and reclamation dispute (TCC)
- Sole adjudicator, wind farm dispute (Scotland)
- Counsel and advocate, construction defects to buildings
- Counsel and advocate, ICC arbitration in Montenegro concerning a five star hotel resort developer and architects
- Counsel and advocate, arbitration Forth Bridge concerning delay and disruption claim
- Counsel, TCC, local authority and national contractor regarding defective cladding, fire risk
- Advocate, relating to a professional negligence claim against architects/project managers-
- Counsel and advocate, adjudication spontaneous combustion in coal seam
- Co-arbitrator, apartment block Palm Jumeirah, Dubai
- Chairman, Dispute Avoidance and Adjudication Board (DAAB) infrastructure project Iraq
- Sole DB, Expo-Dubai 2020-
- Chairman, DAAB preliminary issue on internal jurisdiction (London)
- Sole arbitrator, express highway upgrade project (Uganda)
- Chairman, DAAB concerning East Africa's tallest tower block
- Counsel and advocate, party wall dispute (TCC) concerning damage to a raft foundation.-

- Counsel, civil engineering fibre optic installation dispute-
- Counsel, appeal to Court of Appeal in a TCC matter-
- Expert determiner, regarding housing development between leading house builders-
- Counsel and advocate, arbitration in relation to a sports centre
- Counsel and advocate, adjudication enforcement (TCC) concerning the landscaping of a motorway scheme-
- Counsel and advocate, flood damage claim in the TCC-
- Counsel, concrete slab defects to industrial building

Alternative Dispute Resolution

Areas covered

- Adjudicators
- Arbitrators
- Expert determination
- Arbitration
- Costs
- Dispute boards
- Commercial
- Construction
- Costs alternative dispute resolution (ADR)
- Dispute boards
- Mediators

Anthony acts as both counsel and tribunal as chartered arbitrator, accredited adjudicator, mediator, and expert determiner both in the UK and worldwide. He is registered on numerous approved arbitration, adjudication, and mediation panels, including the FIDIC President's International List of Adjudicators, IChemE, SHIAC, HKIAC, IDRC, CIArb, LCIA and TECBAR.-

Anthony sits as sole tribunal, co-arbitrator, or chairman, and as standing or ad hoc DB. Anthony is regularly involved with serial adjudications, enforcing adjudicators' decisions and challenging adjudicators' jurisdiction in the TCC. Anthony is frequently involved with expert determination claims and mediations.

He frequently leads teams of professionals and experts on disputes relating to roads/motorways, rail, hospitals, water treatment plants, power stations, anaerobic digestion plants, biomass and gasification plants, petrochemical plants, port and harbour engineering, mechanical engineering, processing plants, bridges, irrigation, land reclamation, hotels, apartment blocks and residential properties.

Anthony is dual qualified and his combined skills as a lawyer, tribunal and quantity surveyor are an advantage.

Anthony was awarded CIArbs' Cedric Barclay Prize for best International Arbitrator Award Writer of 2005.

Cases of note

- Chairman, 1000mm pipe diversion dispute Middle East
- Counsel and advocate, adjudication spontaneous combustion in coal seam
- Co-arbitrator, apartment block Palm Jumeirah, Dubai
- Chairman, DAAB infrastructure project Iraq

- Mediator in a facilities management dispute
- Counsel and advocate, ICC arbitration Montenegro five-star hotel resort developer and architects
- Sole ad hoc DB, Expo-Dubai 2020-
- Chairman, preliminary issue on tribunal's internal jurisdiction (London)
- Sole adjudicator, wind farm dispute (Scotland)
- Sole arbitrator, express highway upgrade project (Uganda)
- Chairman, DAAB concerning East Africa's tallest tower block
- Mediator, Abu Dhabi between an employer and international consultant
- Chairman, DAAB demurrage cost and head office overheads dispute Middle East
- Sole DB, upgrade of a highway in Uganda
- Counsel, defending a 'smash and grab' adjudication
- Chairman, DAAB preferred engineering of piles and backfilling Middle East
- Counsel and advocate, ICC arbitration cement factory relating to a material handling system
- Chairman, DAAB concerning a water treatment plant Middle East
- Counsel and advocate, Italian gasification plant
- Advocate, arbitration relating to a hospital final account
- Counsel, serial adjudication for a French company regarding office block curtain walling
- Counsel, petrochemical mediation
- Sole arbitrator, chemical process plant (UK)

Energy and Natural Resources

Areas covered

- Biomass and energy from waste

- Electricity
- Mining
- Nuclear
- Oil and gas
- Renewables
- Water

Anthony acts as both counsel and tribunal as chartered arbitrator, accredited adjudicator, mediator, and expert determiner both in the UK and worldwide regarding energy and natural resource related disputes. He has extensive experience and frequently leads teams of professionals and experts in disputes in connection with power stations, hydro power, water treatment, biomass and gasification plants, petrochemical plants, anaerobic digestion, waste to energy plants, landfill and reclamation sites, port and harbour engineering, irrigation and mining activities.-

Anthony, is registered on numerous approved arbitration, adjudication, and mediation panels, including the FIDIC President's International List, IChemE, SHIAC, HKIAC, IDRC, CI Arb, LCIA and TECBAR.-

Anthony frequently acts a chairman of tribunals in disputes in arbitration and adjudication.

Anthony is dual qualified and his combined skills as a lawyer, tribunal and quantity surveyor are an advantage.-

Anthony was awarded CI Arb's Cedric Barclay Prize for best International Arbitrator Award Writer of 2005.

Cases of note

- Counsel, nuclear power station Hinkley Point (UK)
- Chairman, DAAB concerning a water treatment plant Iraq
- Counsel and advocate, spontaneous combustion in coal seams
- Counsel and advocate, Italian gasification plant
- Chairman, DAAB concerning a hydro power plant in Rwanda
- Counsel and advocate, in an ICC arbitration concerning a Serbian power station
- Chairman, 1000mm diameter pipe diversion dispute Middle East
- Counsel and advocate, ICC arbitration concerning biomass plant
- Counsel, pipeline dispute in Egypt
- Counsel and advocate, ICC arbitration of an anaerobic digestion plant concerning negligent design
- Chairman, HVAC design and installation dispute Middle East
- Counsel and advocate, anaerobic digestion plant concerning performance guarantee
- Counsel and advocate, cement plant relating to feed stock and material handling
- Counsel and advocate, serial adjudications relating to power station
- Sole adjudicator, biomass plant concerning variations-
- Counsel, biomass plant extension of time claim
- Counsel, biomass plant concerning final account, performance bonds and delay and disruption
- Counsel, ICC arbitration concerning biomass plants
- Chairman, preferred engineering of piles and backfilling Middle East

Recommendations

“Experienced in cases involving construction disputes.” The Legal 500 (2018)-

“He is very knowledgeable and thorough in his approach.” “He is excellent; very clever and knows the system. A first port of call.” Chambers and Partners (2017)-
“Recommended for engineering and construction matters.” The Legal 500 (2016)-
“He speaks the client’s language and really rolls his sleeves up to get a deep understanding of the case.” “Very strong in arbitration and adjudications.”
Chambers and Partners-

“Unflappable and relaxed, both in hearings and in conference with clients” The Legal 500

“He has excellent commercial insight, thanks in part to his pre-legal career in construction.”

“Provides expert and detailed advice in construction, planning, and environmental law.” The Legal 500

Memberships

- Chartered Institute of Arbitrators (ICArb)
- International Federation of Consulting Engineers (FIDIC)
- Institution of Chemical Engineers (IChemE)
- London Court of International Arbitration (LCIA)
- London Maritime Arbitrators Association (LMAA)
- International Dispute Resolution Centre (IDRC)
- Shanghai International Arbitration Center (SHIAC)
- Technology and Construction Bar Association (TECBAR)
- Centre for Effective Dispute Resolution (CEDR)
- Association for Consultancy and Engineering (ACE)

- Chartered Institute of Building (CIOB)
- Hong Kong International Arbitration Centre (HKIAC)
- Indian Dispute Resolution Centre (IDRC)

Qualifications

Education

- Barrister at Law-
- BSc(Hons) Quantity Surveyor-
- Chartered Arbitrator: FCI Arb Dip ICArb-
- Accredited Adjudicator: (CIArb, FIDIC, IChemE, TECBAR)-
- Mediator: (CEDR, CIArb, TeCSA, TECBAR)

Scholarships and Prizes

- Cedric Barclay Prize for best International Arbitrator Award Writer of 2005

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Lindy Patterson KC

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Proofread by SM, uploaded by LT 22/6/22, needs to be checked.-

"Excellent. competent and extremely efficient... in complex and large scale international proceedings."- WWL UK Bar 2022

Lindy Patterson KC specialises in international commercial arbitration and dispute boards across the world. She is recognised as a "go to" arbitrator for complex infrastructure, energy and construction disputes in both civil and common law systems.

She has extensive experience both as arbitrator and counsel in handling large scale disputes. She also arbitrates on many commercial contract and real estate disputes.

Areas of expertise

- International Arbitration
- Dispute Boards

International Arbitration

Lindy specialises in international commercial arbitration and dispute boards across the world. She is recognised as a “go to” arbitrator for complex infrastructure, energy and construction disputes in both civil and common law systems.

She has extensive experience both as arbitrator and counsel in handling large scale disputes. She also arbitrates on many commercial contract and real estate disputes.-

She is a chartered arbitrator, a member of the London Court of International Arbitration and Chair of Arbitral Appointments Committee (domestic) of the Scottish Arbitration Centre.

Arbitrations of note

- Arbitration concerning construction of chemical complex in Middle East and North Africa (MENA) region (ICC)
- Arbitration re oil drilling contract subject to Egyptian law seated in Cairo (ICC Chair)
- Arbitration re engineering, procurement and construction (EPC) contract for liquefied natural gas (LNG) terminal in Scandinavia (ICC)
- Arbitration on claims arising from IT systems installation agreement subject to the law of the Sultanate of Oman seated in Oman (ICC Chair)
- Arbitration re construction and operation of biomass power plant (ICC)
- Arbitration re claims and counterclaims for extensions of time; prolongation costs and delay damages arising from EPC contract for construction of bulk liquid terminal and jet fuel pipeline to one of UAE’s international airports, seated in Singapore (LCIA Chair)

- Arbitration on disputed ownership of oil, seated in DIFC (DIFC-LCIA sole arbitrator)
- Arbitration subject to law of Somalia re claims under a concession agreement to operate and maintain a port in an African state (LCIA)
- Arbitration between government body and contractor subject to Romanian law re extension of time and monetary claims from road project, seated in Paris (ICC)
- Arbitration re design of jacket lifting system for removal of off shore platforms/pipeline installation (NAI Chair)
- Arbitration re design and construction of cruise ship terminal in the Caribbean, including geotechnical, hydrographic, dredging, civil engineering and environmental issues (LCIA Chair)
- Arbitration subject to UAE law re claims arising from construction of Shopping Mall in the MENA region (DIFC-LCIA)
- Arbitration subject to Omani law re hotel contracts and claims arising from these (ICC Chair)
- Arbitration on claims arising from tourism and residential complex subject to Omani law (ICC)
- Arbitration on claims for damages arising from alleged wrongful termination of contract re hotel development subject to law of Abu Dhabi seated in Abu Dhabi (ADCACC Chair)
- Arbitration on construction claims on major commercial development in Kazakhstan for delay, disruption, termination losses as well as performance bond calls, subject to law of Kazakhstan, seated in Stockholm (ICC)
- Arbitration subject to UAE law on construction claims re hotel development seated in Dubai (ICC-Chair)
- Arbitration on construction of major residential development in UAE subject to UAE law (DIAC-Chair)
- Arbitration on extent of real estate co-proprietors' obligations regarding repair and maintenance (non-institutional sole-arbitrator)
- Arbitration on claims arising from installation and commissioning of various systems at airport in MENA region (ICC Chair)
- Arbitration on claims arising from mechanical, electrical and plant works at coil coating plant subject to the law of the Sultanate of Oman seated in DIFC (DIFC-LCIA)

- Arbitration re claims and counterclaim arising from structural steel sub-contract at one of UAE airport terminals for damages for delay, extensions of time and additional costs subject to law of Dubai Emirates and UAE law, seated in DIFC (DIFC-LCIA)
- Arbitration on claims arising from roads project in Kazakhstan (ICC)

Adjudicator

Lindy is a UK adjudicator and has been for over 20 years.-

Lindy is also an international adjudicator. She is on the FIDIC President's International List of Adjudicators (2012) sitting on one and three person dispute boards usually as chair.-

She is a member of ICC International Centre for ADR Standing Committee.

She is a member of FIDIC Credentialling Limited, Certification Board (the body established by FIDIC to certify international adjudicators) and their Adjudication Programme Committee Chair.

She is Past President of the Dispute Resolution Board Foundation (DRBF), a body formed to educate and promote the use of dispute boards as a means of dispute avoidance in the construction and related sectors.

In the UK, she sits on the following panels: the Technology and Construction Solicitors' Association (TecSA), Royal Institution of Chartered Surveyors (RICS), Royal Institute of British Architects (RIBA).-

She has acted as adjudicator on all standard forms of contract but particularly NEC, FIDIC, JCT and ICC.

She was counsel in one of the first cases involving enforcement of adjudicators decisions in *Scotland Homer Burgess v Chirex (Annan) Limited*.

She is on the Conflict Avoidance Panel (CAP) constituted by RICS for Transport for London.

Adjudications in which she has acted as adjudicator include:

- Issues of contract interpretation at all levels of the contractual chain in the construction, energy, rail, health and education sectors
- The adequacy of payment mechanisms within the contract
- Delay and disruption claims
- Liquidated damages
- The appropriate method of valuation under the contract
- Final account disputes
- Cladding defects
- Design defects
- General defects
- private finance initiative (PFI)/public-private partnership (PPP) disputes
- varying disputes on waste to energy plants, infrastructure framework agreements, wind power, nuclear power and grid connections

Cases of note

- Adjudicator on claims under multiple EPC contracts for waste to energy schemes with performance issues.
- Adjudicator on claims under EPC contracts for major on-shore windfarms based on FIDIC (Silver Book) including milestones, delay damages and interface agreements.

- Adjudicator on disputes re lump sum design and build contract for multi fuel power plant.
- Adjudicator on interpretation issues re process framework contract between utility company and contractor.
- Adjudicator on disputes re availability of energy recovery facility.
- Adjudicator re piling design in harbour expansion project.
- Adjudicator on disputes re installation of power lines for onshore windfarms.

Dispute Boards

Lindy is an experienced adjudicator, dispute board chair and member. Her experience covers both dispute adjudication boards (DABs) and dispute review boards (DRBs). Her background is as an experienced construction and engineering and energy lawyer for over 30 years. She was the first woman to be appointed to the FIDIC President's International Adjudicator's list in 2012.

She operates internationally and within the UK. She is Past President of the Dispute Resolution Board Federation (DRBF) Region 2 and still plays an active role with them.

In 2021, she was appointed to the Standing Committee of the International Centre for ADR of ICC, which assists the ICC in its work with expert and dispute board proceedings worldwide.

She is a member of the FCL Certification Board and Chair of its Adjudication Programme Committee, which certifies dispute board members for inclusion on the FIDIC President's List.

She is on the Conflict Avoidance Panel administered by the Royal Institution of Chartered Surveyors for the infrastructure company, Transport for London, a

Fellow of the International Academy of Construction Lawyers and Chair of Arbitral Appointments Committee (domestic) of the Scottish Arbitration Centre. She is a chartered arbitrator, a member of the London Court of International Arbitration. She is on the following UK lists of adjudicators: TecSA; RICS and RIBA.

She teaches regularly on adjudication and dispute boards. She is co-author of the chapter on dispute boards in GAR Guide to Construction Arbitration Fourth Edition(2021) and a lead reviewer of the Dispute Resolution Board Foundation's Dispute Board Manual: A Guide to Best Practices and Procedures (published 2019).

Cases of note

- Dispute board chair for five years on a contract based on FIDIC for civils work involved in construction of a nuclear power plant in Scandinavia, including dealing with a major dispute.
- Dispute adjudication board chair for major infrastructure development in Albania, including offices and residential.
- Turnkey contract for a nuclear power facility in Scandinavia (dispute board chair, ICC)
- Dispute board chair on the civils contract for a European metro project based on FIDIC Yellow Book as amended. She has issued nine recommendations on varying disputes to date.
- Dispute adjudication board chair on a roads and tunnel project in Serbia. She has issued six decisions on varying disputes to date.
- Dispute board member and chair on a number of roads projects in Eastern Europe.
- Arbitrator in a number of cases where dispute boards have already issued decisions
- Past member (and legal adviser) of adjudicators' panel for CERN's HiLumi civil engineering works at the Hadron Collider in Switzerland.

Recommendations

“Excellent, competent and extremely efficient... in complex and large scale international proceedings.” WWL UK Bar 2022

“One of the foremost construction arbitrators at the UK Bar.” Thought Leaders 2021
Global Elite

“Highly effective, responsible and personable.”

“First-class, razor-sharp legal mind.”

“Expert knowledge and excellent professionalism.”

“Confidence-inspiring and pragmatic.”

“A popular choice as arbitrator and adjudicator in complex energy and construction disputes.”

Lindy is listed in Who’s Who Legal: Construction 2022 UK Bar; ranked in Chambers and Partners 2021, International Arbitration: Arbitrators, Band 1; and Who’s Who Legal: Thought Leaders 2021 and Global Elite 2021.

Memberships

- Chartered Arbitrator
- Member of FIDIC President’s List of International Adjudicators
- Fellow of Royal Institution of Chartered Surveyors (RICS)
- Fellow of Institution of Civil Engineering Surveyors

Additional Information

Appointments

- ICC International Centre for ADR Standing Committee
- FIDIC President's List of International Adjudicators
- FIDIC Credentialling Limited, Certification Board member and Adjudication Programme Committee Chair
- ICC Taskforce on ADR and Arbitration
- Conflict Avoidance Panel administered by the Royal Institution of Chartered Surveyors (RICS) for Transport for London
- RICS President's Panel of Adjudicators
- TECSA Adjudicators' Panel
- RIBA Adjudicators' Panel
- Scottish Arbitration Centre, chair of domestic arbitral appointments committee
- Fellow of Royal Institution of Chartered Surveyors
- Chartered Arbitrator, Chartered Institute of Arbitrators
- ICC Commission on Arbitration and ADR
- ICCA 2022 Programme Committee
- Fellow of Chartered Institute of Civil Engineering Surveyors (CICES)
- Contract and Dispute Resolution Committee of CICES, member

Past Appointments

- ICE Dispute Resolution Panel member
- Past President of the Dispute Resolution Board Federation (DRBF) Region 2
- Contract and Dispute Resolution Committee of CICES, member
- ICE Dispute Resolution Panel member

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Paul Darling OBE KC

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Paul Darling OBE KC has established a formidable reputation as an advocate in all types and levels of tribunals all over the world. He specialises in complex cases which feature multiple parties, large teams, and high volumes of material, and is often brought in by clients at short notice, late in proceedings. An ability to work with colleagues from any jurisdiction, and to grasp detail, strategy, and tactics quickly has allowed Paul to develop a practice which has taken him to every major jurisdiction, appearing in a wide variety of construction, energy, and commercial matters. Adaptability and focus have contributed to Paul's reputation as a gamechanger, brought in to direct some of the construction and commercial world's most difficult cases. Paul has represented diverse clients in tribunals such as the Commercial Court, the Technology and Construction Court, and the Court of Appeal in London, the High Court and the Supreme Court in Dublin, the High Court in Northern Ireland and Arbitration Tribunals globally. Since the early 1990s he has conducted many arbitrations in

Hong Kong, Singapore, and the Middle East. He has acted in ICC, LCIA-HKIAC, SIAC and DIAC Arbitrations.

Paul is also called to the Northern Ireland Bar (2004).

Areas of expertise

- Construction & Engineering
- Adjudication
- Commercial Litigation & Sale of Goods
- Professional Negligence
- Domestic & International Arbitration
- Procurement
- Health & Safety

Construction & Engineering

Paul's-work has covered the full range of construction and engineering cases and topics in all forums (whether court, arbitration, adjudication or expert determination), all round the world, though of course, at different phases, different types of cases have predominated.

Set out below are examples of the areas in which Paul has recently worked and the reported decisions in which he has appeared.

Work Areas

- Sports Stadia, Playing surfaces

- Dredging
- Local Authority Projects
- Shopping Centres, Theatres, Cinemas and Hotels
- Asbestos
- Cladding
- Foundations , Piling and Load Transfer Platforms
- Mechanical and Electrical Systems
- Air Conditioning
- Ground Improvements Schemes
- Temporary Earthwork Retaining Structures
- Unforeseen Ground Conditions
- Defective Foundations
- Large Housing Developments
- Airports
- Collateral Warranties
- Chemical Slag
- Loss and Expense, Prolongation and Disruption
- Global Claims
- Overhead and Profit, Emden Formula
- Extension of Time and Time at Large
- Liquidated Damages and Penalties and Float
- Termination and Forfeiture
- Exclusion and Limitation Clauses
- Standard Form Insurance Clauses
- FIDIC

- NEC
- Contract, no Contract

Cases

- Alfred McAlpine Capital Project Ltd v Tilebox Ltd [2005]-EWHC 281 (TCC); [2005] BLR 271; 104 Con LR 39, 21 Const LJ 539 (TCC)
- Vector Investments v J D Williams [2009] EWHC 3601 (TCC)
- James Elliott Construction Ltd v Irish Asphalt [2014] I ESC 68 (Irish Supreme Court)
- Noreside Construction Ltd v Irish Asphalt [2014] 1 ESC 68 (Irish Supreme Court)
- Northern Ireland Housing Executive v Healthy Buildings (Ireland) Ltd [2014] NICA 27, 153 Con LR 87 (Court of Appeal of Northern Ireland)
- Walter Lilly & Co Ltd v Mackay and another [2013] EWCA Civ 142- [2013]-EWCA Civ 142 (Court of Appeal)
- Shepherd Construction Ltd v Pinsent Masons LLP [2012]-EWHC 43 (TCC); BLR 213; 141 Con LR 232 [2012] PNLR 31 (TCC)
- Fitzroy Robinson Ltd v Mentmore Towers Ltd [2010]-EWHC 98 (TCC); [2010] All ER (D) 84 (Oct) (TCC)
- Vector Investments v J D Williams [2009]-EWHC 3601 (TCC)
- Fitzroy Robinson v Anglo Swiss Holding Ltd (No 3) [2009]-EWHC 3365 (TCC)-128 Con LR 103, [2010] BLR 165 (TCC)
- London & Regional (St. George's Court) Ltd v Ministry of Defence [2008]-CILL 2651 and [2009] BLR 20 CA, 121 Con LR 26 (Court of Appeal)
- Plymouth and South West Co-operative Society Ltd v Architecture Structure and Management Ltd [2006]-EWHC 5 (TCC); 108 Con LR 77; [2006] CILL 2366 (also reported on costs at [2006] EWHC 3252 (TCC); 111 Con LR 189; [2007] Lloyd's Rep IR 596) (TCC)
- Blair & Anor v AWG Residential Ltd & Ors [2005]-NIQB 68 (High Court of Northern Ireland)
- Birse Construction Ltd v McCormick (UK) Ltd [2005]-EWCA Civ 940; [2005] BLR 523; [2005]-All ER (D) 366 (Jul) (Court of Appeal)

- Hurst Stores and Interiors Ltd v ML Europe Property Ltd [2004]-EWCA Civ 490; [2004] BLR 249; 94 Con LR 66 (Court of Appeal)
- Mowlem plc- v Phi Group Ltd [2004]-BLR421; (TCC)
- Birse Construction Ltd v St David Ltd (No. 1) [2000] BLR 57, 70 Con LR 10 (Court of Appeal)
- Birse Construction Ltd v St David Ltd (No. 2) (2000) 78 Con LR 121 (TCC)
- Birse Construction Ltd v St. David Ltd (No. 1) 1999 BLR 194 (TCC)
- Ascon Contracting Ltd v Alfred McAlpine Construction Isle of Man Ltd 66 CON LR 119 (2000); 16 Const LJ 216 (TCC)
- Barking and Dagenham LBC v Stamford Asphalt Co Ltd (1999) CLC 929; 82 BLR 25; 54 Con LR 1 (Court of Appeal) (1998) 80 BLR 66
- Mooney v Henry Boot Construction Ltd (1996) 12 Const LJ 37 (TCC)
- Vascroft (Contractors) Ltd v Seeboard Plc (1996) 78 BLR 132, 52 Con LR 1 (TCC)
- Property & Land Contractors Ltd v Alfred McAlpine Homes (North) Ltd (1995) 76 BLR 59, Con LR 74 (TCC)
- Mooney v Henry Boot Construction Ltd (1996) 12 Const LJ 37 (TCC)
- Christiani & Nielsen Ltd v Birmingham City Council (Queen's Bench Division) (Official Referee), (TCC)
- MJ Gleeson Group Plc v Wyatt of Snetterton Ltd (1994) 72 BLR 15; 42 Con LR 14; (1995) 11 Const LJ 59 (TCC)
- Temloc Ltd v Errill Properties Ltd (1988) 39 BLR 30; 12 Con LR 109; (1988) 4 Const LJ 63; (Court of Appeal)
- Chatbrown Ltd v Alfred McAlpine Construction (Southern) Ltd (1987)-; 35 BLR 44; 11 Con LR 1; (1987) 3 Const LJ 104 (Court of Appeal)

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Adjudication

Paul's adjudication work has been wide and varied.-He is-regularly involved in Adjudications representing a party.

Paul has-drafted adjudication documents, advised adjudicators, advised parties for the benefit of adjudicators and appeared at adjudication meetings and hearings. Some of those have involved submissions – some cross-examination. He has-been involved in advising and appearing in many court proceedings about adjudication.

His-largest enforcement proceedings was a 8 day trial of enforcement proceedings in CIB v Birse.-Paul's work has involved the full range of issues from jurisdiction to enforcement via the time limit for delivering decisions and setting off against awards.

He has-sat as an-Adjudicator many times and is-on the TECBAR Panel.

His cases include:

- Enterprise Managed Services Ltd v East Midland Contracting Ltd [2007]-EWHC 727 (TCC)
- Ringway Infrastructure Services Ltd v Vauxhall Motors Ltd [2007]-EWHC 2421 (TCC); [2007]-All ER (D) 333 (Oct) (TCC)
- David McLean Contractors Ltd v The Albany Building Ltd [2005]-Lawtel 10/1/2006 (TCC)
- CIB Properties Ltd v Birse Construction Ltd [2004]-EWHC 2365 (TCC); [2005] 1 WLR 2252;-[2005]-BLR 173 (TCC)
- Simons Construction Ltd v Aardvark Developments Ltd [2003]-EWHC 2474 (TCC); [2004] BLR 117; [2004]-TCLR 2; 93 Con LR 114; [2003] CILL 2053; [2003] All ER(D) 482 (Oct) (TCC)
- Shepherd Construction Ltd v Mecrlght Ltd Queen's Bench Division [2000] BLR 489 (TCC)
- KNS Industrial Services (Birmingham) Ltd v Sindall Ltd 3 TCLR 10, 75 Con LR 71, 17 Const LJ 170 (TCC)

Commercial Litigation & Sale of Goods

Paul has done many cases which would be described as "commercial", some of which are about Sale of Goods.

The two Sale of Goods cases that he focused on are Clegg v Andersson in the Court of Appeal, in England and the Pyrite litigation in Ireland in the High Court and Supreme Court in Ireland.

Clegg was about an allegedly unsatisfactory yacht which the owner purported to reject over six months after he took delivery of it.

The Pyrite litigation in Ireland involved consideration of the Irish Sale of Goods Act (similar but not identical to the English version) and as to what was meant by merchantable quality and fitness for purpose.

He has appeared in two reported cases about the remuneration of foreign exchange dealers, one of which went to the Court of Appeal.

Paul has done cases about generators and whether they were satisfactory or fit for their purpose.

He has also done many cases about bonds and guarantees.

Examples of reported cases are:

- James Elliott Construction Ltd v Irish Asphalt [2014] I ESC 68 (Irish Supreme Court)
- Mirador International LLC v MF Global UK Ltd [2012]-EWCA Civ 1662; [2012] All ER (D) 142 (Dec), Court of Appeal [2011] EWHC 683 (Comm) Commercial Court
- Byblos International Fund LLC v IFX Markets Ltd [2009]-EWHC 346 (QB); [2009] All ER (D) 08 (Mar) (Commercial Court)
- Wärtsilä France SAS v Genergy Plc [2004]-EWHC 1966 (TCC); 92 Con LR 112 (TCC)

- Clegg v Andersson (t/a Nordic Marine) [2003] EWCA Civ 320, [2003] 1 All ER (Comm) 721 [2003] 2 Lloyd's Rep 32, (Court of Appeal)
- Tower Housing Association Ltd v Technical & General Guarantee Co Ltd (1997) 87 BLR 74 (TCC)
- Alfred McAlpine Construction Ltd v Unex Corp (1994) 70 BLR 26; 38 Con LR 63 (Court of Appeal)

Professional Negligence

Paul has conducted many cases, both on behalf of claimants and defendants in professional negligence cases. Most of them were "*building cases*". Some were claims against engineers and architects in respect of defects or other construction problems. Some were claims against architects and project managers for failing to administer contracts properly. Some were against quantity surveyors and other construction professionals for negligent valuation.

Two highlighted cases are; The Rossory Quay litigation in Northern Ireland involving defective low and transfer platforms. This is one of the first cases in which the effect of a duty of care deeds and collateral warranties were considered. It was essentially a claim against an engineer for negligently recommending a proprietary ground treatment system. The second, was the Hills Road litigation variously known as McAlpine v Panatown, McAlpine v Unex, McAlpine v UIPL where he represented Alfred McAlpine. The final part of that case involved McAlpine and UNEX seeking to enforce duty of care deeds about negligence against each other and in McAlpine's case against 36 defendants. This involved the full gamut of issues that any professional negligence mega dispute gives rise to.

Reported cases include:

- Shepherd Construction Ltd v Pinsent Masons LLP [2012]-EWHC 43 (TCC); BLR 213; 141 Con LR 232 [2012] PNLR 31 (TCC)
- Community Gateway Association Ltd v Beha Williams Norman Ltd [2011]-EWHC 2311 (TCC); [2011] All ER (D) 59 (Sep) (TCC)
- Community Gateway Association Ltd v Beha Williams Norman Ltd (Costs)- [2011]-EWHC 2994 (TCC); [2011] All ER (D) 120 (Dec) (TCC)
- Fitzroy Robinson Ltd v Mentmore Towers Ltd- [2010]-EWHC 98 (TCC); [2010] All ER (D) 84 (Oct) (TCC)
- Fitzroy Robinson Ltd v Mentmore Towers Ltd [2010]-EWHC 98 (TCC); [2010] All ER (D) 84 (Oct) (TCC)
- Fitzroy Robinson v Anglo Swiss Holding Ltd (No 3)[2009]-EWHC 3365 (TCC)-128 Con LR 103, [2010] BLR 165 (TCC)
- Plymouth and South West Co-operative Society Ltd v Architecture Structure and Management Ltd [2006]-EWHC 5 (TCC); 108 Con LR 77; [2006] CILL 2366 (also reported on costs at [2006] EWHC 3252 (TCC); 111 Con LR 189; [2007] Lloyd's Rep IR 596) (TCC)
- Blair & Anor v AWG Residential Ltd & Ors [2005]-NIQB 68 (High Court of Northern Ireland)
- Munkenbeck & Marshall v Kensington Hotel Ltd (2000) 78 Con LR 171 (TCC)
- John Harris Partnership v Groveworld Ltd (1999) 75 Con LR 7 1999; PNLJ 697 (TCC)

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Domestic & International Arbitration

Many of Paul's cases over the years have been arbitrations, both domestic and international, some as Counsel and occasionally as Arbitrator.

He has also done a number of cases about practice and procedure in arbitration.

They include:

- Issues about whether Notices of Arbitration have been properly served.

- Applications for extensions of time.
- Applications to remove Arbitrators for bias or misconduct.
- Stays of court proceedings for arbitration.

Reported cases include:

- Lafarge Aggregates Ltd v Newham London Borough Council [2005]-EWHC 1337 (Comm); [2005] 2 Lloyd's Rep 577 (Commercial Court)
- Van Oord ACZ Ltd and Harbour & General Works Ltd Joint Venture v The Port of Mostyn-[2003]-Lawtel 19/09/2003;-(TCC)
- Miller Construction Ltd v James Moore Earthmoving [2001] EWCA Civ 654 [2001] 2 All ER (Comm) 598 [2001] BLR 322 (Court of Appeal)
- Birse Construction Ltd v St David Ltd (No. 2) (2000) 78 Con LR 121 (TCC)
- Birse Construction Ltd v St David Ltd (No. 1) [2000] BLR 57, 70 Con LR 10 (Court of Appeal)
- Birse Construction Ltd v St. David Ltd (No. 1) 1999 BLR 194 (TCC)

Procurement

Paul has done a number of cases about EU Procurement. The two cases-set out below are the best known. The first concerned the propriety of the tender process for the delivery of food to the entirety of the British Army. The second related to the legality of a tender for the provision of legal services and in particular the relevance of a power to vary or amend the contract.

- BFS Group Ltd v (1) Secretary of State for Defence (2) Purple Foodservice Ltd [2006]-EWHC 1513 (Ch); [2006] EU. L.R. 1101 (Chancery Division)
- R (on the application of the Law Society) v Legal Services Commission & the Lord Chancellor [2007]-EWCA Civ 1264; [2008] 2 W.L.R. 803; [2008] 2 All E.R. 148 (Court of Appeal)

Health & Safety

Paul has a considerable interest in Health and Safety in the public sector, having been Chairman of the Sports Ground safety Authority, the body set up after Hillsborough to prevent recurrence of that disaster. In that capacity he has considered and managed risk based regulation and disaster prevention in the public sector at the highest levels and providing advice to Ministers.- His work covered design and construction of stadia and other structures and safety management generally. The SGSA was the authority responsible for licensing stadia and the contents of Safety Certificates. It was responsible for reviewing the contents of Safety Certificates issued by Local Authorities. He liaised extensively with all integrated groups including spectators. His experience involved issues of fire safety and management.

This follows on from his appearance as counsel for the Engineers at the Public Inquiry into the deaths caused by legionnaires disease at the Stafford Hospital. The inquiry set up after the death of 39 people from legionella considered all aspects of design construction and management of the hospital.

Paul represented a quarry owner in the Pyrite litigation in Dublin. In the High Court in Dublin, a-building contractor sued the quarry owner for supplying material containing pyrite which was-said to have expanded and damaged the structures under which it was placed. The case went on-appeal to the Supreme Court. The trial occupied 60 days and the hearing in the Supreme Court,-5 days. The issues included whether the cause of damage to the building was defective design-and construction or the expansion of pyrite, whether the pyrite in fact expanded, whether there-were breaches of the Sale of Goods Act about

merchantable quality and fitness for purpose,-whether contractual terms applied and whether there were limitations on liability.-Paul appeared in the Court of Appeal in Belfast on an appeal about the notice provisions under the NEC 3 Variation Clauses.

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Ben Olbourne

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Proofread by SM, uploaded by LT 4.8.22, needs to be checked.-

“A strategic thinker, who is well suited to complex international disputes.” The Legal 500 UK 2016

Ben provides advisory and advocacy services across a broad range of international commercial disputes in England and other jurisdictions in relation to both court and arbitration proceedings.-He has acted as sole or junior counsel before courts at all levels in England and in arbitrations under all the principal sets of arbitral rules.-He has particular experience working in Asia and for Asian

clients, having lived and worked in the region for many years.

Ben's recent work has been principally in the general commercial, international trade and commodities, construction (infrastructure and vessels), insurance/reinsurance, energy, natural resources, and shipping/carriage of goods sectors.-That work includes substantive hearings as well as applications for interim and post-judgment relief.-Much of that work is of a multi or cross-jurisdictional nature involving questions of private international law and/or disputes governed by foreign laws.-He has also provided expert opinions on English law for use in foreign proceedings on a range of substantive and procedural legal issues.

Ben accepts appointments as an arbitrator and has been appointed as sole arbitrator, wing and chair, in more than 40 references in matters under ICC, LCIA, LMAA, SIAC, and AIAC rules, among others, and in ad hoc proceedings. Many of these cases have involved state-owned enterprises or public sector undertakings. Governing laws have included English, Russian, Cypriot, Chinese/Hong Kong, Australian, Malaysian, Singaporean, Vietnamese and Indian. Seats have included Singapore, London, Hong Kong, Hyderabad, Delhi, Paris, Moscow, Hong Kong, and Perth. He is recommended as an arbitrator in the leading regional directories.

Ben is admitted in New South Wales (Australia) in 1999 and was an associate (Legal Assistant) to Chief Justice Gleeson of the High Court of Australia from 1999-2000. He was a Junior Counsel to the Crown (C Panel) from 2008-2013.

Areas of expertise

- Commercial
- Alternative Dispute Resolution
- Construction
- Energy and Natural Resources

Commercial

Ben's practice encompasses a wide range of general and specialist commercial matters, mostly with an international focus or multi-jurisdictional features, including in the fields of construction, company sale and purchase, agency, banking, joint ventures, shareholder disputes, insurance and reinsurance, competition, energy (including renewables), transport and oil, gas and other resources.-

Ben has particular experience in the international trade, commodities and transport sectors. In the transport sector, he acts for owners, charterers, cargo interests, protection and indemnity (P&I) clubs and other insurers and financial institutions in respect of all aspects of 'dry' shipping, including disputes under charterparties (time, voyage, bareboat, contracts of affreightment), bills of lading, and payment and security instruments (e.g. letters of credit, performance guarantees). He also acts for service providers (e.g. bunker providers, ship repairers, and ship managers) and buyers/sellers in sale and purchase disputes. Much of his recent work has been in respect of vessel construction, including acting for yards, buyer/owners, and others, including in respect of delay, negligent construction, repudiation, and other disputes.

In the trade/commodities sector, he acts for sellers, buyers, insurers and

financial institutions in relation to time, voyage and other charterparties and contracts on FOB, CIF and other terms in relation to all types of commodities, including oil and gas, steel, ore, coal, cement, grains, and chemicals. Ben's work includes disputes underpayment and security instruments, including letters of credit and guarantees. His recent work includes disputes involving sham transactions, circular trades, and credit sleeving.

The majority of Ben's recent work has been in private arbitrations. Further details of subject matter, seat, governing law, etc., can be provided on request. He is regularly instructed in respect of substantive arbitrations, interim relief, challenges to awards, and ancillary matters, including appointment and removal of arbitrators, extensions of time, orders for the taking and/or preservation of evidence, and summary disposal.-

Alternative Dispute Resolution

Ben accepts appointments as an arbitrator in international commercial matters in all areas of commercial law and principally in the areas of his counsel practice. He has been appointed in more than 40 references as both sole arbitrator and as a member of a panel (including as chair) under all leading sets of rules (ICC, LCIA, LMAA, SIAC, AIAC, VIAC, among others) and in ad hoc proceedings. Many of these cases have involved state-owned enterprises or public sector undertakings. Governing laws have included English, Russian, Cypriot, Chinese/Hong Kong, Australian, Malaysian, Singaporean, Vietnamese and Indian. Seats have included Singapore, London, Hong Kong, Hyderabad, Delhi, Paris, Moscow, Hong Kong, and Perth. He is recommended as an arbitrator in the leading regional directories.

Construction

Ben is regularly instructed, principally in international arbitrations, in all aspects of construction disputes across many jurisdictions and sectors, including energy (e.g. power plants, pipelines, distribution facilities), maritime (e.g. commercial and research vessels, offshore vessels, rigs and platforms, recreational craft), and infrastructure (e.g. roads, airports, factories). Ben has recent experience of claims involving legal issues (e.g. construction of contracts, applicability of limitation provisions), professional negligence claims, technical/engineering disputes, compliance with international standards, claims for extensions of time, delay and liquidated damages, quantum disputes, and also related financial disputes such as claims under performance bonds.

Ben is typically involved in cases involving complex technical and factual disputes and in 'document-heavy' matters. He is familiar with the principal international construction contracts and also bespoke clauses and contracts, and with different analytical methodologies such as critical path analysis. Many of Ben's cases have involved claims on behalf of or against states and state-owned enterprises/public sector undertakings.

Energy and Natural Resources

Ben acts for a wide range of interests in upstream, mid-stream and downstream sectors. For further details, see "Commercial" and "Construction" above.

Recent examples include acting for a coal trader in a US\$50m dispute with a major European power generating company, acting for a European company in a US\$9bn claim against a West African state for repudiation of a natural gas

construction, operation and off-take agreement, acting for an Indonesian drilling company in respect of claims arising out of an on-shore oil-drilling programme, acting for an oil pipeline design and construction team in dispute with a head contractor in Africa, and acting for a number of Chinese state-owned manufacturing and construction companies.

For further details, see “Commercial” and “Construction” above.

Qualifications

Education

- LLM (1st), University of Cambridge (1999)
- LLB (1st), University of Sydney (1997)
- B.A. (Hons) (1st), Australian National University (1994)
- B.Ec., University of Sydney (1993)

Additional Information

A Major Scholar of the Inner Temple, Ben was called to the Bar in 2003.

Previously, Ben worked as a senior legal officer (Temporary) in the Office of International Law in the Australian Attorney-General’s Department. From 2000-2002, he tutored and examined in torts and contracts and Public International Law at University College London. He was an associate to Chief Justice Gleeson of the High Court of Australia from 1999-2000.

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Peter Rees KC [APPROVED 3Sept22]

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“He is very experienced and a big name in international arbitration. He is very knowledgeable, an excellent chairman, very prompt and responsive.” Chambers and Partners 2022

Peter Rees KC specialises in international arbitration and is widely recognized as one of the leading practitioners in this area in the world. He is listed as a leading expert in international arbitration by various directories including Chambers UK, Chambers Europe, The Legal 500 UK, Legal 500 Asia Pacific, Who’s Who Legal and Chambers Global.

Peter’s extensive experience as arbitrator extends to handling large scale and complex disputes in many industrial and commercial sectors, in diverse jurisdictions and subject to a wide variety of governing laws. He is particularly well known for handling the most complex and high-value construction, engineering, oil and gas disputes as well as investment treaty disputes.

Peter was Legal Director and Member of the Executive Committee of Royal Dutch Shell Plc from 1 January 2011 until he stepped down at the beginning of 2014. In that role, he had ultimate responsibility for the Shell global legal function and for advising the Shell Group management on all legal matters of group-wide importance. Prior to joining Shell, Peter was a partner at Norton Rose for nearly 20 years, including eight years as Head of Global Dispute Resolution, and a partner for five years at Debevoise & Plimpton.

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Areas of expertise

- Mediator

Arbitrator

Peter has been arbitrator in over one hundred arbitrations and has significant experience in handling disputes under the rules of most of the major institutions including the ICC, LCIA, ICSID, SCC, SIAC, AAA, ICDR, CPR, AIAC, HKIAC and CIArb as well as numerous ad hoc arbitrations subject to UNCITRAL Rules.

Over the last 20 years, he has served as Vice President of the LCIA Court, Member of the Governing Body of the ICC Court of Arbitration, Member of the Board of CPR, Member of the Board of Trustees of the CIArb, and Member of the Advisory Board of the VIAC.

Cases of note:

- ICC arbitration subject to German law in relation to a dispute over the construction of a major scientific facility in South America.
- ICC arbitration subject to Turkish law arising out of a major construction project in Turkey.
- LCIA arbitration subject to English law in relation to a dispute arising out of the sale purchase agreement and option agreement to purchase shares in the parent company of a Central European mobile phone company.
- UNCITRAL arbitration subject to English law arising out of an infrastructure project in the Middle East.
- ICSID arbitration relating to renewable energy in Spain.
- ICDR (AAA) arbitration subject to Irish law arising out of a hotel management agreement.
- ICC arbitration subject to English law in relation to a sub-sea pipe laying project in the Mediterranean.
- ICC arbitration subject to English law over the licencing of a pharmaceutical product.
- LCIA arbitration subject to English law arising out of a mobile telephone joint venture in Africa.
- ICC arbitration subject to English law arising out of a shareholders' agreement.
- LCIA gas price review arbitration.
- HKIAC arbitration subject to Hong Kong law arising out of a property development joint venture.
- SCIA emergency arbitrator appointment subject to English law arising out of a dispute between a sports team and a team member.
- ICANN dispute over award of top-level generic domain name.
- ICC arbitration subject to English law arising out of the granting of oil concessions in West Africa.
- LCIA arbitration subject to English law arising out of the shooting of a seismic programme.
- ICC arbitration subject to the law of a South American country arising out of a crude oil supply agreement.
- LCIA arbitration subject to Kuwaiti law arising out of the construction of pipelines.
- LCIA arbitration subject to English law arising out of the construction of an offshore platform.

- ICSID arbitration arising out of gas supply arrangements to a public utility in Turkey.
- ICC arbitration subject to English law arising out of the construction of a power project in the Middle East.
- ICC arbitration subject to Ontario law arising out of a construction project in Central America.
- ICC arbitration subject to English law arising out of an oil drilling project in West Africa.
- ICSID arbitration arising out of a construction project in Mozambique.
- ICC arbitration subject to Michigan law arising out of a raw materials supply contract.
- DIAC arbitration subject to UAE law arising out of a construction project in the Middle East.
- ICC arbitration subject to English law relating to the construction of commercial aircraft.
- LCIA arbitration over a gas pricing dispute.
- ICC arbitration subject to English law arising out of a seismic acquisition contract.
- SIAC arbitration subject to Singapore law arising out of a dredging contract
- UNCITRAL Rules arbitration subject to the law of a Central African country arising out of an electricity generation project.
- UNCITRAL Rules arbitration subject to the law of a Central African country relating to an electricity supply contract.
- ICC arbitration subject to English law arising out of an offshore drilling contract.
- ICC arbitration subject to the law of Western Australia relating to a large construction project.
- ICC arbitration subject to English law arising out of a production sharing agreement.

Mediator

Peter is an accredited mediator with ADR Chambers and handles mediations in a wide variety of commercial fields. His approach is to ensure the parties know both the strengths, but more particularly the weaknesses, in their respective cases, that the senior executives attending the mediation fully understand the

other side's case, and to find the common ground, not just legally, but commercially, between the parties. Peter's corporate background helps him understand the financial and corporate drivers behind the stances the parties are taking.

Cases of note:

- Dispute over professional fees payable following a corporate acquisition.
- Dispute over obligations under an oil and gas joint operating agreement.
- Dispute over contractor's claims on a major refurbishment contract.
- Dispute relating to allegations of professional negligence following a corporate acquisition.
- Dispute relating to claims for extensions of time, loss and expense and liquidated damages under a construction contract.

Recommendations

- Peter is regularly recommended in the major directories and was listed as one of the top ten arbitrators at the Bar by Who's Who Legal in 2021.
- *"He is one of the most sought-after arbitrators." "He is very experienced and a big name in international arbitration. He is very knowledgeable, an excellent chairman, very prompt and responsive." "Outstanding intellect, very perceptive and gives excellent judgments."* Chambers and Partners 2022
- *"Peter brings to the party both great experience and an enquiring mind."* The Legal 500 2022
- *"One of the top arbitrators for major construction, energy and infrastructure disputes in the Asia Pacific region."* The Legal 500 Asia Pacific 2022
- *"At the top of the field for energy-related construction disputes."* The Legal 500 Asia Pacific 2019
- *"Strong, decisive, clear-eyed, and well able to delineate between what is important and what is irrelevant."* The Legal 500 2018

- *He really knows the industry, not just issues in the industry. He understands the commercial drivers of why the case is there to begin with.*” Chambers and Partners 2017

Memberships

- International Bar Association (IBA) – former Chair of International Construction Projects Committee.
- Chartered Institute of Arbitrators (CI Arb) – former Chair of Management Board and former Trustee.
- International Institute for Conflict Prevention and Resolution (CPR) – former Board Member.
- International Council for Commercial Arbitration (ICCA).
- Inter-Pacific Bar Association (IPBA).
- American Bar Association (ABA).
- Swiss Arbitration Association (ASA).
- International Chamber of Commerce (ICC) UK.
- Technology & Construction Bar Association (TEC BAR).

Qualifications

Education

- MA (Law) – Downing College, Cambridge University.
- MBA - Nottingham Trent University.
- Fellow of the Chartered Institute of Arbitrators.
- Chartered Arbitrator.
- Accredited Mediator – ADR Chambers

- Accredited Adjudicator – TeCSA
- Queen’s Counsel

Scholarships and Prizes

- 2009 – TeCSA Clare Edwards Award for Contribution to the Practice of Construction Law.
- 2012 – Institute for Conflict Prevention and Resolution Corporate Leadership Award.
- 2013 – Association of Corporate Counsel – European Corporate Counsel of the Year – Litigation.
- 2013 – Association of Corporate Counsel – Global Corporate Counsel of the Year – Litigation.
- 2013 – Director’s Roundtable World Recognition of Distinguished General Counsel.
- 2017 – Legal Era Magazine – QC of the Year.

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Patrick Hennessey

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Not yet updated. Tagged by LT 10.10.22

Patrick Hennessey is a barrister qualified in England & Wales but with extensive international experience, particularly in South East Asia and the Middle East. His practice is focussed on commercial and construction disputes in both international arbitration and UK litigation with significant experience in transport and energy infrastructure and project finance.

In 2017 Patrick was Highly Commended in Legal Week's "Stars at the Bar 2017" recognition his growing stature as a sought after junior in the construction and commercial fields and was appointed to the Attorney General's London C Panel.

Patrick is instructed as sole-counsel and junior in a broad range of construction, engineering and infrastructure disputes and has experience in ICC, LCIA, SIAC, DIAC and ad hoc arbitration and in the TCC and adjudication. Patrick has considerable international experience (having worked on secondment in the Arbitration & Dispute Resolution team of a leading international law firm in Singapore and in-house with a leading UAE property developer) and has worked closely with the litigation teams at a number of top-tier UK construction and energy law firms. Patrick undertakes advisory work for a range of employers, construction professionals and adjudicators and has experience with all major standard form building contracts (JCT, FIDIC, NEC3) and working with various consultants and handling experts, witnesses and pleadings.

Patrick also advises the UK and other governments on defence and security matters having spent five years as an officer in the British Army.

Areas of expertise

- Construction, Engineering and Infrastructure

- International Arbitration
- Commercial
- Administrative and Public

Construction, Engineering and Infrastructure

Recent examples Patrick's construction work include:

Inquiry

- Patrick is acting for a key commercial core participant in the Grenfell Tower Inquiry

TCC

- Instructed as junior counsel to Adam Robb QC for an NHS Trust in a PFI dispute.
- Acting for the employer in enforcement proceedings arising from £10M rail adjudication.
- Acting for the homeowner in a (£500,000+) claim against indemnifier syndicate of new build insurance policy for claim arising out of significant defects and remedial scheme.
- Instructed as junior to Sean Wilken QC and Adam Robb in high-value (£5M+) adjudication under the M1 motorway refurbishment project agreement.
- Acted for the claimant sub-contractor in claim arising from the London Overground construction project in successful interim applications resulting in settlement for the full sum claimed (£500,000+).
- Acting for specialist sub-contractor in interim relief and possession claims arising from the construction of a high-profile theme park ride.
- Acting for sub-contractor in respect of claims arising from dispute over high-speed internet and associated communication cable installation.

Arbitration

- HKIAC Arbitration: as junior counsel to Adrian Hughes QC for a Chinese State-owned energy company in a USD 1 billion investment dispute.
- LCIA Arbitration: as sole counsel for a Dutch technology firm in Euro 10M+ dispute arising from the construction of solar power generation component plant in China.
- ICC Arbitration: advising contractor in multi-million dollar dispute concerning delay and disruption claims arising from the construction of USD 3.7 billion refinery complex in North Africa.
- DIAC Arbitration: acting for Employer in multi-million AED dispute concerning landmark residential tower complex in Dubai.
- SIAC Arbitration: acting (as foreign legal consultant) for the contractor in SIAC arbitration arising out of a dispute over the construction of a signature engineering project in Dubai.
- ICC Arbitration: as junior counsel to Stuart Catchpole QC and Alex Bodnar in an ICC arbitration relating to a multi-million dollar dispute concerning payment issues and delay and disruption claims on a large-scale energy project in Saudi Arabia.
- ICC Arbitration: acting as junior counsel to Richard Wilmot-Smith QC and Jess Connors in an ICC arbitration arising out of a termination dispute on a multi-million dollar off-shore gas pipeline project in the Caribbean

Adjudication

- Instructed as junior counsel for an NHS hospital trust in a PFI dispute arising from the construction and provision of hospital services
- Instructed as sole counsel for the employer in £10M+ adjudication under the High Speed 1 rail link project.
- Instructed as sole counsel for Highways England in £10M+ adjudication in respect of defective works to major A road.
- Instructed as sole counsel for the employer in £1M+ luxury home refurbishment adjudication under a JCT agreement.
- Instructed as junior counsel for SPV contractor in high-value (£10M+) claim for damages and cost of remedial works under complex PFI agreement against construction sub-contractor and

associated defence to claim by public body employer.

- Other recent adjudication experience includes:
 - Acting for a specialist lift-subcontractor in multiple claims alleging defective installation of lifts at various office and hotel locations across SE England;
 - Acting for M&E subcontractor in multiple adjudications arising from delayed completion of a mixed use residential, retail and social housing development;
 - Acting for SPV in claims arising from defective fire-stopping and associated issues in a PFI hospital project;
 - Acting for SPV in claims arising from defective cladding in a PFI university project.

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International Arbitration

Significant arbitrations include:

- Instructed as sole English counsel (with local counsel assistance) in enforcement proceedings in Tanzania and the UK relating to an ICC arbitration arising out of a dispute over the construction of a luxury resort hotel
- JAMS Arbitration: instructed as junior counsel to Sean Brannigan QC in a multi-million dollar employment dispute.
- SIAC Arbitration: instructed as foreign legal consultant in SIAC arbitration and linked Indian court proceedings arising from an investment/restructuring dispute concerning foreign direct investment into large-scale Indian transport infrastructure projects.
- ICC Arbitration: advising contractor in multi-million dollar dispute concerning delay and disruption claims arising from the construction of USD 3.7 billion refinery complex in North Africa.
- DIAC Arbitration: acting for Employer in multi-million AED dispute concerning landmark residential tower complex in Dubai.

- SIAC Arbitration: acting (as foreign legal consultant) for the contractor in SIAC arbitration arising out of a dispute over the construction of a signature engineering project in Dubai.
- ICC Arbitration: as junior counsel to Stuart Catchpole QC and Alex Bodnar in an ICC arbitration relating to a multi-million dollar dispute concerning payment issues and delay and disruption claims on a large-scale energy project in Saudi Arabia.
- Patrick has also been appointed as Arbitrator in ad hoc arbitral proceedings.

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Commercial

Significant commercial cases include

- *Libyan Investment Authority v Societe Generale & Ors* (2016-2017) acting for Fifth Defendant in claims brought by the LIA to set aside \$1.5 billion of structured investments on the basis of alleged fraud and bribery.
- *Duncan Macleod v Mears Group Plc* [2014] All ER (D) 15 Jul, [2014] EWHC 3140 (QB) and associated hearings: acting for the successful claimant in claim for non-payment of a contractual bonus (and secured permission for late amendment to pleadings as cited in the 2015 White Book).
- Acting as junior to James Ramsden QC in a claim for damages and relief pursuant to a disputed joint venture property investment vehicle.
- Instructed as junior to Adrian Hughes QC in a £10M+ bench-marking adjudication under a PFI care homes project.
- Instructed as sole counsel in an arbitration under the Metals Trade Association rules concerning non-delivery and delivery of sub-standard tin.
- Instructed as sole counsel in *Peter Gray v Gibson Dunn & Crutcher* CFI-012 02016. Acted for the claimant and appellant in the DIFC Court of Appeal in a claim relating to the enforceability of an arbitration clause in contract underlying \$1m+ claim.

- Acting for successful claimant investors for damages arising from the operation of a collective investment scheme in contravention of the Financial Services Management Act 2000.

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Administrative and Public

Patrick was appointed to the Attorney General's C Panel (London) in 2017 and regularly acts for the government in cases concerning matters of defence and security.

Significant cases include:

- *Al-Sadoon v Secretary of State for Defence* [2016] 1 WLR 3625 – acted for the government in cases relating to inquiries into alleged abuse of Iraqi citizens by UK Forces during the Second Gulf War.
- *The "Snatch Landrover" and "Challenger 2" Claims* – acted for the government in test cases on combat immunity following the decision of the Supreme Court in *Smith and others v MOD* [2013] UKSC 410
- *The Cyprus Colonial Litigation* – acted for the government in test cases on historic liability for alleged abuse of Cypriot citizens by UK and Cypriot during the Cyprus Emergency.

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Administrative and Public

Patrick regularly undertakes defendant work in civil liability cases and frequently appears in court in insurance related matters in particular in Employer's, Occupier's and Public Liability and Highways Claims.

Significant cases include:

- *King Lifting v Oxfordshire County Council* [2016] EWHC 1767 (QB) – acting for successful defendant authority in highways act claim brought by operator of damaged specialist plant equipment.

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David Brynmor Thomas KC

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“His ability to identify flaws in the other side’s case is marvellous.”

The Legal 500 2022

David Brynmor Thomas KC is very experienced in the litigation and arbitration of complex commercial disputes, in England and internationally. He has unusually wide expertise, as he was a litigation partner in Herbert Smith before he was called to the bar.

David's principal reputation is for acting in energy, infrastructure and construction disputes. He also has significant experience of mergers and acquisition (M&A), shareholder and joint venture disputes, disputes arising from overseas investments and collaborations, commodities and sale of goods, aircraft leasing and maintenance and a range of other industries.

David is recognised as an experienced arbitrator, having sat as sole, party-appointed or presiding arbitrator in more than 60 institutional and ad hoc arbitrations in addition to his practice as counsel.

David is an honorary professor of law in the School of International Arbitration, Queen Mary University of London. He was Chair of the Board of Trustees of the Chartered Institute of Arbitrators and a member of Working Group II of the United Nations Commission on International Trade Law (UNCITRAL) for recent work on both the Arbitration Model Law and Arbitration Rules. His first degree was in medicine, which he practised for a short time before requalifying as a lawyer.

Areas of expertise

- Commercial
- Construction
- Energy and Natural Resources
- Alternative Dispute Resolution

Commercial

“A confident advocate and rises to the demands of complex cases with great charm.”

The Legal 500 2022

David has acted in significant commercial arbitrations arising from joint ventures, breach of warranty on M&A transactions, the mis-sale of financial services products, aircraft leasing and the shareholder and commercial aspects of major projects.

He has also acted in litigation before the Commercial Court arising from arbitrations, in particular challenges to awards and their enforcement and anti-suit injunctions in support of arbitration. He also has experience of shareholder actions, unfair prejudice petitions and injunctions to prevent the calling or payment of bonds.-

Cases of note:

- Acted for the successful European party in a joint venture dispute as to the control of a manufacturing company in India. The LCIA arbitration, seated in London but subject to Indian law, was referred to on enforcement in India as “Karia”.
- Acted for the minority shareholder in formulating and successfully settling a claim for unfair prejudice under s994 of the Companies Act 2006, arising from the conduct of the business of a Fintech company.
- Acted for the claimant in obtaining an anti-suit injunction in support of arbitration in London, in response to litigation brought in India in breach of an arbitration agreement.
- *T v V & W* [2018] EWHC 1492 (Comm) and *T v V & Ors* [2017] EWHC 565 (Comm) - Acted for an arbitrator in resisting applications under sections 24 (for their removal) and 68 (to have their award set aside) of the Arbitration Act 1996, in each case based on allegations of bias against the arbitrator.-
- *A v B* [2016] EWHC 3003 (Comm) (25 November 2016)- - Acted for the successful award creditor in resisting a challenge an arbitration award, on the basis that the creditor had ceased to exist following a merger subject to Indian company law that had taken place during the course of

the arbitration.-

- *Emirates Trading Agency Llc v Sociedade De Fomento Industrial Private Ltd* [2015] EWHC 1452 (Comm) (20 May 2015) - Acted for the successful award creditor to resist a challenge to an award, made on the basis that the tribunal had reopened issues of jurisdiction decided in an earlier award. The case raised issues of the res judicata and functus officio effects of partial final awards in International Chamber of Commerce arbitrations and their consequences.-
- *Emirates Trading Agency Llc v Prime Mineral Exports Private Ltd* [2014] EWHC 2104 (Comm) - Acted for the successful party in resisting a challenge (one of a number) to an award on jurisdiction under section 67 Arbitration Act 1996. The challenge was based on the meaning, effect and performance of an escalating dispute resolution clause. Also acted for the vendor in two parallel International Chamber of Commerce arbitrations, arising from the breach of contracts for the long-term sale and purchase of iron ore.

Construction

“... a very strong construction lawyer with excellent cross examination skills and can come up to speed in very short time.” The Legal 500 2022

David is a very experienced construction lawyer and teaches international construction contracts and arbitration as an honorary professor at Queen Mary University of London.-

Cases of note:

- Acted for the contractor in claims for very significant additional payments and extensions of time arising from the disruption caused by Covid-19 regulations to the construction of a new high-efficiency gas fired power station in England, expected to become the cleanest and most-efficient gas-fired power station in Europe. The claim was formulated successfully on the basis of a change of law rather than force majeure so as to recover money for the contractor as well as an extension of time.

- Acted for the contractor in an International Chamber of Commerce arbitration against its subcontractors, arising from the development of the first wind-turbine based power plant in a Middle East country. The claim involved the consequences of the catastrophic failure of transformers when the power plant was first connected to the grid. Subject to the laws of Jordan, London seat.
- Acted for the contractor in claims for extensions of time and payment for loss and expense in an Abu Dhabi Commercial Conciliation and Arbitration Centre (ADCACC) arbitration, subject to the laws of Abu Dhabi, arising from the construction of a military facility in the Middle East.
- Acted for the operator in an LCIA arbitration with a shipyard as to delay and cost overruns and on the conversion of vessels for use in oil production facilities in the Caspian Sea.-
- Acted for the owner in an expedited International Chamber of Commerce arbitration, subject to English Law, London seat, arising from a project for the supply of environmental cleansing plant and machinery for a plant in Eastern Europe.
- Advised the employer in relation to the termination of a project for an East African combined-cycle power plant, including exercise of “greenfield” rights on termination under the relevant FIDIC contract.
- Advised in relation to the application and recovery of sums for the remediation of cladding issues in London based high rise buildings.

Energy and Natural Resources

“His ability to identify flaws in other side’s case is marvellous.” The Legal 500 2022

David is identified by Who’s Who legal as a leading practitioner for energy disputes, having conducted energy related disputes throughout his career, including those arising from:

- the oil and gas industry, in particular liquefied natural gas (LNG) and acting for operators under joint operating agreements

- electricity generation, including coal and gas fired power stations and renewable power, including wind and solar energy, and
- on the construction and failure of energy related infrastructure, in particular gas turbines, power plants and refineries, and floating production, storage and offtake (FPSO) facilities.

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Cases of note:

- Acted for an importer of liquified natural gas (LNG) on claims arising from the comingling of LNG cargoes from different sources and importers at an LNG terminal in Europe.
- Acted for the contractor in claims for very significant additional payments and extensions of time arising from the disruption caused by Covid-19 regulations to the construction of a new high-efficiency gas fired power station in England, expected to become the cleanest and most-efficient gas-fired power station in Europe. The claim was formulated successfully on the basis of a change of law rather than force majeure so as to recover money for the contractor as well as an extension of time.
- Acted for one of two joint-venture partners in parallel ICC arbitrations, subject to English law with London seats, against its partner arising from the supply and installation of desulphurisation technology at a major coal-fired power station.
- Acted for the contractor in an International Chamber of Commerce arbitration against its subcontractors, arising from the development of the first wind-turbine based power plant in a Middle East country. The claim involved the consequences of the catastrophic failure of transformers when the power plant was first connected to the grid. Subject to the laws of Jordan, London seat.
- Acted for the owner in disputes arising from the supply and installation of wind-turbines in India and issues resulting from the acquisition of the supplier by a competitor of the owner.
- Advising on claims, counterclaims and wider risks arising from the catastrophic failure of a gas turbine at a power plant in Europe.
- Acted for the owner in relation to defects, delays and cost overruns on the refurbishment and recommissioning of drilling vessels.-

Alternative Dispute Resolution

“A hands-on, commercial and strategic individual ... who is ... very passionate about arbitration ... and ... really excellent in the field.” Who’s Who Legal 2022

David has been appointed as sole, party-appointed and presiding arbitrator in over 60 arbitrations in addition to his practice as counsel. Those arbitrations have been ad hoc and for all of the major arbitration institutions. He has also acted as an emergency arbitrator and conducted arbitrations on an expedited basis. He is a member of the LCIA and of the Panel of neutrals of the ICDR.-

David served on Working Group II of UNCITRAL for around a decade in relation to the Arbitration Model Law and Arbitration Rules, attending on behalf of the CI Arb. He was subsequently Chair of the Board of Trustees of the CI Arb. David teaches at post-graduate level at Queen Mary University of London, where he is an honorary professor in the School of International Arbitration.

David is also a qualified mediator with the Centre for Effective Dispute Resolution (CEDR) and has conducted expert determinations, most recently on the nomination of the Law Society of England and Wales.

Cases of note:

- Party appointed arbitrator in an ICC arbitration subject to the English law, Paris seat, arising from the construction, commissioning and operation of a major solar power plant in North Africa.
- Party appointed arbitrator in an LCIA arbitration subject to English law, London seat, as to time and cost overruns and their recovery on the construction of a gas production platform.

- Party appointed arbitrator in a Singapore international Arbitration Centre (SIAC) arbitration, subject to Singapore law, Singapore seat, arising from the construction of an infrastructure project in the Middle East, including claims and counterclaims for agency fees and misrepresentations in the formation of the project agreements.
- Presiding arbitrator in a Stockholm Chamber of Commerce (SCC) gas price redetermination arbitration, subject to the laws of Sweden, Stockholm seat.
- Presiding arbitrator in an ICC arbitration subject to the laws of Pakistan, London seat, as to the acquisition and transfer of corporate holdings in licenses for the exploration and production of gas in Pakistan.
- Presiding arbitrator in an LCIA arbitration subject to English law, London seat, arising from alleged breaches of warranty and consequent refusal to pay deferred consideration on the sale and purchase of shares in companies holding assets in Eastern Europe.
- Presiding arbitrator in an ICC arbitration subject to the laws of Barbados, seat Bridgetown, Barbados, arising from the repudiation of an agreement for the sale and purchase of shares in a privately held telecommunications company.

Recommendations

David is ranked as a leading practitioner by all of the major directories, including:

- Who's Who legal – as a thought leader for arbitration, a global leader for arbitration, commercial litigation and construction, and as a national leader at the UK bar for arbitration, construction and energy.
- The Legal 500 - for construction, international arbitration as arbitrator and international arbitration as counsel.

Chambers and Partners – as one of the most in demand arbitrators.

- *“His ability to identify flaws in other side’s case is marvellous.”* The Legal 500 2022
- *“... very experienced, cool, calm and collected throughout.”* Chambers and Partners UK Bar 2022

- *“David is a very strong construction lawyer with excellent cross examination skills and can come up to speed in very short time.”* The Legal 500 2022
- *“He is very bright and very hard-working.”* Chambers and Partners UK Bar 2022
- *“A confident advocate and rises to the demands of complex cases with great charm.”* The Legal 500 2022
- *“An insightful, practical arbitrator.”* The Legal 500 2022
- *“A hands-on, commercial and strategic individual ... who is ... very passionate about arbitration ... and ... really excellent in the field.”* Who's Who Legal 2022

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Memberships

- Panel of neutrals of the International Centre for Dispute Resolution (ICDR)
- London Court of International Arbitration (LCIA)
- Chartered Institute of Arbitrators (CIArb)
- Commercial Bar Association (COMBAR)
- Worshipful Company of Arbitrators (WCoA)
- International Council for commercial Arbitration (ICCA)
- Editorial Board, Global Arbitration Review

Qualifications

Education

- 1990–91 - College of Law – Law Society Finals – First Class Honours
- 1989-90 – College of Law – Common Professional Examination

- 1982–87 – University of Edinburgh – Bachelor of Medicine, Bachelor of Surgery (MB, ChB)

Additional information

Appointments

- 2015 to date - Honorary Professor of Law, School of International Arbitration, Centre for Commercial Law Studies, Queen Mary University of London
- 2016 – Chair, Board of Trustees, Chartered Institute of Arbitrators
- 2011-16 – Trustee, Chartered Institute of Arbitrators
- 2000 – 2011 – Partner, Herbert Smith solicitors

Languages

- English
- Conversational French

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Rebecca Drake

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Rebecca Drake specialises in high value commercial and construction disputes, both domestic and international. She represents a diverse clientele of businesses, representing FTSE-rated companies, property professionals, offshore investors, private developers, SMEs, and high-net-worth individuals.

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Areas of expertise

- Construction
- Commercial
- Common Law
- Environment

Construction

"Able to deal with complex issues quickly." Legal 500 2020

"The Lara Croft of the construction Bar: adversaries would do well not to underestimate her, she packs a powerful punch" Legal 500 2019

"Her team spirit proves vital on long-running matters." Legal 500 2016

"A very sharp junior punching above her call." Legal 500 2015

"She has a tenacity in court generally associated with someone of a much more senior call"-Chambers UK 2013

Rebecca specialises in high value commercial and construction disputes, both as a junior and as sole counsel. She appears regularly in complex cases in the TCC and the Commercial Court and in arbitrations, both domestic and international.

Rebecca is particularly experienced in international arbitrations, in particular in the Middle East and Far East. Recent examples include:

- Acting as junior to Paul Darling QC in a LCIA arbitration concerning the legitimacy of a demand on a bond;
- Acting as sole counsel in a 5 day Dubai construction arbitration worth AED 30,000,000 under DIAC rules with complex questions of jurisdiction necessitating 2 sets of pleadings;
- Acting as junior to Gordon Nardell QC in an ICC arbitration concerning solar energy in a dispute with a Danish company;
- Acting for Bahraini marine engineering contractors against a Singapore main contractor in a dispute arising from the construction of a Desalination Plant in Algeria. The case involved issues of the validity of determination of the contract by the main contractor, including pipe design engineering issues, adequacy of environmental permitting and issues of Algerian law;
- Being instructed in a multi million pound arbitration in Trinidad, where she was acting for an oil and gas company in relation to payment disputes over payment for changes, and delay and disruption, and as sole counsel by solicitors in Dubai in relation to an arbitration in accordance with the laws of DIFC;
- Acting as a junior to Sean Wilken QC in a multi million pound ICC Arbitration in relation to a project in the Kurdistan Region of Iraq;
- Acting as a junior to Roger Ter Haar QC and Adam Robb in a multi million pound ICC Arbitration on behalf of a Kuwaiti contractor in relation to a large plant in Qatar

Recent examples of her construction experience include:

- Acting as sole counsel in a 6 day trial concerning water damage to allegedly the world's largest collection of Russian art, in which she was successful at first instance and successful (as junior

to Adam Robb QC) on appeal, reported at [2019] EWHC 186;

- Acting as sole counsel for a group of claimants in a forthcoming 5 day trial in February 2020 concerning alleged failure by transactional solicitors to properly advise and/or breach of duty in a failed hotel investment scheme;
- Acting as sole counsel in an international multi million pound construction dispute in Ghana and Burkina Faso, at an estimated cost of €3 million against an Israeli telecommunications company;
- Acting as sole counsel in ICC enforcement proceedings for a £20m arbitration;
- Acting as sole counsel in a 4 day trial concerning water damage to a long leasehold flat and breaches of covenant;
- Acting as sole counsel in a forthcoming 6 day trial concerning water damage to Russian art.

Rebecca has extensive adjudication experience, both as a junior and as sole counsel. She has also been instructed in adjudication enforcement proceedings in the TCC. Her experience includes:

- Successfully acting as lead counsel in a £10m payment dispute
- Successfully acting as junior counsel to Simon Hargreaves QC in a nuclear power dispute;
- Successfully acting in adjudication enforcement proceedings in *Penten Group Ltd v Spartafield Ltd* [2016] EWHC 317 (TCC)
- Successfully acting in multi million pound PFI disputes

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Commercial

Rebecca has particular experience in commercial fraud, contempt, asset tracing and obtaining injunctions in support of the same, both domestic and worldwide. She was junior counsel to James Ramsden QC in a series of Court cases in which they acted for former Yukos Oil head Konstantin Kagalovsky, including *New Media Distribution Company SECZ Ltd v Kagalovsky*

[2018] EWHC 2876 (Ch) and *Wilcox & Kagalovsky v Balmore Invest* [2013] EWHC 3876 (QB) (Comm). They succeeded in an application for committal for contempt in relation to Orders made under S.25 CJA in aid of proceedings before the Commercial Court in Kiev. The claim was to recover ownership of TVi, one of the few independent media outlets in Ukraine. The Respondent was sentenced to 18 months in prison. During the proceedings Rebecca obtained multiple emergency orders and interim injunctions as sole counsel.

Other commercial fraud experience includes:

- Successfully acting as sole counsel in a multi-million pound fraudulent helicopter purchase scheme;
- Successfully acting as sole counsel in a large scale Bitcoin fraud case;
- Acting as junior counsel to James Ramsden QC in the Commercial Court in a matter concerning a \$250m global fraud, where assets of that fraud include rare supercars stationed in England worth in excess of \$50m.
- Acting as junior counsel to James Ramsden QC acting for the Claimants in *Green v Vossen Capital Partners LLP*, where they were successful in their £45m civil fraud claim.

Rebecca's other commercial experience is wide ranging. Recent experience includes appearing in enforcement proceedings in the Commercial Court arising out of an international arbitration worth AED 80 million, appearing in the Chancery Division in a £14m dispute over the wording of a share purchase agreement, and appearing in the Queen's Bench Division in a case involving breach of confidence and privacy issues.

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Rebecca has experience of acting in cases concerning IT issues; she has been instructed in a case concerning the purchase of defective software, and arbitration concerning disputes on IT related matters.

Rebecca's commercial law experience also extends to instructions in cases concerning international shipping, insolvency and insurance. She regularly acts for insurers in policy dispute and indemnification matters, including involving questions of subrogation.

Common Law

Rebecca has a broad common law practice including cases involving property damage, nuisance, and professional negligence.

Rebecca has a specialist equine law practice.- As an experienced horsewoman with her own horses, she understands technical terminology. She acts in cases involving high value racehorses and competition horses, up to Olympic level standard. She has experience of a number of areas of dispute in this field, including breach of contract for sale, agency, pre-purchase vetting, doping, disputes with racehorse trainers, and breaches of contract and/or negligence arising after purchase.

Property Damage

Rebecca has acted in a large number of property damage cases, ranging from damage caused by tree roots, to damage caused by fires, floods and industrial spillages in residential buildings and large commercial premises, factories and warehouses. She has acted in several property damage matters which have contained product liability issues.

Product Liability

Rebecca has acted in a wide range of product liability cases. She has been instructed in relation to defective transport (a car and a motorbike) as well as

several defective agricultural machinery cases.

Her product liability experience extends to consequential damage by fire, with multi million pound losses.

Environment

Planning and Environmental Law

Rebecca has experience of the Building Regulations and advising on them.

She has experienced a number of planning and environmental law cases, including an appeal against the refusal of planning permission, a prosecution brought by the environment agency, waste disposal contracts, and odour and noise nuisance cases.

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Karim Ghaly KC

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“Karim combines incandescent intelligence with an unparalleled work ethic, and he is often said to be one of the very top talents of his generation.” The Legal 500 2022

Karim Ghaly KC specialises in the litigation and arbitration of substantial commercial disputes in the fields of construction and engineering, energy and natural resources, infrastructure, insurance, and PPP/PFI.

He has acted as counsel or arbitrator in complex and high-profile disputes arising out of projects in Africa, Asia, the Caribbean, Europe, the Middle East, North America, South America and the UK. -

Karim is recognised as one of the leading advocates in his areas of practice. He is recommended for Commercial Dispute Resolution, Construction, Energy and Natural Resources, International Arbitration, PPP/PFI and Professional Negligence by Chambers and Partners, Chambers Global, The Legal 500, The Legal 500 Middle East and Who’s Who Legal.

Areas of expertise

- Construction, Engineering and Infrastructure Disputes
- Energy and Natural Resources
- Insurance and Reinsurance
- International Arbitration
- PPP/PFI

Construction, Engineering and Infrastructure Disputes

"His advocacy skills are phenomenal. He cross-examines fact and expert witnesses brilliantly." Chambers Global 2022: Construction.

Karim represents governments, private employers, developers, contractors and professionals in disputes arising out of significant construction, engineering and infrastructure projects. He has extensive experience of defective design and workmanship claims, delay claims, variation claims, unlawful termination claims, and negligence claims against construction professionals.

Cases of note

ICC Arbitration – represented the MEP subcontractor in a US\$80m dispute arising out of the construction of an airport in Oman.

The Rugby Football Union v FM Conway Limited [2022] EWHC 956 (TCC) – acted for the contractor in a TCC claim arising out of upgrade works to Twickenham Stadium.

ICC Arbitration – represented the main contractor JV in a US\$500m dispute arising out of an infrastructure project in the UAE.

ICC Arbitration – represented the employer in a claim and counterclaim arising out of the construction of a palace in Qatar.

ICC Arbitration – represented the contractor in a US\$50m prolongation and variations claim arising out of a marine infrastructure project in South America.

Energy and Natural Resources

"He is strategic about how he cross-examines; he really digs deep and does the work...He conveys really complex ideas in a really accessible way." Chambers Global 2022: Energy and Natural Resources.

Karim's work in this sector encompasses a range of industries including oil and gas, wind, solar, biofuel, electricity, mining and water. He represents and advises a diverse client base, ranging from national oil companies to institutional investors to specialist contractors.

Cases of note

ICC Arbitration – represented a national oil company, leading a team of seven counsel, in a US\$500m claim/counterclaim concerning an oil refinery.

ICC Arbitration – acted for a contractor in a US\$100m claim/counterclaim relating to a combined-cycle gas power plant.

Stena Oilfield Services Limited v Tullow Ghana – represented Tullow in a Commercial Court dispute arising out a contract for the provision of a drilling rig for a project offshore Ghana.

LCIA Arbitration – acted for the operator in a JOA dispute arising out of an African oil and gas project.

Adjudication – represented a UK PPP projectco in a £25m dispute concerning an offshore wind turbine drive train testing facility.

Arbitration – acted for the main contractor in relation to the delayed construction of the deepwater infrastructure for a gas field in the South China Sea.

Insurance and Reinsurance

Karim undertakes a range of insurance work including disputes over issues of coverage, non-disclosure, misrepresentation and breach of warranty.

He has substantial experience of contractors' all risks, professional indemnity and property insurance disputes arising from construction and engineering, infrastructure and energy projects.-

Cases of note

The Rugby Football Union v FM Conway Limited [2022] EWHC 956 (TCC) – represented FM Conway in a TCC trial of preliminary issues which raised questions as to the scope of the co-insurance defence under an “all risks” project policy, the means by which identified and unidentified parties participate in a project policy, a contractor’s insurable interest in the project property after the completion of its works and the scope of the contractor’s insurance obligations under the JCT Standard Building Contract.

Arbitration – represented the underwriter in a marine cargo coverage dispute.

Arbitration – represented the underwriter in a property insurance coverage dispute.

Adjudication – acted for an NHS Trust in a dispute arising out of the insurance arrangements under a PFI contract.

International Arbitration

“A joy to work with: able to cut straight to the key issues and distil these down for any arbitral tribunal.” The Legal 500 2022: International Arbitration.

The majority of Karim's work over the past 20 years has involved the resolution of substantial and complex international commercial disputes. He has acted as counsel or arbitrator in disputes arising out of contracts governed by, or subject to, the laws of Abu Dhabi, Bahrain, Canada, Chile, Cyprus, Dubai, England, Germany, Ghana, Israel, New York, Nigeria, Oman, Qatar, Scotland, Singapore, Switzerland and Trinidad.

Cases of note

LCIA Arbitration – appointed as co-arbitrator in a US\$500m dispute arising out of a construction project in the Middle East.

ICC Arbitration – represented the employer in a US\$120m breach of contract dispute arising out of a large private development in Qatar.

SCMA Arbitration – represented a shipyard in a US\$50m dispute concerning the construction of a semi-submersible platform in Indonesia.

ICC Arbitration – represented the main contractor in a US\$500m termination dispute arising out of the construction of a landmark sports and civil infrastructure project in the Middle East.

DIAC Arbitration – acted for the main contractor in a US\$70m dispute arising out of the construction of two mixed-use towers in Dubai.

ICC Arbitration – represented a subcontractor in a prolongation and variations dispute arising out of an infrastructure project in Abu Dhabi.

DIAC Arbitration – appointed as co-arbitrator in a dispute concerning the construction of a hospital.-

PPP/PFI

“Noted for his deep understanding of the mechanisms of PFI and PPP disputes.”

Chambers and Partners 2022

Karim has extensive experience of international PPP and UK PPP/PFI disputes. He has represented funders, public sector partners, projectcos and contractors. He has a deep knowledge of the issues that commonly arise in such projects, including the operation of payment mechanisms, benchmarking and market testing, SFPs and unavailability, termination and valuation on termination and funders' step-in rights. Karim has acted in PPP/PFI projects concerning hospitals, power generation facilities, roads, social housing and waste facilities.

Cases of note

Represented the public sector partner in a £200m dispute arising out of a 25-year waste disposal PPP agreement.

Acted for projectco in a £70m dispute arising out of a social housing PFI project.

Represented projectco in a US\$20m dispute arising out of a social housing PPP project in the Middle East.

Acted for projectco in a £10m NHS PFI fire-stopping dispute.

Represented an NHS Trust in a £5m PFI insurance dispute.

Advised an NHS Trust on a £5m dispute over the operation of the benchmarking and market testing provisions of a PFI project agreement.

Represented projectco in a £20m dispute arising out of a road widening and maintenance PFI project.

Recommendations

Karim is recommended for Commercial Dispute Resolution, Construction, Energy and Natural Resources, International Arbitration, PPP/PFI and Professional Negligence by Chambers & Partners, Chambers Global, the Legal 500, the Legal 500 Middle East and Who's Who Legal.-

Recent quotes from clients, as reported by these directories, include:

"Very hard-working and a brilliant strategist, he's a proper legal chess player who out manoeuvres the opposition"; "He just exudes confidence and ability so clients are happy to listen to him." Chambers and Partners 2022.

"Extremely effective in cross-examination, fantastic on his feet." Chambers and Partners 2021.

"An extremely talented oral advocate and a brutally effective cross-examiner." The Legal 500 2021.

"Commercially astute and great to work with." Who's Who Legal 2021.

Memberships

Member of the Chartered Institute of Arbitrators.

Member of the London Court of International Arbitration.

Member of the International Council for Commercial Arbitration.

Member of the Society of Construction Law.

Fellow of the Society for Advanced Legal Studies, University of London.

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Jess Connors

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“She brings great attention to detail and a very user-friendly and commercial approach.” The Legal 500

Jess specialises in substantial and complex commercial and construction disputes. She regularly appears before the English Commercial Court, the Technology and Construction Court (TCC), and in international arbitrations (including LCIA, UNCITRAL and ICC), both as sole counsel and as part of a larger counsel team.

Jess is a highly skilled, persuasive and experienced advocate, known for her effective and robust cross-examination.

She has particular experience and expertise in:

- Construction and infrastructure disputes, including offshore, on JCT, NEC, FIDIC and bespoke contracts, and related professional negligence disputes
- Private finance initiative (PFI) contract disputes
- Energy disputes, including nuclear, renewables, waste, bulk electricity supply, rig hire and pipeline construction. Oil and gas disputes, including joint operating agreements (JOAs), production sharing contracts (PSCs), back-in disputes and equity determinations
- Insurance, bonds and guarantees

Jess speaks good Japanese and fluent French.

Areas of expertise

- Financial services
- Energy
- Property Damage
- International Arbitration
- Construction and Engineering
- Insurance
- Commercial

Private Finance Initiative

Jess has experience of advising and representing parties to PFI contracts, both in relation to their operation (e.g. paymech disputes) and in relation to termination issues include valuation.

- Advising a PFI company in relation to deductions made under a PFI contract, and the termination of that contract.
- Advising a local authority in relation to a PFI contract, in the context of acceptance testing of a waste facility, termination for cause and related valuation exercise.
- Advising a subcontractor providing multi-site facilities management services to a government department, under a PFI contract umbrella.

Energy

Jess's extensive energy experience covers oil and gas exploration, energy from waste, biomass, renewables, nuclear, gas pipeline construction, JOA and PSC issues including back-in and equity determination disputes, rig hire, exploration decisions, long term gas, oil and electricity supply contracts, and property damage to a power station and associated loss of income claims.

- Representing an international oil company in an international arbitration arising out of disputed cash calls under a JOA.
- Representing an international oil company in two arbitrations arising out of an expert equity determination pursuant to an oilfield unitisation agreement.
- Advising a party to a JOA and PSC in relation to a dispute regarding back-in rights.
- Representing the operator of offshore assets in Commercial Court litigation about the termination of a long-term rig hire contract for force majeure/frustration.
- Representing a party to an oil exploration joint venture in relation to a dispute arising out of a decision not to drill further wells.
- Representing the claimant in a claim arising out of a long-term gas supply contract.
- Representing the claimant in a claim arising out of a bulk electricity supply contract.
- Representing the claimant in a dispute arising out of offshore horizontal directional drilling (HDD) works to build a gas pipeline (ICC arbitration).

- Representing a nuclear engineering company in a multi-million pound warranty and indemnity claim in the TCC arising out of the sale of a nuclear processing business.
- Representing a company manufacturing fuel oil from waste products.
- Representing HM Revenue & Customs in a £200m case on the taxation and interpretation of long-term oil and gas sale contracts in the North Sea.
- Advising and appearing in a £40m professional negligence claim arising out of an explosion at a South African power plant.
- Advising in relation to a professional negligence claim arising out of the construction of a micro hydro-electric plant.

Property Damage

Jess has extensive experience of disputes in relation to property damage, especially fires and explosions.-

- Advising and appearing in a multi-party TCC dispute arising out of a fire at a power station, with complex liability and quantum issues.
- Advising in relation to a claim arising out of a fire at a DVD replication facility.
- Representing numerous claimants in claims arising out of the Buncefield oil depot explosion.
- Advising and appearing in a £40m professional negligence claim arising out of an explosion at a South African power plant-

International Arbitration

Jess has extensive international arbitration experience including ICC, LCIA, PCA and UNCITRAL, across a variety of sectors and seats, and has also acted as a party-appointed arbitrator in an ICC arbitration.

- Acting for three purchasers of biomass plants in an ICC arbitration arising out of termination disputes valued at £100m.
- Representing the claimant in a dispute between partners in an international manufacturing joint venture based in India, and subject to Indian law contracts (LCIA arbitration).
- Representing an international oil company in an ICC arbitration arising out of disputed cash calls under a JOA.
- Representing the respondents in a PCA arbitration in two arbitrations arising out of an expert equity determination pursuant to an oilfield unitisation agreement.
- Representing the respondent in an ICC dispute arising out of a long-term international supply contract (aviation sector).
- Representing the claimant in an ICC arbitration arising out of offshore horizontal directional drilling (HDD) works to build a gas pipeline.
- Representing the respondents in an UNCITRAL arbitration arising out of a long-term electricity supply contract.

Construction and Engineering

Jess has extensive experience in the litigation and arbitration of large construction disputes arising out of the major UK and international forms of contract and in various sectors.

- Acting for the purchasers of biomass plants in an ICC arbitration arising out of termination disputes valued at £100m.
- Advising in relation to a dispute about aluminium composite material (ACM) cladding, the Building Regulations 2000 and 2010 and various versions of the guidance in Approved Document B.
- Acting for the claimant in a substantial damages claim for breach of a development agreement and deed of collateral warranty, arising out of defective workmanship/design.

- Acting for the UK-based claimant in an architect's fees claim against two German companies for work done on a hospital in Ghana, including dealing with questions of forum and applicable law.
- Acting for the defendant employer in a TCC claim concerning the inter-relationship of various interim applications for payment and interim certificates.
- Acting in relation to a dispute under a JCT 98 With Contractor's Design contract, in relation to a block of affordable housing units.
- Advising the employer in relation to a FIDIC contract for the construction of a hospital in Tobago.
- Advising in relation to the proper construction of an NEC contract, in the context of a dispute arising out of a substantial infrastructure project.
- Advising in relation to a dispute in connection with heads of terms for a contract for the design and construction of a power plant in South Africa.
- Acting for mechanical and electrical subcontractors in a dispute concerning the non-payment of contractual sums.
- Acting for the Department for Transport in relation to a claim for damages arising out of a bridge strike which disrupted a highway maintenance contract.
- Representing employers and contractors in various multi-track domestic building disputes concerning allegations of defective design and workmanship.
- Representing a local authority in relation to a dispute arising out of the construction of a leisure complex.
- Representing the defendant to a claim for professional negligence in the provision of geotechnical consulting services.
- Advising an NHS trust in relation to a claim for rescission of a sale of land, and a claim for breach of fiduciary duty.
- Representing a developer in proceedings arising out of the dismissal of a planning application.

Insurance

Jess regularly advises in relation to insurance issues in the context of construction disputes and also has experience in the insurance field:

- Acting for an insurer in a dispute as to existence of third-party rights in an insurance contract.
- Acting for insurers in relation to various forms of credit insurance and factoring contracts.
- Advising an insurer as to the existence of an insurable interest.
- Advising in relation to entitlements and liabilities under permanent health insurance contracts.
- Acting for Lloyd's underwriters in a £50m claim for the recovery of illegal referral fees following the collapse of the TAG AIL scheme.
- Acting in relation to an insurance broker agency disputes.
- Advising in relation to rules of the General Insurance Standards Council.

Commercial

Jess has experience of advising and representing claimants and defendants in commercial disputes in various sectors including long-term international supply contracts, international manufacturing joint ventures, long-term service agreements and distributorship agreements.

- Representing the claimant in a dispute between partners in an international manufacturing joint venture based in India, and subject to Indian law contracts (LCIA arbitration).
- Representing the defendant in a dispute arising out of a long-term international supply contract (aviation sector, ICC arbitration).
- Advising in relation to bonus entitlements arising out of the sale of a telecoms business.
- Representing the claimant in relation to the claims and cross-claims arising out of the termination of a long-term service agreement.
- Acting for the defendant in a domestic arbitration arising out of warranties given on the sale of land and housing.

- Acting for the claimant in a substantial claim arising out of an international broadcasting licensing agreement.
- Acting for the issuers of an on demand performance bond.
- Advising in relation to distributorship agreements in a variety of sectors (e.g. dairy, military supplies and hosiery).
- Advising in relation to disputes arising out of abortive negotiations for the sale of a company by its shareholders.
- Acting for the claimant in a claim for sums due under an asset sale agreement.
- Advising in relation to a dividend dispute between shareholders and directors of a private limited company.
- Acting in relation to agency disputes, e.g. auctioneers, insurance brokers, yacht brokers and estate agents.
- Advising in relation to a dispute arising in connection with stolen Iraqi art.

Financial services

Jess came to the Bar from the City, having started her career as an equity analyst at Credit Suisse First Boston and Citigroup in Paris and London. After coming to the Bar, she worked in the Financial Services Authority General Counsel's Division, and has advised and acted for litigants in financial services disputes including representing an independent financial adviser in an important case on the scope of duties of care owed by independent financial advisers (IFAs) to their clients, and by larger IFAs/product provider marketing consultants to smaller IFAs and advising institutions and individuals in relation to the financial regulator's rules and investigation and enforcement procedures.

- Advising the Financial Services Authority in relation to the rules of the Financial Services Compensation Scheme.

- Advising the FSA in relation to its investigation into the activities of certain fund managers and brokers in the split capital investment trust sector between September 2000 and February 2002.
- Advising authorised persons regarding the FSA rules.
- Advising in relation to rules of the General Insurance Standards Council, the Banking Standards Code and OFT codes of practice, as well as of the Personal Investment Authority and Lloyd's tribunals.
- Representing an independent financial adviser in an important case on the scope of duties of care owed by IFAs to their clients, and by larger IFAs/product provider marketing consultants to smaller IFAs.
- Advising a large financial institution in relation to the investigation and enforcement procedures of the Financial Services Authority.
- Advising the Financial Services Authority in relation to the rules of the Financial Services Compensation Scheme.
- Advising the FSA in relation to its investigation into the activities of certain fund managers and brokers in the split capital investment trust sector between September 2000 and February 2002.
- Advising in relation to rules of the General Insurance Standards Council, the Banking Standards Code and OFT codes of practice, as well as of the Personal Investment Authority and Lloyd's tribunals.

Cases

Reported Cases

- Shell UK v Revenue & Customs Commissioners (Sp Comm) 2 August 2007
Lawtel 28 August 2007.
- RWE Nukem Ltd v AEA Technology Plc (CA) 20 October 2005 [2005] EWCA Civ 1192.
- Seymour and Seymour v Caroline Ockwell & Co and Zurich IFA Limited 13 May 2005 [2005] EWHC 1137 (QB).

- Oxford City Council v First Secretary of State and J A Pye (Oxford) Ltd (QBD) 12 January 2010 [2004] EWHC 2447 (Admin); [2005] JPL 847.
- Legal Services Commission v Mohammed Rasool (CA) 5 March 2008 [2008] EWCA Civ 154; [2008] 3 All ER 381.
- Solvent Resource Management Ltd v Environment Agency; OSS Group Ltd v Environment Agency (QBD) 30 November 2006 [2006] EWHC 3023 (Admin).
- The Maersk Co Ltd v Wilson (CA) [2004] EWCA Civ 313.

Recommendations

Jess is recommended in Chambers and Partners and The Legal 500.

“Her in-depth knowledge of the subject matter is phenomenal.” “Very good at detail and financially complex claims.” Chambers and Partners 2020

“An exceptional barrister, very clever and commercially orientated.” The Legal 500 2020

“Great clarity of thought and the ability to absorb huge amounts of information and apply legal principles to awkward facts.” The Legal 500 2020

“Always on my radar as a possible person to instruct.” The Legal 500 2020

“Extremely hard-working, bright and thorough. She likes to really delve into the facts of a matter.” Chambers and Partners 2018

“Meticulous.” Chambers and Partners 2018

“She works ferociously hard and has an excellent grasp of quantum and figures.” The Legal 500 2017

“Incredibly hardworking, responsive and thoroughly knowledgeable.” The Legal 500 2017

“A tenacious barrister.” The Legal 500 2017

“An exceptional junior with a terrific ability to immerse herself in the minutiae of a case.” The Legal 500 2016

“You won’t meet a human being who works harder; she leaves no stone unturned.” Chambers and Partners 2016

“She brings great attention to detail and a very user-friendly and commercial approach.” The Legal 500 2015

“Covers every angle and is very client-friendly.” The Legal 500 2015

“One of the most hard-working barristers you could come across, she is incredibly thorough.” Chambers and Partners 2015

“Possibly the most thorough barrister I know.” Chambers and Partners 2014

“She rolls up her sleeves and gets stuck in.” Chambers and Partners 2014

“Tenacious.” The Legal 500

“Obvious legal ability and highly pragmatic approach.” Chambers and Partners 2012

“Thorough and user-friendly manner.” Chambers and Partners 2012

“‘realistic and clear advice’ goes down well.” Chambers and Partners 2010

“A source of clear, practical advice’ who is widely bruted as having a bright future ahead of her.” Chambers and Partners 2009

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Appointments

- 2006 – 2012: HM Attorney General’s panel counsel.

Memberships

- --TECBAR
- --The Commercial Bar Association
- --The Society of Construction Lawyers
- --The Professional Negligence Bar Association
- --The Association of Regulatory and Disciplinary Lawyers
- --The London Common Law and Commercial Bar Association

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Qualifications

- BA (Hons), Oxford University: 1995
- Securities & Futures Authority Registered Representative: 1996
- Securities Institute, Diploma (Interpretation of Financial Statements): 1997
- Postgraduate Diploma in Law, City University: 1999
- Wolfson and Hardwicke scholarships, Lincoln's Inn: 1999 – 2000

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Additional Information

Publications

Jess contributed to Energy Arbitration, OUP pending, writing, jointly with Peter Rees QC, a chapter on Disputes Relating to Energy Construction and Infrastructure Projects. Construction Contracts: Law and Practice. Richard Wilmot-Smith QC, 2nd Edition (Contributor) OUP 2010 and Nabarro Nathanson Local Authority Procurement (Butterworths, 2002).

Jess has a finance background. Before coming to the Bar, she was an equity analyst with Credit Suisse First Boston and Citigroup in Paris and London.

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John Denis-Smith

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[Proofread by SM. Uploaded by IL. NB To be checked]

“It absolutely was a pleasure to work with John – he added considerable value in getting us to where we are.” FTSE100 enterprise client

John is a solutions-driven practitioner with a singular focus on helping his clients to achieve a swift and pragmatic result in any dispute. His approach is to explore all angles, persistently building on the evidence to identify the best options for a successful resolution. Both in his commercial practice as well as in construction disputes, he dedicates his energy, knowledge and ingenuity to getting clients the quickest and most favourable results. His approach is informed by previous experience as a construction litigator in top tier solicitors’ firms, which has given him a closer understanding of a client’s needs and a grasp of the best strategic approach to managing high-value disputes. John has developed niche expertise, especially in fire cases and fire prevention works, in particular in relation to construction and insurance issues arising.

He has been praised for his “coolness and tenacity” in arguing his client’s case. During a mediation, his pragmatism led a solicitor client state “we’d have you in the room on our side anytime” and another was delighted with “our successful

working relationship". -

John's experience is wide and ranges across all dispute resolution areas, including mediation and arbitration, as well as various sectors, from construction and energy to professional negligence and insurance. He receives instructions in disputes as counsel, either on his own or led by some of these chambers' highly-regarded silks, or instructions for advisory work. He also receives instructions from clients under the Direct Access scheme.

Areas of expertise

- Construction
- Commercial

Construction

John has a wide-ranging practice in construction disputes including:

- Delay damages claims under NEC forms
- Disputes under JCT contracts, including claims for additional work/disputes concerning responsibility for design or construction defects
- Disputes under ICE Conditions of Contract, including issues of responsibility for work not capable of being performed legally
- Disputes concerning termination provisions and remedies
- Disputes concerning the effect of absence of planning permission
- Interim and final account claims

- Defects and remedial works claims, including claims for resulting financial loss and limitation bar disputes
- Enforcement of adjudication decisions
- Professional negligence claims
- Claims in relation to listed buildings

John has extensive experience in mediation, including acting in relation to:

- Delay damages claims under NEC forms
- Multi-party property damage disputes
- Post-sale title and alleged conversion dispute
- Defects and remedial works claims
- Professional negligence claims

Extensive experience of adjudication, including

- Claims for extensions of time and payment and related enforcement proceedings
- Claims by local authority for delayed completion of works and defects
- Defending employer's claim for alleged repudiation and damages
- Disputes in relation to interim applications and pay less notices
- Final account disputes

Cases of note:

- Advising and acting for sub-contractors on (ongoing) claims arising out of alleged non-compliance with Building Regulations concerning fire in the construction of internal and external works, including external cladding, in a complex multi-party dispute arising out of the design and construction of a specialist emergency care hospital in Northumberland, in which quantum is claimed in excess of £125m;
- Acting for a South-East Asian shipbuilding company in London Court of International Arbitration (LCIA) arbitration (claims and counterclaims of over £100m) and related court proceedings

arising out of contracts for the construction of drilling rigs;

- Acting in proceedings covering multi-million pound claims pursued in multiple jurisdictions, concerning alleged defects in cladding works to residential properties, including advice on limitation, liability caps, and acting in successful mediation;
- Acting for an architect in a claim for fees and defence to a multi-million pound counterclaim for professional negligence against a high net worth individual client relating to the multi-million pound development of an estate in Herefordshire comprising listed manor house and other buildings;
- Acting in adjudications and various adjudication enforcement proceedings, including successfully enforcing an adjudication decision in the face of allegations of a breach of natural justice and defeating the defendant's application for a stay of execution on the grounds of the claimant's financial position (*Berry Piling Systems v Sheer Projects* [2012] EWHC 241 (TCC) 141 CON LR 225);
- Acting for an employer in claims against a contractor and professional negligence claim against engineers for damages arising out of collapse of a listed building during development works, including successfully acting for client in opposing an application for order for preliminary issues (*Aldersgate Estates Ltd v HAM Construction Ltd* [2013] EWHC 104 (TCC))

Commercial

John has a wide ranging experience of general commercial disputes.-

Experience includes:

- Supply chain contractual disputes
- Property damage disputes, including fire damage and insurance coverage issues
- Enforcement of overseas court orders
- Share purchase agreement disputes
- Utilities contractual disputes
- Securing injunctions and other equitable remedies

Cases of note:

- Advice and acting in property damage disputes, including negotiations leading to successful settlement of, claims by building owners against contractor and specialist sub-contractor, including fire damage and insurance coverage issues, on matters ranging from a warehouse fire in commercial premises to a fire in a town hall/museum in London;
- Successful defence of claim to enforce overseas court order against individual directors arising out of contract between company and claimant: *Firematic Engineering (M) SDN.BHD.(507499-W) v ASL Air Exchanger Services Limited and Others*;
- Acting for a defendant in claim of fraud arising out of investment in mining resources in developing state.

Memberships

- The Technology & Construction Bar Association (Tech Bar)
- Society of Construction Lawyers (SCL)
- ComBar
- The London Common Law & Commercial Bar Association-

Qualifications

Education

- 2003-2005/ King's College London/ MSc Construction Law & Arbitration (Distinction)
- 1996-1997/ Inns of Court School of Law/ Bar Vocational Course
- 1995-1996/ City University, London, Postgraduate Diploma in Law (CPE)
- 1989-1993/ St John's College, University of Oxford/ BA English Language & Literature (First Class Honours)

Scholarships and Prizes

- 2004/ King's College Construction Law Association Prize for best performance by a second-year student, MSc in Construction law & Arbitration
 - 2004/ King's College, Society of Construction Law Prize for best dissertation, MSc in Construction law & Arbitration)
 - 2003/ King's College, The Bickerdike Allen Prize for best performance by a first year student, MSc in Construction law & Arbitration
 - 1997/ Gray's Inn, Prince of Wales Scholarship
 - 1993/ St John's College, Oxford/ Book Prize
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Appointments

- --Fellow of the Chartered Institute of Arbitrators

Publications

- Contributor to Practical Law and Westlaw Insight on construction law issues.
- Contributor (chapters on Standard Form Contracts and Litigation) to Wilmot-Smith on Construction Contracts (Fourth Ed, 2021).
- Contributor (chapter on Brexit and Construction) to Doing Business After Brexit: A Practical Guide to the Legal Challenges (Second Ed, 2022).
- UK contributor to Arbitration World, Sixth Ed, 2019.
- Contributor of articles/papers/webinars for LexisNexis and SCL.

- 2002-04 Co-Editor of the Construction Industry Law Letter (“CILL”) Informa Group, London (involved commissioning, editing and writing reports with commentaries on recent case law of importance for the construction field).

Languages

- French (intermediate)
- Romanian (basic)
- German (basic)

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Jonathan Bellamy

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Phone: +44 (0)20 7832 1111

LT updated 14/9/22

[Proofread by SM. Uploaded by IL

“A very experienced and skilful advocate. Knows the key issues the tribunal wishes to be addressed on. Exceptional in cross-examining expert witnesses.” The Legal 500 2022

Jonathan Bellamy has an established litigation, arbitration and advisory practice in commercial law. His sector experience includes commercial contracts, construction, infrastructure, energy, insurance and reinsurance, sale of goods and services, IT contracts, public private partnerships (PPP)/private finance initiative (PFI), banking and financial services, information law, professional liability and professional sport.

He is ranked in the legal directories as a leading barrister in the UK in international arbitration, insurance and reinsurance and professional sport, in the Asia Pacific and Europe Middle East Africa regions in commercial (tier 1 and band 2) and in the Asia Pacific region in construction, energy and infrastructure (tier 1).

Jonathan has experience of disputes governed by other common law systems including Hong Kong law, Singapore law and prominent civil law systems including French law and United Arab Emirates (UAE) law. He practices from our offices in London and Singapore. He is a Registered Legal Practitioner at the Dubai International Financial Centre (DIFC) courts in Dubai.

Jonathan is a Fellow of the Chartered Institute of Arbitrators and a practising national and international Chartered Arbitrator. He has sat in over 35 arbitrations in the commercial, construction and professional sport sectors. He

sits as sole and panel arbitrator and chairman by institutional appointment (including International Court of Arbitration (ICC), Dubai International Arbitration Centre (DIAC), Chartered Institute of Arbitrators (CIArb) and Asian International Arbitration Centre (AIAC) and United Nations Commission on International Trade Law (UNICTRAL)/ad hoc.

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Areas of expertise

- PPP/PFI
- Banking and Financial Services
- Civil Fraud
- Commercial Contracts
- Commercial- Energy
- Insurance and Reinsurance
- International Arbitration
- Professional Negligence
- Construction
- Construction Professionals' Liability
- Construction, Engineering and Infrastructure Disputes
- Construction- Energy
- Construction- Insurance
- Construction- International Arbitration
- Property Damage
- Oil and Gas

- Nuclear Energy
- Sport
- Sport- Arbitrators
- Sport- Commercial
- Sport- Data Protection
- Sport- Regulatory
- Arbitrators

Commercial

“A highly astute legal mind.” The Legal 500 2021

Jonathan has an expansive commercial practice in disputes and advisory matters in UK and internationally. He brings strong intellectual, analytical and numerical skills to simplify and explain complex legal and factual material in a persuasive and effective manner for clients and before courts and arbitration tribunals. Jonathan is regularly instructed at an early stage in proceedings and is an experienced dispute resolution strategist. He is experienced in dealing with urgent interim remedies and cases involving complex factual and technical issues on liability and damages and issues of foreign law. He is focused on achieving the best possible commercial outcome for his clients.

Banking and Financial Services

“Always has an eye on the commercial goal of the client.” The Legal 500 2019

Jonathan advises and acts nationally and internationally in commercial and regulatory banking and finance disputes in on and off-shore jurisdictions. His experience includes equity and derivative trading, interest rates swaps, financial

product mis-selling and cryptocurrency disputes. He is experienced in dealing with urgent interim remedies including freezing injunctions.

He is a Registered Legal Practitioner (Part II: Full Rights of Audience): DIFC courts.

Jonathan is a lead counsel to the independent Foskett Re-Review Panel into the historic banking fraud at the HBOS Impaired Assets Unit at Reading and Bishopsgate.

He has an active practice as a Chartered Arbitrator in the banking and financial services sector.

Civil Fraud

“Excellent advocacy skills and not afraid to tackle difficult issues.” The Legal 500 Asia Pacific (2022)

Jonathan’s practice extends to civil fraud in his commercial contracts, banking and financial services and insurance practice areas. He has wide experience in fraud claims, including business compromise frauds, nationally and internationally in particular in the Middle East and Asia.

He acts regularly in disputes requiring urgent interim remedies and involving complex factual and technical issues and evidence.

Jonathan is a lead counsel to the independent Foskett Re-Review Panel into the historic banking fraud at the HBOS Impaired Assets Unit at Reading and

Bishopsgate.

He is a Registered Legal Practitioner (Part II: Full Rights of Audience): DIFC courts.

Commercial Contracts

“A highly astute legal mind,” The Legal 500 (2021)

Jonathan’s commercial practice covers a wide range of commercial transactions, nationally and internationally, including sale of goods, sale of professional services, PPP/PFI contracts, IT contracts, outsourcing, financial service contracts, project funding, joint ventures, directors’ warranty claims, guarantees and indemnities, agency disputes, property development, disputes and professional sport contracts. He acts regularly in disputes requiring urgent interim remedies and involving complex factual and technical issues and evidence.-

He is experienced in disputes concerning compliance with express and implied quality standards, technical specifications, breach of condition and warranty claims, exclusion and limitation clauses and the quantification of consequential loss claims.

He is focused on achieving the best possible commercial outcome for his clients.

Commercial- Energy

“Incisive with his legal mind, astute with a disarming manner.” The Legal 500 Asia Pacific: Construction, Energy and Infrastructure (2021)

Jonathan has an established practice in energy and infrastructure law. In the oil and gas, natural resources and renewable energy sectors, his experience includes upstream and downstream disputes, pipeline and distribution, construction and engineering projects (onshore and offshore), joint ventures, construction funding and associated insurance, environmental and professional liability issues. He is experienced in dealing with disputes involving complex factual and technical issues.

In the nuclear sector, Jonathan has specific experience in infrastructure, site and transport insurance and reinsurance and third-party civil liabilities.

His work extends to associated environmental, remediation insurance and health and safety issues in the energy sector.

Insurance and Reinsurance

“Great for difficult and complex insurance points – he is a real authority on the subject and always provides considered commercial advice. Also, a first-class advocate.” The Legal 500 Insurance and Reinsurance (2022)

Jonathan’s insurance and reinsurance work covers all the usual issues arising in coverage disputes, including the construction of insurance policies, fair presentation of risk and fraud. His experience includes all categories of indemnity and contingency policies and financial lines, including public liability, professional indemnity, property insurance, trade credit insurance, environmental liability, business interruption, product liability, contractors’ risks,

cyber risks, directors and officers and nuclear and energy risks. His reinsurance work includes proportional and non-proportional contracts. He has experience in international insurance and reinsurance disputes in the Middle East and Asia and applicable civil laws, including UAE law. His work includes insurance regulation and subrogated insurance recovery claims.

International Arbitration

“Very experienced and skilful advocate. Knows the key issues the tribunal wish to be addressed on. Exceptional in cross-examining expert witnesses.” The Legal 500 International Arbitration (2022)

Jonathan advises and represents clients as counsel in international arbitration in commercial and construction disputes and regularly co-counsels with and drafts submissions for foreign registered lawyers.

His international arbitration experience includes disputes subject to all the major institutional rules including ICC, Singapore International Arbitration Centre (SIAC), London Court of International Arbitration (LCIA), DIAC, CIArb and also UNICTRAL rules. He is experienced in disputes governed by foreign common and civil law systems, including Singapore, Hong Kong and UAE law.

He is ranked in the UK and in the Asia Pacific region as a leading barrister in International Arbitration. He is also ranked internationally in Commercial (tier 1) and Construction, Energy & Infrastructure (tier 1).

Professional Negligence

“Excellent advocacy skills and not afraid to tackle difficult issues.” The Legal 500 (2022)

Jonathan’s professional liability work covers a wide range of professional disciplines including accountants and auditors, construction professionals, engineers, expert determiners, financial services practitioners, insurance brokers and intermediaries, lawyers (solicitors and barristers), planning consultants, surveyors and valuers.

He acts for claiming parties and, on instructions from professional indemnity insurers, for defending parties. He brings strong intellectual, analytical and numerical skills to simplify and explain complex legal and factual material in a persuasive and effective manner for clients and before courts.

Jonathan is focused on achieving the best possible commercial outcome for his clients.

PPP/PFI

“A highly astute legal mind.” The Legal 500 (2021)

Jonathan’s practice is based in complex contractual disputes. He brings strong intellectual, analytical and numerical skills to simplify and explain detailed factual and documentary material in a persuasive and effective manner for clients and to present their case to opponents and courts.

His sector experience includes PPP and PFI contract projects in healthcare infrastructure, prison estate, social housing, hard facilities management, soft facilities management, energy, outsourcing and high value equipment. He is

experienced in advising on related funding contracts, construction and performance contracts and complex factual and technical issues on liability and damages.-

Jonathan is focused on achieving the best possible commercial outcome for his clients.

Construction

“Very experienced in construction disputes.” The Legal 500 Asia Pacific (2020)

Jonathan has an established litigation, arbitration, adjudication and advisory practice in construction law and associated insurance and professional liability work. His practice includes national litigation and adjudication and international arbitrations under the auspices of major institutions (including ICC, SIAC, LCIA and DIAC) involving complex contractual, insurance and professional negligence disputes. His sector experience includes international commercial construction under the International Federation of Consulting Engineers (FIDIC) form, PPP/PFI, power station decommissioning, ship-building, wind farm, biomass plant, hotel, retail, healthcare, local government, leisure and premium residential works. He is experienced in dealing with cases, including cladding, involving complex factual and technical expert evidence issues on liability and damages.

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Construction Professionals' Liability

“Excellent advocacy skills and not afraid to tackle difficult issues.” The Legal 500 (2022)

Jonathan's professional liability work in the construction sector covers a wide range of professional disciplines including architects, civil engineers, expert determiners, insurance brokers and intermediaries, lawyers (solicitors and barristers), planning consultants, project managers, quantity surveyors, structural engineers, surveyors and valuers.

He acts for claiming parties and, on instructions from professional indemnity insurers, for defending parties. He brings strong intellectual, analytical and numerical skills to simplify and explain complex legal and factual material in a persuasive and effective manner for clients and before courts.

Jonathan is focused on achieving the best possible commercial outcome for his clients.

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Construction, Engineering and Infrastructure Disputes

“Incisive with his legal mind, astute with a disarming manner.” The Legal 500 Asia Pacific: Construction, Energy and Infrastructure (2021)

Jonathan has an established litigation, arbitration, adjudication and advisory practice in construction law, energy and infrastructure disputes. His practice includes national litigation and adjudication and international arbitrations under the auspices of major institutions (including ICC, SIAC, LCIA and DIAC) involving complex contractual, insurance and professional negligence disputes. His sector experience includes international commercial construction under the FIDIC form, PPP/PFI, power station decommissioning, shipbuilding, wind farm, biomass plant, hotel, retail, healthcare, local government, leisure and premium residential

works. He is experienced in dealing with cases, including cladding, involving complex factual and technical expert evidence issues on liability and damages.

Construction- Energy

“Incisive with his legal mind, astute with a disarming manner.” The Legal 500 Asia Pacific: Construction, Energy and Infrastructure (2021)

Jonathan has an established practice in energy and infrastructure law. In the oil and gas, natural resources and renewable energy sectors, his experience includes upstream and downstream disputes, pipeline and distribution, construction and engineering projects (onshore and offshore), joint ventures, construction funding and associated insurance, environmental and professional liability issues. He is experienced in dealing with disputes involving complex factual and technical issues.

In the nuclear sector, Jonathan has specific experience in infrastructure, site and transport insurance and reinsurance and third-party civil liabilities.

His work extends to associated environmental, remediation insurance and health and safety issues in the energy sector.

Construction- Insurance

“Great for difficult and complex insurance points – he is a real authority on the subject and always provides considered commercial advice. Also, a first-class advocate.” The Legal 500 Insurance and Reinsurance (2022)

Jonathan's insurance work in the construction sector covers all the usual issues arising in coverage disputes, including the construction of insurance policies, fair presentation of risk and fraud. His experience includes all categories of indemnity and contingency policies in the construction and infrastructure sector, including public liability, professional indemnity, property insurance, trade credit insurance, environmental liability, business interruption, product liability, contractors' risks, cyber risks, directors and officers and nuclear and energy risks. He has experience in international insurance and reinsurance disputes in the Middle East and Asia and applicable civil laws, including UAE law. His work includes complex subrogated insurance recovery claims (fire, flood and explosion, etc).

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Construction- International Arbitration

“Very experienced and skilful advocate. Knows the key issues the tribunal wish to be addressed on. Exceptional in cross-examining expert witnesses.” The Legal 500 International Arbitration (2022)

Jonathan advises and represents clients as counsel in international arbitration in construction disputes and regularly co-counsels with and drafts submissions for foreign registered lawyers.

His international arbitration experience includes disputes subject to all the major institutional rules including ICC, SIAC, LCIA, DIAC, CIArb and also UNICTRAL rules. He is experienced in disputes governed by foreign common and civil law systems, including Singapore, Hong Kong and UAE law.

He is ranked in the UK and in the Asia Pacific region as a leading barrister in International Arbitration. He is also ranked internationally in Commercial (tier 1) and Construction, Energy & Infrastructure (tier 1).

Property Damage

“Good at offering alternative arguments to difficult issues.” The Legal 500 Asia Pacific Construction, Energy and Infrastructure (2019)

Jonathan has an active practice in complex property damage and subrogated insurance recovery claims (fire, flood and explosion, etc). His work includes disputes with associated insurance and professional liability issues. He brings strong intellectual, analytical and numerical skills to simplify and explain complex legal and factual material in a persuasive and effective manner for clients and before courts.

Jonathan acts for claiming parties and, on instructions from professional indemnity insurers, for defending parties. He is experienced in advising and presenting complex factual and technical issues on liability and damages.

Jonathan is focused on achieving the best possible commercial outcome for his clients.

Energy and Natural Resources

“Excellent advocacy skills and not afraid to tackle difficult issues.” The Legal 500 Asia Pacific (2022)

Jonathan has an established litigation, arbitration and advisory practice in energy and natural resources disputes. His experience covers oil and gas,

geothermal, nuclear, windfarm, biomass and renewables. It includes upstream and downstream disputes, pipeline and distribution, construction and engineering projects (onshore and offshore), joint ventures, construction and project funding and associated insurance, environmental and professional liability issues. In the nuclear sector, Jonathan has particular experience in infrastructure, site and transport insurance and reinsurance and third-party liabilities.

He is experienced in dealing with disputes involving complex factual and technical issues and evidence on liability and damages.-

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Nuclear Energy

In the nuclear sector, Jonathan has specific experience in infrastructure, site and transport insurance and reinsurance and third-party civil liabilities including under the Paris Convention and other international conventions.

Oil and Gas

In the oil and gas sector, Jonathan has specific experience in upstream and downstream disputes, pipeline and distribution, construction and engineering projects (onshore and offshore), joint ventures, construction and project funding and associated insurance, environmental and professional liability issues. He has experience in national and international disputes, in particular in the Middle East and Asia.

Sport

"Jonathan Bellamy is prominent in commercial and sport arbitration." Chambers and Partners 2023

"A first-rate football litigator and a renowned arbitrator," The Legal 500 (2019)

Jonathan has an established litigation, arbitration and advisory counsel practice in professional sports law with particular experience in professional football. He acts for regulatory bodies, governing bodies, players and commercial contracting parties. His work covers the full range of commercial law practice areas in the sports sector, including commercial contracts, agency, sponsorship rights, image rights, online gaming, governance, insurance, data protection and information law, service agreements, regulatory and professional liability.

Jonathan is also a busy practising Chartered Arbitrator in the professional sport sector with particular experience in professional football, rugby union, motor sports and cycling. His appointments include arbitrations under the auspices of the ICC, the Football Association (FA), the English Football League (EFL) and Sport Resolutions.-

Sport- Arbitrators

"Jonathan Bellamy is prominent in commercial and sport arbitration." Chambers and Partners 2023

"A first-rate football litigator and a renowned arbitrator." The Legal 500 (2019)

Jonathan is an established and busy practising chartered arbitrator in a wide variety of commercial and regulatory disputes in the professional sport sector.

He has particular experience determining disputes in professional football (national and European), rugby union, motor sports and cycling. His institutional appointments include arbitrations under the auspices of the FA, the EFL and Sport Resolutions.-

He is regularly appointed by parties, including clubs, players and agents, and by specialist sport arbitral institutions, as sole, panel and chair arbitrator. Jonathan is experienced in chairing arbitral panels in this sector in commercial disputes and in disciplinary proceedings. He acts as Centre for Effective Dispute Resolution (CEDR) qualified mediator in this sector.

Sport- Commercial

“Very strong at sports cases with a commercial and arbitration angle.” The Legal 500 (2020)

Jonathan has an established litigation, arbitration and advisory practice in commercial disputes in the professional sport sector, with particular experience in professional football, motor sports and horse racing. His work covers the full range of commercial law practice areas in the sports sector, including commercial contracts, agency, sponsorship rights, image rights, online gaming, governance, insurance, data protection and information law, service agreements, regulatory and professional liability.

He brings the advantage of long-standing experience in the sector as counsel and as an arbitrator and is focused on achieving the best possible commercial outcome for his clients.

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Sport- Data Protection

Jonathan has an established litigation, arbitration and advisory practice in data protection and information law in the professional sport sector. He has particular experience in professional football, rugby union, motor sports and horse racing.

His practice includes work in breach of confidence claims as well as data protection disputes under UK General Data Protection Regulation (GDPR) and EU GDPR. His data protection work includes data protection compliance issues for sports regulatory bodies and international data transfers in the professional sport sector. He is experienced in obtaining and defending urgent interim remedies and information production orders.

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Sport- Regulatory

“Jonathan is a go-to counsel for sports regulatory work; he is unparalleled in this area.” The Legal 500 (2022)

Jonathan has an established litigation, arbitration and advisory practice in regulatory and governance disputes in the professional sport sector. He has advised and represented national and international governing bodies and higher educational institutions in the sector. Jonathan has particular experience in professional football, rugby union, motor sports and equestrianism.-

In addition to pure regulatory advice, Jonathan is regularly instructed to advise participants and governing bodies on the improvement of internal procedures and due process issues arising in internal decision making and external

contracts.

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Alternative Dispute Resolution

“A highly astute legal mind.” The Legal 500 (2021)

Jonathan has an established practice as a Chartered Arbitrator in national and international commercial, construction, insurance and professional sports disputes. His appointments include arbitrations under the auspices of the ICC, LCIA, SIAC, DIAC, AIAC, CIArb, Sport Resolutions, the FA and EFL. He has sat in UK, Europe, the Middle East and Asia. He is experienced in determining disputes involving complex factual and technical issues and evidence.

Jonathan has experience of determining disputes governed by other major common law systems including Singapore law and Hong Kong law and prominent civil law systems including UAE law. He practices from our offices in London and Singapore.

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Arbitrators

“Jonathan Bellamy is prominent in commercial and sport arbitration.” Chambers and Partners 2023

“A first-rate football litigator and a renowned arbitrator.” The Legal 500 (2019)

Jonathan has an established and busy practice as a chartered arbitrator in the professional sport sector. His experience covers a range of commercial and regulatory practice areas in the sector, including agency, commercial contracts,

insurance, gaming, governance, intellectual property, information law, service agreements and disciplinary. He has experience in cross-border and offshore disputes.

Jonathan has sat in in over 35 arbitrations. He sits as sole and panel arbitrator and chairman by institutional and sports regulatory body appointment and ad hoc.-

In addition to English law, Jonathan has experience of disputes governed by numerous other common law systems and prominent civil law systems.

Recommendations

- "Jonathan Bellamy is prominent in commercial and sport arbitration." Chambers and Partners (2023)
- *"A very experienced and skilful advocate. Knows the key issues the tribunal wishes to be addressed on. Exceptional in cross-examining expert witnesses."* The Legal 500 (2022) International Arbitration
- *"Great for difficult and complex insurance points – he is a real authority on the subject and always provides considered commercial advice. Also, a first-class advocate."* The Legal 500 (2022) Insurance and Reinsurance
- *"Jonathan is a go-to counsel for sports regulatory work; he is unparalleled in this area."* The Legal 500 (2022) Sport
- *"He has a strong following among clients based in Asia. He understands the cultural nuances of doing business in the region and works incredibly hard."* The Legal 500 Asia Pacific (2022)
- *"Excellent advocacy skills and not afraid to tackle difficult issues."* ... The Legal 500 Asia Pacific (2022) Construction, Energy and Infrastructure

- *“A highly astute legal mind”* The Legal 500 (2021) Insurance and Reinsurance
- *“Very experienced in construction disputes”* The Legal 500 Asia Pacific (2020) Construction, Energy and Infrastructure
- *“Favoured by governing bodies and others for difficult regulatory matters in sports such as football and horse racing.”* Chambers (2020) Sport
- *“Very strong at sports cases with a commercial and arbitration angle”* The Legal 500 (2020) Sport
- *“A first-rate football litigator and a renowned arbitrator.”* The Legal 500 (2019) Sport

Memberships

- Barrister: England & Wales
- Chartered Institute of Arbitrators (CI Arb): Fellow (FCI Arb) and Chartered Arbitrator (C. Arb)
- DIFC Courts: Registered Legal Practitioner (Part II: Full Rights of Audience):-
- The Commercial Bar Association (COMBAR)
- Technology & Construction Bar Association (TECBAR)
- Professional Negligence Bar Association (PNBA)

Qualifications

Education

- 1982-85 Jesus College, Oxford University MA (Hons) Jurisprudence

Scholarships and prizes

- 1986 Lincoln's Inn Lord Denning Scholarship

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Additional information

- CEDR Accredited Mediator

Publications:

- Wilmot-Smith on Construction Contracts (4th Edition) – Contributor, Oxford University Press 2021
- Civil Liability for Nuclear Damage in Countries Developing Nuclear New Build Programmes, Journal of World Energy Law & Business, Oxford University Press 2018
- Sports Governance in the Modern World of Commercial Sport, Sport Resolutions UK Handbook 2018
- Bullen & Leake & Jacobs: Precedents of Pleadings, 18th Edition Sweet & Maxwell 2015

In addition to various international common law jurisdictions in Asia, North America and the Caribbean, Jonathan has experience of applicable civil law systems including Egypt, France, Netherlands, Romania, Russian Federation, Spain, Switzerland, Taiwan, Turkey and UAE.

Appointments

- 2005 – date Chartered Institute of Arbitrators – Panel of Commercial Arbitrators
- 2010 - date Asian International Arbitration Centre – Panel of Arbitrators
- 2012 – date Sport Resolutions UK – Panel of Arbitrators (Legal Arbitrator)
- 2012 – date Football League: Football Disciplinary Commission – Panel of Chairmen
- 2017 – date Thailand Arbitration Centre – Panel of Arbitrators
- 2019 – date Indian Dispute Resolution Centre – Panel of Arbitrators

- 2021 - date Shanghai Arbitration Commission – Panel of Arbitrators
- 2022- date FA Specialist Panel Member of the Judicial Panel
- 2022- date Independent Specialist Panel Member of the Football Association’s Judicial Panel
- 2002 – date Recorder of the Crown Courts
- 2011 – date Recorder of the Civil Courts

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Languages

- English
- French

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Karen Gough

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No updated profile yet. Tagged by LT 10.10.22

Karen Gough practises internationally as counsel, attorney-at-law, arbitrator, adjudicator and ADR neutral. She has specialised, for more than 30 years, in complex construction, engineering, professional negligence and general commercial disputes whether resolved by litigation, arbitration or ADR. She represents a wide range of clients including governments, government agencies, local authorities, educational institutions, contractors, sub-contractors, and major commercial organisations. Her construction practice includes disputes concerning private domestic and commercial industrial and retail developments, major public works and infrastructure projects including water, sewage, energy and power plants, nuclear facilities, hospitals, prisons, schools, roads, rail, and sea defences.- She has dealt with all manner of disputes under many SFCs including JCT, NEC and FIDIC, including claims for payment, extensions of time, delay and disruption, termination disputes and other specialist disputes involving complex M&E and building management systems, ground conditions, cladding and roofing projects.

She has undertaken a number of high profile commercial disputes including *Azevedo and Alvarez v Imcopa Importacao, Exportacao E Industria De Oleus Ltda and Others*, concerning the legality of consent payments in corporate debt restructuring proposals; a number of disputes arising from share purchase agreements; a substantial and long-running banking dispute arising out of an international commodities transaction in Jamaica; and a number of other complex disputes involving financing and guarantees for major commercial developments. In 2015 she appeared in the Privy Council case of *National Housing Trust v Y P Seaton & Associates Company Limited* a case about the power of an arbitrator to award compound interest under a commercial

agreement governed by Jamaican law. Karen also acts for clients in insolvency/insolvency related disputes. -She is the immediate past chairman of the Institute of Chartered Accountants Insolvency Licensing Committee, being the first lay chairman of this important RPB for the regulation of insolvency practitioners in the UK, and in 2017 was elected as a Council Member of the UK Society of Construction Law.

Karen has a strong commercial practice in the Caribbean. In April 2016 she completed a course at the Norman Manley Law School at UWI in Jamaica and was awarded a Legal Education Certificate giving her an entitlement to be admitted to practise across the wider Caribbean. In July 2016, Karen was admitted to practise as an Attorney-at-Law in the Courts of Jamaica and in November 2016, in Trinidad and Tobago.

She has more than 30 years' experience of domestic and international commercial arbitration, both as counsel and as arbitrator. She is a recognised expert on disputes arising out of projects governed by the FIDIC forms of contract and acts as an expert "Friendly Reviewer" for FIDIC. In 2017 she was also appointed to, and is a member of, the KLRCA (now AIAC) panel of experts advising on the KLRCA new standard forms of building contract launched in August 2017 and the Advisory Board of the Jamaica International Arbitration Centre. Karen is a past President of the Chartered Institute of Arbitrators; a Chartered Arbitrator; a Certified International ADR Practitioner of the Asian Institute of ADR, and an accredited TECBAR adjudicator.

She is described in Chambers UK as being *"Just the person you want if the battle is going to be hot" in construction claims, and having "immense arbitral experience", and by Legal 500 as "outstanding in her detailed and analytical grasp of her field and*

fearless in her protection of the client".

Karen was shortlisted for The Legal 500 UK Awards 'International Arbitration Junior of the Year' in both 2018 and 2020 and 'Construction Junior of the Year' in 2019.

Areas of expertise

- Alternative Dispute Resolution
- Construction
- Commercial
- Administrative and Public

Alternative Dispute Resolution

"Demonstrated expert knowledge and rapidly and incisively mastered the voluminous and intricate documentation." The Legal 500 2020

"A prominent arbitration barrister, who is great at handling clients." The Legal 500

Karen was President of the Chartered Institute of Arbitrators from 2001-2002. She is a Chartered Arbitrator and is recognised for her vast experience of both domestic and international arbitration law and practice, acting as counsel or as arbitrator (the latter since 1991) in both construction and commercial disputes. She has practiced in the field of international commercial arbitration (since 1987), and holds a Diploma in International Commercial Arbitration. She has worked under and/or gained knowledge of the workings of all the principal domestic and international arbitration and ADR rules. She and has long

experience both of common law and civil law procedures.

Construction

"Superb rapport with clients and tremendously knowledgeable." The Legal 500 2020

"Very experienced and very approachable." Chambers & Partners

"She has a no-nonsense approach, good tactical nous and gravitas to her name." The Legal 500

In her construction and engineering practice Karen has litigated or arbitrated disputes over a period of more than 30 years under most of the recognised standard forms of building and engineering contract and she has a particular expertise in the arbitration of disputes under the FIDIC forms of construction and engineering contract.

Her practice has included many disputes about interim and final payments, loss and expense and claims for extensions of time.

Karen is an accredited TECBAR adjudicator and a CEDR "super adjudicator" and has undertaken many adjudications both as counsel and adjudicator.- She is currently a serving Council Member of the Society for Construction Law, and a Vice Chairman of the IPBA International Construction Projects Committee.

Commercial

Karen has undertaken many high value and high profile commercial disputes both in the UK and abroad, and successfully conducted claims/defences in a range of general commercial matters involving debt restructuring, share purchase agreements, project finance, banking and insolvency claims. Karen

also has particular experience dealing with claims arising from and relating to the recognition and enforcement of international arbitration awards in different jurisdictions.

Administrative and Public

"She has a no-nonsense approach." The Legal 500 2017

In her professional liability practice she has advised and/or prosecuted and defended architects, engineers, surveyors, quantity surveyors, construction management professionals, accountants and solicitors. In addition, Karen has extensive experience of advising arbitrators and parties concerning matters of conduct and procedure in commercial arbitrations (she appeared recently in the case of Cofely Limited v Bingham and Knowles [2016]), and represents barristers, solicitors and construction professionals on professional conduct charges before regulatory tribunals.

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Marion Smith KC

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Proofread by SM, uploaded by LT 4.8.22, needs to be checked.-

“Very experienced and respected, even by opponents. She has a very pleasant and calm disposition, even in the most pressured of situations.”

The Legal 500 2022 Construction-

Marion is experienced as counsel representing and advising national and international clients in a wide range of business sectors, including construction, energy, engineering, infrastructure, insurance and **matters. She is recognised for her prowess in adjudications, Technology and Construction Court (TCC) proceedings and international arbitration. She is well known for her ability to establish excellent working relationships with clients, experts and the legal team. Her in-depth experience in advocacy in document-heavy cases includes disputes in which the relevant law is not English law.

She is regularly appointed as an arbitrator (sole, party and president) by the major institutions, including the ICC, LCIA and SIAC, and as an adjudicator.

Marion is recognised as a leading lawyer in many of the legal directories: The Legal 500 Asia Pacific 2022 for Construction, Energy and Infrastructure, The Legal 500 2022 for Construction and Professional Negligence and Chambers and Partners 2023 for Construction.

Marion’s expertise and experience in international dispute resolution is reflected by her present roles. These include representing the Chartered Institute of Arbitrators as a Trustee and Deputy Chair of the Trustee Board, the Bar of England and Wales as the Vice Chair of the Bar Council’s International Committee with responsibility for Asia and the Inter-Pacific Bar Association, as a

Vice Chair of the Dispute Resolution and Arbitration Committee.

Marion is also a Professional Fellow at Aston University, contributes to various publications and is in demand as a speaker at international arbitration and dispute resolution conferences worldwide.

Areas of expertise

- Arbitrator
- Commercial Contracts
- Construction
- Energy and Natural Resources
- PPP/PFI
- Professional Negligence

Adjudicators

With extensive experience as counsel and neutral in ADR, Marion regularly advises her domestic and international clients on how to find effective solutions through the various dispute resolution processes available: adjudication, arbitration, dispute board, expert determination and mediation.-

Marion is frequently appointed as an arbitrator in a wide variety of disputes, including aircraft, bonds/guarantees, construction, energy, engineering, media and shareholder/joint venture.-

Marion also acts as an adjudicator, a TECBAR nominee and under private finance initiatives (PFIs)/public private partnerships (PPPs). She accepts appointments for expert determination.

Marion represents the Chartered Institute of Arbitrators as Vice Chair of its Trustee Board and the Inter-Pacific Bar Association as a Vice Chair of its Dispute Resolution and Arbitration Committee.-

Cases of note

- Lead counsel, advising in relation to statutory adjudication and related claims before a dispute board arising out of the design and construction of a coal fired power plant in Malaysia.-
- Adjudicator (TECBAR) in a dispute between a further education college and its provider of project management services in relation to a substantial urban development project.-
- Adjudicator in dispute between NHS trust and project co/service provider in relation to a claim for service fees.-
- Appointed to provide an expert determination in relation to warranty claims under a share purchase agreement.-

Arbitrator

Marion is frequently appointed as an arbitrator in a wide variety of disputes, including aircraft, bonds/guarantees, construction, energy, engineering, media and shareholder/joint venture.-

- President in an ICC arbitration relating to commission payments in the marine industry.-
- President in a SIAC arbitration relating to an exclusive distributorship agreement in the home appliance market in the Middle East.-

- President in a DIAC arbitration concerning mechanical, electrical and plumbing works on a development project in Dubai.
- Co-arbitrator in an ICC arbitration relating to a shareholders' agreement in the media and entertainment industry
- Co-arbitrator in an ICC arbitration relating to delay in civil works for a waste-water treatment plant in the Middle East.-
- Co-arbitrator in an ICC arbitration relating to upgrading and expansion works at refineries in the Middle East and North Africa (MENA) region.
- Co-arbitration in an ICC arbitration relating to works at a military establishment in the Association of Southeast Asian Nations (ASEAN) region.
- Co-arbitrator in a multi-party LCIA arbitration in a dispute relating to a development and shareholders agreement in the renewable energy sector.
- Co-arbitrator in an LCIA arbitration relating to a claim under a guarantee letter in the aircraft parts manufacturing sector.
- Co-arbitrator in consolidated LCIA arbitrations relating to claims for contractual charges under procurement contracts in the aircraft parts manufacturing sector.
- Co-arbitrator in five connected LCIA arbitrations relating to claims for unpaid invoices relating to goods and services supplied in the aircraft parts manufacturing sector.
- Sole arbitrator in a DIFC-LCIA arbitration concerning a collaboration agreement in the media and entertainment industry-
- Sole arbitrator in an ICC arbitration concerning a claim under a parent guarantee in the mining equipment industry.

Commercial Contracts

Marion has over 20 years' experience advising businesses from SMEs to large multi-nationals as well as public sector clients on a range of commercial contracts, including supply contracts for goods and services, joint ventures,

collaboration and partnership agreements and agency and distribution agreements. She gives clear, pragmatic and commercially-focused advice on the interpretation, enforcement and termination of these commercial arrangements, whether in a bespoke or industry standard form.-

Cases of note

- Lead counsel, advising in relation to demands under an on-demand bond in connection with an energy from waste (EfW) development.
- Lead counsel, advising in relation to the release of cash collateral held by the provider of a performance guarantee bond.
- Lead counsel, advising in relation to the validity of assignments and the non-fulfilment of conditions precedent in international financing agreements.-
- Lead counsel, advising in relation to insurance claims arising out of the failure of a major package travel provider.-
- Lead counsel, advising in a dispute relating to the design and manufacture of clothing and fashion accessories to an online retailer.
- Advising a charity in a claim against a UK bank in relation to the provision of banking services.
- Advising on the enforceability of standard term contracts relating to the provision of smart metering equipment to electricity and gas providers

Construction

Marion has over 20 years' experience as counsel representing and advising in relation to a broad range of energy, infrastructure and construction matters. She has extensive experience in domestic and international standard form contracts, including the FIDIC, JCT and NEC and ICC suites.-

Marion has in-depth experience in advocacy in TCC proceedings and international arbitration, including in disputes in which the relevant law is not English law. She is regularly appointed as an arbitrator (sole, chair and party appointed), adjudicator and as an expert determiner. Marion has given expert evidence on English law in proceedings before courts in the ASEAN and MENA region.-

Marion is recommended in the leading directories for construction. She is a contributor to Wilmot-Smith and Darling on -Construction Contracts.

Marion's Construction practice includes:

- Adjudication
- Cladding and other building defects
- Construction professionals' liability
- Construction, engineering and infrastructure disputes
- Delay and disruption; Energy; International arbitration

Cases of note

- Lead counsel, advising three councils in a dispute relating to an EfW project and deductions for facilities management services.
- Lead counsel, advising in relation to claims for an extension of time and the prevention principle in the context of a warehouse development.
- Lead counsel, representing the main contractor in an adjudication relating to the supply of logistics handling equipment with issues relating to jurisdiction and the implication of the scheme's payment mechanism provisions.-
- Lead counsel, representing the specialist sub-contractor in an adjudication relating to a large and complex commercial façade project with issues of delay, extensions of time and liquidated damages.-

- Lead counsel, advising a public sector client in an adjudication relating to the effect of Covid-19 on compensation events under its contract for highways maintenance.
- Lead counsel, representing a rail infrastructure provider in TCC proceedings relating to machinery and plant hire.
- Lead counsel, advising the provider of student accommodation on its entitlement to EOT -and the application of the de minimis principle.

Energy and Natural Resources

Marion has acted as counsel and as arbitrator in disputes arising from the construction of oil and gas infrastructure projects around the world. She has specific expertise in relation to EfW projects in the UK and has extensive experience in the interpretation and application of engineering, procurement and construction (EPC) contracts and the FIDIC and IChemE suite of contracts.

Marion's Energy and natural resources practice includes:

- Biomass and energy from waste
- Electricity; Nuclear; Renewables
- Water

Cases of note

- Lead counsel, in interrelated adjudication and TCC proceedings relating to claims for variations arising out of an EPC contract for the design and construction of an EfW plant in the UK.
- Lead counsel, advising in relation to extensions of time for epidemic, force majeure, severe weather and change in legislation and liquidated damages arising out of the design and construction of an EfW facility in the UK.
- Lead counsel, advising a local authority in relation to the delayed completion of its EfW plant being provided under a public finance initiative in the UK-

- Lead counsel, advising on the termination of an EPC contract for a liquified petroleum gas (LPG)-fuelled power plant in Africa for delay and defects and claims under related financing arrangements.
- Lead counsel, advising joint venture parties in a dispute related to delay and disruption in the performance of an EPC contract for a residual waste treatment facility.
- Lead counsel, advising in relation to disputes arising out of the design and build of the civil, structural and architectural works for a waste-to-energy (W2E) plant-
- Lead counsel, advising in relation to statutory adjudication and related claims before a dispute board arising out of the design and construction of a coal fired power plant in Malaysia.-
- Lead counsel, acting for a state enterprise in an UNCITRAL arbitration relating to the design and construction of a storage facility for spent nuclear fuel and claims for an increase in the contract price.-

PPP/PFI

Marion is often appointed as counsel in relation to private finance initiatives (PFI) and public private partnerships (PPP).

Marion advises on operational, strategic and tactical issues, taking PFI/PPP disputes through all types of formal dispute resolution processes. She has over 20 years of experience across multiple sectors: education, energy, health, road maintenance, social housing, street lighting and waste. This substantial experience means she is well placed to address the legal issues involved in these disputes in the financial and political context in which they arise.-

She is also regularly appointed as an adjudicator on PFI/PPP disputes.-

Cases of note

- Lead counsel, advising three councils in a dispute relating to an EfW project and deductions for facilities management services
- Lead counsel, advising an NHS trust in respect of defects in the fire compartmentation in its PFI hospital and facilities management issues.
- Lead counsel, advising a local authority in relation to the impact of Covid-19 on its road maintenance programme and services.
- Lead counsel, advising an NHS trust in relation to the provision of building, maintenance and engineering services and service variations.
- Lead counsel, advising a local authority in relation to a waste contract procurement project in a dispute involving design, installation and termination issues.-
- Lead counsel, advising a government on the construction and operation of military facilities in a dispute involving the reduction of services and termination.
- Lead counsel, advising an NHS trust in relation to a benchmarking exercise connected with facilities management and the provision of the helpdesk.
- Adjudicator in a dispute between a further education college and its provider of project management services in relation to fees for a substantial urban development project.-
- Adjudicator in a dispute between NHS trust and project co/service provider in relation to the adjustment of service fees.-

Professional Negligence

Marion's professional negligence practice encompasses both construction and non-construction professionals. She is often instructed in difficult and high-value cases involving solicitors, architects, engineers, project managers and environmental consultants.-

Cases of note

- Lead counsel, representing the project manager in a multi-party TCC action arising out of the development of a mixed-use retail and residential project: *Standard Life Assurance Ltd v. Gleeds (UK)* [2022] EWHC 1310 (TCC)
- Lead counsel, representing a local authority in a TCC action against the design and build contractor and architect in relation to cladding issues in residential tower blocks in London.
- Lead counsel, in connected TCC proceedings, representing the architect defendant in claims relating to the design of the cladding for residential accommodation in the UK.-
- Lead counsel, representing the main contractor in an ICC arbitration on a design and build project relating to a desalination plant in the MENA region.-
- Lead counsel, representing the main contractor in an arbitration arising from the design and construction of a port in Asia.
- Lead counsel, representing multiple claimants in the Business and Property Court proceedings against solicitors and various corporate vehicles and directors for professional negligence arising out of an advance purchase gold investment scheme.
- Advising homeowners in a claim against its solicitors in relation to the conduct of construction litigation claims against various construction consultants.

Recommendations

Marion is listed in The Legal 500 Asia Pacific 2022 for Construction, Energy and Infrastructure, The Legal 500 2022 for Construction and Professional Negligence and Chambers and Partners 2023 for Construction.-

- *“A very experienced and respected silk. She has a serene disposition, even in the most pressured of situations.”* The Legal 500 2022 (Professional Negligence)
- *“Very experienced and respected, even by opponents. She has a very pleasant and calm disposition, even in the most pressured of situations.”* The Legal 500 2022 (Construction)
- *“Marion Smith QC is a quality silk who is recognised for her prowess in adjudications, TCC proceedings and international arbitration. She is sought after to advise on a variety of matters, including PFI, energy and engineering disputes. She is noted for her ability to establish excellent*

working relationships with clients." Chambers and Partners 2021 (Construction)

- *"She produces clear, measured advice."* Chambers and Partners (2021)
- *"An absolute pleasure to work with and very on the ball, she knows her stuff and is very good with clients."* Chambers and Partners (2020)
- *"She gets to grips with the paper quickly, is really client-focused and actually very commercial too."* Chambers and Partners (2020)
- *"Provides first-rate advice which considers the client's objectives throughout."* Chambers and Partners 2020
- *"She is able to distill complex themes and extensive documentation into something that is unfailingly understandable."* The Legal 500 2020
- *"An outstanding speaker and advocate."* The Legal 500 2020

Memberships

- Commercial Bar Association
- Inter-Pacific Bar Association
- Professional Negligence Bar Association
- Society of Construction Law
- TecBar-

Qualifications

- University of London, Queen Mary College: LLB (1978)-
- University of London, London School of Economic & Political Science: LLM (1979)
- Chartered Institute of Arbitrators, Fellow.

Appointments and Awards

- Aston University: Aston Law School Advisory Board, member.-
- Bar Council of England and Wales: International Committee, a Vice Chair-
- Chartered Institute of Arbitrators: Fellow, Trustee and Vice Chair of the Board of Trustees
- Doctor of Laws, honoris causa, Aston University
- Gray's Inn: Bencher and Master of Advocacy
- Inter-Pacific Bar Association: Dispute Resolution and Arbitration Committee, Vice Chair.
- Professional & Business Services Council: International Trade Group Member

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Charles Manzoni KC

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“Organised, a very good advocate and absolutely exceptional.”

Chambers and Partners, Greater China 2022

Charlie is a British lawyer with an international commercial and sports law practice. Having qualified as a mechanical and electrical engineer, he worked as an engineer for five years before turning to the law. His legal practice comprises international litigation, arbitration and mediation as advocate or arbitrator, representing and deciding cases involving both commercial and state entities. He has an active sports law practice. He acts as counsel in the High Courts of London and Hong Kong, in international and domestic arbitrations, acts as a mediator and conciliator in cross-border disputes and regularly sits as a sole arbitrator or as part of a three-man tribunal.

He was appointed QC in London in 2009 and SC in Hong Kong in 2012. He was appointed a part-time judge in Hong Kong in 2015.

Areas of expertise

- Alternative Dispute Resolution
- Professional Negligence
- Construction
- Sport

Alternative Dispute Resolution

He is well recognised in both Asia and the Middle East for his extensive construction dispute experience.

Charles has been appointed as an arbitrator in over 80 arbitrations, which involve 20 jurisdictional seats and a similar number of different substantive laws.-

Cases of note:

- *Party A v Party B* - Claim by a Canadian software company developing innovative smartphone technology that has been integrated into the Android operating system by a Chinese manufacturer.
- *Party A v Party B* - Claim by a Chinese manufacturer of medical supplies for the price of goods delivered to Italy. The Italian respondent had been persuaded by fraudsters to make payment to a different entity, and so the money had not been received.
- *Party A v Party B* - US\$5m claim by two well-known administrators in the English football industry for breach of consultancy agreements with a Chinese football club.-
- *Party A v Party B* - US\$3.5bn claim by a contractor at a liquefied petroleum gas (LPG) facility in northern Australia. Three arbitrations consolidated into one. The claim involved claims under funding deeds, claims for variations, claims for delay.

Professional Negligence

Cases of note:

- *Party A v Party B* - The case concerned the ability of the trader to enforce the terms of the financing facility, and the losses they occurred as a result of any breach. Also, the question of whether the failure to perform in accordance with the terms of the emergency award gave rise to losses which were unlimited by the limitation of liability clauses contained in the original financing contract.
- *Party A v Party B* - Dispute between a Japanese ATM -designer/manufacturer and a Chinese OEM ATM -factory over whether the Chinese entity had misappropriated the technology and

software of the ATMs designed by the Japanese for use in the Chinese entity's own domestic products.-

- *Zhou v SAIF* - Claim by hedge fund partner seeking payment of partnership profits. Allegations of fraud, breach of duty, breach of trust.-
- *Re China Medical* - Major litigation project seeking to recover in respect of the theft of US\$500m by directors of a company. The project involves six major pieces of litigation against numerous defendants, with the money being spread through 50 bank accounts across five jurisdictions.
- *Tianrui v Shanshui Cement* - Litigation arising out of a hostile takeover of one of China's largest cement manufacturers. The victor in the takeover sued the incumbent directors and shareholders for breach of fiduciary duty, conspiracy and fraud.-

Construction

Cases of note:

- *Hsin Chong v Build King* - Settlement of a joint venture dispute arising from the insolvency of one of the joint venture parties, including novation of the underlying construction contract.
- *Queen Cheers Development Limited v Kwong Associates Limited* - Claim of professional negligence by a developer against an architect for the alleged negligent design of a high-rise building in Hong Kong. Acted for the architect and successfully defended the firm.
- *Yee Hop Engineering Co. Ltd v Government of the HKSAR* - The case involved a contract by which the Government of Hong Kong asked the contractor to replace the stainless steelwork in numerous walkways, lifts, stairs, pavements etc. all around Hong Kong.
- *Hsin Chong – Paul Y Joint Venture v Orient Project Engineering Limited* - Claim for extra remuneration arising out of the excavation and groundworks of a major Hong Kong landmark.

Sport

Charles has an active sports law practice and is heavily involved in the administration of sports law disputes within the sport of sailing. He is an active sportsman and regularly competes in sailing competitions, up to and including World Championship level. He was appointed as an arbitrator at the Court of Arbitration for Sport in 2011 and has been on the Court's Panel, including its appeal panel, continuously since. He also sits on the arbitration panel of Sports Resolutions in the UK.

Cases of note:

- *Party A v Party B* - US\$5m claim by two well-known administrators in the English football industry for breach of consultancy agreements with a Chinese football club.-
The case is significant because the reason for the breach of contract was said to be a result of a Chinese government mandate as to how Chinese football clubs could run (because of the President of China's extreme interest in football, and his desire to develop the sport nationally within China).
- *Party A v Party B* - A dispute between two football clubs about the transfer of a player at a time when and without disclosure of the fact that he was under investigation by the police in respect of an alleged rape.
- *America's Cup Arbitration Panel* - Appointed as an alternate member of the arbitration panel for the America's Cup.-
- *Party A v Party B* - Advocate for an insurer arising out of a sportsman's death occurring during a sporting world record attempt.
- *Party A v Party B* - Advocate for a major national sporting federation (rugby) in proceedings relating to a severe injury occurring to a player during an international match.

Recommendations

- *“Excellent in all respects. He is an excellent cross-examiner and gets straight to the core issues after reviewing complicated and voluminous documentation.”* The Legal 500 2022
- *“A wealth of experience dealing with complex fraud and insolvency matters.”* The Legal 500 2022
- *“A very practical leading counsel, with the ability to turn complexity to simplicity.”* The Legal 500 2022
- *“Manzoni doesn't need any introduction: he's brilliant.”* Chambers and Partners 2022
- *“Very experienced in many areas.”* Chambers and Partners 2022
- *“Organised, a very good advocate and absolutely exceptional.”* Chambers and Partners 2022

Memberships

- Chartered Institute of Arbitrators (FCI Arb)-
- Centre for Effective Dispute Resolution (CEDR)
- Hong Kong International Arbitration Centre (HKIAC)
- Hong Kong Bar Association (HKBA)
- Chartered Institute Of Arbitrators (CIARB)
- Hong Kong Mediation Centre (HKMC)
- Beijing Arbitration Centre (BAC)
- International Court of Arbitration (ICC)
- London Court of International Arbitration (LCIA)
- Kuala Lumpur Regional Centre for Arbitration (KLRCA)
- Dubai International Arbitration Centre (DIAC)
- Asia Pacific Regional Arbitration Group (APRAG)
- Singapore International Arbitration Centre (SIAC)
- Court of Arbitration for Sport (CAS)

Qualifications

Education

- BSc Mechanical Engineering, Bristol University-
- Diploma in Law, City University

-

Additional Information

Languages

- English

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Adrian Hughes KC

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Adrian Hughes KC acts as counsel and arbitrator with a broad international and UK construction and commercial practice. -He focuses on complex contract disputes spanning a wide range of sectors, including construction and engineering, energy, international trade, shipbuilding, transport and professional negligence.

Whilst his domestic practice centres on the Technology & Construction Court and the Commercial Court, much of his work involves international arbitration and associated court proceedings.- He regularly conducts commercial and construction arbitration work as counsel in many different jurisdictions. -Recent cases have included major international arbitrations arising from power and infrastructure projects in North Africa, the Middle East and Asia, with seats in London, Hong Kong, Singapore, Malaysia, Dubai and China.

Adrian increasingly sits as Arbitrator in international disputes, appointed by all the main international institutions.- He also acts as chairman and member of dispute boards for international construction projects as well as Mediator and Adjudicator.

He has a leading practice relating to China and regularly conducts advocacy and advisory work for Chinese law firms and clients.- Recent cases have included a number of prominent international arbitration and court cases in, and related to, China. -He is instructed as expert to the Great Britain China Centre / Foreign Office on UK / China Arbitration and Dispute Resolution, and is on the advisory board of the Oxford University Belt and Road Institute directed at the impact of China's outbound investment policy.- He acts as expert witness on English law issues and was the first English barrister to act in this capacity in Chinese

commercial court proceedings.

His early practice included extensive Supreme Court and Commercial Court proceedings arising from the collapse of the International Tin Council, involving issues of public and private international law relating to the enforceability of arbitration awards against an international organisation and its Member States.- This experience carries through to public and private international law issues arising in his current work.

He sits as a part time judge, having for a number of years acted as Recorder and Examiner of the Court, and has recently been appointed to the Court of Appeal of the Falkland Islands and South Georgia.- He has been a Chairman of the UK Society of Construction Law (SCL), the country's leading multi-disciplinary construction law association.

Areas of expertise

- Commercial
- Construction, engineering and infrastructure
- China related practice
- Professional Negligence

Commercial

Adrian Hughes' commercial practice includes international arbitration and litigation in the Commercial Court in London and before foreign courts, often involving jurisdiction and conflicts issues.

Experience includes:

- Acting for a major international telecommunications organisation based in Paris in a Commercial Court dispute with a pipe laying company, arising from the laying of the world's longest sub-sea fibre optic telecommunications pipeline between Singapore and India.- The case involved court jurisdiction challenges both in London and in Singapore.
- Acting for a major Chinese bank in relation to a series of London arbitrations concerning refund guarantees for ship building contracts.
- Acting for an Australian mining company in ICC Singapore arbitration proceedings arising from mining operations in Indonesia and involving pricing issues for long term contracts.
- Acting for a joint venture partner in connection with a share warranty dispute before the courts in Hong Kong and China arising from a large scale joint venture investment in the agricultural sector in China.
- Acting in three large international arbitrations on behalf of the world's leading manufacturer of military flight training equipment (based in the United States) against the UK government, the most recent of which, conducted under LCIA rules, involved a claim for damages for breach of a government procurement contract for the design and supply of both hardware and software for aviation maintenance trainers.
- Acting for a Chinese shipyard in an LCIA arbitration arising from a dispute with a Polish seller over the sale of engineering equipment.
- Representing a Chinese cocoa trader in FCC arbitration proceedings in London.
- Representing a Malaysian buyer in a GAFTA arbitration and Commercial Court proceedings with an Australian seller of grain.
- Representing a Ukrainian company in ICC proceedings in a dispute arising from the sale of aluminium.
- Acting for a French international hotel chain in a LCIA arbitration involving claims under hotel chain franchise and consultancy agreements.
- Acting for a large charitable institution in relation to agency commission claims brought by a fine art dealer in connection with the purchase of three world-renowned paintings.

Construction, engineering and infrastructure

Adrian Hughes' construction and engineering practice is closely allied to his commercial work.- His international practice largely involves international arbitration of major infrastructure and energy projects.- Further examples of his caseload are listed under the practice area relating to International Arbitration.- His domestic work involves large scale disputes in the Technology and Construction Court, and associated appeal proceedings, often arising from PFI, PPP or NEC partnering contracts and covering a wide range of sectors including highways, rail, hospitals, education and utilities.- He is also very experienced in the conduct and enforcement of adjudications.

Experience includes:

- Representing a Chinese state owned power company in ICC London proceedings arising from the construction of the world's largest power and desalination plant in Saudi Arabia.
- Representing a Korean contractor in LCIA London proceedings arising from the construction of an Ethylene Vinyl Acetate plant in Saudi Arabia.
- Acting for a marine works contractor in connection with an ICC arbitration in Singapore arising from the construction of a desalination plant in Algeria.
- Acting for the employer in a \$US2 billion dispute in the Dubai International Arbitration Centre arising from a landmark construction project in Dubai.
- Acting for and advising the UK Government (Highways Agency) in a series of disputes arising from Term Contracts for Highways Maintenance (based on the NEC3 form of contract).
- Advising a major building contractor in its dispute with a City Council arising from a major public sector housing Framework Agreement.
- Leading the team acting for local authorities in the UK in relation to a string of adjudication and court disputes arising from PFI projects for the construction and operation of schools.

- Acting for the contractor and professional advisers in a series of reported TCC cases brought by a high net worth individual arising from the development of a historic estate in Herefordshire.
- Acting for a major rail company in the UK in relation to adjudications arising from PPP term maintenance contracts for the London underground.
- Acting for the joint venture main contractor in a £100m arbitration claim arising from the construction of an underground rail extension involving complex engineering issues, delay analysis and sustainability of global claims.
- Acting in the Court of Appeal for the insurer in subrogated proceedings arising from a fire claim.
- Acting for a national supermarket chain in a multi-million pound facilities management claim brought by the contractor in connection with their contract to provide services to 370 supermarkets.
- Acting for the joint venture contractor in claims arising from PFI Hospitals contracts.
- Acting for the joint venture contractor in arbitration proceedings relating to substructure works for a major national river crossing project.

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China related practice

Adrian Hughes has a long-established international arbitration practice in, and connected with, Asia and the Far East.- In particular, this involves acting for clients from China, Hong Kong, Singapore, Malaysia and Korea.

He occupies a unique position at the English Bar in relation to his work in China. Originally stemming from his running of the Lord Chancellor's Training Scheme for Chinese Lawyers in London, he has developed a relationship with many of the main law firms in China and regularly conducts advisory and advocacy work upon direct instruction from Chinese law firms.- He chairs the Bar Council's China Committee.

He also acts as expert witness on English Law issues and was the first barrister to appear in this capacity in Chinese commercial court proceedings in the landmark case of *Hua An v Lehman* in the Shanghai High Court.

Recent Asia-related international arbitrations have involved a number of major cases instructed by Chinese and Korean contractors, arising from their work on power and infrastructure projects in North Africa and the Middle East, as well as high value arbitrations for Asian clients in Hong Kong, Singapore and London.

Cases have included:

- Representing a Chinese state owned power company in ICC London proceedings arising from the construction of the world's largest power and desalination plant in Saudi Arabia.
- Representing a Chinese state owned power company in LCIA London proceedings arising from the construction of a desalination and power plant in Iraq.
- Representing a major Chinese bank in LCIA and LMAA arbitration proceedings arising from refund guarantees supporting a series of ship building contracts.
- Representing a Chinese shipyard in a ship building arbitration in London (LCIA) in a dispute with a Polish company arising from over 30 contracts together with enforcement proceedings arising from the successful award.
- Acting for a Chinese investor in an ICC arbitration concerning a joint venture project in a copper mine in Spain.
- Acting for a Chinese manufacturer in a CIETAC arbitration concerning a dispute over intellectual property rights.
- Acting for a Chinese contractor in its claim for delay and disruption costs arising from an extensive housing refurbishment contract for the Hong Kong government (Hong Kong International Arbitration Centre).

Information Technology

Adrian Hughes has substantial experience in IT disputes. His work includes disputes arising from hardware and software contracts and licensing agreements. He regularly acts for employers, suppliers and designers in providing advice during the course of projects and in representing clients in court and arbitration proceedings.

Experience includes:

- Acting for a high profile national football club against a designer/supplier in relation to a contract for a new computerised ticketing system for the club; case gave rise to issues of contract interpretation, fitness for purpose and performance.
- Acting for a leading company providing integrated networks in an action brought by a software designer and supplier in the Birmingham TCC in connection with the design and provision of a state of the art data management system.
- Acting in two large international arbitrations which involved issues as to the extent to which the employer could develop the software specification during the course of the project.
- Acting for contractor in relation to contract for the design and supply of automated car production system involving complex software issues.
- Acting for licensee in an international dispute over alleged breaches of a software licensing and distribution agreement.
- Instructed by IT supplier in relation to a dispute over a contract for the provision of online learning for an educational provider.- Also acting for the employer in a dispute with designer and supplier of computerised administration and information database for a national teachers association.
- Acting for the designer and supplier in claim for damages for termination of software contract for digital television access equipment.

Professional Negligence

Adrian Hughes maintains a wide-ranging and substantial professional liability practice.- He acts for and against accountants, auditors, valuers, architects, engineers and surveyors and IT professionals.

Experience includes:

- Acting for the developer in professional negligence claims against engineer and architect arising from a facade collapse during an iconic reconstruction project in Bradford City Centre.- The case involved complex liability and causation issues, together with previously untested damages and valuation issues.
- Acting on behalf of a well-known architect in long running adjudication and multiple court proceedings arising from the design and redevelopment of a historic estate in Herefordshire.
- Acting for structural engineers in relation to the design and foundations of a large warehouse in the Port of Tilbury in London, involving technical design issues as well as the extent of the duty to supervise construction.
- Acting for one of the professional defendants in a widely publicised matter concerning a local authority leisure centre in Hackney, London.- The dispute arose from a £20m claim by the local authority for damages arising from the design and construction of a landmark leisure centre.
- Representing valuers in a £40m negligence claim arising from Enterprise Zone Trust investments which raised complex issues of reliance and existence of loss.
- Acting for the employer against architects in relation to a large riverside housing development in the north east of England.
- Acting for investigative accountants in connection with a report prepared for company investors, involving issues of performance, reliance and quantum.

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Neil Block KC [APPROVED 30Aug22]

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“He is an absolutely outstanding litigator who elicits a huge amount of trust and confidence from his clients.” “One of the best silks around – he’s very hard-working, bright, tough and determined.” Chambers and Partners 2021

“He is a sublime barrister: very clever, sensible and concise.”

Chambers and Partners 2021

Neil Block KC has a reputation as a sensitive but brave advocate, a skilled negotiator and commercially aware practitioner. For many years, Neil has represented a range of clients involved in substantial and complex disputes which are resolved with or without resort to litigation and/or mediation or other form of alternative dispute resolution (ADR). Historically, his clients have usually been insurers, their insured, defence organisations, the government or other major institutions, and sports regulators, ruling bodies and clubs. He has

considerable experience of multi-party litigation and jurisdictional disputes. He is currently representing HM Treasury, HMRC and the Department for Work and Pensions (DWP) in the UK Covid-19 Public Inquiry.

Neil is one of the few current practitioners who can properly claim to be a specialist in a number of areas of practice ranging from commercial and insurance to sports law, product liability, personal injury and clinical negligence. His commercial and insurance practice is based in professional indemnity, material damage, fraud and product liability, and insurance coverage disputes.

Neil is consistently ranked highly in the legal directories for his work in insurance and reinsurance, professional negligence, clinical negligence, personal injury, product liability and travel. He continues to be ranked as one of Chambers and Partners' 'Star Individuals'. Chambers and Partners also named Neil in the Chambers 100, a list of the top 100 barristers practising at the Bar across all practice areas.

Neil is an accredited mediator and has conducted wide-ranging mediations. He is also a member of the Sports Resolution Legal Arbitrator and Mediation panels.

Neil was named Personal Injury Silk of the Year at the Chambers Bar Awards 2021. He was also awarded Personal Injury & Clinical Negligence Silk of the Year in The Legal 500 UK Awards 2019.

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Areas of expertise

- Sport
- Group litigation and multi-party claims
- Material Damage
- Insurance coverage/insurance and reinsurance
- Product liability
- Alternative dispute resolution
- Inquiries and Investigations
- Professional negligence

Sport

Neil has appeared in many of the landmark sports injury cases of the past 40 years. He is currently working on high-profile claims relating to concussion in rugby union and professional football, claims involving training and alleged abuse of gymnasts, and a claim relating to brain injury in professional boxing.-

Cases of note:

- *Smolden v Nolan* [Court of Appeal] - Seminal case on liability of referees for injuries in sport. Involved multiple scrummage collapses in rugby union match.
- *Watson v British Boxing Board of Control* [Court of Appeal] - Boxer injured in World Championship bout. Regulatory body held liable for failure to provide adequate medical facilities.
- *Slack v Glennie* [Court of Appeal] - Speedway sidecar crash. Claim against organisers and track owners. Issues about duty and standard of care.
- *O'Neill v Fashanu* [High Court] - One of numerous claims relating to alleged bad tackles in professional football matches in which Neil has been instructed.

- *Johnson v Brands Hatch* [High Court] - Serious crash in motor-cycle grand prix. Claim against organisers and track designers.-

Group litigation and multi-party claims

Neil has extensive and probably unparalleled experience of acting in major group and multi-party actions involving product liability, abuse, personal injury, clinical negligence, insurance and environmental damage.

Cases of note:

- *Various v NHS* - Neil represented various hospital and trusts defending claims of clinical negligence and product liability in relation to insertion of metal-on-metal hip prostheses.
- *Various Claimants v MOD* [Ongoing] - Neil is representing the MOD defending a large number of claims by service personnel alleging psychiatric injury resulting from the prescription of Lariam, an anti-malarial medication.
- *Various Claimants v NHS* [Ongoing] - Neil is representing various NHS hospitals and trusts defending a large number of claims alleging injury resulting from implantation of vaginal mesh.
- *Various Claimants v RFU* [Ongoing] - Neil is representing the Rugby Football Union (RFU) defending a large number of claims by ex-professional and amateur rugby union players alleging brain injury resulting from concussive injury playing rugby.
- The Kenyan Emergency Group Litigation [High Court] - Neil led a large team of leading and junior counsel successfully defending claims by 40,000 Kenyans alleging personal injury and other losses pre-independence at the time of the Mau Mau -uprising. This was the longest ever High Court trial.
- *ICF v Winterthus* [High Court] - A major and complex commercial dispute about after the event insurance, solicitors' negligence, and consumer credit relating to about 8,500 insurance policies.
- Environmental damage - Claim against multi-national company in respect of alleged water contamination resulting from mining operations in Africa.

- Historic abuse claims - Neil has been instructed in claims arising out of alleged abuse by celebrities e.g. Jimmy Savile, various sports organisations e.g. Barry Bennell (football), schools, and religious institutions.

Clinical negligence and personal injury

Neil has been instructed by defendants in many of the highest value, most complex and important clinical negligence and personal injury cases. His profile is evidence by being awarded the Personal and Injury and Clinical Negligence Silk of the Year awards (both Chambers and Partners and The Legal 500) on numerous occasions. His practice includes both individual claims and multi-party/group actions. These cases not only involve complex liability and quantum issues, but also jurisdictional and insurance issues.

These cases are too numerous to list to give a full range of examples, but include:

Cases of note:

- *Robshaw v United Lincolnshire Hospitals NHS Trust* [High Court]– An example of a birth trauma/cerebral palsy case. Record damages (at the time) were awarded. Complex quantum issues.
- *Mugweni v NHS London* [Court of Appeal] - Neil represented the defendant and successfully defended an alleged negligent obstetric case relating to the timing of delivery.
- *Various v Iain Paterson* [High Court] - Neil represented Mr Paterson, the breast surgeon alleged to have performed unnecessary and inappropriate surgery on many hundreds of patients.
- *Pike & Doyle v The Indian Hotels Company Limited* [High Court] - Neil represented the defendant hotel in claims relating to the Mumbai terrorist attacks.
- *Al Najjar v Cumberland Hotel* [Court of Appeal] - Neil successfully defended the Cumberland Hotel against claims from guests who were grievously injured by an intruder in their hotel rooms.

- Anonymised cases [High Court] - Neil represented defendants and their insurers in hundreds of motor, Employers Liability, Personal Liability, sports, abuse and other cases in which anonymity order have been made in relation to the identity of the parties. These cases have involved a range of liability and quantum issues. All involve injuries of the utmost severity.

Insurance coverage/insurance and reinsurance

Neil has advised on a range of coverage disputes including scope of cover, exclusions, limits of indemnity, aggregation, dual insurance, fraud and moral hazard.

He has recently advised extensively in relation to business interruption cover in relation to claims arising out of the Covid-19 pandemic.

Cases of note:

- *ICF v Winterthus* [High Court]– A major and complex commercial dispute about after the event insurance, solicitors' negligence, and consumer credit relating to about 8,500 insurance policies.
- *Harcourt v Pegasus* [High Court] - Contested issue about disclosure of policy terms and conditions and limit of indemnity to claimant.
- *Cheval Roc v Zurich Insurance* [High Court/Commercial Court]– Cliff collapse in Jersey. Successful defended claim on basis of coastal erosion exclusion.
- Confidential– Advising a regulator and various parties in relation to the business interruption insurance test litigation.
- *McGreggor v Prudential Insurance Company* [High Court]– Neil successfully defended this claim by the owner of a commercial premises under a fire insurance policy. The defence proved fraud.
- *Chappell v AXA* [Commercial Court]– Neil successfully defended a fire claim on the basis of non-disclosure and moral hazard. Occupier was operating a sex chat-line from the premises.
- Various construction-related coverage issues

Product liability

Neil has represented defendants in single and multi-party/group actions relating to product liability. These include pharmaceutical products, medical products, machinery, vehicles, food products, leisure equipment, building products and a range of other products.

Cases of note:

- *Metal-on-Metal Hip Litigation* [High Court] - Neil led the team representing all NHS hospitals and trusts defending the claims by patients alleging that the hip prosthesis implanted were defective.
- *Various v NHS* [High Court] - Neil is leading the team representing all NHS hospitals and trusts defending the claims by women alleging pain and injury following implantation of vaginal mesh.
- Confidential - Neil is representing a major fast food outlet in relation to a claim arising out of a fatal allergic reaction to a consuming a food product.
- Confidential - Neil is advising a product manufacturer/supplier in relation to claims arising out of the Grenfell Tower fire.
- *Various v MOD* [High Court] - Neil is leading the team defending the large number of claims by service personnel arising out of the prescription of Lariam, and anti-malarial medication.

Alternative dispute resolution

Neil is a mediator and also acts as counsel at mediations and joint settlement meetings. He is also on the mediation and arbitration panels of Sports Resolution.

Inquiries and Investigations

Neil is representing HM Treasury, HMRC and DWP at the UK Covid-19 Inquiry. This is the largest core participant government team, and the particular focus is on the financial and economic aspects of the pandemic.

Material Damage

Neil has represented defendants to claims for fire, flood, subsidence and other damage.

Many of these cases also involve issues of insurance coverage and injury and are listed above.

Cases of note:

- *Cheval Roc v Zurich* [High Court] - A property damage claim arising out of erosion of a cliff in Jersey. Neil successfully represented the defendant insurer.
- *Southwark v Woodwell London Limited and Gallagher* [High Court/ Technology and Construction Court (TCC)] - Neil represented the defendant contractor in relation to a fire at Walworth Town Hall arising out of hot works on the roof.
- *Trustees for Roman Catholic Purposes v Kimberley Clark* [High Court/TCC] - Neil represented the commercial waste paper recycler in relation to a serious fire at premises owned by Trustees for Roman Catholic Purposes. There were issues about causation, fire preventative measures and contract.
- *Adams v SSE* [High Court/TCC] - Neil successfully defended a claim that a fire at a rural property was caused by defective electrical equipment owned and maintained by the defendant supplier.

Professional negligence

In addition to medical and health professions (see Clinical negligence section of CV), Neil has acted for professionals and their insurers and defence organisations in a wide range of claims. In particular, he has recently represented solicitors, surveyors, accountants, and insurance brokers.

Cases of note:

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- *James v Jeffreys & Powell, Woolcombe v Kleinman Klarfeld, Richards v Hallmark* and many other similar cases - Claims in which it is alleged that solicitors have under-settled personal injury and clinical negligence claims.
- *Strathmore v Brown and RSA* - A broker's negligence claim following a building fire.
- Confidential valuer's negligence cases - Neil acted for both lenders and valuers during the heyday of such claims.
- Re: Bondcare [TCC/Adjudication] - Neil acted for project managers on a hotel development near Heathrow airport who were alleged to have been negligent.
- The Supertram Litigation [Court of Appeal] - Neil acted for the project manager in this long-running litigation. The claim was dismissed against his client with costs.
- *Allerdale DC v CSL Group* [Chancery Division]

Recommendations

“A heavyweight silk for the highest value and most complex of cases. Extremely knowledgeable; excellent negotiator and strategist. He works as a true member of the team with insurers and solicitors.” The Legal 500 2021: Personal Injury

“He is never flustered and always understands all the key issues, presenting them succinctly and with reassurance and respect for his audience.” The Legal 500 2021:

Travel Law

“Instils calm in clients through a measured but confident approach.” The Legal 500
2021: Clinical Negligence

“Provides excellent advice and his advocacy skills are impressive.” The Legal 500
2021: Insurance & Reinsurance

“He is a sublime barrister: very clever, sensible and concise. He is commercially minded and someone you ultimately trust to give you very good advice.”

“He is outstanding and a very smooth operator with an extremely authoritative voice. He is extremely calm when dealing with high-value and complex litigation.”

Chambers and Partners 2021: Personal Injury

“He is an absolutely outstanding litigator who elicits a huge amount of trust and confidence from his clients.” “One of the best silks around – he’s very hard-working, bright, tough and determined.” Chambers and Partners 2021: Clinical Negligence

“An extremely polished performer.” Chambers and Partners 2021: Product Liability

“Very persuasive in court and has excellent client care skills – he is able to put people at ease.” Chambers and Partners 2021: Travel: International Personal Injury

“An absolutely outstanding tactician with good understanding of this area of law and a mastery of large-scale litigation.” Chambers and Partners 2019: Travel:
International Personal Injury

“Neil is incredibly easy to work with, and has excellent client rapport.” “He’s a very accomplished and engaging advocate, who almost has you doubting your own case when you’re against him.” Chambers and Partners 2019: Product Liability

“A terrific advocate.” “He is vastly experienced in this sphere.” Chambers and Partners 2019: Clinical Negligence

“He’s very bright and determined.” “He is very subtle and quietly impressive.” Chambers and Partners 2019: Personal Injury

“An excellent tactician who is exceedingly sound on quantum” Chambers and Partners 2018: Clinical Negligence

“Commercially aware and a robust advocate.” A hugely impressive and supportive leading counsel who is respected by his peers.” “Unflappable, well respected and extremely talented.” Chambers and Partners 2018: Personal Injury

“He is very much a team player, who is excellent with clients and particularly skilled in negotiations.” Chambers and Partners 2018: Product Liability

“He is straightforward, knowledgeable and smart.” “He is very experienced and brilliant with clients.” Chambers and Partners 2018: Travel: International Personal Injury

“He is an arch pragmatist and understands the judicial mind intuitively.” The Legal 500 2017: Clinical Negligence

“He is authoritative and his judgement is invariably very sound.” The Legal 500 2017: Personal Injury, Industrial Disease and Insurance Fraud

“A versatile commercial barrister with a strong coverage expertise.” The Legal 500 2017: Insurance and Reinsurance

“He is very experienced and extremely knowledgeable in his field.” The Legal 500
2017: Product Liability

“Impressive.” The Legal 500: Professional Negligence

“A forensic and analytical mind, and the number-one silk for the highest value cases.”
The Legal 500 2017: Travel Law

“He has a wonderful ability to focus on the key issues and see the wood for the trees.”

“He is excellent and calm and has experience coming out of his ears.” Chambers and
Partners 2017

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Memberships

- London Common Law Bar Association
- Professional Negligence Bar Association
- Personal Injury Bar Association

Qualifications

- BA (Hons)
- LLM (Exon)
- Trained Mediator

Appointments

- Master of the Bench, Gray's Inn (2008)
- Sports Resolution Mediator and Arbitrator Panel

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John Tackaberry KC

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During his career at the Bar, John Tackaberry MA, LL.M (Pub Int Law), FCI Arb-has undertaken a wide range of work both as a Junior - e.g. *Pickin v British Railways Board* [1973] 1 QB 219, [1974] AC 765; *Anns v Walcroft* [1977] EGD 556, (sub *Nom Anns v Merton*) [1978] AC 728; *Birkett v James* [1978] AC 297 - before specialising as a Silk, initially in arbitration but subsequently including work in other capacities - for example, recently as a member of the Chartered Institute of Arbitrators Governance Tribunal.

As well as work in the UK, he has a great deal of expertise in international disputes throughout Europe, the USA, the Middle East, the West Indies, Africa, Hong Kong, Singapore, Malaysia, India and South America.- He is a member of, or has been admitted to, the Bars of California, Ireland, Hong Kong (ad hoc), Malaysia (ad hoc) and New South Wales, and has been heavily involved in ICC arbitrations.- He sat as a Recorder for 17 years and was appointed to the United Nations Compensation Commission for a five year term as chair of a construction panel.- He has written and contributed widely, including in particular as Principal Editor, to *Bernstein's Handbook of Arbitration and Dispute Resolution Practice*.

He undertakes work as an arbitrator, advocate, mediator, dispute board resolver, and adjudicator.

John has been consistently recommended as a leading Silk in "International Arbitration: Arbitrators" for many years – some examples are set out below:

"He doesn't miss a trick and leaves no stone unturned" Chambers & Partners 2020

"An outstanding arbitrator and mediator who has wonderful judgement" Chambers &

Partners 2019 *"He is an erudite lawyer and an outstanding arbitrator"* Chambers &

Partners 2018

Areas of expertise

- Construction
- Commercial

Construction

Construction cases have included disputes about a hotel project in the Gambia; the construction of *Fantasy Land* in Paris; a glass walling contract in London; a lift installation contract in Hong Kong; prefabricated housing in Saudi Arabia; the Mercury Court office development in Liverpool; the Westminster & Chelsea Hospital building; local authority housing rehabilitation schemes; the construction of a tertiary education campus in Hong Kong plus related areas of dispute such as copyright issues re architects' designs.

Commercial

Commercial work has included a taxi franchise in the High Court; a bus contract in Turkey; a shore dealing dispute in Hong Kong and continental Europe; a commission dispute arising out of *Westland v Saudi Arabia* (a major case in the 90s); a follow-on dispute to the CME television rights dispute; and an aircraft servicing dispute in Africa involving serious corruption issues.

Work at the UNCC involved five years of intensive dispute resolution on a paper-only basis utilising a locally based legal team.- 196 construction claims were addressed.- The total value of the claims exceeded \$3 billion.

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Richard Wilmot-Smith KC

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Richard is a specialist in all aspects of construction and engineering litigation and arbitration and has over forty years' experience in that field, thirty of them at the highest level. He has been in silk since 1994 and sits as an arbitrator and adjudicator worldwide in high value cases. He is Editor of Wilmot-Smith on Construction Contracts Fourth Edition OUP 2021.

His expertise also extends to issues involving European law, environmental law (including coal and nuclear power, and waste incidents), libel, health & safety, railways and oil & gas.- He has acted in litigation and arbitration concerned with major projects in the United Kingdom, the United States, Tanzania, Egypt, India, Singapore, Hong Kong, Canada, Iran, Iraq, Dubai, Qatar and Saudi Arabia.

His major projects include airports, roads, tunnels and structures, including ports and dry docks, housing estates, schools and universities, factories, transport and energy systems (including power stations), food processing, and oil platforms and refineries.- He has acted as advocate and as arbitrator, in the UK and abroad, in matters ranging from substantial and complex construction and commercial matters, to the smaller arbitrations.- His reputation is particularly strong in matters with a heavy technical and engineering content.

He is associated with innovation in court procedure, such as the *University of Manchester* case-(1984) 2 Con LR 43, where he persuaded the TCC to pioneer the first trial using witness statements as evidence in chief and, in 1995, appearing as Leading Counsel for Eagle Star in the six month long Carlton Gate case which was the first major paperless civil trial in the UK.

His past involvement in arbitration and litigation encompasses many iconic structures in the UK and abroad, such as the Tan-Zam highway, Dubai Creek, the GMEX complex, Lloyd's of London and the second Dartford Tunnel.- Recent matters in which he has been involved include London's 'Cheesegrater' building.

Richard commenced acting as arbitrator in 1989 in a large domestic construction dispute between a major national contractor and its steelwork sub-contractor.- He lectures on international arbitration and construction law extensively; most recently in New Zealand (NZ SCL), Hong Kong (HK SCL), Delhi (ICC) and London (SCL).

He is a frequent keynote speaker at commercially sponsored conferences - most recently in such arbitral centres as Abu Dhabi, Dubai, Singapore and Seoul.- He is author and editor of '*Wilmot-Smith on Construction Contracts*' (OUP Third Edition).

He has acted as sole arbitrator, party nominated arbitrator and chairman of arbitration panels under LCIA, DIAC and ICC Rules.

His appointments as sole arbitrator or chairman of the tribunal include:

- Sole arbitrator pursuant to ICC nomination in franchise dispute.- ICC rules: London seat. Parties: Turkish and South African.

- President of arbitration panel regarding oil facilities roads and warehousing in Iraq.- Seat: Paris.- ICC rules.
- Sole arbitrator pursuant to ICC nomination in a dispute concerning alleged delay and defects to 323 residential units in Bahrain.- Seat: Bahrain.- ICC rules.
- Chairman of arbitration panel regarding ancillary oil facilities in Iraq.- Seat: Dubai.- DIAC rules.
- Chairman of arbitration panel regarding a dispute relating to delay and defects in an estate comprising over 300 villas in Dubai.- Seat: Dubai.- DIAC rules.

As a panel member his party nominated appointments include:

- Multi-billion US dollar dispute concerning a hospital complex in Qatar.- Seat: London.- ICC rules.
- Disputes concerning an oil and gas treatment facility in Kuwait.- Seat: London.- LCIA rules.
- Disputes regarding a racecourse, hotel and sporting complex in Dubai.- Seat: Dubai.- DIAC arbitration.
- Dispute regarding a guarantee given under a construction contract in Qatar.- Parties: Qatari and Spanish.- Seat: London.- ICC rules.
- Dispute regarding the redevelopment of a hotel complex in Abu Dhabi.- Seat: Dubai.- DIAC Rules.
- Dispute about Heavy Naptha Hydrotreater and Continuous Catalytic Regeneration Platformer Unit and associated works off-shore and onshore in Trinidad.- Seat:- New York.- ICC rules.
- Dispute concerning delays and variations regarding an EPC contract for the procurement of nineteen non-process buildings.- Seat: UAE.- ICC rules.
- Dispute concerning EPIC contract for a Block 4 Riser Platform and sub-sea pipelines in Turkmenistan.- LCIA rules.

His experience in international arbitrations include power stations, hospitals, roads, oil platforms, undersea pipelines, naptha plants, docks and oil refineries as well as hotels, housing estates, tunnels and bridges.

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