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Legal 500 2020

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Chambers UK 2020

“A reassuringly safe pair of hands providing strategic and practical support from day one, who has a phenomenal grasp of case law.” “She’s hard-working and performs well on her feet.”

Chambers UK and Chambers Global 2019 Construction

Alexandra Bodnar is a sought-after barrister specialising in the litigation and arbitration of UK and international construction and commercial matters. She regularly represents clients in the English Technology & Construction Court and Commercial Court, as well as in front of international and domestic arbitral tribunals. Her work involves high-value, complex construction, engineering, infrastructure and energy projects across the globe. This includes PFI projects, EPC projects and substantial commercial supply projects. Much of her work involves allegations of professional negligence against construction professionals and claims concerning significant damage to property.

She has particular expertise in bonds and guarantees, including claims for injunctions to restrain guarantee demands, and in insurance coverage and avoidance matters.

In addition to acting as an advocate in adversarial proceedings, she advises clients. She also represents clients in alternative dispute resolution proceedings, such as mediation and UK construction adjudication (including

adjudication enforcement claims).

Alex is consistently recommended in Chambers UK, the Legal 500 and Chambers Global. She is recommended in the Legal 500, Chambers UK and Chambers Global for her construction work, and in the Legal 500 for her professional negligence work.

Alex speaks basic Russian.



PRACTICE AREAS

- Construction
- Regulatory & Disciplinary
- Commercial
- Alternative Dispute Resolution

SECTORS

- Energy
- Infrastructure
- Insurance

PRACTICE AREAS

CONSTRUCTION

Alex is an experienced construction and engineering junior, who acts for and against construction operators, professionals, owners, developers, insurers, funders and public bodies. Much of her work involves high-value, complex technical and legal issues in UK and international construction, engineering, energy and infrastructure projects. She deals regularly with cases involving allegations of professional negligence and significant damage to property (including as a result of fire, flood, landslide and contamination). She has been involved in a number of

PPP/PFI disputes, including in respect of the application of Payment Mechanisms, and related Facilities Management and service contract issues. She is familiar with EPC contracts, as well as the full range of typical standard form UK and international construction contracts. She appears regularly in the English Technology & Construction Court and in front of arbitral tribunals, as sole and junior counsel.

Alex has particular experience of bonds and guarantees and has been involved, as sole and junior counsel, in some of the leading modern cases on UK construction performance bonds (including the ABI model form). She is familiar with coverage and avoidance issues arising under CAR and other construction insurance policies.

Current and recent examples of Alex's construction work include:

- Acting as junior counsel on behalf of the employer/developer in this c. £9 million Technology & Construction Court claim against the design & build contractor concerning post-Grenfell cladding/fire design and workmanship defects at a tall building in Leeds involving a bespoke JCT contract (junior counsel).
- Representing one of two defendants in a £multi-million multi-party Technology & Construction Court claim about a fire in an industrial printing press caused by the failure of a fire suppression system, and consequent property damage (sole counsel).
- Representing the lead manufacturer and supplier of technical deep-sea submarine rescue equipment destined for the government of an East Asian Country, in a significant Technology & Construction Court claim and associated injunction proceedings concerning (amongst other things) delivery obligations and milestone payments (sole counsel).
- Representing a household name energy provider in these multi-party £multi-million professional negligence and contractual claims, concerning alleged defective wall insulation installed as part of one of the UK government's energy saving measures scheme (sole counsel).
- Advising the policy-holder under insurance policies on technical, contractual and insurance notification issues in these potential £multi-million new-build defects and structural damage insurance claims (sole counsel).
- Acted on behalf of the owner in this very large (multi-counsel) \$multi-million international arbitration concerning delays and significant defects at a high-profile ultra-low sulphur diesel processing plant in the Caribbean (junior counsel).

REGULATORY & DISCIPLINARY

Alex acts in professional negligence claims for and against professionals, often in a construction and engineering context. This includes allegations concerning architects, engineers, other designers, contract administrators and contract managers, as well as solicitors and financial advisers. She has also been involved in international regulatory proceedings.

Current and recent examples of Alex's professional negligence work include:

- Acting for a defendant in this £multi-million multi-party professional negligence claim arising out of the contamination of pipework and a failure to notify of the incident (sole counsel).
- Acting as junior counsel on behalf of the employer in this c. £9 million Technology & Construction Court claim against the design & build contractor concerning post-Grenfell cladding/fire design and workmanship defects at a tall building in Leeds (junior counsel).

- Representing a household name utilities provider in these multi-party £multi-million claims involving allegations of professional negligence against designers and specialist suppliers and installers, concerning alleged defective wall insulation at a large housing estate (sole counsel).
- Junior counsel as part of a large counsel team acting in a USD multi-million international arbitration concerning a high-profile engineering project and allegations against the EPC contractor (junior counsel).
- Advising a utilities provider in respect of contractual and jurisdictional issues concerning a pass-down £multi-million professional negligence claim against the designer and supplier of materials alleged to be defective (sole counsel).

COMMERCIAL

Alex has particular expertise in cases involving banking instruments including guarantees, performance bonds and letters of credit. She has been involved, as sole and junior counsel, in some of the leading modern cases on UK construction performance bonds (including the ABI model form). She has significant experience of obtaining and resisting claims for injunctions concerning demands on guarantees.

Alex advises and acts in cases involving international and domestic supply, distribution and transportation contracts, PFI contracts, facilities management contracts, share sale/purchase agreements, mis-selling and damage to goods, and fraud. She has experience of jurisdictional matters, including anti-suit injunctions and parallel proceedings. Alex's work also involves advising on coverage and avoidance issues under insurance policies.

Current and recent examples of Alex's commercial work include:

- Acting for the manufacturer and supplier of specialist deep-sea equipment in a significant \$multi-million Commercial Court claim arising out of the international supply of bespoke equipment to the government of an East Asian country (sole counsel).
- Obtaining an injunction in the Technology & Construction Court against a bank to restrain a \$multi-million fraudulent call on an on-demand guarantee (sole counsel).
- Advising a utilities company about a £multi-million claim for fraudulent misrepresentation and breach of a share purchase agreement arising out of the purchase of shares in a technologies business (sole counsel).
- Advising owners of a substantial housing development in relation to notification and policy trigger issues for a new-build guarantee provided by a well-known new-build insurance scheme (sole counsel).
- Acting in various £high-value disputes arising out of a PFI and related suite of contracts for UK schools, including interpretation of the facilities management agreement and the PFI payment mechanism (junior counsel).

ALTERNATIVE DISPUTE RESOLUTION

Alex appears and advises in arbitrations, domestic construction adjudications (statutory and non-statutory) and mediations. She has also been involved in ad-hoc and bespoke contractual binding and non-binding dispute resolution processes.

SECTORS

ENERGY

Alex acts in international cases involving high-value, complex engineering projects throughout the world. Her experience encompasses oil and liquified natural gas plants, water desalination plants, ultra-low sulphur diesel units and cross-border underground power cables.

Alex's UK energy work has involved buildings services management, wind turbines, a gas storage facility, a nuclear project, projects concerning carbon emissions reductions and energy efficiency measures, and large-scale housing insulation projects.

Current and recent examples of Alex's work in the energy sector include:

- Advising a household name energy supplier in relation to jurisdictional/parallel proceedings issues, in connection with a £multi-million claim concerning the sub-contract for the design and supply of energy saving measures (sole counsel).
- Advising an international energy and regeneration company about £multi-million claims encompassing technical and IT issues about the automation and remote management of buildings services (sole counsel).
- Advising a household name energy supplier in respect of a series of £multi-million claims arising out of the alleged defective design, supply and installation of external wall insulation on a large housing project (sole counsel).
- Part of a large counsel team acting in a \$multi-million international arbitration concerning delays and defects at a novel engineering plant in the Caribbean (junior counsel).
- Part of a large counsel team acting on behalf of a sub-contractor in a \$multi-million international arbitration concerning a range of claims for payment in connection with works at a liquified natural gas plant (junior counsel).

INFRASTRUCTURE

Alex is and has been involved in cases about utilities networks, pipelines, gas storage, a nuclear facility, stadia, bridges, cranes, the London underground, the London Olympics 2012, motorways and schools. She has extensive experience of PFI and related contracts. Her international infrastructure work has also involved cross-border power cables and various engineering projects of significance.

Current and recent examples of Alex's infrastructure work include:

- Acting for the manufacturer and supplier of specialist highly-technical deep-sea submarine rescue equipment destined for the government of an East Asian Country, in a number of £multi-million Commercial Court and Technology & Construction Court disputes involving multiple parties in different jurisdictions (sole counsel).
- Acting for a defendant in a multi-party claim about contamination of a water pipe network as a result of building works (sole counsel).
- Acting on behalf of a crane hire company in Technology and Construction Court proceedings arising out of the erection of bridges on the M6 motorway in the UK (sole counsel).

- Part of a large counsel team acting in a highly technical \$multi-million international arbitration encompassing various claims and counter-claims in respect of a significant engineering project in the Caribbean (junior counsel).
- Advising and acting on behalf of a local authority in £multi-million Technology and Construction Court proceedings and various adjudications encompassing issues about the provision of utilities at schools, under PFI contracts (junior counsel).

INSURANCE

Alex advises on coverage and avoidance issues under insurance policies (including notification, fraud, extent of cover and policy exclusions). She has particular experience of typical construction insurance policies: CAR (including joint names issues), professional indemnity, property damage, building defects and public liability policies. In addition, much of her work involves subrogated claims on behalf of insurers.

Alex also has expertise in cases involving guarantees, performance bonds and letters of credit. She also acts in related claims on indemnities consequent on payments under bonds and guarantees.

Current and recent examples of Alex's insurance work include:

- Advising insurers on the scope of a joint names insurance provision in a CAR policy (junior counsel).
- Acting for a manufacturer in the successful pursuit of an injunction against a bank to restrain payment to a third-party beneficiary under an on-demand guarantee, and (in separate proceedings) in resisting an attempt to obtain an injunction to restrain the manufacturer from claiming under an on-demand guarantee (all as sole counsel).
- Advising the policy-holder on notification and policy-trigger issues in potential £multi-million new-build defects and structural damage insurance claims (sole counsel).
- Represented the successful employer, Ziggurat, in its TCC claim against the bondsman under an amended ABI model form of performance bond arising out of the construction contractor's insolvency (sole counsel).
- Advised a professional building owner and developer on coverage issues arising out of the high-profile collapse of a household-name construction contractor.

CASES

Commercial

Ziggurat (Claremont Place) LLP v HCC International Insurance Company Plc [2017] EWHC 3286 (TCC)

Hackney Empire Ltd v Aviva Insurance Ltd (on interest) [2013] EWHC 2212 (TCC)

Aviva Insurance Ltd v Hackney Empire Ltd (on appeal) [2012] EWCA Civ 1716

Hackney Empire Ltd v Aviva Insurance Ltd (first instance) [2011] EWHC 2378 (TCC)

Chesterton Global Ltd v Finney [2010] (Lawtel ref: AC0124712)

Construction

Cleveland Bridge UK Ltd v Sarens (UK) Ltd [2018] EWHC 827 (TCC)

Cleveland Bridge UK Ltd v Sarens (UK) Ltd [2018] EWHC 751 (TCC)

AECOM Design Build Limited v Staptina Engineering Services Limited [2017] EWHC 723 (TCC)

CSG (Stratford) Ltd and others v ASB Contractors Ltd and others [2013] EWHC 2868 (TCC)

Squibb Group Limited v Vertase FLI Limited [2012] EWHC 1958 (TCC); [2012] EWHC 3194 (TCC)

Vertase FLI Limited v Squibb Group Limited [2012] EWHC 3194 (TCC)

Berry Piling Systems Ltd v Sheer Projects Ltd [2012] EWHC 241 (TCC)

NAP Anglia Ltd v Sun-Land Development Ltd [2011] EWHC 2846 (TCC)

Cundall Johnson & Partners LLP v Whipps Cross University Hospital NHS Trust [2007] EWHC 2178; [2007] BLR 520

RECOMMENDATIONS

Alex is recommended by Chambers & Partners, the Legal 500 and Chambers Global for construction. Alex is recommended by the Legal 500 for professional negligence.

Quotes

"She provides a detailed and forensic analysis of legal issues, has a commercial approach and is very much a team player." "She is hard-working and a pleasure to work with, and delivers practical and user-friendly advice." Chambers UK 2020 Construction

"Regularly acts unled in court" Legal 500 2020 Construction

"Her approach is dynamic and enthusiastic." Legal 500 2020 Professional Negligence

"A reassuringly safe pair of hands providing strategic and practical support from day one, who has a phenomenal grasp of case law." "She's hard-working and performs well on her feet." Chambers UK and Chambers Global 2019 Construction

"Her clarity of thought is astounding. She has an ability to grasp the nettles the first time she gets the papers and her written work is staggering." "Hard-working and a pleasure to work with. Delivers practical and user-friendly advice" Chambers UK 2018 and Chambers Global 2018

"She has exceptional technical ability and never loses sight of commercial considerations" Legal 500 2018

Historic quotes include: *"She has a good grasp of technical detail and offers great support throughout a case"* *"She has a great work ethic"* *"She does not sit on the fence and quickly gets on top of the issues"* *"Bright and dedicated, she's a first-rate talented junior"* *"She has a very approachable manner and a confident style"* *"An unequivocal, decisive junior who quickly gets on top of the issues"* *"She is commercial, precise, with attention to detail, very*

practical" "Her client care skills and knowledge of the law are fantastic" "Excellent, smart and gets to the nub of things really quickly".

QUALIFICATIONS

BVC, BPP Law School 2003 – 2004

Inner Temple Exhibition Scholarship 2003 – 2004

LLB Law, Bristol University 2000 – 2003

ADDITIONAL INFORMATION

PUBLICATIONS & SEMINARS

Wilmot-Smith on Construction Contracts (3rd Edition) – Contributor

The Projects and Construction Review (4th Edition) (forthcoming) – Contributor

Practical Law Construction Blog – **Harbour View, contractor insolvency and the importance of a guarantee expiry date**

Practical Law Dispute Resolution Blog – **Fraudulent claims: Terry v BCS Corporate Acceptances Limited**

Alex is a regular speaker at seminars and in-house training sessions, in the UK and abroad. Recent topics have included: commercial contracts update; the Bribery Act; reasonable settlement; and construction professional negligence update. Alex spoke recently in Kiev, Ukraine on jurisdictional issues and litigating in England, and at the launch of the British-Azerbaijani law association.

Alex is a contributor to LexisNexis' online practice notes on international arbitration and Westlaw's UK Insight.

Her articles include statutory construction adjudication in the UK: past, present and future (2012) (with John Wright (Goodman Derrick LLP)) and Laker Vent Engineering v Templeton Insurance and notification in complex construction projects, Sweet & Maxwell's Insurance and reinsurance law briefing January 2010 (with Sarah Mather).

LANGUAGES & OTHER INFORMATION

Alex has very good spoken French and has basic Russian.

Alex is an experienced horse rider and is the current joint secretary of the bar riding club (Pegasus Club).

In 2005 Alex spent six months working as a stagiaire in the Legal Services division at the European Commission in Brussels, where she gained experience of competition law, free movement of goods and product liability matters.

LONDON

81 Chancery Lane,
London
WC2A 1DD
Tel: +44 (0)20 7832 1111
DX: London/Chancery Lane 298
Fax: +44 (0)20 7353 3978

MANCHESTER

82 King Street,
Manchester
M2 4WQ
Tel: +44 (0)16 1870 0333
Fax: +44 (0)20 7353 3978

SINGAPORE

Maxwell Chambers,
28 Maxwell Road,
04-03 & 04-04, Maxwell Chamber
Suites
Singapore 069120
Tel: +65 6320 9272

KUALA LUMPUR

#02-9, Bangunan Sulaiman,
Jalan Sultan Hishamuddin,
50000 Kuala Lumpur,
Malaysia
Tel: +60 32 271 1085
