



John Denis-Smith is a commercial barrister who dedicates his energy, knowledge and ingenuity to getting clients the quickest and most favourable results. Previous experience as a construction litigator in top tier solicitors' firms has given him a closer understanding of a client's needs and a grasp for the best strategic approach to managing high-value disputes.

In his approach to disputes, he explores all angles, persistently building on the evidence to identify the best options for a successful resolution. He has been praised for his "coolness and tenacity" in arguing his client's case. John's experience is wide and ranges across all dispute resolution areas, including mediation and arbitration, as well as various sectors, from construction, 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.

PRACTICE AREAS

- Construction & Commercial
- Alternative Dispute Resolution

PRACTICE AREAS

CONSTRUCTION & COMMERCIAL

Construction disputes include:

- 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

General Commercial disputes include:

- 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

ALTERNATIVE DISPUTE RESOLUTION MEDIATION

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

ADJUDICATION

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

Litigation

Cases include:

Advising Employer client on seeking summary judgment on claim enforcing advance payment bonds given by insurers in relation to construction contract in West Africa.

Property damage claims arising out of fire damage to buildings and contents

Acting for Defendant in claim of fraud arising out of investment in mining resources in developing state

Defending claim for damages in relation to termination provision of services to multinational retailer

Employer's claim under bespoke warranty relating to NHBC Warranty Scheme

TCC cases include the cases below:

Aldersgate Estates Ltd v HAM Construction Ltd [2013] EWHC 104 (TCC)

Claim for Employer for damages arising out of collapse of listed building during development works.

Berry Piling Systems v Sheer Projects [2012] EWHC 241 (TCC) 141 CON LR 225

Successfully enforcing an adjudication decision in the face of allegations of a breach of natural justice. John also successfully defeated an application via the defendant for a stay of execution on the grounds of the claimant's financial position.

Bertram v Dawes [2011] EWHC 3070 (TCC)

John was led in the above case, in a claim for fees and defence to a multi-million pound counterclaim for professional negligence by an architect against a high net worth individual client. The case was the culmination of disputes arising out of work at the Dinmore Manor Estate in Herefordshire.

King & Anor v Thipthorp & Others (2016, unreported 11 February 2016)

Successfully objecting to elements of other parties' proposed costs budgets and obtaining the client's costs of the challenge, in the first case on objections where the proposed costs budgets were held not to be unreasonable overall.

Persimmon Homes (South Coast) LTD v (1) Hall Aggregates (South Coast) LTD (2) Cemex UK Properties LTD [2009] EWCA Civ 1108, [2012] EWHC 15 (TCC)

A claim for damages and declarations concerning a contract for the sale and development of land. John was successful in obtaining for the client an order for payment of sums for the performance which the client had not requested the Defendant to perform.

Shepherd & Neame & Ors v EDF Energy Networks (SPN) Plc & Ors (QBD (TCC)) 29 January 2008 [2008] EWHC 123 (TCC)

This case entailed the successful defence of claims in nuisance and negligence arising out of fire damage to properties previously owned by the client.

Other recent litigation experience includes the successful defence of an application for an injunction against a construction professional. The case was brought by the client's former employers on the grounds that his new business's operations entailed breaches of copyright and the use of confidential information.

Tradebe Solvent Recycling Ltd v Coussens of Bexhill Ltd [2013] EWHC 3786 (QB)

Claim for costs arising out of crane collapse: successful claim at trial on issues of fact whether costs claimed were incurred as a direct consequence of the accident and recoverable as steps taken in mitigation.

Arbitration

Cases involve acting for arbitrator in Court challenge under Arbitration Act 1998 section 24(1)(a) and advising arbitrator on challenge by party, including allegations of breach of Data Protection legislation.

Acting in arbitration proceedings

LMAA proceedings involving claims for payment, extensions of time and associated relief in relation to the construction in South East Asia of oil drilling vessels for use in North Sea.

LMAA proceedings involving alleged oral agreements in relation to contract for oil drilling in the South Atlantic.

LCIA proceedings defending a US \$90m claim for damages arising out of an alleged breach under an exclusive manufacture and distribution agreement for pharmaceuticals. The dispute included claims by the other party for damages and also an account of profits, hence raising questions of emerging law of restitutionary remedies for breaches of contract.

Advising a Middle Eastern client

John advised on a multi-million dollar dispute under foreign law arising from delays in the construction of a hotel in the UAE.

Advising a local authority

John advised a local authority on disputes concerning jurisdiction and alleged time bars in engineering disputes.

Other work involved:

- Claim under foreign law arising from delays in construction of hotel in UAE
- Multi-party dispute under foreign law concerning dispute resolution clauses and acceleration agreements in relation to construction of mass transit system
- Disputes including effect of time bar provisions in contract between local authority and contractor

APPOINTMENTS

Fellow of the Chartered Institute of Arbitrators

MEMBERSHIPS

- The King's College Construction Law Association.
- The Young International Arbitration Group.
- The Commercial Bar Association.

QUALIFICATIONS

MSc Construction Law & Arbitration, Distinction, King's College London: 2005

King's College Construction Law Association Prize for best performance by a second year student: 2004
(MSc in Construction law & Arbitration)

Society of Construction Law Prize for best dissertation (MSc in Construction law & Arbitration): 2004

The Bickerdike Allen Prize for best performance by a first year student
(MSc in Construction law & Arbitration): 2003

Bar Vocational Course, Inns of Court School of Law: 1997

Prince of Wales Scholarship, Gray's Inn, London: 1996-97

Diploma in Law (CPE), City University, London: 1996

BA English Language & Literature, First Class Honours, St John's College, Oxford: 1993

Book Prize, St John's College, Oxford: 1993

ADDITIONAL INFORMATION

PUBLICATIONS

- Contributor to Practical Law and Westlaw Insight on construction law issues.
- 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 (conversational)

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