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Legal 500 – 2019

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Samar Abbas specialises in construction and commercial disputes, with a particular emphasis on international arbitration (in relation to which he is regularly ranked in legal directories as a leading junior). He has been involved in disputes concerning parties in the Middle East, Asia- Pacific and the Caribbean, and has particular expertise in technically complex matters concerning large developments and infrastructure projects.

Before coming to the Bar, Samar graduated from Yale University where he majored in Economics and Political Science. He then spent a number of years working as a management consultant and strategy professional, and brings to the Bar extensive knowledge of the pharmaceutical, telecommunications and consumer packaged goods industries. As an advocate, he has particular experience of handling disputes arising from joint ventures, long-term commercial relationships and construction projects.

Samar has a particular interest in international work, having worked in Asia, Europe, Middle East and North

PRACTICE AREAS

- International Arbitration
 - Commercial
 - Construction & Engineering
-

PRACTICE AREAS

INTERNATIONAL ARBITRATION

International arbitration constitutes a sizeable proportion of Samar's practice, along with litigation concerning arbitration. He has experience of both ad-hoc and institutional arbitrations, in particular those conducted by ICC, LCIA, HKIAC, SIAC, JCAA and JAMS. A significant portion of his arbitration practice touches upon construction and infrastructure disputes, and he writes frequently on the subject (including the arbitration chapter of the most recent (3rd) edition of Wilmot-Smith on Construction Contracts).

Examples of recent work include:

- Acting for a joint venture in HKIAC arbitration concerning a substantial project in East Asia. Amounts in dispute approx. US\$200m.
- Represented a contractor in ICC arbitration concerning a significant infrastructure project in the Middle East. Amounts in dispute approx. US\$200 million.
- Represented a state-owned Petroleum company in ICC arbitration with an EPC Contractor in the Caribbean. Amounts in dispute approx. US\$500 million.
- Represented the contractor in SIAC arbitration with a sub-contractor relating to an iconic construction project in Dubai. Issues of Emirati and Singapore law, as well as complex engineering and scientific evidence. Amounts in dispute over UK\$100 million.
- Currently advising a Middle Eastern consortium in relation to proposed LCIA arbitration arising out of a joint venture dispute in South Asia. Amounts in dispute approx. US\$35 million.
- Represented a Japanese information technology company and several of its subsidiaries in JCAA arbitration against South Asian distributors.
- Acted (with Clifford Chance Asia) for an American manufacturing conglomerate in a dispute with an Indian joint venture party in ad-hoc arbitration administered by SIAC, raising novel issues of the proper law of the arbitration agreement and the seat of the arbitration.
- Assisted Ricky Diwan QC in ICC arbitration between a Caribbean government and a South American aluminium company relating to the establishment of an aluminium smelter.
- Assisted David Brynmor Thomas QC and Jess Connors in LCIA arbitration arising out of a

manufacturing joint venture in India.

- Acted (as sole counsel) in an application for an anti-suit injunction.
- Acted in an action to enforce an ICC Award.
- Advised a Middle Eastern conglomerate in relation to an ICC arbitration relating to a telecommunications dispute with an African government.

COMMERCIAL

Samar has a broad commercial practice, with a particular focus on cross-border disputes and private international law. His work encompasses banking and financial services, civil fraud, company law, energy (including oil & gas disputes), insurance contracts and professional negligence. In addition to his substantial international arbitration practice, he appears regularly in the High Court (Commercial Court, TCC and the Chancery Division) both by himself and as junior counsel. As a sole advocate, he appears most frequently in jurisdictional and enforcement disputes, winding up proceedings, and applications for interim relief such as freezing and search orders.

Samar brings a number of years of experience working in the commercial world to the Bar and has a strong understanding of clients' commercial needs. While his previous work encompassed a wide cross-section of industries, he has particular familiarity with the financial services, pharmaceuticals and telecommunications sectors and expertise in issues involving complex quantitative analysis.

Examples of work include:

Commercial Litigation

- **Sheik Tahnoon Al Nehayan v Ioannis Kent** (Commercial Court): acting for a member of a Middle Eastern royal family in a dispute with a developer concerning luxury hotel investments in Europe: multi-week trial concerning fiduciary obligations and implication of contractual duty of good faith in a joint venture.
- **Taylor v Van Dutch Marine Holding Ltd** (Chancery Division): acting (with James Ramsden QC) for a creditor in a series of proceedings against debtor companies and their directors involving issues of jurisdiction, enforcement and contempt of court.
- **3M v The States of Guernsey** (Commercial Court): successfully defending (with Stephen Tromans QC and Karim Ghaly QC) the US-based 3M Company and its UK subsidiary, 3M United Kingdom PLC, in a c£28m product liability claim brought by the States of Guernsey; multi-week trial involving e-bundles.
- Acting for a financial advisor in a substantial Commercial Court dispute involving allegations of complex fraud; successfully resisting a worldwide freezing order; currently listed for a multi-week trial.
- Acting (with James Ramsden QC) for a foreign investor in UK real estate in ongoing Commercial Court proceedings involving a number of offshore entities and allegations of complex and multi-jurisdictional fraud.
- **Skyscanner v Competition and Markets Authority** [2014] CAT 16: successfully intervening (with Duncan Sinclair) against CMA's decision to accept commitments to remove certain discounting restrictions for online travel agents; first case of its kind successfully argued before CAT with major implications for major hotel and travel groups.
- Acting as sole counsel for a financial services professional in ongoing Chancery Division proceedings

involving allegations of embezzlement; acting in applications involving freezing orders and tracing orders.

- Acting (as a sole advocate) for an American professional services firm in a multi-jurisdictional battle for the recovery of unpaid professional fees.
- Acting for a Japanese information technology company and several of its subsidiaries against South Asian distributors.
- Advising a Middle Eastern consortium in relation to a joint venture dispute in Pakistan.
- Advising on application to the Commercial Court to obtain an anti-suit injunction to enforce an arbitration clause.
- Advising on international enforcement proceedings against an offshore trust company.
- Advising an investment advisory firm on payment of fees for services rendered.
- Appearing for a telecommunications company in a strike out application.

Financial Services

- Acting as sole counsel for an investment management firm in claim brought against a broker in relation to certain bond transactions; claim raised issues relating to set-off (and the parties' ability to exclude its operation via contract), and the allocation of bonds procured in response to a customer's order.
- Working with Edwin Glasgow QC and Marion Smith on the Commission of Enquiry before Sir Anthony Colman into the collapse of Colonial Life Insurance Company (Trinidad) Ltd, CLICO Investment Bank Ltd, British American Insurance Company (Trinidad) Ltd and other entities in the CL Financial Group and the Hindu Credit Union Co-operative Society Ltd. The Enquiry's terms of reference encompass the effectiveness of the accounting and auditing firms and the institutional, regulatory and statutory bodies with oversight responsibility involved, including the Central Bank and Securities and Exchange Commission in Trinidad and Tobago.
- Advising an offshore financial regulator on enforcement proceedings against a trust company.
- Advising a Collective Investment Scheme administrator on licensing in an offshore jurisdiction.
- Advising the UK office of a foreign financial services firm on the risk-based customer due diligence requirements of the Money Laundering Regulations 2007.
- Advising an investor on a proposed negligence claim against a financial advisor.
- Advising a multinational corporation on the impact of the UK Bribery Act 2010 and US FCPA on international commercial transactions.

CONSTRUCTION & ENGINEERING

Samar has experience of a wide range of construction and engineering disputes, ranging from residential buildings to commercial premises and infrastructure projects. He is familiar with the major standard forms of construction contract and, alongside his international arbitration practice, has experience of adjudication, domestic arbitration and TCC litigation. In addition to experience which has been listed above under "International Arbitration", examples of construction & engineering work include:

- Acting (with Karim Ghaly QC) for Project Co. in disputes with the Construction Contractor and the FM Contractor arising from pipework and heating failures in a hospital. Issues include: engineering defects; facilities management failures; consideration of metallurgical evidence; attribution of liability.
- Acting (with Sean Wilken QC) for an NHS Trust in a dispute with Project Co. arising from a PFI Contract. Issues include: fire compartmentation; whole Hospital Unavailability; construction of and validity of Notice of Unavailability; interpretation and application of Safety Condition; access.
- Acting (with Karim Ghaly QC) for Project Co. in disputes with the New Build Contractor and Refurbishment Works Contractor arising from a regeneration scheme involving hundreds of new homes. Issues include: service diversion works; delays; attribution of liability between Project Co. and the subcontractors.
- Acting (with Richard Wilmot-Smith QC) in multiple related disputes arising out of a partnering agreement relating to a local authority's housing stock.
- ***In the Matter of Caribbean Scene Ltd (in administration)*** (TCC) (Ramsey J): appearing as sole counsel for defendant contractor in its application for a final charging order against the Claimants before the TCC, where the court considered it appropriate to depart from the fixed charge regime.
- Advising a Sub-Contractor on the validity of a withholding notice purportedly given under s.111 of the Housing Grants, Construction and Regeneration Act 1996.
- Advising an Employer in relation to proposed proceedings against a Contractor arising out of disputes as to delay.

CASES

Sheikh Tahnoon Al Nehayan v Ioannis Kent

Competition Appeal Tribunal in Skyscanner v Competition and Markets Authority

Taylor v Van Dutch Marine Holding Ltd

3M v The States of Guernsey

RECOMMENDATIONS

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"Extremely smart, commercial and a pleasure to work with" Legal 500 Asia Pacific 2017

"pays attention to details" and "extremely prompt in his responses" Legal 500 Asia Pacific 2016

MEMBERSHIPS

- Young International Arbitration Group
- ICC Young Arbitrators Forum
- International Bar Association
- COMBAR
- TECBAR
- Society of Construction Law

QUALIFICATIONS

- Yale University, BA, Economics & Political Science (Distinction, Pi Sigma Alpha)
- BPP Law School, GDL (Distinction)
- City University, BPTC (VC)

ADDITIONAL INFORMATION

In addition to his previous work as a management consultant, Samar has worked on a judicial reform project funded by the Asian Development Bank and was an active participant in the judicial independence movement in Pakistan. He has written on the subject in numerous newspaper, magazine and journal articles in the UK, USA and Pakistan.

Publications

Co-author of the arbitration chapter of "Wilmot-Smith on Construction Contracts", 3rd Edition

Editor of the UK chapter of "Projects and Construction Law Review", 5th Edition

Author of the "Banking and Bills of Exchange" volume of Atkin's Court Reforms

Contributor to "Shackleton on the Law and Practice of Meetings", 14th Edition

"Good Faith Duties in Construction Contracts: An Overview" (with Adrian Hughes QC). Singapore Journal of Construction Law (Vol 2, 2018).

"English Anti-Suit Injunctions in Support of Arbitration" (with David Hopkins). Dispute Resolution International (upcoming October 2019).

Languages

Samar is proficient in Urdu, Hindi and Punjabi, and has basic knowledge of French.

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