



CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE  
ENERGY, NATURAL RESOURCES AND UTILITIES  
TRANSPORT  
GENERAL COMMERCIAL  
ADR APPOINTMENTS  
PROFESSIONAL NEGLIGENCE  
PUBLIC INQUIRY

## Jonathan Acton Davis KC

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### PRACTICE

Jonathan specialises in domestic and international litigation and arbitration in the construction, civil engineering including geotechnical issues and energy sectors, and all related technical disputes. Throughout his career, he has handled many high-profile cases representing governments (British and overseas), contractors, and their professional advisers all over the world.

He regularly appears as counsel in English High Court litigation and arbitration, both domestic and international. He also acts as arbitrator, adjudicator and mediator, and in expert determination.

Internationally he has conducted ad hoc, ICC and UNCITRAL arbitrations in Asia-Pacific (Singapore), The Middle East (Dubai, Oman), Central Asia (Kazakhstan), the Caribbean and Europe (Paris, Brussels, Sweden, Switzerland and London) in relation to disputes arising out of projects in Europe, Africa, India, the Middle East, the Caribbean, Central and South-East Asia.

In addition to this, between 2005 and 2010 he advised and acted for the British government in a number of mediations and trials for DEFRA against contractors arising out of the foot and mouth outbreak and other epidemics. In 2009 he was appointed as Lead Counsel to the Al-Sweady inquiry, the public inquiry called to investigate allegations relating to the unlawful killing and mistreatment of Iraqi detainees by British soldiers at UK bases in 2004. Jonathan was appointed as a deputy high court judge in 2008 and sits regularly in the Technology and Construction Courts.

Jonathan has been recognised for many years as a leader in the field of construction law, including in the most recent editions of the legal directories, Chambers & Partners and The Legal 500.

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## CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

Throughout his career Jonathan has dealt with the whole range of issues arising in the field including the interpretation of Standard Forms of Contract such as JCT, NEC, FIDIC and ICE, contractors' claims for loss and expense, defects claims, residential and commercial buildings, housing estates, motorway widening schemes, road construction, town and city redevelopments, bottling plants, shoreline breakwaters, the construction of manufacturing and process plant, mining, the causes and effect of fire, landslips and building collapses, and local authority and central government work.

## INTERNATIONAL

- Advising and acting in High Court litigation between American corporations arising out of a process plant in Ireland and taking part in the New York mediation processes which resulted in compromise of the claims.
- Advising and acting in an ICC arbitration for a Lebanese employer concerning the engineering works intended to result in the remediation of a landfill site in Beirut used between 1975 and 1994 for the disposal of construction waste, municipal waste and unexploded ordinance.
- Advising and acting in an ICC arbitration for a main contractor concerning the construction of new terminal buildings, aprons, taxiways, car parks and roads at Bole Airport, Addis Ababa, Ethiopia.
- Advising and acting for a Middle Eastern Government in two unrelated arbitrations in Oman in relation to claims brought by the contractor arising out of the design and construction of highways.
- Advising contractors concerning two major highway disputes in Nigeria that were part of West Africa's first Public Private Partnership (PPP) Project.
- Advising a sub-contractor and preparing submissions for an arbitration appeal in the Republic of Ireland.
- Advising a contractor in a Highway dispute in Lebanon.
- Advising the Government of Gibraltar in two unrelated disputes concerning the construction of housing.
- Acting in an ICC arbitration in Zurich by a Dubai client concerning a hotel development in Baku, Azerbaijan.
- Acting in a LCIA arbitration in London between a Saudi Arabian construction company and an Indian construction company in respect of the construction of a 200km pipeline carrying drinking water across the Kingdom of Saudi Arabia, Sharia Law precepts were used.
- Appointed in international arbitrations in respect of mining disputes in Australia and Russia.

## DOMESTIC

- Acting in relation to an application to remove an arbitrator under section 24 of the Arbitration Act 1996 on the grounds of apparent bias **Cofely Ltd v Bingham & Anor** [2016] EWHC 240 (Comm).
- Advising both leaseholders and developers on cladding issues on high rise blocks consequent on the fire at the Grenfell Tower. Also advising a Government Department on those issues arising out of the fire.
- Acting in a case to determine costs following the successful claim to enforce an adjudicator's decision re: a dispute concerning a new conveyor system at a West Midlands factory in **Savoie And Savoie Ltd v Spicers Ltd** [2015] EWHC 33 (TCC).
- Acting in a part 8 claim brought for a declaration as to the proper interpretation of a clause in a partnering contract in **Lovell Partnerships Ltd & Anor v Merton Priory Homes** [2014] EWHC 1615 (TCC) [2014] BLR 541.
- Advising and acting for the main contractor in a series of adjudications concerning a hospital in South London redeveloped and refurbished under PFI contracts.
- Acting on a local authority dispute arising out of an application to enforce an adjudicator's award where the paying party objected to summary judgment on the basis that the adjudicator had failed to observe the principles of natural justice.
- Acting as advocate in a number of other adjudications involving local and central government projects including a remand centre, a water treatment plant and a hospital redevelopment and refurbishment.
- Acting on a dispute arising from whether a contract is binding despite absence of agreement on certain essential terms.
- Advising and acting for the contractor on a defects claim arising out of a large retail development.
- Advising and acting in a claim made by a Central London hotel developer in the High Court. **Embankment Place Hotels (Blackfriars) Ltd. v Blackfriars Hotels Ltd. & Anor** [2003] EWCA Civ 588
- Advising and acting for an international retailer in High Court litigation arising out of defects in the construction of its anchor site and the ancillary areas. **Co-Operative Retail Services Limited and Others v. Taylor Young Partnership and Others** [2002] UKHL 17.
- Advising and acting for Japanese construction conglomerate Kajima in a High Court litigation in a dispute over the construction of a housing estate.
- Advising and acting for Bechtel on an adjudication arising from a dispute involving a wastewater treatment works in Scotland.
- Advising on an adjudication arising out of the Eurostar development at St Pancras.
- Advising acting for the employer in High Court litigation concerning Guernsey Airport. **States of Guernsey v Jacobs UK Ltd** [2011] EWHC 918 (TCC).
- Advising and acting in High Court litigation for a landowner in a dispute with the developer over a substantial housing project.

- Advising and acting on behalf of the manufacturer in review board proceedings between the Ministry of Defence and the manufacturer in relation to the development, manufacture and supply of missiles.
- Advising the employer in a dispute arising out of the refurbishment of two luxury hotels.
- Advising and acting for a local authority in High Court litigation concerning its acquisition of housing estates against the Seller and its professional advisors. **Gold Group Properties Ltd v BDW Trading Ltd (formerly Barratt Homes Ltd)** [2010] EWHC 1632 (TCC) and [2010] EWHC 323 (TCC).
- Appointed for the employer in connection with a dispute regarding the design and construction of a high quality residential and premium quality hotel development in London, comprising two Towers of 57 and 42 storeys.

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## ENERGY, NATURAL RESOURCES AND UTILITIES

Jonathan has broad experience of both domestic and international disputes in relation to gas and oil pipelines, power stations and oilrigs. Case examples include:

- Advising in an ICC arbitration in Singapore between a Scottish engineering company and a Philippine based power plant manufacturer.
- Acting in a LCIA arbitration in London between an American construction company and a Middle Eastern oil rig construction company.
- Acting for the main contractor on a gas pipeline dispute in Bangladesh.
- Advising the main contractor in a number of power station disputes in India.
- Advising and acting for the contractor in High Court litigation concerning the decommissioning and dismantling of North Sea oil and gas platforms.
- Advising and acting for the purchaser in High Court litigation in a warranty dispute concerning the sale of a power station and its assets.
- Advising and acting for contractors relating to geotechnical engineering dispute for a dam in the Far East producing hydroelectric power.
- Acting for oil rig contractors in a dispute concerning an oil field in the Middle East and geotechnical engineering.
- Acting for pipeline contractors in a dispute concerning a freshwater pipeline in Saudi Arabia. Issues involved geotechnical engineering.

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## TRANSPORT

He has represented, among others, governments and contractors on disputes arising from road and rail projects and infrastructures. Case examples include:

- Acted for Thales in a case concerning a new tram operating system for the existing Manchester Metrolink system and on extensions to it. **Transport for Greater Manchester v Thales Transport & Security Ltd** [2012] EWHC 3717 (TCC).

- Advising and acting in two multi-million pound factually unrelated domestic arbitrations in highway disputes for HM's Secretary of State for Transport.
  - Acting as adjudicator in eight unrelated disputes concerning main and underground railways.
  - Advising the contractor in four unrelated disputes concerning the manufacture, supply and installation of tram systems.
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## GENERAL COMMERCIAL

In addition to the specialised areas above, Jonathan is regularly instructed on general commercial disputes. Case examples include:

- Advising and acting in six cases for DEFRA against contractors arising out of the foot and mouth outbreak.
  - Advising and representing a governmental department of the Sultanate of Oman in an arbitration relating to a breach of contract under Sharia Law.
  - Advising on the agency structure of a chain of house-building limited companies for the house builder.
  - Acting for the employer on an arbitration appeal to the High Court concerning mining.
  - Acting for the supplier on an arbitration appeal to the High Court concerning the treatment of wool.
  - Acting for the contractor on an arbitration appeal to the High Court concerning a lighting and maintenance contract.
  - Acting for the guarantor under a rescheduling agreement in successfully resisting summary judgment sought by the Dubai Islamic Bank in the English Commercial Court on the bases, among others, that the Bank had repudiated the agreement on which it relied and had itself engineered the default of the principal debtor. Sharia Law formed part of the contract.
  - Acting in two separate High Court cases where the extent of privilege attaching to a mediation was considered and decided upon.
  - Acting in an expert determination concerning defects in university buildings under a PFI contract.
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## PROFESSIONAL NEGLIGENCE

Jonathan has a great deal of experience in the professional negligence field, acting for claimants, defendants and their indemnity insurers in relation to claims brought against a wide range of professionals to include auditors, valuers, solicitors and construction professionals. He has worked on many high-profile cases including the landmark case **Watts v Morrow** [1991] WLR 1421 on measure of damages in surveyors' negligence disputes.

He has advised on a professional negligence action in the Royal Court, Samedi Division, Jersey. The claim concerned liability for refurbishment works which had overrun in time and cost.

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## PUBLIC INQUIRY

From November 2009 he was appointed as Leading Counsel to the **Al-Sweady Inquiry** (Chairman Sir Thayne Forbes) which was charged by the Secretary of State to investigate and report on allegations of murder and brutality by the British Army of Iraqi Nationals following an ambush on 14th May 2004.

Considerable research and investigation had to be done into what was alleged to have occurred. The hearings lasted just over one year: a total of 282 witnesses were called. The Report was published on 17 December 2014.

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## ADR APPOINTMENTS

### ARBITRATOR

- Appointed as party nominated arbitrator (ICC, Bahrain seat) in respect of defects from the construction of an office building and associated infrastructure.
- Appointed as sole arbitrator in a dispute between a developer and the building owner in relation to substantial office premises in Almaty, Kazakhstan (ICC).
- Appointed as party nominated arbitrator in an ICC arbitration in Singapore in an engineering dispute between a state-owned Middle Eastern international airline company and the repairer of its engines in relation to the in-flight failure of an engine.
- Appointed as party-nominated arbitrator (ICC) in respect of a manufacturing facility in UK.
- Appointed as party-nominated arbitrator (DIFC-LCIA seat Dubai) in respect of claims from the subcontract for the design and build of all mechanical, electrical and plumbing services for a new city in suburb in the Middle East.
- Appointed as party-nominated arbitrator (DIFC-LCIA) in respect of claims during the construction of a marine terminal located in the Middle East.
- Appointed as party-nominated arbitrator (DIAC, Dubai seat) in respect of two hotels situated in UAE.
- Appointed as party-nominated arbitrator (UNCITRAL rules, Oman seat) in respect of two gas supply stations situated in Oman.
- Appointed as arbitrator under LCIA Rules in 12 separate disputes involving Kazakhstan companies within the energy sector.
- Acting as sole arbitrator in a dispute over the design and construction works of a museum in the UK. (Contract worth over £40million) (AD Hoc London).
- Appointed as party nominated arbitrator (LCIA) in respect of the design, supply and implementation of photovoltaic solar panels at a renewable farm in the UK.
- Appointed as arbitrator (one of two) in a breach of contract claim under the law of contract in Guernsey.

## ADJUDICATOR

- Appointed as Adjudicator to a DAC Panel in respect of a £295million PFI Scheme for an NHS Trust in the North of England. The contract provides for construction of new buildings, refurbishment of existing estate and ongoing maintenance of the new, modern state-of-the-art facilities. Acting as an adjudicator in a defects and delay dispute in relation to the construction of Court Buildings.
- Acting as an adjudicator in a defects and delay dispute in relation to the construction of Court Buildings.
- Acting as Adjudicator regarding the development works to a football/sports stadia in UK.
- Acting as an adjudicator in six unrelated disputes concerning main and underground railways.
- Acting as an adjudicator in a defects dispute on a biofuels plant in the North of England.
- Acting as adjudicator in a dispute over the mechanical and electrical erection works of a natural gas-fired combined cycle plant in the UK. (Claim for over £40million).
- Acting as adjudicator in relation to building services consultancy work on a landmark development in the City of London. (Contract worth over £240million).
- Acting as adjudicator in a dispute relating to the delay on the installation of machinery and associated works at a biological treatment facility in the UK.
- Acting as an adjudicator in seven related disputes concerning NHS Trusts.
- Appointed to a DAB in respect of two power stations in Africa.

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## QUALIFICATIONS AND AWARDS

2021	ADGM Arbitration Centre's Panel of Arbitrators
2020	Accredited TECBAR adjudicator, arbitrator, and DRB member
2008-date	Deputy High Court Judge
2004-2008	Member, Legal Services Consultative Panel
2001-2002	Chairman, Bar Council Professional Conduct and Complaints Committee (previously Vice Chairman)
2000	Recorder, authorised to sit in civil and criminal matters
1997	Assistant Recorder
1995	Bencher of Inner Temple

## NOTABLE CASES

**Petroleum Co of Trinidad and Tobago Ltd v Samsung Engineering Trinidad Co Ltd** [2017] EWHC 3055 (TCC)

**Cofely Ltd b Bingham and Knowles Ltd** [2016] BLR 187

**Savoie And Savoie Ltd v Spicers Ltd** [2015] EWHC 33 (TCC).

**Lovell Partnerships Ltd & Anor v Merton Priory Homes** [2014] EWHC 1615 (TCC) [2014] BLR 541.

**Transport for Greater Manchester v Thales Transport & Security Ltd** [2012] EWHC 3717 (TCC).

**Dubai Islamic Bank v PSI Energy Holding and others** [2011] EWHC 2718 (Comm)

**States of Guernsey v Jacobs UK Ltd** [2011] EWHC 918 (TCC).

**Gold Group Properties Ltd v BDW Trading Ltd (formerly Barratt Homes Ltd)** [2010] EWHC 1632 (TCC) and [2010] EWHC 323 (TCC)

**Ruttle Plant v DEFRA** [2010] 1 All ER (Comm) 444, [2009] 1 All ER 448 and [2008] 2 All ER (Comm) 264

**Farm Assist v DEFRA** [2009] BLR 399

**Cumbria Waste Management v Lakeland Waste Management** [2008] BLR 330

**Balfour Beatty v London Borough of Lambeth** [2002] BLR 288

**Groundshire v VHE Construction** [2001] BLR 395

**Mitsui Babcock v John Brown Engineering** [1996] 51 Con. LR 129

**Galoo Ltd v Bright Grahame Murray** [1994] 1WLR 1360

**Watts v Morrow** [1991] 1 WLR 1421

**Ascon Contracting v McAlpine** (rep in the Construction Industry Law Letter)

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## ADDITIONAL INFORMATION

Jonathan is a member of TECBAR, COMBAR, LCLCBA and PNBA.

He has a good working knowledge of French.

## RECENT RECOMMENDATIONS

*"Jonathan is very calm and has a very sophisticated way of operating and cross-examining: he's much more subtle and he's a very smooth operator."*

*"He's the fastest to react to any unexpected developments and he's the voice of reason when the tribunal is confused."*

*"He gives excellent, commercially sensitive advice."*

Construction, Chambers UK Bar 2023

*"Jonathan is very commercially minded and has great instincts."*

Construction, The Legal 500 2023

*"He is so experienced as a construction barrister who has seen everything. He's a confident and reliable advocate."*

Construction, Chambers & Partners UK Bar 2022

*"He is immensely charming, which he uses to great effect on his feet. He's done it all before, which gives clients enormous confidence in him."*

Construction, The Legal 500 2022

*"A very good advocate. He's very smooth and urbane when dealing with tribunals, and has an understanding of what will sway them." "He has a voice like velvet, a fantastic demeanour and is very adept at judging a tribunal and persuading them with effective cross-examination."*

Construction, Chambers & Partners UK Bar 2021

*"Jonathan is as smooth as silk and backs it up with perfect manners covering a steel core"*

Construction, The Legal 500 2021

*"A great courtroom tactician and advocate." "Excellent, calm and controlled but deadly in cross-examination. He is a reassuring presence to have on one's side." "Gives strong, robust advice."*

Construction, Chambers & Partners UK Bar and Global 2020

*"Calm, authoritative and incisive."*

Construction, The Legal 500 2020

The above are a selection of recent client endorsements from the leading legal directories, both UK and internationally. For a complete list of endorsements, please contact the practice management team at Atkin Chambers.