



CONSTRUCTION, ENGINEERING AND
INFRASTRUCTURE
ENERGY, NATURAL RESOURCES AND UTILITIES
INFORMATION TECHNOLOGY AND
TELECOMMUNICATIONS
PROFESSIONAL NEGLIGENCE
TRANSPORT
GENERAL COMMERCIAL
ADR APPOINTMENTS

Martin Bowdery KC

Call Date: 1980, Silk: 2000 // mbowdery@atkinchambers.com

PRACTICE

"Inventive intellectually and tactically superb" Martin Bowdery KC practises as an advocate, arbitrator, mediator and adjudicator in construction and engineering disputes, including geotechnical, and has been involved in many high-profile cases in this sector. Clients comment he is *"at the top of his game: he wants to win his cases and he does so"* (The Legal 500). In recent years he has appeared principally in the High Court, the Court of Appeal, the Supreme Court and before various international arbitral tribunals. He has had numerous appointments as arbitrator or adjudicator. He sits as a Deputy High Court Judge of the Technology and Construction Court.

Martin's principal areas of expertise are complex disputes arising out of major capital projects. He has advised upon all major forms of infrastructure, transport and engineering contracts. He acts for and against all parties to the construction process, including foreign and domestic government departments, owners, employers, architects, engineers, surveyors, project managers, contractors, sub-contractors and insurers.

Martin has been recognised for many years by the legal directories, Chambers and Partners and The Legal 500, as a leading silk in the fields of construction and professional negligence. Clients comment that he is *"tenacious and inventive"* (The Legal 500) and *"He is among the most imaginative barristers I have dealt with when approaching a problem - he will think about it in a different way to unlock the issues"* (Chambers and Partners).

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

“Martin is a go-to KC for any complex construction disputes” Construction, Chambers and Partners 2021

In recent years Martin’s practice has mainly been concerned with international commercial arbitration acting for overseas commercial clients and governments in a series of ICC arbitrations or other international arbitrations where the claims have been in excess of \$400 million. His role has been as lead advocate acting with the assistance of teams of foreign and/or English lawyers. These disputes involved complex engineering, including geotechnical aspects, insurance and financial issues requiring large numbers of expert witnesses based in many different jurisdictions.

As part of his general domestic practice in recent years, he has advised upon all forms of standard form contracts and has drafted various engineering and construction contracts. He has also been asked to advise in respect of substantial procurement and PFI contracts, and has been instructed in respect of numerous TCC trials, adjudications and arbitrations, and various applications to enforce or to resist the enforcement of adjudication decisions and arbitration awards.

INTERNATIONAL

- Acting in an ICC Arbitration relating to a dispute over the termination of a contract to build two hospitals in Ghana.
- Acted in a DIAC arbitration relating to a dispute over the termination of a contract to build three residential tower blocks in Qatar in a claim valued at in excess of \$70m.
- Acted in relation to a DIAC international arbitration, with a Dubai seat. Represented the respondent engineering contractors in a \$100m dispute over an unfinished tower block in Dubai.
- Advising as Leading Counsel for Kenyan engineers on a dispute between East African Governmental agency and consulting engineers arising out of terminated contract for port expansion works. Claims were arbitrated in London (with successive appeals to High Court of Tanzania), involving issues as to lawfulness of termination, currency of award and the effects of currency devaluation.
- Acting for South African contractors in respect of a housing development in the Republic of Gabon.
- Advising in a dispute relating to a project to design, procure and construct a single train LNG plant and related facilities in West Africa. Various issues have arisen on the project causing significant delay and disruption. The Contractor was seeking to recover direct loss and expense and other costs amounting to over \$300m by way of a global claim relating to alleged delay and disruption in the post-First Cargo period.
- Instructed by the Claimant to lead a Counsel team of three to pursue claims concerned with the design and specification and the construction of a jackup drilling rig for exploration and extraction in the North Caspian Sea in Kazakhstan. Issues concerned the interpretation of various contractual design risks. The arbitration proceedings are also concerned with issues of jurisdiction that relate to the application of Kazakh law and determining and establishing the fundamental right of Kazakh companies to engage in International Arbitration at all. Claims and cross claims in excess of US \$100m.

DOMESTIC

- Appointed by the general secretary of Unite the Union to undertake an inquiry into its Birmingham hotel and conference centre project. The report was handed to Unite in December 2022.
- Lead Counsel in respect of major defect claims arising out of design and construction of the Blackpool Tram Depot.
- Lead Counsel to represent the Local Council in a 16-week trial in the Technology and Construction Court. The dispute arose out of a contract based on the Manual of Contract Documents for Highways Works to provide highways maintenance services, **Amey LG Ltd v Cumbria County Council** [2016] EWHC 2856 (TCC) and [2016] EWHC 2946 (TCC).
- Lead Counsel in arbitration proceedings relating to a PET plant and the delayed provision of isometric drawings and interconnecting piping.
- Advising in respect of claims made in relation to two of the largest naval ships in the world.
- Instructed on a multi-million-pound dispute regarding dry walling and cladding on a high rise UK project.
- Instructed by engineer on multiple separate H&S matters regarding legal responsibilities in respect of site injuries / fatalities.
- Advising and representing clients in High Court and Court of Appeal regarding harbour redevelopment works in UK. Issues involved geotechnical engineering.
- Advising and representing a client in disputes as to whether time for completion of the works at Wembley Stadium were set at large and advised on the main acceleration, delay and loss and expense claims at Wembley Stadium.
- Advising and representing a client in respect of a major quantum meruit claim arising out of the design and construction of Coventry Football Stadium.
- Advising and representing Associated British Ports in the successful defence against a clause 12 claim involving major geotechnical issues advanced by the European designers of the dock-strengthening works at Southampton. Trial in High Court in London lasted three months.
- Advising and acting in relation to disputes arising from:
 - Various motorway construction claims.
 - Major water and sewage treatment plants.
 - Loss and expense claims arising from shopping centre redevelopments, road construction and road maintenance contracts, and numerous commercial developments.

ENERGY, NATURAL RESOURCES AND UTILITIES

“One of the most imaginative barristers I’ve come across – sees things from angles other people don’t and which other people have missed.” Construction, The Legal 500 2021

Martin has broad experience representing domestic and international contractors on disputes arising out of the development and exploration of oil and gas fields all over the world, and the design and construction of power stations. His recent cases include:

- Lead Counsel with three juniors for the joint-venture purchaser in its highly technical claim for damages for breach of the asset warranties contained in a share purchase agreement concerning the largest combined cycle gas turbine power station in Europe. The JV claimed damages of £121 million. The case was listed for 11 weeks and was one of The Lawyer’s “Top 20 cases of 2013”.
- Advising main contractors in the resolution of various final account claims at two British nuclear power plants.
- Leading Counsel in an ICC Arbitration (value of claims in excess of several hundred millions) regarding an EPC Project under FIDIC orange book for the construction of a potash and magnesium oxide plant in Jordan. Claims for loss and expense, extension of time. Dispute concerned responsibility for errors of FEED.
- Advising in a dispute relating to a project to design, procure and construct a single train LNG plant and related facilities in West Africa. Various issues have arisen on the project causing significant delay and disruption. The Contractor is seeking to recover direct loss and expense and other costs amounting to over \$300m by way of a global claim relating to alleged delay and disruption in the post-First Cargo period.
- Advising and representing contractors on claims regarding a combined cycle power plant at Little Barford, Cambridgeshire.
- Advising and representing domestic and foreign contractors in respect of numerous nuclear, electricity, waste-to-power and combined cycle power stations.
- Advising on various defects, delay and measurement disputes relating to offshore oil rigs, oil and gas pipeline contracts, and FPSO units.
- Advising on claims for defective computer installations at oil refineries, power stations and defence installations.
- Advising and representing domestic and international clients in respect of major claims arising out of the construction of LNG plants.

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

"An excellent and very astute lawyer, and a subtle and effective operator in court." "A great legal mind and great on his feet too." Construction, Chambers UK Bar and Global 2020

Martin's practice also encompasses a substantial number of computer and IT related disputes. He has advised in respect of, and settled, contracts for the installation of new computer systems as well as preparing and drafting final settlement agreements in respect of disputes involving under-performing computer systems. In recent years he has been instructed in the following matters:

- Advising and representing a foreign contractor in respect of a defective computer installation at a major international airport.
 - Advising and helping resolve claims arising out of a defective computer installation used throughout a major water authority.
 - Advising and representing a computer supply company in respect of major claims arising out of procurement errors committed by the British Government in respect of multi-million-pound procurement contracts for computer services for the Ministry of Defence.
 - Advising on an action in respect of defective software for a major transport operator.
 - Advising on claims for defective computer installations at oil refineries, power stations and defence installations.
 - Advising on claims arising out of the termination of a £900m NHS IT contract.
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PROFESSIONAL NEGLIGENCE

"Tenacious and inventive" The Legal 500 2021

Martin has experience acting for or against a wide range of professionals including engineers, architects, surveyors, accountants, solicitors and financial services advisers in numerous multi-million-pound professional negligence actions.

Recent cases include:

- Acting for developers against a firm of solicitors, who having taken advice from a specialist construction KC, advised that they could terminate a contractor's employment to construct a block of flats in Manchester.
- Acting for geotechnical engineers resisting claims for alleged negligence in respect of ground stabilisation design works.
- Acting for the engineers engaged in connection with the design and construction of the Tesco Store at Gerrards Cross.
- Acting for the engineers engaged in connection with the re-development of the Birmingham Children's Hospital.

TRANSPORT

"An excellent strategist and extremely adroit at handling tribunals." Construction, The Legal 500 2020

- Advising and representing Costain in respect of claims arising out of the new runway on Ascension Island.
 - Advising and representing the engineers responsible for the design of the second runway in Manchester.
 - Advising and representing Jarvis on numerous adjudications arising out of their renewal and maintenance contracts with Railtrack and Network Rail.
 - Advising and representing in respect of various claims arising out of bus and tram operation contracts.
 - Advising and representing London Underground in respect of an action regarding defective computer software.
 - Advising and representing three separate engineering firms responsible for the design of three Jubilee Line underground stations.
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GENERAL COMMERCIAL

"A silk who takes into account the commercial reality of disputes, is good with clients and is prepared to argue a client's case sensibly." Construction, Chambers UK Bar and Global 2020

- Advising and representing the Cameroon Government in successfully setting aside an ICC Arbitral Award made in favour of Transnet Limited of South Africa who had bought maintenance contracts in respect of Cameroon Airlines aircraft through bribes and corruption.
- Advising and representing minority shareholders in claims against majority shareholders in a company which owned and managed a hospital in Dubai.
- Advising and representing a party allegedly in breach of a facility agreement and associated documents governed by the law of Abu Dhabi and Saudi Arabia.
- Advising and representing NHS Trust in an adjudication concerning a company's entitlements to a price adjustment of £40million under the terms of a PFI contract.

ADR APPOINTMENTS

Martin has been appointed by the Chairman of the Bar and the President of the Royal Institute of Chartered Surveyors to sit on tribunals, and to act as adjudicator and arbitrator in respect of major construction and engineering disputes. He is a Fellow of the Dispute Board Federation. In 2018 he was elected a full (Arbitrator) Member of The Society of Construction Arbitrators and in 2021 he was appointed to ADGM Arbitration Centre's Panel of Arbitrators.

Examples of cases

- Party nominated arbitrator in ICC Arbitration in respect of a dispute in Mozambique.
- Party nominated arbitrator in an AIAC Arbitration in respect of a Mobile Offshore Production Unit. Governing Law: Laws of Malaysia, Seat Kuala Lumpur.
- Party nominated arbitrator in an ICC Arbitration in respect of a dispute in Oman. Claim in excess of \$50 million.
- Party nominated arbitrator in an ICC arbitration, seated in Botswana regarding delays in the construction of a bridge over a river and associated approach roads. Claims in excess of US\$45million.
- Party nominated arbitrator in a ADCCAC arbitration, seated in UAE in relation to the construction of a luxury hotel and serviced apartments in Abu Dhabi. Claims in excess of US\$200million.
- Sole arbitrator in an ICC arbitration regarding a dispute arising under two subcontracts for civil engineering and construction works on the mainland of Tanzania in relation to and in support of a major electrification project. Amount in dispute \$4m.
- Party nominated arbitrator in an ICC arbitration, seated in Qatar in relation to defects and breach of contract for the design of two suspension bridges in Qatar. Claims in excess of US\$130million.
- Party nominated arbitrator in an ICC arbitration, regarding extension works and associated delays to a rapid transit railway system located in Middle East.
- Party nominated arbitrator in an ICC arbitration regarding an upgrade programme for a major road of over 130km in Ethiopia.
- Party nominated arbitrator in an ICC arbitration regarding geotechnical defects in a marine terminal facility constructed in the Dominican Republic under a FIDIC contract. Claims in excess of US\$20million.
- Appointed as adjudicator in two separate adjudications regarding a PFI project for the design and construction of seven new schools in the North East of England and defects in the roof and gas facilities.
- Appointed as adjudicator (TECSA) regarding the termination of a PFI contract for the design and construction of a college for the Ministry of Defence.
- Appointed as expert regarding a contract for the design and construction of a large accommodation facility for the Ministry of Defence at one of its Naval bases in the UK. The dispute related to the appropriate remedial scheme for the fire proofing and cladding work.

- Appointed as adjudicator in respect of the interpretation of a contract for the supply, installation and reading of water meters in the Greater London area.
 - Appointed as adjudicator in respect of the refinancing of a PFI contract.
 - Appointed as adjudicator in respect of a data centre in London.
 - Appointed as adjudicator in respect of a hotel in Newcastle upon Tyne.
 - Appointed as an expert in respect of IT services provided to a local authority.
 - Successfully mediated a matter regarding the construction and refurbishment works at a hospital in UK. Claims related to alleged breach of contract and professional negligence.
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NOTABLE CASES

SITTING AS DEPUTY HIGH COURT JUDGE OF THE TCC

Mallino Development Ltd v Essex Demolition Contractors Ltd [2022] EWHC 1418 (TCC)

J Wanstall & Sons v Fridays Ltd [2022] EWHC 2759 (TCC)

Toppan Holdings Ltd and Abbey Healthcare (Mill Hill) Ltd v Simply Construct (UK) Ltd [2021] EWHC 2110 (TCC)

Rotamead Ltd v Durston Scaffolding Ltd & Ors [2020] EWHC 2738 (TCC)

Philip Freeborn, Christina Goldie v Daniel Robert De Almeida Marcal (Trading as Dan Marcal Architects) [2019] EWHC 454 (TCC)

Burgess & Anor v Lejonvarn [2018] EWHC 3166 (TCC)

Southern Gas Networks PLC v Thames Water Ltd [2016] EWHC 1669 (TCC)

AS COUNSEL

Hirst & Anor v Dunbar & Ors [2022] EWHC 41 (TCC)

Boxwood Leisure Limited -v- (1) Gleeson Construction Services Limited (2) M J Gleeson Group Limited [2021] EWHC 947 (TCC)

Blackpool Borough Council v Volkerfitzpatrick Ltd and Range Roofing and Cladding Ltd & Ors [2020] EWHC 387 (TCC)

Stelio Stefanou v A Culmer Fixing Service Limited [2018] EWHC 2208 (TCC)

Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd (Costs) [2017] EWHC 2299 (TCC)

Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd [2017] EWHC 1763 (TCC)

Hastings Borough Council v Manolete Partners PLC [2016] UKSC 50

Amey LG Limited v Cumbria County Council [2016] EWHC 2856 (TCC)

Ampleforth Abbey Trust v Turner & Townsend Project Management Limited [2012] TCLR 8

PHI Group Limited v Robert West Consultancy Limited C.A. [2012] BLR 329

Whesoe Oil & Gas Limited v William John Dale [2012] PNLR 33

Vision Homes Limited v LancsVille Construction Limited [2009] BLR 525

Galliford Try Infrastructure Ltd v Mott MacDonald [2008] 120 ConLR 1

Haden Young Ltd v Laing O'Rourke Midlands Ltd [2008] ABC LR 05

Multiplex Construction (UK) Ltd v Honeywell Control Systems Ltd [2007] BLR 195

Multiplex Construction (UK) Ltd v Honeywell Control Systems Ltd [2007] BLR 167

Associated British Ports v Hydro Soil Services [2006] All ER (D) 269

(1) Taylor Woodrow Holdings Limited (2) George Wimpey Southern Counties Ltd v Barnes & Elliott Ltd [2006] BLR 377

Baker & Davies PLC v Leslie Wilks Associates [2005] 3 AER 603

Jarvis Facilities Ltd v Alston Signalling Ltd [2004] 95 Con LR 55

Cameroon Airlines v Transnet Ltd [2004] EWHC 1829 (Comm)

QUALIFICATIONS AND AWARDS

2023	Member of Adjudication Society
2021	ADGM Arbitration Centre's Panel of Arbitrators
2020	Accredited TECBAR adjudicator, arbitrator, and DRB member
2020	Governing Bencher of Inner Temple
2018	Full (Arbitrator) Member of The Society of Construction Arbitrators
2015 - 2017	Chair of TECBAR
2015	Fellow of the Dispute Board Federation (DBF)
2004	Deputy High Court Judge, Technology and Construction Court
2000	Queen's Counsel
1980	Called to the Bar (England and Wales) Inner Temple
1978	BA (Oxon) Philosophy, Politics and Economics, Pembroke College, Oxford

LEGAL TEXTS

Editor: *Hudson's Building and Engineering Contracts* 12th Edition

Contributor: *Contemporary Issues in Construction Law Volume III*

Contributor: *Construction Law Handbook* published by Thomas Telford Publishing

Editor: *International Construction Law Review* published by Lloyds of London 1983-87

ADDITIONAL INFORMATION

Martin was Chairman of TECBAR 2015 - 2017. He is a member of COMBAR, the SCL and a Fellow of the Dispute Board Federation. In 2018 he was elected a full (Arbitrator) Member of The Society of Construction Arbitrators.

RECENT RECOMMENDATIONS

"He's really good on merits-based approaches, and he's incredibly positive and big picture-focused as well."

"He works with a great deal of determination, skill and tenacity, drawing on years of experience."

"Martin is very experienced, and this shows in his ability to deal strategically with cases and his clear, technical advocacy."

Construction, Chambers UK Bar 2023

"Martin is a persuasive advocate with huge gravitas. He is a great creative thinker and has been a go-to Silk when in particular tricky situations that need considered input to achieve the best outcome possible."

Construction, The Legal 500 2023

"Martin is a very fine advocate, eloquent, forceful & tenacious. He advises decisively and has an excellent way with clients. Approachable yet intellectually rigorous."

Professional Negligence, The Legal 500 2023

"He's very good with clients and a shrewd operator in court."

Construction, Chambers UK Bar 2022

"A well-spoken advocate who is thoroughly prepared and quick on his feet. His case law knowledge is detailed and thorough."

Construction, The Legal 500 2022

"A well spoken advocate, who is thoroughly prepared and quick on his feet."

Professional Negligence, The Legal 500 2022

"Inventive intellectually and tactically superb, Martin goes that extra mile and is a go-to KC for any complex construction disputes." "He is among the most imaginative barristers I have dealt with when approaching a problem - he will think about it in a different way to unlock the issues."

Construction, Chambers UK Bar 2021

"Tenacious and inventive."

Professional Negligence, The Legal 500 2021

"One of the most imaginative barristers I've come across – sees things from angles other people don't and which other people have missed."

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"An excellent and very astute lawyer, and a subtle and effective operator in court." "A great legal mind and great on his feet too." "A silk who takes into account the commercial reality of disputes, is good with clients and is prepared to argue a client's case sensibly."

Construction, Chambers UK Bar and Global 2020

"An excellent strategist and extremely adroit at handling tribunals."

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.