



MEDIATION  
ARBITRATION

## Michael Shane

Arbitrator and Mediator // [mshane@atkinchambers.com](mailto:mshane@atkinchambers.com)

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### PRACTICE

Respected by clients for his commercial approach and “*ability to see the big picture*”, Michael Shane is a highly regarded mediator and arbitrator. He specialises in complex international commercial disputes arising in a wide range of industry sectors and practices including construction and infrastructure, energy and utilities, banking, insurance and intellectual property as well as other commercial areas.

He was a trial lawyer in California and Hawaii before becoming Executive Vice President, General Counsel and Director of URS Corporation, San Francisco. Since 1994 he has been a full time mediator and arbitrator, mediating in excess of 1500 major disputes in the US, South America, Europe, Asia, Australia and Africa and acting as arbitrator in over 150 cases involving complex commercial matters both in the US and internationally.

Michael has taught basic and advanced mediator training courses for the American Arbitration Association; the Australian Commercial Disputes Centre, Sydney; and the Hong Kong International Arbitration Centre. He has also lectured and written extensively on the subject of ADR.

He is recommended in the most recent editions of the legal directories as a leader in his field and is identified for his expertise in handling large construction projects disputes, as well as for his good track record in broader commercial, banking and IP disputes.

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### MEDIATION

Michael’s vast mediation experience includes disputes relating to massive construction and infrastructure projects including vertical (buildings, including hotels and hospitals), horizontal (highways, bridges, and transport systems) and subsurface projects as well as power systems and process plants. Many of these disputes have involved complex design liability issues. In addition to construction related disputes, Michael has mediated a multitude of commercial, intellectual property and banking cases. He has additional specialty in international disputes of various kinds, including major governmental infrastructure projects, trans-national mergers and acquisitions, banking, insurance and other agreements. Many of these disputes have involved issues of insurance coverage and suretyship.

## CONSTRUCTION

### EUROPE

- The owner (major UK power producer), contractor, engineer and insurers concerning cost over runs on construction of a large-bore 5km tunnel related to subsurface conditions.
- A UK property developer and a number of parties over the conversion of listed building to luxury flats. The dispute involved various design and construction issues pertaining to construction management, M and E design and construction and architectural design elements.
- Eight parties (owner, lessor, designers, contractors) concerning soil mechanics relating to differential settlement of commercial development in the UK.
- Several disputes concerning the design, construction or renovation of various health-care facilities.
- Architects performance in relation to a property in Eire.
- A dispute between contractors and insurers concerning the design and construction of a new runway in the north of England.
- Defects in the design and construction of a major food store in the UK.

### ASIA

- Hong Kong Government and a joint venture comprising European, Australian and Chinese construction companies over the design and construction of a major cable-stayed bridge structure. The dispute involved not only the design and construction of the bridge itself, but also significant issues concerning subsurface conditions in connection with the reclamation of an island to support the main bridge tower.
- Hong Kong Airport Authority and contractors concerning the entire paving of the airport facility, including runways, aprons and terminal perimeter. In addition, mediated disputes concerning the design and construction of all underground access tunnels and services.
- Hong Kong Government and a rail company arising from the construction of the entire rail line to the New Hong Kong Airport.
- A rail company and a joint venture contractor pertaining to the design and construction of 20km rail line, stations and viaducts in Hong Kong.
- Hong Kong Government and a designer concerning adequacy of concrete specification for a long-span bridge.

### AMERICAS

- A contractor and the US Department of the Interior in a claim in excess of USD \$70 million over the design and construction of an earth-filled dam.
- The design/build contractor, equipment manufacturer and owner concerning cost over runs and performance issues on co-generation facility.
- Several disputes concerning the design and construction of resort hotels in Las Vegas, Hawaii and California.

- A contractor, concrete supplier and testing engineers in Canada arising out of the alleged failure of concrete to meet design mix specification.
- An Italian contractor and the State of California in connection with a claim relating to the construction of two major highway projects.

## MIDDLE EAST

- Fabrication and delivery of process equipment for a propane dehydrogenation plant in Saudi Arabia.
- An owner and an architect arising out of the construction of a major office headquarters' development.
- U. Ga. and designers and contractors arising from the construction of a major bio-containment facility.

## ENERGY AND UTILITIES

### AMERICAS

- A contractor, subcontractor and U.S. Department of Energy relating to construction at a nuclear reprocessing facility (Hanford).
- A contractor, subcontractor and U.S. Department of Energy relating to construction of low-level nuclear waste storage facility (Oak Ridge).
- A petroleum producer in a claim for USD \$85 million relating to the construction of an offshore drilling installation.
- A contractor and a transmission company concerning cost over-runs and delays to the construction of a four hundred mile long gas pipeline from Canada to the US.
- A public utility and energy producer concerning a steam supply contract and turbine performance issues.
- The joint venture operations of oil companies and a contractor in a \$250m claim arising from the construction of processing facility in Venezuela.

### AFRICA

- A main contractor and subcontractor arising out of the construction of off-shore drilling platforms in Nigeria.

### EUROPE

- A contractor and subcontractor concerning the design and construction of a power and steam generation plant at a major port in Northern UK.
- Contract for engineering, procurement and construction of a low density polyethylene plant in the UK.
- Construction of a Hydro-electric power station in Scotland.

### ASIA

- An engineer and design/build contractors arising from the construction of a large power generation facility in the Philippines.
- An equipment supplier and operator concerning the design, manufacture and maintenance of eight generators in a dual cycle electrical generating plant.

## MERGERS AND ACQUISITIONS

- Parties involving “look back” accounting under an acquisition agreement relating to the purchase of division manufacturing secret missile components.
- Multiple disputes arising out of the sale and acquisition of a variety of businesses including health-care, defence, software development and manufacturing.
- The seller and purchaser of 15 Hydro-electric generation facilities pertaining to allegations of breaches of warranties, representations and fraud in the inducement.
- The shareholders of a family-held heavy equipment distribution business. Buy-out by one sibling involved resolution of complex financing and tax issues and agreement with equipment manufacturer.

## INTELLECTUAL PROPERTY AND INFORMATION TECHNOLOGY

- A mobile phone manufacturer and the licensor of technology alleging breaches of representations and warranties in license agreement and fraud.
- Parties in various intellectual property disputes including patent rights and copyright issues involving various technologies and processes.
- A software manufacturer and some of its former distributors concerning their rights on termination of distributorship agreements.

## BANKING AND FINANCE

- Plaintiffs and California banks in a multiple class action relating to overdraft charges. Settlement involved complex issues concerning quantum, class definition, and methodology for assessing damages of individual class members.
- Japanese, German and Italian banks arising out of a loan syndication agreement and treatment of office building acquired by them through borrower default.
- In excess of 100 plaintiffs and an accounting firm concerning failed tax avoidance scheme in the UK.

## INSURANCE

- The insured and insurers arising out of disputed coverage under the applicable policy for losses suffered by insured in the Philippines.
- An insurer, broker and various film companies arising out of film finance insurance.
- The contractor and insurer pertaining to coverage for design issues arising from the collapse of a tunnel and highway in Asia.
- A U.S. manufacturer and its fidelity bond insurer involving coverage under the bond for damages suffered as a result of defalcation by employees in Turkey.

## OTHER COMMERCIAL

- German and Israeli technology firms arising out of their joint venture manufacturing and sales business in the U.S. each side claiming breach of the J.V. agreement and asking for dissolution of the partnership.
- Mediated several separate healthcare industry disputes including cases between HMOs and Hospitals and Medical Groups concerning entitlement and amount of capitation payments and issues arising from

the termination of agreements.

- Dissolution of partnership owning several franchised fast-food restaurants.
- Partners alleged breach of partnership agreement fraud and self-dealing.
- A dispute relating to the design, procurement and the build of a fare collection and accounting system used in 11 counties located in California, USA.
- Various environmental clean-up disputes including both allocation between PRP's and insurance coverage issues.
- Costs and expense claims relating to an Ecoparc in the UK.
- Loss and expenses claims resulting from a fire which occurred at a hospital in Scotland and also a hospital in London.

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## ARBITRATION

Michael has acted as arbitrator in over 150 cases involving complex construction and commercial matters, both domestic US and internationally. Cases involved design and construction issues arising from large infrastructure and vertical construction projects, energy, oil and gas, general commercial, financial intellectual property cases as well as disputes arising out of mergers and acquisitions in a variety of industries.

### ASIA

- Design-build joint ventures in Singapore arising out of cost and schedule overruns on people mover project.
- A large insurance broker and sub-broker concerning duties between them and toward insured pertaining to the breakdown of turbine generators in the Philippines.

### SOUTH AMERICA

- A contractor and a consortium of petroleum producers concerning cost recovery and cost overruns on two work over platforms placed in Lake Maracaibo, Venezuela.

### USA

- An owner and a design-build contractor arising from design issues and cost overruns on the Los Angeles Arena ("Staples Arena").
- An owner and a contractor over design issues, schedule and cost overruns on the Venetian Resort in Las Vegas.

### AFRICA

- A contractor and an energy company concerning remedial costs for rebuilding 16KM off-shore oil pipeline in Angola.

## CARIBBEAN

- A main contractor and the civil sub-contractor arising from the design and construction of the rapid transit system in San Juan, Puerto Rico.
- Part of a tribunal under the rules of the LCIA regarding hurricane damage to a 5-star hotel.
- Dispute concerning the ownership of certain advanced laser technology.
- Dispute between main and trade contractor pertaining to claims arising from construction of three-unit dual cycle power generating facility.
- Dispute between seller and purchaser concerning responsibility for environmental clean-up costs of 36 agricultural chemical sites involving subsurface conditions and means and methods. Separate but similar case involving clean-up costs related to a steel manufacturing facility.
- Dispute between contractor and owner and designer over increased costs for seismic retrofit of high-rise building.

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## QUALIFICATIONS AND AWARDS

Master of Laws, University of London  
Juris Doctor, Boalt Hall School of Law, University of California, Berkeley  
Member, HKIA and Hong Kong Government's list approved and qualified Mediators  
Arbitrator on the LCIA database of neutrals  
Appointed to the KLRCA Panel as Arbitrator and Mediator

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## RECOMMENDATIONS

Michael Shane (Atkin Chambers) has "an uncanny ability to spot a deal early in a process, and is someone who is effective at knocking heads together," according to clients. His practice covers all manner of commercial issues, and he is identified by clients as being particularly skilled in infrastructure, energy and financial services disputes.

Mediation, Chambers and Partners 2019

Atkin Chambers' Michael Shane has acted as mediator in over 1,500 disputes; his mediations involve a wide variety of subject matter, including all areas of commercial disputes, particularly insurance, finance, construction and engineering, energy and IP.

Mediators, Legal 500 2019

The "very savvy and experienced" Michael Shane maintains a respected mediation practice informed by years of experience as a trial lawyer. He is regularly appointed to mediate a range of commercial disputes, particularly those occurring in the construction, engineering and energy sectors. He has experience in cases arising in the USA, Europe and Asia. Sources highlight that "he is direct and effective in terms of getting the job done," and that "he has a very good style and works to reach an agreement."

Mediation, Chambers and Partners 2018

Michael Shane is a "very commercial" mediator with a worldwide practice. He attracts particular praise for his ability to take "a very global and complex case and break it down into smaller pieces."

Mediation, Chambers and Partners 2017

"Michael Shane is an experienced mediator who attracts praise from market commentators for his "commercial approach" to dispute resolution."

Mediation, Chambers and Partners 2016

"Very good - he gets brought in for mega-cases. He cracks heads, tells people what's what and gets the deal done." He is held in especially high esteem for his expertise in construction disputes, and for his significant experience in handling mediations in areas such as IP, banking and insurance"

Mediation, Chambers and Partners 2015

"Has a very international practice, and is particularly commended for his in-depth understanding of construction issues. He is seen as hardworking and determined"

Mediation, Chambers and Partners 2014

A popular mediator with a strong international practice, Michael Shane "works very hard and really knows the construction industry," say interviewees. Others hail him as a "dynamic and effective mediator" who works hard towards resolution.

Mediation, Chambers and Partners 2013

Michael Shane has a strong international practice, having handles disputes in the UK, USA, Hong Kong, Singapore, Canada and Australia. He impresses sources with his "ability to see the big picture"

Mediation, Chambers and Partners 2012

Michael Shane enjoys the respect of interviewees who consider him a "Strong mediator and construction specialist"

Mediation, Chambers and Partners 2011

Parties around the world routinely turn to Shane for his exhaustive experience of construction and design liability mediations. Although the significant majority of his workload is weighted towards this area, he has also been involved in insurance and IP disputes. He is "one of the most astute mediators around," say interviewees.

Mediation, Chambers and Partners 2010

"Described by one commentator as 'the real deal on the international scene' he specialises in complex construction, energy and pharmaceutical disputes"

Mediation: Chambers and Partners 2009

"Michael Shane is a proactive, interventionist mediator described as "measured and thoughtful" but at the same time "challenging and commanding". With "charm" and "good humour" he has an ability to "get on the same wavelength as the parties notwithstanding different perceptions and expectations". Considered as "good as anyone at unlocking intransigent positions", he "homes in on the issues most likely to get a deal" and "gets to the money fast"

Mediation, Legal 500 2009

Hailing from the USA, Shane is based in California but spends an increasing amount of time in the UK as a door tenant at Atkin Chambers. He is a "serious international mediator, with bags of experience," attest interviewees. Capable of "banging heads when necessary," he specialises in construction, energy and pharmaceutical disputes. According to instructing solicitors, he never strays from commercial imperatives, keeps parties engaged and brings a much appreciated "dynamism and forcefulness" to weighty, multi-layered proceedings.

Mediation, Chambers and Partners 2008

"Michael Shane continues to win fans in the UK. His 'rigorous no-nonsense style' is regarded as 'supremely effective'. 'Commercial objectives are the priority'; he is unafraid of pushing clients hard where necessary and is admired for his 'persistence' and 'dedication'.

Mediation, Legal 500 2008

“Former US attorney and construction company director Michael Shane continues to attract a strong following in London. He can be firm, blunt and direct, and does not mind alienating parties to break deadlock. Clients seek him out for his commercial acumen and ability to mediate disputes where cutting a deal is more important than making peace.”

Mediation, Legal 500 2007