



CONSTRUCTION, ENGINEERING AND
INFRASTRUCTURE
INTERNATIONAL ARBITRATION
PROFESSIONAL NEGLIGENCE
ENERGY, NATURAL RESOURCES AND UTILITIES

Mischa Balen

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PRACTICE

Mischa has significant expertise in both domestic and international commercial disputes. He handles disputes involving construction and engineering, infrastructure, energy and natural resources, shipbuilding, and professional liability.

Mischa's recent reported cases include **Lancashire Schools SPC Phase 2 Ltd v Lendlease Construction (Europe) Ltd & Ors** [2024] EWHC 37 (TCC); **Ravestain BV v Trant Engineering Ltd** [2023] EWHC 11 (TCC); **AM Construction Ltd v The Darul Amaan Trust** [2022] EWHC 1478 (TCC), and **Motacus Constructions Ltd v Paolo Castelli SpA** [2021] EWHC 356 (TCC), the first post-Brexit case to consider enforcement of an adjudication award where the underlying contract was subject to the exclusive jurisdiction of a foreign court.

Recognised as a leading junior by Chambers & Partners and The Legal 500, Mischa has earned a reputation for being "*fiercely intelligent*", "*tremendously hard-working*" and "*ferociously efficient*", as well as responsive and user-friendly. Clients and peers laud his "*compelling advocacy*", his adeptness at tackling complex disputes, and his "*thoughtful and analytical*" approach.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

Mischa is a highly regarded construction litigator, ranked as a leading junior in construction by both Chambers & Partners and The Legal 500. Recognised for his "*superb construction practice*", he handles disputes for both contractors and employers in adjudication, litigation and arbitration.

Mischa's experience covers the entire spectrum of construction law. He advises on contractual entitlements to loss and expense, extensions of time under bespoke and standard form contracts, suspension and termination of works, and recoverability of damages for breach of contract. Familiar with industry-standard contract forms such as FIDIC, NEC, JCT, and ICE, Mischa has represented

clients on projects ranging from small residential refurbishments to large-scale infrastructure developments, including airports, railways, and power plants.

Mischa possesses significant experience with PFI Contracts and has acted on disputes relating to the design and build and ongoing management and maintenance of schools and hospitals.

In adjudication, Mischa's experience includes acting and advising in relation to claims for payment, claims for loss and expense, and claims for extensions of time. He has dealt with cases involving expert delay and quantum analysis, advised both employers and contractors on adjudication merits and procedure, and frequently acts in and advises on the enforcement of adjudication awards.

Recent adjudication experience includes:

- Local Authority v Civil Engineer: Acting for a civil engineering company in a dispute concerning alleged defects in the design and construction of a lifting bridge, with a value of circa £2 million.
- Fit-Out Contractor v UK Plc: Acting for a UK Plc across several adjudications with its fit-out contractor over the refurbishment works at its London headquarters. The disputes concerned the fit-out contractor's entitlement to an extension of time and loss and expense and contractual variations, with a value of circa £10 million.
- Architect v Local Authority: Acting for a Local Authority in several adjudications concerning the termination of its architect on a housing refurbishment project and the architect's claim for compensation following its termination, with a value of circa £2 million.
- Housing Developer v Limited Liability Partnership: Acting for a housing developer in several adjudications over with the employer over the costs of refurbishing a Grade I-listed tower block in London. The housing developer sought decisions concerning its entitlement to an extension of time and loss and expense, with a value of circa £14 million.
- Pharmaceutical Company v Process Engineer: Acting for a pharmaceutical company in an adjudication with the engineers responsible for installing high-performance distillation and evaporator trains at its main plant, with a value of circa £1.5 million.
- Fit-Out Contractor v Sub-Contractor: Acting for a fit-out contractor in a payments dispute with its sub-contractor concerning the renovation of a hotel in central London, with a value of circa £1 million.
- Construction Company v Airport: Acting for an airport defending a claim brought by a construction company for loss and expense following the construction of a new airport hangar, with a value of circa £2 million.
- Housing Developer v Construction Company: Acting for a housing developer in a series of adjudications concerning the steps required to discharge the conditions attached to a grant of planning permission by the Local Authority.
- Football Club v Developer: Acting for a developer in a dispute over the interpretation of a development agreement for the redevelopment of land surrounding the football club's stadium.

- Private Company v Construction Company: Acting for a well-known private company in a series of adjudications concerning the development of its new London headquarters. The dispute concerned the construction company's entitlement to an extension of time.
- Construction Company v Transport Authority: Acting for a metropolitan transport authority in a dispute with a construction company over the meaning of the payment provisions in the contract, and in particular the consequences in the event that a contractual cap was reached, with a value of circa £50 million.

Recent reported cases include:

- **Lancashire Schools SPC Phase 2 Ltd v Lendlease Construction (Europe) Ltd & Ors** [2024] EWHC 37 (TCC), which considered the circumstances under which a claim should be stayed to allow for mandatory adjudication;
- **Ravestein BV v Trant Engineering Ltd** [2023] EWHC 11 (TCC), an appeal under section 69 of the Arbitration Act 1996;
- **AM Construction Ltd v The Darul Amaan Trust** [2022] EWHC 1478 (TCC), a Part 8 claim concerning an adjudicator's jurisdiction which considered the right to commence a true value adjudication where a payless notice had not been served, and
- **Motacus Constructions Ltd v Paolo Castelli SpA** [2021] EWHC 356 (TCC), the first post-Brexit case to consider enforcement of an adjudication award where the underlying contract was subject to the exclusive jurisdiction of a foreign court.

INTERNATIONAL ARBITRATION: TECHNOLOGY & CONSTRUCTION

Mischa has extensive experience working on projects across the Middle East, including Azerbaijan, Egypt, Iraq, Jordan, Libya, Oman, Qatar, Saudi Arabia, Turkey and the United Arab Emirates. He also has experience of disputes involving Korean contractors, having spent time working in Seoul, South Korea.

He is familiar with and has acted in disputes conducted under most major international arbitration rules, including the ICC Rules, LCIA Rules LMAA Rules, DIAC Rules and SIAC Rules.

Recent work includes:

- Equipment and Systems Supplier v Materials Manufacturer: Sitting as a sole arbitrator under the ICC's expedited procedure (ICC Rules, London Seat).
- Shipbuilder v Oil and Gas Operator: Acting on behalf of an oil and gas operator in a dispute with its shipbuilder arising out of the construction of a Floating Production, Storage and Offloading Vessel offshore North Africa, together with the construction of a new subsea pipeline and tie-in to the existing drilling rig (ICC Rules, Paris Seat).
- Shipbuilder v LNG Operator: Acting (unled) in an arbitration between a Korean shipbuilder in a dispute concerning the construction of a Floating Production, Storage and Offloading Vessel for one of the largest liquefied natural gas projects in the world (LMAA Rules, London Seat).

- State Entity v Joint Venture: Acting (unled) in a three-week arbitration on behalf of a member of a contractor consortium member in a dispute concerning the termination of a major rail project in Asia, with a value of over €300 million (ICC Rules, Zurich Seat; FIDIC Silver Book).
- Construction Manager v State Entity: Acting in a two-week arbitration on behalf of a construction manager in a dispute arising from the construction of a billion-dollar multi-use development in the Caucasus, involving seven technical expert disciplines (ICC Rules, London Seat; FIDIC White Book).
- Fit-Out Subcontractor v Main Contractor: Acting in a five-day arbitration for a fit-out subcontractor in its claim for loss and expense against the main contractor responsible for renovating a luxury hotel in Azerbaijan (ICC Rules, Zurich Seat).

PROFESSIONAL NEGLIGENCE

Ranked as a leading junior in professional negligence by The Legal 500 for multiple years, Mischa's experience spans professional liability cases, particularly those involving construction or engineering components. He has worked on advising, drafting statements of case, and handling expert architectural, engineering, and quantum evidence.

Notably, Mischa acted as junior counsel in **Wellesley Partners LLP v Withers LLP** [2015] EWCA Civ 1146; [2014] EWHC 556 (Ch) on behalf of the successful executive search firm claimant in a nine-day trial against a firm of City solicitors arising from the drafting of a partnership agreement. The Court of Appeal decision is one of the leading cases on the rules of remoteness in contract and tort.

ENERGY, NATURAL RESOURCES AND UTILITIES

Mischa has experience advising on disputes arising from the construction, commissioning and operation of power plants, wind farms, and oil and gas facilities and pipelines. His experience covers projects in both the UK and internationally.

Some of his recent international work includes:

- Acting on behalf of a consortium member in a joint venture dispute arising from the construction of a power plant in the Middle East (SIAC Rules, Singapore Seat; FIDIC Silver Book).
- Acting on behalf of an oil and gas operator in a dispute with its shipbuilder regarding the construction of a Floating Production, Storage and Offloading Vessel offshore North Africa, together with the construction of a new subsea pipeline and tie-in to the existing drilling rig (ICC Rules, Paris Seat; FIDIC White Book).
- Acting on behalf of a Korean contractor in a defects dispute surrounding the operation of a processing plant in Qatar (ICC Rules, Seoul Seat).
- Acting on behalf of a contractor in a delay and disruption dispute by its tank farm subcontractor in connection with an oil production facility (LCIA Rules, London Seat).

In his recent domestic work, Mischa has advised an employer on disputes arising from the construction and performance of a biomass CHP plant under a bespoke contract, and assisted an employer in a dispute related to the operation of a nuclear power plant.

SHIPBUILDING

Mischa's work also extends to shipbuilding, both domestically and internationally. Currently acting (unled) in a dispute involving a Korean shipbuilder and a subcontractor, he has also represented an oil and gas operator in a dispute with a shipbuilder over a Floating Production, Storage, and Offloading Vessel offshore North Africa. In the UK, Mischa recently acted on behalf of a major shipyard in a claim regarding the refurbishment of its facilities.

APPOINTMENTS AND PUBLICATIONS

APPOINTMENTS

Supervisor, MSc Construction Law, King's College London (2016 to present)

Non-Stipendiary Tutor in Law, Regent's Park College, Oxford University (2012 to 2013)

Tutor and Examiner in Law, King's College London (2010 to 2011)

PUBLICATIONS

Mischa is a Contributing Editor to Hudson's Building and Engineering Contracts (Sweet & Maxwell, 14th edn, 2020).

Mischa frequently writes journal articles for legal publications. His work has been published in the LMCLQ, the Construction Law Journal and the King's Law Journal.

QUALIFICATIONS

2011 Called to the Bar of England and Wales (Gray's Inn)

2009 – 2010 BCL (Master's in Law), St John's College, Oxford, Distinction

2006 – 2009 BA (Law), Pembroke College, Cambridge, Double First

RECENT RECOMMENDATIONS

"Mischa is a future titan in construction and engineering disputes. He is a commander of the detail, an intellectual giant and always looks to be the most valuable player on any team."

"Mischa is a very supportive counsel, willing and able to pick up urgent matters at short notice and provide clear concise advice on complex issues."

Construction, Chambers UK Bar 2024

"Mischa is an outstanding advocate and a formidable opponent. His written work is devastating."

Construction, The Legal 500 2024

"Mischa is an excellent advocate – easy to work with and very smart indeed."

Energy, The Legal 500 2024

"I have found him to be responsive, user-friendly, knowledgeable and astute in both a tactical and commercial sense."

"Mischa has exceptional commercial vision."

"He has good commercial awareness and always responds quickly and effectively."

Construction, Chambers UK Bar 2023

"Mischa blitzes through complex legal, technical, and factual issues. He is extremely bright, produces clear drafting, and delivers results without a hitch."

Construction, The Legal 500 2023

"His written advocacy is compelling, and he is rightly feared as an opponent."

Energy, The Legal 500 2023

"Approachable and able to communicate well with clients. Mischa has excellent analytical skills and provides constructive advice."

Professional Negligence, The Legal 500 2023

"He is personable and knowledgeable, with a good attention to detail."

"He is extremely bright, he drafts well and is really very good as an advocate."

Construction, Chambers & Partners UK Bar 2022

"Very bright, ferociously efficient and able to see straight to the key issues."

Construction, The Legal 500 2022

"Mischa is diligent, and has a good manner with clients."

Professional Negligence, The Legal 500 2022

"Mischa is a class act and a formidable opponent."

Energy, The Legal 500 2022

"He is personable and knowledgeable, with a good attention to detail."

"He is extremely bright, he drafts well and is really very good as an advocate."

Construction, Chambers & Partners UK Bar 2021

"Understands the finer points beautifully. He is invaluable. Very resilient."

Construction, The Legal 500 2021

"He is concise, identifies and grasps the key points quickly, and punches above his weight."

Professional Negligence, The Legal 500 2021

"Tremendously hard-working, intelligent, very responsive and user-friendly. He punches above his weight - a star of the future I am sure."

"A standout junior and one to watch. His chief strength is the intellectual contribution he makes – in this he is superb, bolstering the client's case. Mischa is adept at tackling tricky disputes and getting straight to the meat of the issue."

Construction, Chambers & Partners UK Bar and Chambers Global 2020

“He is thoughtful and analytical.”

Construction and Professional Negligence, The Legal 500 2020

“He is fiercely intelligent and works with the speed and efficiency of a barrister many years beyond his call.”

Professional Negligence, The Legal 500 2019