



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

Mischa Balen

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PRACTICE

Mischa specialises primarily in international commercial disputes with an emphasis on construction and engineering, infrastructure, energy and natural resources, shipbuilding and professional liability. Mischa has particular experience of international construction arbitration concerning projects in the Middle East and Asia, having spent time working in both Dubai and Seoul.

Recent experience includes acting (unled) on behalf of a member of a contractor consortium in a three-week ICC arbitration concerning the termination of a major rail project in Asia, with a value of over €300 million, and acting as junior counsel to Stephanie Barwise KC on the independent review commissioned by Persimmon Homes.

Mischa is ranked as a leading junior by Chambers & Partners and The Legal 500. Recent recommendations include: *"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", "He is thoughtful and analytical"* and *"Extremely hardworking and bright"*.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

LITIGATION

Mischa is ranked as a leading junior in construction by Chambers & Partners and The Legal 500. Chambers & Partners describes him as *"A highly touted junior who is developing a superb construction practice, which sees him handle a range of contractual and professional negligence claims. He acts on behalf of employers and contractors and is proficient in international arbitration in addition to litigation."*

Mischa's experience in the construction litigation field includes advising on contractual entitlements to loss and expense, and extensions of time under bespoke and standard form contracts, advising on the suspension and termination of works, and advising on the recoverability of damages for breach of contract. He is familiar with the standard forms of contract in use in the industry (including FIDIC, NEC, JCT and ICE).

Mischa has extensive experience of PFI Contracts and has acted in connection with disputes concerning the design and build of schools, hospitals and railway lines. Mischa also has experience acting and advising in relation to domestic building disputes, drafting particulars of claim for payment and extensions of time on behalf of contractors and drafting defences and counterclaims on behalf of employers.

Recent reported cases include:

- **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; 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.

ADJUDICATION

Mischa's experience in adjudication includes acting and advising in relation to claims for payment, claims for loss and expense, and extensions of time (including cases involving expert delay analysis, advising both employers and contractors on the merits and procedure of adjudication, and advising on the enforcement of adjudication awards).

INTERNATIONAL ARBITRATION: TECHNOLOGY & CONSTRUCTION

The vast majority of Mischa's practice is in international arbitration and almost all of his work is based outside the United Kingdom. Mischa has particular experience of acting for clients in connection with arbitrations arising out of major project disputes in the Middle East and South Korea.

He has acted for clients in relation to projects throughout the Middle East, including Azerbaijan, Egypt, Iraq, Jordan, Libya, Oman, Qatar, Saudi Arabia, Turkey and the United Arab Emirates. 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:

- 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).

- 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).
- Acting (unled) in a three-week arbitration on behalf of a member of a contractor consortium in a dispute concerning the termination of a major rail project in Asia, with a value of over €300 million (ICC Rules, Zurich Seat). The Contract was based on the FIDIC Silver Book.
- 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). The Contract was based on the FIDIC White Book.
- 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

Mischa is ranked as a leading junior in professional negligence by The Legal 500 (2021) and was also ranked as a leading junior in 2020, 2019, 2017 and 2016.

Mischa has experience acting and advising in relation to professional liability, particularly where it has a construction or engineering component, including advising, drafting statements of case and dealing with expert architectural, engineering and quantum evidence.

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. Mischa's experience covers projects in both the UK and internationally.

Recent international arbitration 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). The Contract was based on FIDIC Silver Book.
- 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). The Contract was based on 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).

Recent domestic work includes advising an employer in relation to disputes arising out of the construction and performance of a biomass CHP plant under a bespoke contract and advising an employer in a dispute surrounding the operation of a nuclear power plant.

SHIPBUILDING

A significant amount of Mischa's work concerns shipbuilding, both domestically and internationally. Mischa is currently acting (unled) in a dispute between a Korean shipbuilder and one of its sub-contractors over the construction of a Floating Production, Storage and Offloading Vessel for one of the largest liquefied natural gas projects in the world.

He recently acted on behalf of an oil and gas operator in a dispute with a shipbuilder arising out of the construction of a new Floating Production, Storage and Offloading Vessel offshore North Africa. Domestically, he recently acted on behalf of a major shipyard in a claim concerning 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

"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