



ENERGY AND NATURAL RESOURCES
PROFESSIONAL NEGLIGENCE
PFI DISPUTES
CONSTRUCTION, ENGINEERING AND
INFRASTRUCTURE
GENERAL COMMERCIAL

Omar Eljadi

Call Date: 2009 // oeljadi@atkinchambers.com

PRACTICE

Omar Eljadi specialises in contractual and professional negligence disputes within the construction, engineering, and energy sectors. He has acted for a wide range of clients based in the UK and internationally, including employers (state and private), contractors, and various types of professional.

Omar's work frequently has an international dimension. He has experience of disputes concerning projects in Africa, the Middle East (including Dubai, Oman, Turkey and Jordan), east Asia and Australia.

In addition to his advocacy, drafting and advisory work, Omar provides hands-on assistance from an early stage in a dispute, including during the pre-action process, disclosure, the preparation of factual and expert evidence, and interim applications or case management conferences.

From 2018 to 2021, Omar acted as junior counsel to the largest group of bereaved families, survivors and former residents in the Grenfell Tower Inquiry. In March 2022, he appeared on behalf of the successful appellant in the UK Supreme Court in **AIC Ltd v Federal Airports Authority of Nigeria**.

He was named Chambers UK Bar *Construction Junior of the Year* in 2022 and is a recommended as a leading junior in the most recent editions of Chambers and Partners (Construction) and The Legal 500 (Construction and Professional Negligence).

ENERGY AND NATURAL RESOURCES

Omar has a particular interest in disputes arising out of energy and natural resources infrastructure projects, both foreign and domestic. His experience spans oil and gas projects, and a wide range of renewable resources projects, including wind farms, hydroelectric dams, water pipelines and various process plants. He is also instructed in disputes arising out of commercial energy supply agreements.

OIL, GAS AND NATURAL RESOURCES

- Assistant to the tribunal in a SIAC arbitration concerning termination of a subcontract package forming part of an iron ore project in Australia (UNCITRAL rules, Singapore seat, Australian law).
- Junior counsel for a consortium of international oil and gas companies and state-owned energy companies in a claim under a parent company guarantee for completion costs following termination of an EPC contract for construction of a gas pipeline in West Africa.
- Advised on the correct construction of compensation provisions under a charter of an oil drilling rig to be used in an offshore exploration campaign.
- Advised on frustration and termination of a charter of a drilling rig. Advised on the scope of an exclusion clause incorporated into the charter.
- Instructed as junior counsel in a dispute over responsibility for the costs of repairs to an FPSO provided as part of a contract for the processing, storage and delivery of petroleum.

RENEWABLE ENERGY

- Twice instructed as junior counsel for a major UK energy company defending compensation event claims from contractors under contracts for the construction of onshore wind farms.
- Acting for the employer in a dispute concerning the termination of a contract for the design, supply and construction of a processing plant with cogeneration capability.
- Instructed as junior counsel for the contractor in a high-value claim arising out of the termination of a hydroelectric dam project in the Middle East.
- Junior counsel for the contractor in a high-value claim arising out of a pipeline project in the Middle East.
- Acting as junior counsel for a process designer defending a contractor for alleged defective design of the mechanical pre-treatment section of a waste processing and anaerobic digestion plant in England.

ENERGY SUPPLY DISPUTES

- Acted, as junior counsel, in a dispute concerning overcharging under an electricity supply agreement covering a major UK retailer's network of stores.
- Instructed as junior counsel in an ICC arbitration concerning a claim for damages arising out of the termination of an energy supply agreement in Africa.

PROFESSIONAL NEGLIGENCE

Omar is listed as a leading junior for professional negligence, with sources describing him as “*incredibly logical and clear headed*” and praising his ability to “*sift out and distil things with an attractive brevity*” (The Legal 500). He specialises in claims against construction professionals, including architects, engineers and surveyors, but also has experience of claims against accountants and solicitors. He is familiar with the particular issues arising out of multi-party disputes.

CONSTRUCTION PROFESSIONALS

- Instructed as junior counsel in a university’s claim against an architect, for negligent design and contract administration in the construction of microbiological laboratories.
- Advised, and defended, an architect against allegations of negligent over-certification and alleged advice in connection with the conversion of a hotel into residential units.
- Acting as sole counsel for an employer in a claim against a mechanical engineering consultant for negligent design of variable refrigerant flow air conditioning systems.
- Acting as junior counsel for a process designer defending a contractor’s claim for alleged defective design of the mechanical pre-treatment section of a waste processing and anaerobic digestion plant in England.
- Acted as junior counsel for a design and build contractor in a multi-party dispute concerning the design of air conditioning systems in a further education college.
- Defending, in a multi-party dispute, a project quantity surveyor against allegations of negligently prepared tender documentation and cost estimates.

OTHER PROFESSIONALS

- Defending a right of light surveyor against allegations of negligent advice on the contents of land registry entries.
- Defending a firm of solicitors against allegations of negligence in the conduct of litigation.
- Advising on a claim against an accountant for negligent advice on VAT liability.

PFI DISPUTES

Omar has been instructed in a number of disputes arising out of long-term PFI contracts, particularly in the context of household waste. He is familiar with the issues that frequently arise, such as disputes concerning the interpretation of payment provisions and disputes over the achievement of performance criteria and the application of regimes for performance penalties. Examples of previous cases include:

- Junior counsel for an NHS Trust in TCC proceedings against a PFI contractor for performance deductions and damages arising out of fire defects in a new hospital wing.
- Junior counsel for a local authority in an adjudication concerning the interpretation of maintenance obligations and payment provisions in a PFI contract for the provision of social housing in the north of England.

- Junior counsel for a major UK waste management contractor in an adjudication concerning the application of performance points and deductions for alleged performance failures in the operation of an MBT and IVC plants in England.
- Instructed to advise a local authority in relation to potential claims arising out of a PFI contractor's failure to process waste in accordance with the contract.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

Omar has experience of the full spectrum of construction and engineering disputes, ranging from minor residential building works to commercial premises and larger, more complex, infrastructure projects. He is familiar with the major standard forms of construction contract, including the JCT, NEC3 and FIDIC suites, and the various issues that frequently arise on projects, including payment disputes, delay and disruption, and defective design or workmanship.

Omar has particular experience of claims arising from fire safety defects, including claims relating to cladding and fire stopping. In addition to his work on the Grenfell Tower Inquiry, he has advised and acts for clients in relation to civil claims arising from such defects.

ADJUDICATION

Omar assists throughout adjudications, drafting submissions and assisting with the preparation of evidence. He is often instructed as sole counsel on payment and notice disputes, as well as final account and defects claims. He acts as part of a larger counsel team in very high-value or complex disputes. By way of example, Omar has acted:

- For the employer in a high-value final account adjudication concerning the design and construction of airport crew facilities in England.
- For the owner of a data centre in a claim arising out of roofing design and workmanship defects.
- For the employer in a misrepresentation claim arising out of a contract to design and construct a large retail development.

Omar also has experience of High Court proceedings related to adjudication, including the summary judgment and Part 8 procedures:

- Instructed as junior counsel on behalf of a local authority in a Part 8 claim for a declaration that an adjudicator had acted without jurisdiction because more than one dispute had been referred. (TCC, London).
- Instructed as sole counsel seeking summary enforcement of an adjudicator's decision, which was resisted on the basis of allegations that claims had been fraudulently submitted. (TCC, Birmingham).
- Instructed as sole counsel seeking summary judgment on an adjudicator's decision, which was resisted on grounds that there was no express right to adjudication under the contract. (TCC, London).

ARBITRATION

A significant proportion of Omar's practice concerns arbitration, both domestic and international. He recently acted as assistant to the tribunal in a SIAC arbitration (see Energy and Natural Resources, above). Examples of his work in this area are:

- Appeared as junior counsel on behalf of the employer in an UNCITRAL arbitration concerning the termination of a contract for the design and construction of a process plant. (Dubai seat, Eritrean law).
- Instructed as junior counsel for a local authority defending a substantial final account claim under a contract for the renovation of a public park. (English seat, English law).
- Instructed as junior counsel for a contractor claiming an extension of time and time-related costs in relation to the construction of a luxury office and residential tower in Dubai. (Dubai seat, UAE law).
- Instructed as junior counsel in a sub-contractor's claim for payment under a contract for the construction of a cruise terminal in Hong Kong (Hong Kong seat and law).
- Junior counsel for a contractor in a £50 million investment treaty arbitration arising out of the construction of the termination of a construction contract in the Middle East.

LITIGATION

Omar has advised and acted at all stages of the litigation process. Examples of his construction litigation work include:

- Acting for a concrete frame and drainage subcontractor in a substantial multiparty claim arising from alleged defects in an emergency care hospital.
- Instructed as junior counsel on behalf of a Dutch property developer defending a final account claim in respect of a contract for demolition works carried out as part of a luxury hotel project in central London.
- Instructed as junior counsel in a claim for sums due under a contract for the renovation of a high-end residential property in London, met with counterclaims for alleged defective work.

GENERAL COMMERCIAL

Before joining Atkin Chambers, Omar undertook pupillage at another leading commercial set, where he gained experience of a wide range of commercial practice areas, including banking and finance disputes, professional negligence claims, and cases raising choice of law or jurisdictional issues. Omar continues to take instructions in commercial disputes more generally.

NOTABLE CASES

AIC Ltd v The Federal Airports Authority of Nigeria [2022] UKSC 16; [2022] 1 WLR 3223

(1) Christopher Linnett Ltd (2) Christopher Linnett v Matthew Harding (t/a M J Harding Contractors) [2017] EWHC 1781 (TCC)

Goldsworthy and others (t/a Goldsworthy Builders) v Harrison and another [2016] EWHC 1589 (TCC); 167 Con. L.R. 216

West African Gas Pipeline Company Ltd v Willbros Global Holdings Inc. [2012] EWHC 396 (TCC); 141 Con. L.R. 151

Witney Town Council v Beam Construction (Cheltenham) Ltd [2011] EWHC 2332 (TCC); [2011] BLR 707; [2011] TCLR 8; 139 Con. L.R. 1

LEGAL TEXTS

Omar is one of the general editors of the *Building Law Reports*. He is also one of the editors of *Hudson's Building and Engineering Contracts* (14th Ed., 2020, and 13th Ed., 2015, Sweet & Maxwell).

"A country manor house conspiracy", assisting Sir Robert Akenhead (*Building*, November 2018)

"Careless talk can cost cases", assisting Sir Robert Akenhead (*Building*, May 2018)

"Debts In Paradise", assisting Sir Robert Akenhead (*Building*, March 2017)

"A Global View – Examining the issue of 'total cost' or 'global' claims", assisting Sir Robert Akenhead (*Building*, June 2016).

"What does 'Time at Large' mean?" (*Construction Law*, April 2016).

"Being demanding: recent cases on performance bond calls", with Stephanie Barwise KC (*CICES Construction Law Review*, 2016).

QUALIFICATIONS AND AWARDS

2011	MA (Oxon) (Keble College, University of Oxford)
2009	BVC (BPP Law School, Holborn)
2008	BCL (Keble College, University of Oxford)
2007	BA Jurisprudence (Keble College, University of Oxford)
2007	Harris Prize (Keble College)
2005-2007	College Scholarship (Keble College)
2005	Slaughter and May Prize (University of Oxford)
2005	Dartmouth Scholarship (Keble College / Dartmouth College, NH, USA)

ADDITIONAL INFORMATION

Omar takes instructions as an adjudicator in construction disputes. He is a TECBAR accredited adjudicator and a CEDR Construction Adjudication Panel Member.

He is a member of TECBAR, COMBAR and the SCL.

Omar frequently delivers talks and seminars on topics of current interest or significance. Topics have included: negligent cost estimates, latent defects, termination under FIDIC contracts, time at large, and causation in delay claims.

RECENT RECOMMENDATIONS

"His client service is excellent and he is very hard-working and intelligent, and a pleasure to deal with."

"He's very methodical, well prepared and clear in his thinking when preparing for hearings, and he's also capable of reacting to issues and changes."

"Omar is all over the detail."

Construction, Chambers & Partners UK Bar 2023

"Omar is on top of the detail. He has vast and distinguished experience in construction cases."

Construction, The Legal 500 2023

"Omar is on top of the detail. He is clearly over the details and has his own voice."

Professional Negligence, The Legal 500 2023

"He is dedicated and has a vision of how to handle the issues and the strategy."

Construction, Chambers & Partners UK Bar 2022

"He contributes deep knowledge and expertise in construction arbitration and that is always portrayed in his work."

Construction, The Legal 500, 2022

"Omar is thorough and gets on top of his area. Excellent written work."

Professional Negligence, The Legal 500, 2022

"He understands the aspects of a case, he is very reliable and provides deep analysis of the pertinent issues." "He is able to plead the most complex cases in a clear and concise manner, which wins over clients and tribunals."

Construction, Chambers & Partners UK Bar 2021

"Omar has great expertise and depth of knowledge regarding construction disputes. His work is organised, clear and concise."

Construction, The Legal 500, 2021

"He is incredibly logical and clear headed. He can sift out and distil things with an attractive brevity."

Professional Negligence, The Legal 500, 2021

AtkinChambersBarristers

"The most impressive junior I have worked with for a long while, with an exceptional grasp of the law and technical issues."

Construction, Chambers & Partners UK Bar 2020

"A future superstar of the construction Bar"

Construction, The Legal 500, 2020

"A quiet power station that provides consistent solid advice."

Professional Negligence, The Legal 500, 2020