



CONSTRUCTION, ENGINEERING AND
INFRASTRUCTURE
ENERGY, NATURAL RESOURCES AND UTILITIES
PROFESSIONAL NEGLIGENCE
INFORMATION TECHNOLOGY AND
TELECOMMUNICATIONS

Patrick Clarke

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PRACTICE

Patrick's specialist practice principally concerns fighting claims that involve complex technical or factual subject matter, in particular concerning construction, engineering of all kinds and IT or computing and communications disputes. He is regarded as one of the top trial lawyers in his field, recommended by the legal directories as a leading junior in construction and IT disputes, noted to be an outstanding advocate and expert cross-examiner.

He has broad experience of all methods of dispute resolution with expertise in the High Court in England as well as international arbitration, mediation and adjudication. The last few years have been marked by acting on, and appearing in, a series of large high-value arbitrations involving computer-related, oil and gas and infrastructure projects. Patrick's international practice has recently been focused on the Gulf and Central Asia and he has acted in arbitrations in the Far East and the Americas.

Praised as being down to earth and a good communicator, Patrick's client base is drawn from all sectors including contractors, specialist consultants, private individuals, national and local government departments, and commercial employers. The subject matter of his work ranges from private dwellings and local authority highways disputes to stadiums, drilling rigs and specialist shipbuilding and from disputes concerned with moving a single website based business to a different provider to disputes concerned with nationwide roll-out of hardware and software for a national government department.

Patrick is recommended as a Tier 1 junior for construction in The Legal 500, clients note him as being “an excellent technical lawyer and an outstanding advocate”. Chambers and Partners has noted that “his command of technical detail and his cross-examination of expert witnesses is really something. He is also recommended in the major directories for energy, professional negligence and IT and Telecoms.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

Throughout his career Patrick has dealt with the full range of issues arising in the field including experience in matters relating to a number of standard industry contract forms including the JCT, ICE, NEC, GC/Works, IMech and IChem forms as well as disputes arising out of bespoke contracts. He has appeared in the Technology and Construction Court (TCC) and arbitrations concerning final account, loss and expense, liquidated damages and defects claims.

Proceedings often involve claims between a number of contractors, sub-contractors, consultants and guarantors through parent company guarantees and collateral warranties.

Examples of concluded and ongoing cases include:

- Acting for a design and build contractor, parent company and guarantor in TCC proceedings brought by a local authority in respect of the design and construction of a guided busway addressing allegations relating to structural and geotechnical engineering and piling.
- Acting for a PFI contractor relating to the design, construction and operation of a hospital on the North of England.
- Acting for a joint venture road maintenance contractor in TCC proceedings against Transport for London concerning the proper construction of a London-wide frameworks contract scheme to maintain and repair the road network. The dispute concerned many thousands of repair orders per annum.
- Acting for a building contractor in defending a fee claim in TCC proceedings brought by an adjudicator.
- Acting for a Chinese shipbuilder in Singapore arbitration proceedings in a dispute concerning the construction of a specialist rock dumping vessel for a Dutch purchaser.
- Acting for a main contractor in a dispute before the DIFC courts in relation to claims arising out of the construction of mixed-use, high-rise development in the Kingdom of Saudi Arabia.
- Acting for a contractor in a professional negligence arbitration against engineers arising out of the design of railway track fixings, supplied and installed under a turnkey contract pursuant to the provisions of a PFI contract.
- Appearing for a main contractor to apply for an emergency freezing ('mareva') injunction in respect of the proceeds of the sale of a property in London being sold by a Guernsey company.

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- Acting for a metropolitan mass transit network employer against a consortium contractor who contracted to design supply and install video, voice and data transmission systems across (and between) around 400 locations under a PFI contract.
- Acting for a Turkish building contractor in arbitration proceedings concerning a high-value commercial office development in Moscow.
- Acting for an ultra-high-net-worth American citizen against contractors in connection with construction and professional claims and disputes relating to the construction of a large high-value beach-front property in the Bahamas.
- Acting for a Russian property development company in High Court proceedings in connection with a dispute with a Belgian building contractor concerning a London town house redevelopment.
- Acting for a property developer against a contractor in the TCC in a dispute concerning a development of light industrial units in Newport, Wales.
- Acting for the employer in various claims in adjudication and in the TCC individually concerning the construction of Wembley National Stadium.
- Acting for the Associated British Ports in a multiparty claim in the TCC concerning the failure strengthening works to a quay wall in Southampton, UK. The case, concerning the piling design and fitness for purpose of works incorporating jet grouting columns and ground anchors, was technically very complex requiring six weeks of expert evidence at a three month trial. Role as junior counsel involved drafting opening and closing submissions, attending court every day and assisting with cross-examination.
- Acting on a sub-contractor-main contractor dispute concerning the existence of a contract and sums due in respect of M&E works in the construction of a football stadium complex.
- Acting and advising on the **Solitaire** arbitration concerning the conversion of a bulk carrier ship into a pipe laying vessel. The case concerned contractors' claims in respect of variations, delay and disruption, and loss and expense and was the longest-running LMAA arbitration to date.
- Acting on a claim in the TCC concerning a failure of stabilisation works to an embankment adjoining a soft drinks factory. The case involved geotechnical engineering and accounting evidence.
- Acting for Yorkshire Water on claim in the TCC concerning a wastewater treatment plant installed as part of the AMP2 infrastructure investment programme. The case concerned biological process engineering as well as a loss and expense claim arising out of delays to the completion of the works. It was highly technical in nature and culminated in a three-month trial.
- Acting for the UK government on an arbitration, concerning the construction of a relief road. The case involved a claim for delay and disruption/loss and expense in the sheet piling support, construction of reinforced concrete bridges and walls and associated drainage.

- Acting on a claim relating to the defective installation of a water main that later failed, concerned with the cause of failure and Final Certificate and insurance obligations issues.
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ENERGY, NATURAL RESOURCES AND UTILITIES

His experience ranges from acting for a wide range of contractors on issues arising from the design and construction of power stations all over the world to various domestic litigation for local government and electricity authorities concerning allegations of late, defective and disruptive supply of services. Examples of his recent work include:

- Acting in an arbitration between an international consortium contractor and government agency relating to the design and construction of a jack up drilling rig in Central Asia.
 - Acting in an arbitration between a Chinese shipyard and a British Virgin Islands company concerning the design, construction and delivery of a jack up drilling rig.
 - Advising on defects, delay and final account claims in respect of the construction, commissioning and hook-up of a biomass fuelled power plant in Scotland. Included technical, process, regulatory and commercial disputes.
 - Acting and advising in an arbitration concerning the construction of a gas-fired power station in the East of England.
 - Acting in a claim in the TCC concerning the construction of a Gas Liquefaction Facility in West Africa.
 - Acting in a claim concerning the construction of a highly sophisticated gas and multi-fuel power generating plant in the Far East.
 - Acting for electricity water and local authorities to act throughout litigation to recover sums in respect of damage to cables pipes and drains by third parties, on the grounds of negligence, nuisance and pursuant to the New Roads and Street Works Act 1991.
 - Advising on a contract dispute concerning a Kazakhstani oil field project in the Caspian Sea.
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PROFESSIONAL NEGLIGENCE

Patrick has broad experience dealing with fee and professional negligence claims for and against a wide range of professional including architects, surveyors, quantity surveyors and their indemnity insurers. Recent cases, on all of which he was instructed as sole counsel, include:

- Acting on several professional negligence claims, including adjudications, concerning the alleged negligent issue of Practical Completion Certificate, valuation and defects by a number of architects.

- Acting for a firm of structural engineers in relation to allegations of defective design in relation to the construction of a studio complex for ITV in Manchester that included the Coronation Street sets and studios.
- Acting on a professional negligence claim in the Technology and Construction Court against Mechanical and Electrical engineers for defects, delays and disruption, and loss and expense arising out of the design and supervision of heating, air conditioning and water supplies to a London Hotel.
- Acting for the insurers of a designer building contractor in respect of defective design allegations relating to the design of a concrete floor slab.

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

He has been instructed on a wide variety of matters including on litigation concerning both bespoke and 'off the shelf' software and fee claims and defects claims including 'millennium', internet and industrial processing software. Recent cases include:

- Appearing for a major IT company in ultra-high value arbitration proceedings against the UK government addressing issues of defects, delay and functionality that culminated in an 82-day arbitration hearing on liability and a further six-week hearing on quantum.
- Acting for an online service provider in proceedings for injunctive and other relief in the TCC in connection with a dispute concerning website hosting and securing continuity of service in transition to an alternative provider as well as a mediation and settlement negotiations.
- Acting for a telecoms hardware design and manufacturing company in Technology and Construction Court proceedings brought by BT claiming £70M in connection with alleged performance issues based on statistical error analysis.
- Acting for an IT services supplier in the Commercial Court in connection with Part 8 proceedings concerning the proper construction of termination provisions relating to a high profile and public payment platform.
- Acting for an IT services supplier in £100M Commercial Court proceedings in connection with a financial services hosting contract and exit management and transformation services.

NOTABLE CASES

Colas Ltd & Ors v Transport for London [2018] EWHC 831 (TCC)

Baldwin & Anor v Pickstock Ltd [2017] EWHC 2456 (TCC)

Erith Holdings Ltd (and Others) v Murphy (2017) 172 Con LR51

Trident Maintain Ltd v Falcon Investment Ltd (2016) LTL 23/6/2016

Hillcrest Homes Ltd v Beresford & Curbishley Ltd (2014) 13 Con LR 179 (TCC)

Rok Building Limited v Celtic Composting Systems Limited (No 2) [2010] EWHC 66 (TCC)

Rok Building Limited v Celtic Composting Systems Limited [2009] EWHC 2664 (TCC)

Port of Tilbury (London) Limited v Stora Enso Transport & Distribution AB (CA) LTL 23/1/2009 and (TCC) (7/5/2008)

Smith v Hart [2009] EWHC 2223 (TCC)

Haden Young v Laing O'Rourke Midlands Limited LTL 8/5/2008

Oxford Architects Partnership v Cheltenham Ladies College [2007] BLR 293

Associated British Ports v Hydro Soil Services NV and Others [2006] LTL 30/6/2006

Yorkshire Water Services Ltd v Taylor Woodrow Northern Ltd and Others 8 July 2004 LTL 10/9/2004

QUALIFICATIONS AND AWARDS

1996	Steen Award, Gray's Inn
1995-1996	Diploma in Law, University of Birmingham
1992-1995	BSc Physics, King's College, London
1986-1991	Stourport High School

LEGAL TEXTS

He was a contributor to *'Hudson's Building and Engineering Contracts'* 12th Ed (2014) and is a former scheduling editor of the *'Construction Law Journal'* published by Sweet and Maxwell.

ADDITIONAL INFORMATION

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

RECENT RECOMMENDATIONS

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"Patrick is very approachable in his demeanor with clients and gives clear guidance on approach and strategy in a user-friendly manner."

"He's extremely easy to work with and always very well prepared."

"He gave clear, concise advice on complex and long-standing issues."

Construction, Chambers UK Bar 2023

"Knowledgeable and very easy to deal with."

"He gets to grips with the complex technical aspects of a case and cuts through all the peripheral bits and pieces in order to provide straight-down-the-line, concise advice."

Information Technology, Chambers UK Bar 2023

"Patrick is a master of his game. He remains acutely focused in cases and never fails to deliver the most efficient and effective strategy. He has a thorough command over the changing dynamics of a case and clients feel protected and confident with his representation."

Construction, The Legal 500 2023

"He has excellent interpersonal skills, which are really handy when you are working under pressure and demonstrates great advocacy skills."

Energy, The Legal 500 2023

"Able to cut through the detail & deliver sensible, pragmatic advice, which is appreciated by clients. Always steps up when required to do so."

Professional Negligence, The Legal 500 2023

"A very competent, solid advocate and very experienced in the marshalling of facts and drafting pleadings."

Construction, Chambers & Partners UK Bar 2022

"He's very confident and nice to deal with, and willing to add nuance to his advice and instructions."

"He has great knowledge and understanding in the area, with an understated and effective style which is really reassuring for clients."

Information Technology, Chambers & Partners UK Bar 2022

"Extremely bright and is always cool, calm and collected under pressure. He has a wonderful advocacy style which commands respect and is a fantastic team player."

Construction, The Legal 500 2022

"Well thought-out, logical arguments, client friendly, measured and considered approach."

IT and Telecoms, The Legal 500 2022

"A very calm, very experienced advocate who provides sound analysis."

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Professional Negligence, The Legal 500 2022

"Patrick is extremely bright and is always cool, calm and collected under pressure, and has a wonderful advocacy style which commands respect."

Energy, The Legal 500 2022

"He is very easy to work with and always happy to speak directly to solicitors. He is good on paper and offers clear advice." "He has excellent technical knowledge and understanding."

Construction, Chambers & Partners UK Bar 2021

"Never caved under pressure or became flustered but kept his calm demeanour when everyone else was getting stressed."

Information Technology, Chambers & Partners UK Bar 2021

"A highly capable and very experienced senior junior who is very willing to roll up his sleeves and get intensely involved in the detail."

Energy, The Legal 500 2021

"Friendly, adaptable and he gives clear and practical advice that is readily understood by the client."

Construction, The Legal 500 2021

"He is user-friendly and commands absolute confidence in the quality of work. He stepped into the breach on a case, picked it up very quickly and was highly attentive throughout."

IT and Telecoms, The Legal 500 2021

"He is clearly very intelligent and knowledgeable on construction matters."

Professional Negligence, The Legal 500 2021

"He provides an excellent service in terms of his written advice and advocacy. He is bright but also alive to the commercial demands of a case."

"Patrick is very good at distilling complicated legal, technical and factual issues into a comprehensible compelling case."

Construction, Chambers & Partners UK Bar 2020

"He's very easy to work with and not at all precious: very much a team player, who dives in and gets along with everyone."

Information Technology, Chambers & Partners UK Bar 2020

"User-friendly and quickly grasps the key issues."

Construction, The Legal 500 2020

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"A user-friendly junior."

Professional Negligence, The Legal 500 2020

"He is user-friendly and commands absolute confidence in the quality of work."

IT and Telecoms, The Legal 500 2020

"User-friendly and a good addition to any team."

Energy, The Legal 500 2020

"An excellent advocate with a great eye for detail."

Construction, Chambers & Partners UK Bar 2019

"Approachable, diligent and excellent at distilling complex problems down to their key issues."

Information Technology, Chambers & Partners UK Bar 2019

"Very sound, technically very good, with years of experience under his belt."

Construction, The Legal 500 2019

"He is commercially minded, offers attention to detail, and quickly grasps the key issues in dispute."

IT and Telecoms, The Legal 500 2019

"Strong attention to detail."

Professional Negligence, The Legal 500 2019

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.