



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

Robert Clay

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PRACTICE

Robert specialises in litigation and arbitration, domestic and international, in the construction, civil engineering, energy, and oil and gas sectors.

He handles cases for a wide range of clients, including governments, local authorities, main contractors, developers, manufacturers, energy companies, and professional firms.

He has extensive experience in arbitration both domestically and internationally. He is regularly involved in arbitrations in foreign jurisdictions including Hong Kong, Singapore, and the Middle East, and in long running London arbitrations between non-UK parties.

He is familiar with all forms of dispute resolution, including mediations (he is an accredited mediator) and expert determinations. He regularly acts in construction adjudications, both before adjudicators and in enforcement and other court proceedings. His practice has included numerous and frequent adjudications since the statute requiring adjudication first came into force.

Robert is recommended in The Legal 500 and Chambers and Partners as a leading junior in the field of Construction.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

INTERNATIONAL

He has conducted many complex, long-running or high-value international commercial arbitrations for clients all over the world, including in Asia and the Middle East. Cases include:

- Acting for a German shipyard in variation and disruption claims relating to a superyacht.
- Acting for the owners of a far eastern gas field in relation to complex allegations of professional negligence in process engineering and structural engineering.

- Acting for oil pipeline contractors in variation, delay and disruption claims arising out of a pipeline in the Middle East.
- Acting for a specialist interior decorator contractor in respect of loss and expense claims relating to a new build hotel complex. The arbitration was heard in the Abu Dhabi Arbitration Centre.
- Acting on a Hong Kong arbitration on piling defects in multi-storey developments on land reclaimed from Hong Kong harbour.

DOMESTIC

He practises regularly in the Technology and Construction Courts and all types of UK construction litigation and arbitration. He is expert in the problems of law raised by the building and engineering standard forms of contract. He is very experienced in handling difficult technical evidence, and in the case management of complex long-running cases. Examples include:

- Acting for specialist piling contractors in claims arising out of service failure of piled walls.
- Acting for engineers on a railway infrastructure upgrade.
- Acting for developers in a claim relating to defective steelworks design of a warehouse conversion and new build residential tower.
- Acting for cladding designers in defence of claims for defective cladding on a London office development.
- Acting for infrastructure services contractors carrying out a series of energy saving contracts for power generation companies.
- Acting for a local authority in claims arising out of defective steelwork design for a new rail bridge which formed the centre piece of a large highways project.
- Acting for housing associations in relation to defective housing stock.
- Successive High Court proceedings and adjudications arising out of long-term PFI contracts for running and upgrading public transport infrastructure.
- TCC proceedings arising out of an incentive bonus for early completion of floating production facilities for the North Sea, and further proceedings arising out of numerous counterclaims by employers.
- High Court proceedings on whether time for completion of work to Wembley Stadium is “at large”, on grounds not previously considered in any English Authorities and acting on the main claim between the same parties; **Multiplex v Honeywell** [2007] BLR 195.
- Obtaining payment for a trade contractor for the renovation of the British Museum in a case complicated by allegations of fraud.
- Acting in an expert determination and subsequent High Court litigation arising out of a contract to build, maintain and operate a power station for a large mineral processing plant.
- Acting on an arbitration appeal on whether an arbitration which is required by the parties to be final and binding will have an unusually restricted right of appeal under the 1996 Arbitration Act; **Essex CC v Premier Recycling** [2007] BLR 23.

- Acting as Counsel for Housing Association calling a performance bond; **Paddington Churches Housing Association v Technical and General Insurance Co Ltd.** [1999] BLR 244.

ADJUDICATION

Robert has been acting in construction adjudications since the statute imposing adjudication procedures on construction contracts first came into force. His cases include:

- Acting for employers on variation claims arising out of a long-term road maintenance project and reversing the adjudicator's decision in arbitration proceedings.
- Acting for contractors in large-scale contractual adjudications under a PFI railway infrastructure project.
- Acting on the leading case on Human Rights and Adjudication; **Austin Hall v Buckland** [2001] BLR 272.
- Acting on a complex adjudication in relation to extension of time arising out of offices in a listed building in St James's.
- Acting on an adjudication about the termination of a contract to complete remedial measures to power station chimneys.

ENERGY, NATURAL RESOURCES AND UTILITIES

He has broad experience acting for a wide range of clients in disputes arising out of the design and construction of a variety of offshore installations all over the world. Examples include acting for:

- Acting for joint venture employer on a variety of professional negligence claims regarding a major oil and gas project in South East Asia. Claims in excess of USD\$ 1 billion.
- London arbitration relating to defects in an oil platform in the Persian Gulf.
- Acting for employers on a USD \$150 million claim for delay and disruption costs in the development of an offshore gas field.
- Acting for employers on USD \$100 million claim and counterclaim arising out of a termination of a contract to build offshore oil facilities in the South China Sea.
- Acting for the employers developing two Middle Eastern gas fields in relation to a series of loss and expense claims totalling USD\$150 million made by the contractors under linked equipment and installation contracts, and a series of claims arising out of the indemnity and insurance provisions of the same contracts.
- Advising on issues arising out of an African gas and condensate project.
- Advising Indian joint venture on set off, performance bond, and time issues arising out of an offshore development.

PROFESSIONAL NEGLIGENCE

Robert's construction practice requires detailed knowledge of the law relating to professional liability and he regularly acts in cases in the High Court and in arbitration where all issues are essentially issues of professional negligence. In addition to many of the cases mentioned above he acted in the following cases where professional negligence and related areas of the law formed the subject matter of the main claims:

- English High Court proceedings on the construction of a professional indemnity policy relating to a Design/Build/Operate contract for waste water treatment for an EU city, and the amount recoverable under the policy.
 - English High Court proceedings against an engineer who carried out site investigation and foundation design for a large housing development.
 - Arbitration proceedings against the engineer responsible for East Anglian flood defence works.
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INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

He has experience advising in connection with IT and telecommunications disputes. Recent experience includes acting on disputes arising out of a joint venture to computerise a national revenue collecting system and database.

GENERAL COMMERCIAL

In addition to the specialist areas above Robert is regularly instructed on other commercial disputes (often international arbitrations). He also has a well-established practice advising and acting for both contractors and public authorities in the area of public procurement. Examples of his work in these areas include:

ADJUDICATION

- Representing the owners of a specialist vessel in a long-running ICC arbitration against a Far Eastern Shipyard for hundreds of millions of dollars in damages arising out of a contractual termination half way through construction of the vessel, and in relation to numerous counterclaims made by the yard.
- London Maritime Arbitration concerning variable pitch propellers supplied to a Far Eastern Shipyard for use in a series of advanced cargo vessels.

PUBLIC PROCUREMENT

- Acting for the House of Commons: damages flowing from breach of EU public procurement provisions; **Harmon CFEM Facades (UK) Ltd v The Corporate Officer of the House of Commons (No 2)** (2000) 72 ConLR 21.
- Counsel for public authority resisting and mediating a claim in the Chancery Division for breach of EU rules in an urban regeneration project.
- Acting for the contractor in EC procurement claim arising out of waste management.

- Advising public authorities and contractors in EC procurement claims concerning London regeneration projects.

NOTABLE CASES

Freeborn & Anor v Marcal (t/a Dan Marcal Architects) [2019] EWHC 454 (TCC)

IPM Energy Trading Ltd v Carillion Energy Services Ltd [2017] EWHC 1399 (Comm)

Triuva Kapitalverwaltungsgesellschaft v Galliford Try Construction Ltd [2017] EWHC 275 (TCC)

Borough of Milton Keynes v Viridor (Community Recycling MK) Ltd (No 2) [2017] EWHC 239 (TCC)

Van Oord UK Ltd and SCIM Roadbridge Ltd v Allseas UK Ltd [2015] EWHC 3074 (TCC)

Multiplex v Honeywell [2007] BLR 195

Essex CC v Premier Recycling [2007] BLR 233

Paddington Churches Housing Association v Technical and General Insurance Co Ltd. [1999] BLR 244

Austin Hall v Buckland [2001] BLR 272

Harmon CFEM Facades (UK) Ltd v The Corporate Officer of the House of Commons (No 2) [2000] 72 ConLR 21

QUALIFICATIONS AND AWARDS

1987-1988	Diploma in Law, Polytechnic of Central London
1984-1987	Doctorate in history for a thesis on the political theory of the French Wars of Religion, New College, Oxford
1984-1985	Henry Fellow, Harvard
1983	First Class in Ancient and Modern History, Oxford. Scholarship to New College Oxford.

LEGAL TEXTS

2010 - 2020	General Editor Hudson on Building Contracts
2011-2014	General Editor 1 st to 4 th supplements of Hudson
1998-2002	Editor of the Technology and Construction Law Reports
1994-1998	Editor of the Building Law Reports
1992	Contributor to Halsbury's Law of England, 4 th Edition. Reissue: Building Contractors, Architects, Engineers and Surveyors. Procurement

ADDITIONAL INFORMATION

Robert is a member of TECBAR and the SCL. He is also on the Panel of TECBAR Adjudicators and is an accredited mediator.

RECENT RECOMMENDATIONS

"He is our go-to for highly technical engineering disputes and understands the technical issues as well as the experts."

"He was very good on paper and good with the client as well."

Construction, Chambers UK Bar 2023

"Robert has an extremely sharp mind enabling him to drill down into the key issues. His advice is clear and thorough, leaving no stone unturned."

Construction, The Legal 500 2023

"He is a first-rate drafter and takes huge amounts of complicated information and turns it into something simple, understandable and forceful."

Construction, Chambers & Partners UK Bar 2022

"He gets to grip with the key issues quickly and is a well-spoken advocate who is well-prepared."

Construction, The Legal 500 2022

"He quickly gets to grips with and focuses on the key elements within a case, however substantial the documentation. His drafting is precise, he has a great eye for detail and he is a very strong advocate who is persistent in his cross-examination."

Construction, Chambers & Partners UK Bar 2021

"Robert has the ability to quickly evaluate the key issues from all the facts and set these out in a clear and logical form."

Construction, The Legal 500 2021

"Extremely thorough and very strong on detail, he is also hard-working and quickly picks out the material issues. His strong drafting style goes down well with clients." "He is very sharp and able to cut through complex legal issues very quickly."

Construction, Chambers & Partners UK Bar 2020

"An extremely talented and sharp junior."

Construction, The Legal 500 2020

"Produces well thought out written advice that is very clever and concise." "He explained everything very clearly and calmly to clients. He has a very patient bedside manner and is really bright."

Construction, Chambers & Partners UK Bar 2019

"Recommended for construction adjudications."

AtkinChambers Barristers

Construction, The Legal 500 2019

"Quickly grasps complex issues, produces excellent drafting and has a good manner with clients."

"Very considerate and easy to work with."

Construction, Chambers & Partners UK Bar 2018

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.