



ENERGY AND UTILITIES
PFI / PPP
TRANSPORT
IT AND TELECOMMUNICATIONS
CONSTRUCTION, ENGINEERING AND
INFRASTRUCTURE
PROFESSIONAL NEGLIGENCE

Serena Cheng KC

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PRACTICE

Serena's practice focuses on technically and legally complex energy, engineering and infrastructure disputes. She is a very experienced trial advocate who has represented a wide range of clients around the world, with a particular emphasis on the Far East and the Middle East.

Serena is ranked in seven categories across the current editions of Chambers & Partners and The Legal 500. She is cited for international arbitration, energy and infrastructure, construction, and professional negligence, in the UK, Middle East and Asia Pacific editions of the directories.

Long-commended for her advocacy, Serena's recent clients recommendations include:

"Serena is amazing. She works incredibly hard and pushes the team to deliver excellent results."

Construction, Chambers UK Bar 2024

"Superb advocacy, excellent advice and trusted by clients. She's a pleasure to work with."

Construction, Chambers UK Bar 2024

"A very gifted advocate whose style and approach reflect the very highest standards of the Bar."

International Arbitration, the Bar, Chambers and Partners, Asia Pacific 2022

"Very bright and hardworking, Serena turns instructions round quickly, gives first rates legal advice and is commercial and easy to deal with. She is also an excellent advocate."

Professional Negligence, The Legal 500 2024

In 2023, Serena was nominated for *Silk of the Year* at the Legal Business Awards.

In the same year, she was named as one of Business Today's *"Top 10 Most Influential Arbitration Lawyers Dominating Asia-Pacific's Legal Landscape"*¹.

¹ <https://businesstoday.news/top-10-most-influential-arbitration-lawyers-dominating-asia-pacifics-legal-landscape/>.

In 2022, Serena was nominated for *Construction and Energy Silk of the Year* at The Legal 500 UK Bar Awards, after only five years as leading counsel.

ENERGY AND UTILITIES

NATURAL ENERGY

- **Wind farm:** counsel for the main contractor in three-party Commercial Court proceedings arising out of the exploration of the largest wind zone offshore the UK. Technically, legally and tactically complex case concerning the cause of, and liability for, the failure of a monopile and delay to the project.
- **Wind farm:** counsel for the employer on its appeal from an Arbitrator's award in relation to the design and construction of a wind-farm in Scotland. The contractor disputed the Courts' jurisdiction to hear the claim and the applicability of the Arbitration Act 1996 to arbitration with a Scottish seat.

POWER AND UTILITIES

- **299MW Biomass Power Plant:** Leading Counsel to the UK-based energy services company in its ICC claim for £18.8 million pursuant to, and for breach of, three contracts with a Spanish employer for the construction of a Renewable Energy Biomass Power Plant, the largest dedicated biomass-burning power plant in the world.
- **Power Station:** counsel for the bond-provider in its application for an injunction to restrain calls on two performance bonds (\$40 million) given in support of the manufacture and supply of two 360MW boilers for installation at Pecem Power Station, Brazil.
- **Power Station:** counsel for the joint-venture purchaser in its highly technical claim for damages for breach of the asset warranties contained in a share purchase agreement concerning the largest combined cycle gas turbine power station in Europe. The JV claimed damages of £121 million. The case was listed for 11 weeks and was one of *The Lawyer's* Top 20 cases of that year.
- **Electricity:** trial counsel for the Master Developer in two conjoined DIAC arbitrations concerning the incidence of liability to pay for electrical connections to developments in a Dubai free zone.
- **Water:** counsel for the statutory undertaker in arbitral proceedings and cross-proceedings concerning the contractor's entitlement to a price adjustment and the value of the Employer's Final Account under a framework agreement for the installation of new service connections throughout the Greater London area.

OIL AND GAS

- Leading counsel to the Dubai-registered oilfield service contractor in a one-week LCIA Arbitration. Claim for payment for services provided to a National Oil Company in the South Rumaila oilfield.

- Leading trial counsel to the operator. Defence of the rig-owner's invoice claim for the hire of six drilling rigs deployed offshore Libya. One-week arbitration under the SIAC Rules. (US\$210 million claimed).
- Trial counsel to the EPC contractor. Defence of the operator's counterclaim for the costs of remedying alleged defects in the contractor's design, construction and commissioning of the first semi-submersible floating oil production system to be constructed in South East Asia, the largest of its kind ever to have been constructed on-shore. Three-week arbitration under the KLRCA/AIAC Rules, involving nine different engineering expert disciplines (Control Systems; Water Systems; Preservation; Electrical Engineering; Ex; Corrosion and Metallurgy; HVAC; Mechanical Engineering (including gas turbines and high pressure compressors) and Commissioning (US\$573 million counterclaimed).
- Leading counsel for the Operator in two ICC arbitrations concerning (a) the design, construction and commissioning of a new floating storage and offloading vessel for deployment offshore Libya and (b) the project management of those works (US\$106 million and US\$16 million claimed, respectively).
- Counsel to the logistics company in its challenge under section 67 of the Arbitration Act 1996 to a Tribunal's decision that it had jurisdiction to determine an English-registered oil major's claim in relation to the freight forwarding of and customs clearance of hydrocarbons shipped in bulk (THB 347 million claimed).
- Counsel for the EPCM contractor in defence of a funder's claim for damages for (a) breach of exclusivity undertakings; (b) breach of confidence; (c) conspiracy to injure by unlawful means; (d) licence fee damages and (e) equitable account of profits in relation to the design, construction and operation of a heavy fuel oil-fired thermoelectric power plant in Peru (US\$29 million claimed).
- Counsel for the operator in defence of a refinery owner's claim for damages for an alleged failure to maintain a crude oil pipeline (£57 million claimed, whole claim rejected).
- Counsel for the market-leading provider of deep-water drilling services in a two-week LCIA arbitration concerning the operator's wrongful termination of a contract for the provision of a semisubmersible drilling rig for exploration off Libya (US\$87 million awarded to the rig-owner).
- Counsel for the main contractor under an EPCC contract for the first commercial production facility to be brought on-stream in Iraq after the Gulf War. Document-heavy and detailed final account and delay dispute with the main sub-contractor under the LCIA Arbitration Rules.
- Counsel for the main contractor in defence of a sub-contractor's TCC claim for damages for breach of a cooperation agreement relating to a bid to provide geophysical services to BP on the Risha oil field, Jordan.

WASTE

- **Waste-water treatment plant:** counsel to the utilities provider in proposed TCC proceedings against six defendants concerning the design and construction of the nitrifying trickling filters at nine wastewater treatment plants across the north of England, on NEC terms. (c. £21 million)

claimed).

- **Waste-processing plant:** counsel to the funder in name-borrowing adjudication proceedings arising out of a suite of nine contracts concerning the funding, design, construction and operation of a waste processing plant procured in a PFI context.
- **Waste-water treatment plant:** counsel for the joint venture design-and-build sub-contractor on claims for delay and disruption, extensions of time, entitlement to performance incentive payments and the valuation of additional work.
- **Effluent-treatment plant:** counsel for the employer in court proceedings concerning the design and construction of an effluent treatment plant built to serve a cider mill under a limited letter of intent.

PFI / PPP

- **PFI Hospital:** counsel for the service provider in defence of project co's claim to £23 million in relation to service failures and quality failures allegedly arising out of the defective design of the fire-prevention element of an NHS hospital procured under a PFI contract.
- **PFI Hospital:** counsel for the NHS Trust in relation to its claims to apply deductions and service failure points in relation to historic failures which project co had failed itself to record.
- **PFI Hospital:** counsel for the NHS Trust in an adjudication concerning project co's entitlement to a price adjustment of £46 million under the terms of a PFI contract.
- **PFI Hospital:** acting for an NHS Trust in adjudications concerning the legal basis of the contractor's entitlement to extensions of time and to payment for variations under a PFI contract.
- **Waste-management PFI Project:** counsel for the bond-providers in relation to the main contractor's purported call on bonds given in support of a technology provider's design and construction of four in-vessel composting plants within the Greater Manchester Waste Management PFI Project.

TRANSPORT

AIR

- Counsel for the employer in a DIAC arbitration concerning the expansion of an international airport under the Dubai Aviation City Corporation's Standard Conditions of Contract. The joint-venture contractor claimed payment of AED 3.8 billion in respect of remeasurement, variations, cost-escalation, mark-up on nominated sub-contract packages and prolongation, plus loss of revenue and damages for late payment.
- Counsel for the structural steelworks sub-contractor in a two-week DIAC arbitration concerning the construction and connection design of the structural steel rack of the Cargo Mega Terminal at Dubai International Airport. The case involved detailed submissions on UAE law concerning a

contractor's entitlement to recover actual damages, rather than damages liquidated and/or capped pursuant to contract.

RAIL

- Counsel for the Lead Designer in five-party proceedings concerning the design and construction of a Tram Depot in Blackpool. The matter was listed for a three-week hearing in the Manchester TCC, but was very favourably settled against Serena's client on the first day of trial.
- Counsel for the rail network in an adjudication concerning the effect of inconsistent clauses in a complex, NEC-based, contract for the extension of the London Overground (underlying claim value £10 million).
- Counsel for the main contractor in tri-partite TCC proceedings concerning the design of a rail maintenance depot. The case raised issues of geotechnical engineering, rail logistics, programming and the quantification of future losses.
- Acting for a major rail network in an arbitration concerning the cause and consequences of differential settlement of land, and the incidence of liability for that settlement.

MARITIME

- Advising the employer on a main contractor's claim for additional payment for its installation of sheet piles at a new deep-water harbor, and its rectification of subsequent interlock failures in those piles. The dispute concerned the status and effect of the employer's oral instruction about the contractor's method of working.
- Acting for the main contractor in defence of the employer's claim for declarations as to the scope of its design and construction obligations in relation to a new terminal at what was then the largest ferry port in Ireland. The dispute concerned the need for scour protection and/or the deepening of piles and/or walls to account for propeller action.

ROAD

- Acting in two large road-building arbitrations concerning the foreseeability of site conditions, the identification and valuation of variations and the Contractor's entitlement to extensions of time and delay and disruption costs.

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

- Leading counsel for the employer in defence of the design and build contractor's LCIA arbitration in relation to the design and construction of an 18MW data centre for a market leading software house (€66 million claimed; €66 million counterclaimed).
- Counsel for the contractor in an ICC arbitration concerning a national government's wrongful termination of a contract for the design, procurement, installation, integration and commissioning of an airport IT system, network and security systems at an international airport in the Middle East (claim value £138.8 million).

- Adjudication proceedings concerning the installation of a trans-European system of fiber-optic cables.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

- **Fire Protection:** Jointly instructed by the Construction and Real Estate teams to represent the Developer in a seven-party TCC dispute about the design of the fire-protection of the car park storeys of a mixed-use development comprising hotel, cinema, retail, leisure, private apartments and car park accommodation. Losses of over £10 million have been intimated by the Claimant in its Letter of Claim.
- **Maritime City:** repeat instruction to act as leading counsel to the main contractor in a one-week ad hoc arbitration subject to the Federal Arbitration Law. The main contractor claimed payment of its final account for the construction of a maritime city in Dubai, including extensions of time and time-related cost. (AED 224 million claimed, excluding interest). Involved detailed submissions on the UAE law applicable to (a) the proper construction of the notice and particularization provisions of a FIDIC-based contract and (b) interest.
- **International City:** repeat instruction to lead the main contractor's representation at a one-week DIAC arbitration concerning the main contractor's final account for the construction of the electricity, water, telecoms and road infrastructure of a mixed use development in Dubai, plus extensions of time and time-related costs. (AED 100 million claimed, excluding interest). Involved detailed submissions on the UAE law governing (a) the proper application of the notice and particularization provisions of a FIDIC-based contract; (b) the interaction between the jurisdiction of the Dubai World Tribunal and an arbitral Tribunal; (c) a Respondent's legal waiver of its right to challenge the jurisdiction of the latter and (d) interest.
- **Lake Preservation:** leading counsel for the main contractor in a one-week DIAC arbitration concerning its final account for the construction of a lake wildlife sanctuary, public aviary and visitor center in Dubai, as well as extensions of time and time-related costs. (AED 32 million claimed, excluding interest). Involved detailed submissions on the UAE law of prescription and interest.
- **Culverts:** counsel for the sub-contractor in a DIAC arbitration concerning its entitlement to repayment of bond monies (AED 33 million) called in relation to the construction of the culverts under a development intended to be 50% larger than the Palm Jumeria, Dubai and the contractor's counterclaim for damages (AED 173.3). Involved detailed submissions on the UAE law governing the authority of an individual to bind his company to an arbitration agreement.
- **Low density polyethylene plant:** counsel to the EPC contractor on claims arising out of the termination of EPC contracts concerning two world-scale low density polyethylene plants and the employer's call on bonds and guarantees given in relation thereto. The employer claimed £133.9 million pursuant to contract. The EPC contractor sought to recover £28.5 million paid by its bondsman and guarantor.
- **Mixed-use development:** counsel for the employer in a DCCI arbitration concerning the basis of its entitlement to terminate a FIDIC contract for the construction of a mixed-use development in

Dubai, and of the contractor's entitlement to extensions of time and delay and disruption costs thereunder.

- **Mixed-use development:** leading counsel for the contractor in a CRCICA arbitration concerning the contractor's entitlement to extensions of time and loss and expense in relation to the concrete, architectural and electromechanical packages of a 750,000 m² integrated urban development in Egypt.
- **Stadia:** counsel for the control systems sub-contractor in TCC proceedings concerning the design, construction and commissioning of the control systems of Wembley Stadium.
- **Hotel complex:** counsel for the main contractor in its final account claim against the employer in relation to the construction of a hotel complex in Thailand (Thai Arbitration Institute Arbitration c. £8.5 million claimed).
- **Hotel complex:** counsel for the employer in arbitral proceedings concerning its entitlement to €32 million and US\$10 million for the defective project management of a hotel, conference and commercial development at the junction of the White Nile and the Blue Nile in Sudan.
- **College:** counsel for the main contractor in an UNCITRAL arbitration concerning the design and construction of a men's higher education college in Dubai on FIDIC-based terms.
- **Supermarkets:** counsel for the contractor from inception to appeal in TCC proceedings concerning its entitlement to payment for facilities management services at 372 supermarket outlets under letters of intent.
- **Historic structures:** counsel for the employer in a six-week final account arbitration concerning the renovation of an historic conservatory, pavilions and park in Liverpool.
- **Private development:** counsel for the employer in a three-week TCC trial concerning the contractor's final account for the renovation of a high-value private residence in Kensington.

PROFESSIONAL NEGLIGENCE

- Counsel for the third-party designer in proceedings concerning the design and construction of a print-works in Sheffield.
- Acting for the engineer in a claim arising out of its design of a methane gas extraction and processing plant.
- Advising the employer on the liabilities of the contractor, engineer and architect involved in revetment works along the Medway River.
- Counsel for the architect in a four-week trial concerning the adequacy of its design of a dye-works.

REPORTED CASES

Lane End Developments Construction Ltd. v. Kingstone Civil Engineering Ltd: Kingstone Civil Engineering Ltd. v. Lane End Developments Construction Ltd. [2020] 1 BLR Plus 41, Construction Law Reporter 7 September 2020, CILL 4 October 2020

Blackpool Borough Council v. Volkerfitzpatrick Ltd. & (1) Range Roofing and Cladding Ltd & (2) RPS Planning and Development Ltd & (3) Cauntton Engineering Ltd [2020] BLR 340, [2020] TCLR 4

Harcap Ltd. v. FK Generators & Equipment Ltd [2017] EWHC 2765 (Comm), cited in Lewison, *The Interpretation of Contracts*, 7th Ed. (Sweet & Maxwell, 2020)

Malcolm Charles Contracts Ltd v. Crispin & Zhang [2016] 1 All ER (Comm) 9, 159 Con LR 185

Eurocom Ltd v Siemens PLC [2015] BLR 1, 157 Con LR 120

University of Brighton v Dovehouse Interiors Ltd [2014] BLR 432, 153 Con LR 147

Hillcrest Homes Ltd v Beresford & Curbishley Ltd [2014] 153 Con LR 179

Doosan Babcock Ltd v Comercializadora de Equipos y Materiales MABE LDA [2014] BLR 33

Westshield Civil Engineering Ltd v. Buckingham Group Contracting Ltd [2013] 28 EG 85, 150 Con LR 225

Walter Lilley & Co v Mackay and DMW Developments Ltd [2012] BLR 503 and [2012] BLR 249, 143 Con LR 79 and 141 Con LR 102

Carillion Construction Ltd v Stephen Andrew Smith [2012] Bus LR D61, 141 Con LR 117

Straw Realisations (No1) v Shaftsbury House (Developments) Ltd [2011] BLR 47, 133 Con LR 82

Price v. Carter (t/a Ian Carter Building Contractors) [2010] EWHC 1451 (TCC), cited in Sutton, Gill and Gearing, *Russell on Arbitration*, 24th Edition (Sweet & Maxwell, 2015) and Merkin and Flannery, *Arbitration Act 1996*, 5th Edition (Informa Law, 2014)

Workspace Management v YJL London Limited [2009] BLR 497, [2009] 3 EGLR 11, [2009] 42 EG 178

Braes of Doune Wind Farm (Scotland) Ltd v Alfred McAlpine Business Services Ltd [2008] 2 All ER (Comm) 493, [2008] 1 Lloyd's Rep 608, [2008] BLR 321, [2008] Bus LR D137

Taylor Woodrow and George Wimpey Southern Counties v Barnes & Elliott [2006] All ER (Comm) 735, [2006] BLR 377, 110 Con LR 169

Baker & Davies Plc v Leslie Wilkes Associates [2005] 3 All ER 603, [2005] BLR 425, 101 Con LR 82, [2006] PNLR 3

QUALIFICATIONS AND AWARDS

1999-2000 Inns of Court School of Law (Outstanding in Advocacy)

1996-1999 LLB (Hons), King's College London

ADDITIONAL INFORMATION

Serena is a member of COMBAR, LCLCBA and the SCL. She served on TECBAR's Management Committee between c. 2010 and 2017.

She teaches advocacy at Lincoln's Inn and was, for 15 years, a governor of a Leathersellers' school in South East London.

RECENT RECOMMENDATIONS

"Superb advocacy, excellent advice and trusted by clients. She's a pleasure to work with.";
"Serena leaves no stone unturned. She is incisive and clear in her advice and quickly builds strong relationships with clients.";

"Serena is very conscientious, very hard-working and very responsive. She has a very polished approach to working with clients."

Construction, Chambers and Partners, UK Bar 2024

"Serena is amazing. She works incredibly hard and pushes the team to deliver excellent results."

Construction, Legal 500 2024

"Serena assimilates complex, technical issues with ease and then presents the same with clarity."

Energy, Legal 500 2024

"Serena has an excellent understanding of the application and nuances of UAE procedure and practice. Her calm and clear communication with clients provides them with assurance at all stages of the matter. Serena assimilates complex, technical issues with ease and then presents the same with clarity."

International Arbitration – Counsel, Legal 500 2024

"Very bright and hardworking, Serena turns instructions round quickly, gives first rates legal advice and is commercial and easy to deal with. She is also an excellent advocate."

Professional Negligence, Legal 500 2024

"She's an excellent advocate and a superb thinker who is unyielding under pressure."

International Arbitration – The Bar, Asia-Pacific Region, Chambers Global 2023

"Her advocacy is really impressive, very calm and shows great attention to detail";

"Serena is a very calming and authoritative presence while being very intelligent, extremely thorough and hard-working.";

Construction – UK, Chambers Global 2023

“Able to grasp complex technical issues and very capably draw the applicable legal principles in, to provide comprehensive, exhaustive and accurate advice. A very strong advocate who deals with tribunals with consummate professionalism”.

Construction, Energy and Infrastructure, Legal 500, Asia Pacific 2023.

“A very gifted advocate whose style and approach reflect the very highest standards of the Bar”;

“She did a really excellent job, getting to grips with the technical matters with fantastic attention to detail and making the opposition look ordinary”.

International Arbitration, the Bar, Chambers and Partners, Asia Pacific 2022

“She is very clever, meticulous and is excellent with details and foreshadowing issues.”

Construction, Energy and Infrastructure, The Legal 500 Asia Pacific 2022

“Serena is obviously a very skilled and effective counsel with a good understanding of how to persuade a technical tribunal.”

Construction, The Legal 500 2022

“An absolute first-rate advocate who reads tribunals very well and astutely formulates arguments for very effective and persuasive delivery.”

Energy, The Legal 500 2022

“Serena is a very skilled counsel, who quickly gets on top of her brief.”

Professional Negligence, The Legal 500 2022

“A brilliant advocate, subtle and measured. There is an almost hypnotic quality to her oral advocacy.”

International Arbitration, The Legal 500 2022

“Conscientious and technically very knowledgeable in construction contracts.”

Construction, Asia Pacific. The Legal 500 2022

“She has a no-nonsense approach and is very user-friendly – her drafting is clear and straightforward.”

Construction, Middle East, The Legal 500 2022

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.