



CONSTRUCTION, ENGINEERING AND
INFRASTRUCTURE
ENERGY AND UTILITIES
PROFESSIONAL NEGLIGENCE
ADJUDICATION, ARBITRATION AND MEDIATION
GENERAL COMMERCIAL, COMPANY AND
INSOLVENCY

Max Twivy

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PRACTICE

Max has a busy practice which belies his year of call, acting at all stages of litigation, adjudication and arbitration. Max's areas of practice include construction, engineering, professional negligence and energy, as well as general commercial and insolvency. Max is ranked as a Rising Star in Construction by The Legal 500.

As junior counsel, Max's recent instructions include appearing in an international arbitration relating to a chemical plant (in which Max carried out some of the advocacy), acting in one of The Lawyer's Top 20 Cases of 2022 (a multi-party TCC claim relating to a hospital), acting for two of the UK's largest developers in disputes relating to cladding, and acting in a PFI dispute relating to street lighting. Other recent instructions include acting in two international arbitrations concerning airport and rail projects in the Middle East.

Max is regularly instructed as sole counsel. Recent instructions including appearing for his successful client against a leading silk in a Part 8 and adjudication enforcement hearing, and successfully representing Transport for London in a High Court strike out application relating to taxi licences.

Max placed 1st in the SCL Hudson Prize, has been published in the International Construction Law Review, and is co-editor of the TECBAR Review. Max ranked 1st in the country at law school, having graduated from Cambridge University with a starred double first.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

Max has acted in a wide range of domestic and international construction, engineering, and infrastructure disputes, in the TCC and in arbitrations. Recent work includes:

- Acting as junior counsel in a PFI dispute relating to street lighting, including providing advice, drafting adjudication and adjudication enforcement documents, and ongoing involvement in pending arbitration proceedings.
- Acted as junior counsel (led by Steven Walker KC) in an international arbitration relating to a methanol plant in the Caribbean. Max carried out some of the advocacy during trial.
- Instructed as junior counsel (led by Dominique Rawley KC) in **Northumbria Healthcare NHS Foundation Trust v Lendlease Construction (Europe) Ltd & Others**, one of The Lawyer's Top 20 Cases of 2022. The issues involved include alleged fire-safety defects.
- Acting in multiple TCC and arbitration claims relating to cladding, compartmentation and fire-safety, including in relation to a student accommodation development, a high rise residential building, and a mixed use development.
- Instructed in multiple claims involving the Defective Premises Act and the changes in the law under the Building Safety Act 2022.
- Acted as junior counsel (including through trial) in a high-value international arbitration relating to a major Middle East rail project. Also acted as junior counsel in a multi-billion-dollar arbitration regarding a major airport in the Middle East.
- Appeared as sole counsel for the successful applicant in a TCC application for a final charging order: **Blacknest Gate Ltd v Seymour Realty Ltd** [\[2020\] EWHC 3878 \(TCC\)](#).
- Appeared as sole counsel for the successful claimant (against a leading silk) in enforcing an adjudication decision and resisting a Pt 8 claim challenging the correctness of the decision: **Breakshore Ltd v Red Key Concepts Ltd** [\[2022\] 5 WLUK 677](#).
- Appeared as junior counsel in the TCC for the successful applicant seeking security for costs: **Dimension Data Advanced Infrastructure v Berkeley Homes** [\[2020\] EWHC 1328 \(TCC\)](#).
- Appeared as sole counsel for the successful claimant in a trial concerning the scope of a contractual variation provision in relation to a commercial development: **Star Real Estate Ltd v South Q 100 Ltd** [\[2022\] 4 WLUK 449](#).
- Appeared in a trial for the successful claimant relating to excavation road works in Sheffield.
- Drafted Defence on behalf of a bank in a claim relating to a call on a performance bond. Max has also advised on a number of matters relating to guarantees and bonds.
- Regularly appears in court as sole counsel in procedural and interim hearings (as well as at trial), for example recently obtaining an interim injunction for a contractor in the High Court and appearing in an application to set aside Default Judgment in an engineering dispute.

ENERGY AND UTILITIES

- Acting as junior counsel in a PFI dispute relating to street lighting, including providing advice, drafting adjudication and adjudication enforcement documents, and ongoing involvement in pending arbitration proceedings.
- Acted as junior counsel (led by Steven Walker KC) in an international arbitration relating to a methanol plant in the Caribbean. Max carried out some of the advocacy during trial.
- Drafted advice for an offshore windfarm developer regarding its rights to carry out surveys and injunctive relief.

PROFESSIONAL NEGLIGENCE

- Acted as junior counsel in a multi-billion-dollar international arbitration on behalf of an architectural and project management firm, in a professional negligence dispute regarding a major airport in the Middle East.
- Acting for a firm of architects in a TCC claim brought against it relating to the design of the cladding systems in a mixed-use development in London.
- Acting for a developer in a TCC claim against a firm of architects in relation to external wall defects relating to watertightness and fire safety in a residential development in Bristol.
- Acting for or against professionals / D&B contractors in various other post-Grenfell cladding claims.
- Acted (drafting Particulars of Claim) in a TCC claim against an engineer relating to a car park.
- Drafted Particulars of Claim alleging negligent design of a bridge by mechanical engineers.
- Drafted Defence in a defective design claim against architects regarding balcony soffits.

INTERNATIONAL ARBITRATION

- Acted as junior counsel (led by Steven Walker KC) in an international arbitration relating to a methanol plant in the Caribbean. Max carried out some of the advocacy during trial.
- Appeared as junior counsel in a high-value arbitration relating to a Middle East rail project.
- Acted as junior counsel in a \$2 billion arbitration in a dispute over the design, procurement, and construction of a major airport in the Middle East.
- Instructed as junior counsel (drafting memorial statements of claim) in three arbitrations relating to MEP works in the construction of malls and a luxury resort in the Arabian Peninsula.
- Drafted skeleton argument for a stay under s.9 Arbitration Act 1996.

ADJUDICATION

Max is regularly instructed in adjudications and adjudication enforcement proceedings. Recent examples include:

- Appearing for the successful applicant for a charging order in TCC adjudication enforcement proceedings: **Blacknest Gate Ltd v Seymour Realty Ltd** [\[2020\] EWHC 3878 \(TCC\)](#).
- Appeared as sole counsel for the successful claimant in enforcing an adjudication decision and resisting a Pt 8 challenge: **Breakshore Ltd v Red Key Concepts Ltd** [\[2022\] 5 WLUK 677](#).
- Drafting Part 8 TCC claims seeking declaratory relief relating to an adjudicator's jurisdiction, regarding: the conclusiveness of a final account; and the effect of a previous decision.
- Acting for an adjudicator in a claim for non-payment of fees.

GENERAL COMMERCIAL, COMPANY AND INSOLVENCY

- Appeared as sole counsel acting for Transport for London in its successful strike out application relating to tax licences: **Houston & Ors v Transport for London** [\[2022\] EWHC 3279 \(KB\)](#).
- Appeared as sole counsel in a Norwich Pharmacal application in the Intellectual Property Enterprise Court: **Puma SE v Transport for London** [2023] EWHC 1236 (IPEC)
- Appeared as sole counsel in the High Court Senior Courts Costs Office, successfully obtaining a charging order enforcing sums due under Default Costs Certificates.
- Appeared as sole counsel in the High Court (Insolvency and Companies List), successfully obtaining an interim injunction to restrain the presentation of a winding-up.
- Appeared in the Companies Court Winding Up List to apply for a winding-up order.
- Appeared as sole counsel in the Chancery Division, obtaining an indemnity costs order.
- Appeared as sole counsel in a trial relating to a development management agreement: **Star Real Estate Ltd v South Q 100 Ltd** [\[2022\] 4 WLUK 449](#).
- Appeared as sole counsel in a trial relating to the identity of the contracting entities in a contract for the sale of goods.
- Drafted a Defence to a payment claim by a PR company following termination of its contract.
- Drafted Defence on behalf of a bank to a claim calling on a performance bond.
- Drafted advice for a purchaser under a contract for the sale of a hotel.

- Various insolvency matters, including: advising on an appeal against a decision on a creditor's proof of debt; and drafting skeleton argument for a stay on the basis that the defendant had entered voluntary liquidation.

Max has also drafted advice on numerous procedural and commercial, company and contract law matters, including: bonds and guarantees; contractual interpretation of various insurance policies; retention of title in goods and s25 of the Sale of Goods Act; and injunctive relief.

QUALIFICATIONS AND AWARDS

2018	SCL Hudson Prize, 1 st prize; Times Law Awards, runner-up
2017-2018	Bedingfield Scholar, Gray's Inn
2017-2018	Bar Professional Training Course, BPP Law School, Outstanding (ranked 1 st in country)
2016-2017	Graduate Diploma in Law, BPP Law School, Distinction (ranked 1 st in country)
2013-2016	University of Cambridge, Trinity College, History BA (Hons), Starred Double First Ranked 2 nd in year in Part I, 3 rd in Part II, ranked 1 st on aggregate Faculty of History Prize for Outstanding Performance Earl of Derby Prize for highest distinction in History, Trinity College James Webb Prize for the History of Ideas Gordon Duff Prize, Cambridge University Library Bowen Prize and Greaves Prize, Trinity College; Senior Scholarship, Trinity College

LEGAL TEXTS

'Guidance Notes for Experts participating in Commercial Mediation' The Academy of Experts [2021]

'The Prevention Principle After North Midland v Cyden Homes: Time for Change?' [2019]
International Construction Law Review 375.

ADDITIONAL INFORMATION

Max is a member of the SCL, TECBAR and COMBAR. Max is on the TECBAR committee and is a co-editor of the TECBAR Review. Max is ranked as a Rising Star in Construction by The Legal 500.