



CONSTRUCTION AND ENGINEERING
ENERGY AND NATURAL RESOURCES
IT AND TELECOMMUNICATIONS
INTERNATIONAL ARBITRATION
ADJUDICATION
ENFORCEMENT
GENERAL COMMERCIAL / LITIGATION

Ella Rutter

Call Date: 2021 // erutter@atkinchambers.com

PRACTICE

Ella specialises in domestic and international disputes in the construction, engineering and infrastructure, energy and utilities and information technology sectors.

Her recent cases include acting for a local government authority against a security technology company in a dispute concerning the provision of a defective electronic access control system and acting (with Mathias Cheung) for the developer in a £7 million construction adjudication.

Ella read law at the University of Oxford and has a Master of Laws in International and European Law from the University of Ghent. She was awarded the Queen Mother Scholarship, Middle Temple's most prestigious award to study for the Bar of England and Wales. In addition to England and Wales, Ella is admitted to practice in New York.

Ella previously lived and worked in Paris and has a reasonable working knowledge of French.

CONSTRUCTION AND ENGINEERING

Ella has worked on a wide range of construction and engineering disputes, spanning from residential buildings to commercial premises and infrastructure projects. She is familiar with bespoke and standard form construction contracts, including JCT and NEC forms, as well as PFI contracts.

Further to the experience listed below under "International Arbitration" and "Adjudication", examples of Ella's work on construction disputes includes:

- Acting for a firm of architects in a High Court litigation arising out of an agreement to provide contract administration services in relation to a building contract for works to remove dry rot from a listed building.
- Acting for two individuals against a build contractor and designer in claims for breach of contract

and negligence arising out of a contract for the construction of an extension resulting in the collapse of an adjoining wall.

- Acting for a firm of property development consultants against a property development company and its sole director in a claim for unpaid invoices for consultancy services provided on two building projects, raising issues of contract formation.
- Acting for a builder and his alleged business partner in a five-day trial against a homeowner in a claim for breach of contract in relation to building works carried out under contracts for the construction of a loft conversion and two extensions, raising partnership law issues.
- Acting for a subcontractor specialising in the manufacture and installation of windows and doors against the main build contractor under a contract for the supply of patio doors, raising issues of defects and delay.
- Acting for two individuals in a claim against a construction company in a claim for defective work and delay arising under two JCT design and build contracts.
- Acting for a builder against a property owner in a litigation concerning alleged defects under a contract for substantial renovation works.
- Acting for a contractor in its claim for payment for a number of variations in relation to the construction of a new-build residential property.
- Advising a property owner in relation to a claim for breach of contract against a construction company following the contractor's abandonment of pre-paid works, raising issues of unjust enrichment and fraud.
- Advising a firm of architects in relation to court proceedings concerning claims of over £250,000 for alleged professional negligence and contractual breach under a contract to provide initial design and planning services to a self-build project.
- A litigation between two companies that specialise in the design, production and installation of concrete structures, concerning breaches of their collaboration agreement for the construction of concrete tunnels for HS2. (During pupillage).
- A substantial dispute between a project company and certain hospital trusts on the construction of the terms of a PFI agreement arising out of issues with the fire doors. (During pupillage).
- A litigation between a property maintenance company and a company providing fire door inspection services under a multi-million pound contract for the inspection of fire doors. (During pupillage).
- A dispute between a local authority and a contractor regarding an extension of time request under a contract for the demolition, reconstruction and refurbishment of a high-rise building. (During pupillage).
- A dispute between a university and a contractor in connection with the defective construction of blocks of student accommodation under a JCT contract. (During pupillage).
- A prospective litigation between a construction company and a car dealership regarding a claim

for alleged defects in a car showroom floor. (During pupillage).

- A dispute between a concrete supplier and a purchaser as to the interpretation of exclusion clauses in a concrete supply contract in connection with insufficient strength concrete used in the construction of a high-rise development. (During pupillage).
- A substantial litigation between an international construction company and an insurance company concerning the interpretation of an exclusion clause in an insurance policy. (During pupillage).
- A litigation between a property development company and a contractor concerning the contractor's claim for payment under an alleged settlement agreement, raising issues of company law. (During pupillage).
- A litigation between a build contractor and a property owner in a dispute concerning allegedly defective works to an office roof. (During pupillage).
- A litigation between an individual and a local authority arising under a group repair scheme agreement. (During pupillage).
- A CIMAR (domestic) arbitration between a build contractor and a specialist steel company under a contract for the supply and installation of structural steelwork, concerning claims for defective work, delay and disruption, and raising preliminary issues as to the construction of a partial settlement agreement. (During pupillage).

ENERGY AND NATURAL RESOURCES

Ella has undertaken work on a number of large energy projects. In addition to the experience listed below under "International Arbitration", examples of Ella's experience of energy disputes include:

- A dispute between electricity companies on the interpretation of a joint venture agreement for the installation and maintenance of an electricity grid. (During pupillage).
- A dispute between a water company and an insurance company arising out of a performance guarantee bond provided under a contract for the construction of two new water mains. (During pupillage).

IT AND TELECOMMUNICATIONS

Ella has experience of cases in the information technology sector and recently acted for a local government authority against a security technology company in a dispute arising under a contract to provide an electronic access control system.

INTERNATIONAL ARBITRATION

Ella has worked on a number of international commercial and investment arbitrations, in particular in relation to disputes concerning high-value construction and energy projects. She has experience of ad-hoc and institutional arbitrations (HKIAC, ICC, ICSID, LCIA, SIAC and UNCITRAL) in disputes

across Africa, Asia, the Caribbean, the CIS, Europe and the Middle-East. Examples of Ella's international commercial arbitration work include:

- An LCIA arbitration (London seat, English governing law) (jurisdiction phase) arising out of an agreement for a long lease for the development of a hotel and tourist resort. (During pupillage)
- An ad hoc UNCITRAL oil and gas arbitration in West Africa. (During pupillage)
- A HKIAC construction arbitration concerning the design and construction of blocks of flats. (During pupillage)
- An ICC arbitration arising under a contract for the supply of feed water heaters by an engineering company to a power plant project. (During pupillage)
- A prospective arbitration between a maritime construction company and a power company under a contract for the installation of an offshore windfarm. (During pupillage)
- Assisting counsel acting for a State in a US\$160 million SIAC commercial arbitration concerning the performance and termination of a major road construction contract.*
- Assisting counsel acting for an international oil company in an ad hoc UNCITRAL commercial arbitration (London seat, English governing law) arising from a tender process for the supply of equipment to an oil and gas project in Kazakhstan, concerning issues of contractual breach, misrepresentation and conspiracy.*
- Assisting counsel acting for a Russian businessman in an LCIA arbitration (London seat, English governing law) regarding the construction and sale of two multi-use skyscrapers.*
- Assisting counsel acting for an oil and gas major in an ICC gas price review arbitration (Geneva seat, Swiss governing law) concerning the German pipeline gas market.*
- Assisting counsel advising a Russian oil company on issues in connection with multiple-contracts in relation to a prospective HKIAC arbitration.*
- Assisting counsel acting for an international inter-governmental organisation in four consolidated commercial arbitrations arising under contracts for the provision of goods and services to it.*
- Assisting counsel acting for a South American mining company in an ICC arbitration (London seat, English governing law) arising out of a dispute over the supply of iron ore pellets under two long-term sale and purchase agreements.*
- Assisting the arbitrator in a US\$20 million ICC arbitration (London seat, Dutch governing law) arising out of an exclusive distribution agreement for generic pharmaceuticals in the Middle East.*
- Assisting the arbitrator in an ICC arbitration (London seat, English governing law), conducted in French, arising out of a farmout agreement.*
- Assisting the arbitrator in an ICC arbitration (Brussels seat, Belgian governing law) arising from a purchase order for agricultural equipment.*
- Assisting the arbitrator in an ad hoc logistics arbitration (Brussels seat, Belgian governing law)

between an American online retailer and its European supplier.*

Examples of Ella's work on investment and inter-State arbitrations and related negotiations include:

- Assisting counsel acting for an Asian State against a major engineering company in an ICSID arbitration (jurisdiction phase) concerning a tender bid for a US\$ multi-billion refinery improvement project.*
- Assisting counsel acting for a Finnish national against Egypt in an UNCITRAL investment arbitration (merits phase) concerning an iron ore and steel producing concession.*
- Assisting counsel acting for a major real estate developer against Croatia in an ICSID arbitration concerning the development of a luxury golf resort in Dubrovnik.*
- Assisting counsel acting for private investors against Spain in an ICSID arbitration concerning claims of US\$490 million arising out of a series of energy reforms affecting the renewables sector.*
- Assisting counsel advising a biotechnology company in relation to an investor-state arbitration arising out of a pharmaceutical drug approval process.*
- Assisting counsel acting for over 900 Greek bond holders against Cyprus in an ICSID arbitration (jurisdiction phase) concerning losses resulting from Cyprus' response to its financial crisis.*
- Assisting counsel advising a Czech private investor regarding an investment arbitration against a European State concerning claims of judicial expropriation of real estate.*
- Assisting counsel acting for a private investor against China in an investment arbitration regarding expropriation of agricultural land.*
- Assisting counsel advising a State with respect to an UNCLOS arbitral award and related island sovereignty and law of the sea issues.*
- Assisting counsel advising a state-owned investment company in connection with negotiations on the terms of a new draft BIT.*
- Assisting counsel advising a State in relation to border negotiations with a neighbouring State.*
- Assisting the presiding arbitrator in the jurisdiction phase of an ICSID arbitration concerning an expropriation claim.*

* Cases worked on before joining Chambers.

ADJUDICATION

Ella has experience of all stages of construction adjudication. In addition to experience of enforcing adjudication decisions (listed under "Enforcement" below), examples of work include:

- Acting (with Matthias Cheung) for a major property development company against a contractor in connection with a prospective £7 million final account adjudication under a JCT trade contract

for the design and construction of two multi-storey buildings, with a focus on the claim for defective balconies.

- Acting for two individuals against a contractor in two “smash and grab” adjudications under two JCT contracts for renovation works, raising issues as to the correct due date and the existence of a compromise.
- A final account adjudication between a major property development company and a construction company concerning (*inter alia*) non-compliance with condition precedents to variations, raising issues of promissory estoppel and fraud. (During pupillage)
- Assisting the adjudicator in an ad hoc adjudication (Zurich seat, Swiss governing law) between a German conglomerate and a Belgian construction company in an adjudication arising out of a concrete supply contract connected to the construction of a power plant.*

* Cases worked on before joining Chambers.

ENFORCEMENT

Ella has experience of enforcement proceedings in relation to adjudication decisions, arbitral awards and foreign court judgments; including:

- Acting for two individuals against a contractor in joint adjudication enforcement and Part 8 proceedings, raising issues as to the correct due date and the existence of a compromise.
- A Part 8 court application for enforcement of an adjudicator’s decision, concerning objections to the adjudicator’s jurisdiction relating to the validity of the service of the adjudication, the validity of certain payment notices and the alleged failure of the adjudicator to consider certain defences. (During pupillage)
- Advising the claimants in connection with the enforcement in England and Wales of a foreign court judgment for over US\$150 million.*
- Assisting counsel acting for the Attorney General of Belize in a dispute before the Caribbean Court of Justice raising constitutional law issues connected with the enforcement in Belize of a BZ\$90 million LCIA arbitral award.*
- Assisting counsel acting for a Hong Kong corporation in connection with the enforcement of a KRW166.6 billion ICC arbitral award (Hong Kong seat, English governing law) in Korea.*

* Cases worked on before joining Chambers.

GENERAL COMMERCIAL / LITIGATION

In addition to Chambers’ core specialisms, Ella also has experience of broader commercial disputes. Examples of her general work include:

- Acting for a property letting agency in injunctive proceedings brought by a former tenant in connection with major building works at one of its former properties.

- Acting for Transport for London against two individuals in an application to set aside default judgment.
- Acting for Transport for London against a company at a hearing for review of a TEC decision under Civil Procedure Rule 75.5A.
- Acting for Transport for London against an individual at a costs hearing following the claimant's discontinuance of his claim.
- Acting for Swatch against Samsung in a significant IP dispute before the TCC concerning the use of trade marks on smart watches.*
- Assisting counsel acting for a leading African businessman in court proceedings in Zambia in connection with the operation of an emerald mine.*
- Assisting counsel acting for a defendant in actions before English courts against multiple maritime car carriers.*

* Cases worked on before joining Chambers.

MEMBERSHIPS

TECBAR

COMBAR

Society of Construction Law

LCIA Young International Arbitration Group

ICC Young Arbitrators Forum

Young ICCA

HK45

CEPANI 40

Young ICSID

QUALIFICATIONS, AWARDS AND CAREER

Qualifications

2020: Admitted as a solicitor in England and Wales

2019: Admitted to the New York Bar

2015-2016: LLM in International and European Law, University of Ghent (*summa cum laude*, first in year)

2012-2015: BA in Jurisprudence, New College, University of Oxford (II.i)

Awards

2019: Queen Mother Scholarship (the Inn's highest award), Middle Temple (Unclaimed)

2019: Harmsworth Entrance Exhibition, Middle Temple (Unclaimed)

2016: Ranked 14th out of 625 law schools in the Philip C. Jessup International Law Moot

2016: Semi-finalist (out of 16 teams) in the Brussels pre-moot of the Willem C. Vis International Commercial Arbitration Moot

2014: Finalist (out of 12 teams) in the University of Oxford Monckton Chambers European Union Law Moot

2014: Semi-Finalist (out of 24 teams) in the University of Oxford JustCite Procedural Justice Mooting Shield

Career

Ella previously practised for two years in the litigation and controversy department at a leading US-based international law firm (WilmerHale, 2019-2021), where she advised clients in high-value and multi-jurisdictional litigations and arbitrations.

Before that, Ella worked for two years at a number of leading law firms (2016-2018), including undertaking two six-month traineeships in the international arbitration practices at Magic Circle firms in Paris and working for two arbitrators. During this time, she assisted counsel teams acting in over twenty international disputes and worked as an arbitral tribunal secretary.

PUBLICATIONS

Puchyna, M., Kelly, J. and Rutter, E., *Investment protection on the Belt and Road*, 2 *Journal of Subsoil Use and Law* 176 (2019).

Assisted with drafting G. Born, *International Commercial Arbitration* (3rd and 4th eds.).

Assisted Dr Maud Piers with drafting a paper on artificial intelligence in dispute resolution (University of Ghent, Faculty of Law and Criminology, 2016).