



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

## Ella Rutter

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## PRACTICE

Ella's practice spans the range of Chambers' expertise in domestic and international disputes in the construction, energy and technology sectors. She has experience of all stages of adjudication, litigation and arbitration (ad hoc, CIMAR, HKIAC, ICC, ICSID, LCIA, SIAC and UNCITRAL) and has worked with a variety of bespoke and standard form construction contracts, including JCT and NEC forms.

Ella's recent instructions include acting for a local government authority against a security technology company in a dispute regarding the provision of a defective electronic access control system, acting for a firm of architects in High Court proceedings arising out of a contract for the provision of contract administration services 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.

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## 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 has experience of all stages of construction adjudication, litigation and arbitration and is familiar with bespoke and standard form construction contracts.

In addition to the experience listed below under “International Arbitration” and “Adjudication”, examples of Ella’s construction & engineering instructions include:

- Acting for two private individuals in court proceedings against a construction company pursuant to two JCT contracts for home renovation works of over £3.4 million concerning claims for defective works and delay.
- Acting for a firm of architects in a High Court litigation concerning claims for alleged professional negligence and breach of contract under a contract to administer a build contract for works to remove dry rot from a listed building.
- Acting for a builder against a property owner in a litigation concerning alleged defects under a contract for 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.
- Acted for a firm of property development consultants in a claim for unpaid invoices for services it provided on two building projects.
- Advised 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.
- Advised 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.

In addition, during pupillage Ella undertook a number of discrete drafting assignments (pleadings, opinions and skeleton arguments) for members of Chambers on high-value and technically complex construction and engineering disputes; including:

- A litigation between two companies that specialise in the design, production and installation of concrete structures, concerning breaches of their collaboration agreement connected to the construction of HS2.
- 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.
- A litigation between a property maintenance company and company providing fire door inspection services under a multi-million pound contract for the inspection of fire doors.
- 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.
- A dispute between a university and a contractor in connection with the defective construction of blocks of student accommodation under a JCT contract, concerning a prospective agreement between the university and the contractor’s guarantor.
- A prospective litigation between a construction company and a car dealership regarding a claim for alleged defects in a car showroom floor.

- A dispute between a concrete supplier and the purchaser as to the interpretation of exclusion clauses in a concrete supply contract in connection with the construction of a high-rise development.
- A litigation between a property developer and a contractor concerning the contractor's claim for payment under a settlement agreement that was allegedly signed on behalf of the property developer, raising various company law issues.
- A litigation between a build contractor and the property owner in a dispute concerning allegedly defective works to an office roof.
- A litigation between an individual and a local authority concerning breaches of a contract as part of a group repair scheme.
- A substantial litigation between an international construction company and an insurance company concerning the interpretation of an exclusion clause in an insurance policy.
- 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 (out-of-tolerance steel), delay and disruption, and raising preliminary issues as to the construction of a partial settlement agreement.

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## IT AND TELECOMMUNICATIONS

Ella has experience of cases in the IT and telecommunications sector. Her recent instructions include acting for a local government authority against a security technology company in relation to claims arising under a contract to provide an electronic access control system.

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## ENERGY AND NATURAL RESOURCES

Ella has undertaken work on a number of large energy projects, typically in the context of international arbitrations.

In addition, during pupillage Ella undertook several discrete drafting assignments for members of Chambers in relation to energy litigations, including drafting advice for an electricity company on the interpretation of a joint venture agreement for the installation of an electricity grid, and drafting advice for a water company in relation to a dispute with an insurance company arising out of a performance guarantee bond provided under a contract for the construction of two new water mains.

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## INTERNATIONAL ARBITRATION

Ella has worked on a number of international commercial and investment arbitrations, in particular in relation to disputes concerning large construction and energy projects. She has experience of both ad-hoc and institutional arbitrations (ad hoc, 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 (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 for an onshore oil-powered steam power plant project in Western Asia, concerning limitation issues. (During pupillage)
- A prospective arbitration between a maritime construction company and a power company under a contract for the installation and building of pre-piling works, pin-piles and jackets for an offshore windfarm in East Asia. (During pupillage)
- Assisted counsel acting for an Asian State in a US\$160 million SIAC commercial arbitration concerning the performance and termination of a major road construction contract.\*
- Assisted 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.\*
- Assisted 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.\*
- Assisted 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.\*
- Assisted counsel advising a Russian oil company on issues in connection with multiple-contracts in relation to a prospective HKIAC arbitration.\*
- Assisted 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.\*
- Assisted 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.\*
- Assisted the arbitrator in a US\$20 million ICC arbitration (London seat, Dutch governing law) arising out of an exclusive distribution agreement for several generic pharmaceuticals in the Middle East.\*
- Assisted the arbitrator in an ICC arbitration (London seat, English governing law), conducted in French, arising out of a farmout agreement.\*
- Assisted the arbitrator in an ICC arbitration (Brussels seat, Belgian governing law) arising from a purchase order for agricultural equipment.\*

- Assisted 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 negotiations include:

- Assisted 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.\*
- Assisted counsel acting for a Finnish national against Egypt in an UNCITRAL investment arbitration (merits phase) concerning an iron ore and steel producing concession.\*
- Assisted counsel acting for a major real estate developer against Croatia in an ICSID arbitration concerning the development of a luxury golf resort in Dubrovnik.\*
- Assisted 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.\*
- Assisted counsel advising a biotechnology company concerning an investor-state arbitration arising out of a pharmaceutical drug approval process.\*
- Assisted 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.\*
- Assisted counsel advising a Czech private investor regarding an investment arbitration against a European State concerning claims of judicial expropriation of real estate.\*
- Assisted counsel acting for a private investor against China in an investment arbitration regarding expropriation of agricultural land.\*
- Assisted counsel advising a state-owned investment company in connection with negotiations on the terms of a new draft BIT.\*
- Assisted counsel advising a State with respect to an UNCLOS arbitral award and related island sovereignty and law of the sea issues.\*
- Assisted the presiding arbitrator in the jurisdiction phase of an ICSID arbitration concerning an expropriation claim.\*
- Assisted counsel advising a State in relation to border negotiations with a neighbouring State.\*

\* Cases worked on before joining Chambers.

## ADJUDICATION

Ella has experience of all stages of construction adjudication, including as sole counsel and as part of a counsel team, and also as an assistant to the adjudicator. Recent work includes:

- Acting for private individuals against a contractor in two “smash and grab” adjudications under two JCT contracts for renovation works, raising issues as to the validity of a pay less notice and the existence of a compromise between the parties.
- Acted (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 balcony works.
- A final account adjudication between a major property development company and a construction company concerning (*inter alia*) non-compliance with condition precedents before claiming variations, raising issues of promissory estoppel and fraud. (During pupillage)
- Assisted 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.

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## ENFORCEMENT PROCEEDINGS

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

- 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 the payment notices and the alleged failure of the adjudicator to consider certain defences. (During pupillage)
- Advised the claimants in connection with the enforcement in England and Wales of a foreign court judgment for over US\$150 million.\*
- Assisted 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.\*
- Assisted 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' specialisms, Ella also accepts instructions in other commercial litigation matters. Examples of her general work include:

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

\* Cases worked on before joining Chambers.

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## MEMBERSHIPS

TECBAR

COMBAR

Society of Construction Law

LCIA Young International Arbitration Group

ICC Young Arbitrators Forum

Young ICCA

HK45

CEPANI 40

Young ICSID

## CAREER, QUALIFICATIONS AND AWARDS

### 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 acted for and advised clients in several complex multi-jurisdictional litigations and high-value commercial arbitrations.

Prior to that, Ella worked for two years at a number of leading law firms (2016-2018), including undertaking two six-month traineeships in the litigation and arbitration practices at Magic Circle firms in Paris and working for two arbitrators at top boutique/domestic firms. During this time, she assisted counsel acting in over twenty international arbitrations and cross-border litigations and worked as an arbitral tribunal secretary.

### 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



## 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* (3<sup>rd</sup> and 4<sup>th</sup> eds.).

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