

# Michael Shane

**“Excellent technical knowledge, as well as the ability to get to the core of the issues. His commercial background also greatly assists interaction with clients.”**

The Legal 500



✉ mshane@atkinchambers.com ☎ +44 (0)20 7404 0102

## Michael Shane is a highly-regarded international mediator and arbitrator.

His career has included being a trial lawyer in private practice and a commercial lawyer in-house in the engineering, design, and construction industry. Since focusing on arbitration and mediation, Michael has been instructed on almost every conceivable sort of commercial dispute and over the years he has built a reputation based on this extensive experience and on his determination and ability to bring disputes to a resolution.

Michael specialises in complex international commercial disputes arising in a wide range of industry sectors and practices including:

- construction and infrastructure
- energy and utilities
- banking
- insurance
- intellectual property and information technology
- general commercial

He has been a full time mediator and arbitrator for 25 years, mediating in excess of 1,500 major disputes in the US, South America, Europe, the Middle East, Asia, Australia and Africa, and acting as arbitrator in over 150 cases involving complex commercial matters both in the US and internationally.

Michael features in The Legal 500's Hall of Fame for his continued excellence as a mediator and he is recommended in the most recent editions of the legal directories – The Legal 500 and Chambers – as a leader in his field. He is a member of the HKIAC and is on the Hong Kong Government's list of approved and qualified mediators. He is also an arbitrator on the LCIA database of neutrals and has been appointed to the KLRCA Panel as arbitrator and mediator.

He has taught basic and advanced mediator training courses for the American Arbitration Association; the Australian Commercial Disputes Centre, Sydney; and the Hong Kong International Arbitration Centre. He has also lectured and written extensively on the subject of ADR.

He was a previously a trial lawyer in California and Hawaii before becoming Executive Vice President, General Counsel and Director of URS Corporation, San Francisco.

# Expertise

## Mediation

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Michael's vast mediation experience includes disputes relating to massive construction and infrastructure projects including vertical (buildings, including hotels and hospitals), horizontal (highways, bridges, and transport systems) and subsurface projects as well as power systems and process plants. Many of these disputes have involved complex design liability issues. In addition to construction related disputes,

Michael has mediated a multitude of commercial, intellectual property and banking cases. He has additional specialty in international disputes of various kinds, including major governmental infrastructure projects, trans-national mergers and acquisitions, banking, insurance and other agreements. Many of these disputes have involved issues of insurance coverage and suretyship.

Examples include:

### Construction

#### Europe

- The owner (major UK power producer), contractor, engineer and insurers concerning cost over runs on construction of a large-bore 5km tunnel related to subsurface conditions.
- A UK property developer and a number of parties over the conversion of listed building to luxury flats. The dispute involved various design and construction issues pertaining to construction management, M and E design and construction and architectural design elements.
- Offshore wind project in Great Britain.
- Construction of a new road link and tunnel in South East Europe.
- Eight parties (owner, lessor, designers, contractors) concerning soil mechanics relating to differential settlement of commercial development in the UK.
- Several disputes concerning the design, construction or renovation of various health-care facilities.
- The Architect's performance in relation to a property in Eire.
- A dispute between contractors and insurers concerning the design and construction of a new runway in the north of England.
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#### Asia

- Hong Kong Government and a joint venture comprising European, Australian and Chinese construction companies over the design and construction of a major cable-stayed bridge structure. The dispute involved not only the design and construction of the bridge itself, but also significant issues concerning subsurface conditions in connection with the reclamation of an island to support the main bridge tower.
- Hong Kong Airport Authority and contractors concerning the entire paving of the airport facility, including runways, aprons and terminal perimeter. In addition, mediated disputes concerning the design and construction of all underground access tunnels and services, and the entire rail line to the new Airport.
- Hong Kong Government and a designer concerning adequacy of concrete specification for a long-span bridge.

#### Americas

- A contractor and the US Department of the Interior in a claim in excess of USD \$70 million over the design and construction of an earth-filled dam.
- The design/build contractor, equipment manufacturer and owner concerning cost over runs and performance issues on co-generation facility.

- Several disputes concerning the design and construction of resort hotels in Las Vegas, Hawaii and California.
- Onshore wind farm in Texas.

## Middle East

- Fabrication and delivery of process equipment for a propane dehydrogenation plant in Saudi Arabia.
- A rapid transit system in Kingdom of Saudi Arabia.
- An owner and an architect arising out of the construction of a major office headquarters' development.
- Designer and contractor dispute arising from the construction of a major bio-containment facility in UAE.
- Subcontract for the engineering and construction of storage tanks in a refinery located in Kingdom of Saudi Arabia.
- Dispute between owner and contractor concerning a hotel in Oman.

## Energy and Utilities

### Americas

- A contractor, subcontractor and U.S. Department of Energy relating to construction of low-level nuclear waste storage facility (Oak Ridge).
- A petroleum producer in a claim for USD \$85 million relating to the construction of an offshore drilling installation.
- A contractor and a transmission company concerning cost over-runs and delays to the construction of a four hundred mile long gas pipeline from Canada to the US.
- The joint venture operations of oil companies and a contractor in a \$250m claim arising from the construction of processing facility in Venezuela.

### Africa

- A main contractor and subcontractor arising out of the construction of off-shore drilling platforms in Nigeria.

### Europe

- A contractor and subcontractor concerning the design and construction of a power and steam generation plant at a major port in Northern UK.
- Contract for engineering, procurement and construction of a low density polyethylene plant in the UK.
- Construction of a Hydro-electric power station in Scotland.

### Asia

- An engineer and design/build contractors arising from the construction of a large power generation facility in the Philippines.
- An equipment supplier and operator concerning the design, manufacture and maintenance of eight generators in a dual cycle electrical generating plant.

## Banking and Finance

- Plaintiffs and California banks in a multiple class action relating to overdraft charges. Settlement involved complex issues concerning quantum, class definition, and methodology for assessing damages of individual class members.
- Japanese, German and Italian banks arising out of a loan syndication agreement and treatment of office building acquired by them through borrower default.
- In excess of 100 plaintiffs and an accounting firm concerning failed tax avoidance scheme in the UK.

## **Insurance**

- The insured and insurers arising out of disputed coverage under the applicable policy for losses suffered by insured in the Philippines.
- An insurer, broker and various film companies arising out of film finance insurance.
- The contractor and insurer pertaining to coverage for design issues arising from the collapse of a tunnel and highway in Asia.
- A US manufacturer and its fidelity bond insurer involving coverage under the bond for damages suffered as a result of defalcation by employees in Turkey.

## **Mergers and Acquisitions**

- Parties involving “look back” accounting under an acquisition agreement relating to the purchase of division manufacturing secret missile components.
- Multiple disputes arising out of the sale and acquisition of a variety of businesses including health-care, defence, software development and manufacturing.

## **Intellectual Property and Information Technology**

- A mobile phone manufacturer and the licensor of technology alleging breaches of representations and warranties in license agreement and fraud.
- Parties in various intellectual property disputes including patent rights and copyright issues involving various technologies and processes.
- A software manufacturer and some of its former distributors concerning their rights on termination of distributorship agreements.

## **Other Commercial**

- German and Israeli technology firms arising out of their joint venture manufacturing and sales business in the U.S. each side claiming breach of the J.V. agreement and asking for dissolution of the partnership.
- Mediated several separate healthcare industry disputes including cases between HMOs and Hospitals and Medical Groups concerning entitlement and amount of capitation payments and issues arising from the termination of agreements.
- Dissolution of partnership owning several franchised fast-food restaurants.
- Various environmental clean-up disputes including both allocation between PRP's and insurance coverage issues.
- Costs and expense claims relating to an Ecoparc in the UK.
- Loss and expenses claims resulting from a fire which occurred at a hospital in Scotland and also a hospital in London.
- Technical facilities management contract relating to a hospital estate in UK.

## **Arbitration**

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Michael has acted as arbitrator in over 150 cases involving complex construction and commercial matters, both domestic US and internationally. Cases involved design and construction issues arising from large infrastructure and vertical construction projects, energy, oil and gas, general commercial, financial intellectual property cases as well as disputes arising out of mergers and acquisitions in a variety of industries.

### **Asia**

- Design-build joint ventures in Singapore arising out of cost and schedule overruns on people mover project.
- A large insurance broker and sub-broker concerning duties between them and toward insured pertaining to the breakdown of turbine generators in the Philippines.

## South America

- A contractor and a consortium of petroleum producers concerning cost recovery and cost overruns on two work over platforms placed in Lake Maricaibo, Venezuela.

## USA

- An owner and a design-build contractor arising from design issues and cost overruns on the Los Angeles Arena ("Staples Arena").
- An owner and a contractor over design issues, schedule and cost overruns on the Venetian Resort in Las Vegas.

## Africa

- A contractor and an energy company concerning remedial costs for rebuilding 16KM off-shore oil pipeline in Angola.

## Caribbean

- A main contractor and the civil sub-contractor arising from the design and construction of the rapid transit system in San Juan, Puerto Rico.
- Part of a tribunal under the rules of the LCIA regarding hurricane damage to a 5-star hotel.
- Dispute concerning the ownership of certain advanced laser technology.
- Dispute between main and trade contractor pertaining to claims arising from construction of three-unit dual cycle power generating facility.
- Dispute between seller and purchaser concerning responsibility for environmental clean-up costs of 36 agricultural chemical sites involving subsurface conditions and means and methods. Separate but similar case involving clean-up costs related to a steel manufacturing facility.
- Dispute between contractor and owner and designer over increased costs for seismic retrofit of high-rise building.

## Recent Recommendations

*"Excellent technical knowledge, as well as the ability to get to the core of the issues. His commercial background also greatly assists interaction with clients."*

Hall of Fame, Mediators, The Legal 500 2024

*"Forceful and forthright. He can keep the parties engaged, which is half the battle. He brings out the commercial imperatives."*

Mediators, Chambers UK Bar 2023

*"Michael Shane is known for 'grasping the details of the underlying facts and the legal issues, but also getting what drives the parties commercially.'"*

Hall of Fame, Mediators, The Legal 500 2020

*"Michael Shane (Atkin Chambers) has 'an uncanny ability to spot a deal early in a process, and is someone who is effective at knocking heads together', according to clients. His practice covers all manner of commercial issues, and he is identified by clients as being particularly skilled in infrastructure, energy and financial services disputes."*

Mediation, Chambers UK Bar 2019

*"Atkin Chambers' Michael Shane has acted as mediator in over 1,500 disputes; his mediations involve a wide variety of subject matter, including all areas of commercial disputes, particularly insurance, finance, construction and engineering, energy and IP."*

Mediators, The Legal 500 2019

*"The 'very savvy and experienced' Michael Shane maintains a respected mediation practice informed by years of experience as a trial lawyer. He is regularly appointed to mediate a range of commercial disputes, particularly those occurring in the construction, engineering and energy sectors."*

*He has experience in cases arising in the USA, Europe and Asia. Sources highlight that 'he is direct and effective in terms of getting the job done', and that 'he has a very good style and works to reach an agreement'."*

Mediation, Chambers UK Bar 2018

*"Michael Shane is a 'very commercial' mediator with a worldwide practice. He attracts particular praise for his ability to take 'a very global and complex case and break it down into smaller pieces.'"*

Mediation, Chambers UK Bar 2017

*"Michael Shane is an experienced mediator who attracts praise from market commentators for his "commercial approach" to dispute resolution."*

Mediation, Chambers UK Bar 2016