NEW SQUARE

Tim Chelmick

Education

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Year of Call: 2004

Profile

Tim specialises in commercial disputes with a particular emphasis on international arbitration, construction and professional liability. Tim has recently completed a two year secondment in Dubai where he worked in the construction and international arbitration department of a market leading law firm. He therefore has significant experience of disputes in the Middle East. With a strong scientific background, Tim is regularly involved in cases with a scientific or technical element involving complex expert evidence.

He is recommended in the Legal 500 in the areas of professional liability and costs. He has been described by clients in a UK legal directory as having '*an extremely bright mind*' and as an '*excellent advocate*' with '*the potential to rise to the top of the profession*'.

International arbitration - Tim has considerable experience of domestic and international arbitrations and has acted in both arbitral proceedings and also in associated court proceedings. Many of his instructions relate to projects in the Middle East. He has been involved in arbitrations conducted under a wide variety of rules including UNCITRAL, LCIA, DIAC, ADCCAC and ICC. He has particular experience with anti-suit relief in support of arbitration proceedings.

Construction –Tim is regularly instructed in construction and engineering disputes and has extensive experience of domestic and international construction related litigation and arbitrations. Having worked in the Middle East, he has experience of a wide variety of disputes relating to projects in this region. He has been involved with claims in a number of sectors including infrastructure (including airports), transport, power generation and oil and gas He is familiar with most standard form contracts with particular expertise in FIDIC based contracts. As a TECBAR accredited adjudicator, Tim has also often instructed in adjudication proceedings and related enforcement actions.

Commercial litigation - Tim has acted in a wide range of commercial disputes including those arising from concession agreements for infrastructure projects, project finance and a variety of contractual claims, often involving allegations of fraud and dishonesty. Tim has particular experience of claims where there are competing proceedings in different jurisdictions and those involving issues of conflict of laws.

Professional liability – Tim is a recommended junior for professional liability in the Legal 500. He has extensive experience in the full range of claims brought against professionals and regularly acts for both claimants and defendants. He often advises on cases that involve solicitors, surveyors, architects, accountants, insurance brokers and financial services professionals.

Further details of all areas of Tim's practice can be found by following the links for each of practice.

Prior to joining chambers, Tim read chemistry at Magdalen College Oxford obtaining a first class degree. After leaving Oxford, Tim worked for 2 years as a software developer in the technology department of Goldman Sachs in the London, New York and Hong Kong offices.

Publications

Editor of the 7th Edition of Jackson & Powell on Professional Liability

Contributor to Butterworths Costs Bulletin (edited by Nick Bacon QC)

Memberships

COMBAR

PNBA

TECBAR – accredited adjudicator

Society for Construction Law (Gulf)

Commercial Dispute Resolution

Tim has acted in a wide range of commercial disputes including those arising from concession agreements for infrastructure projects, project finance and a variety of contractual claims. Tim has particular experience of claims where there are competing proceedings in different jurisdictions and those involving issues of conflict of laws.

Additionally, having worked as a software developer prior to coming to the Bar, Tim has experience of every stage of software development from concept design to testing and implementation and hence Tim is often instructed in claims that relate computer contracts and information technology professionals.

Recent and current cases include:

- Acting for the GMR-MAHB Consortium in a number of UNCITRAL arbitrations against the Maldives Government in claims which relate to the performance and termination of a 25 year concession agreement in respect of the main international airport in the Maldives. The sum claimed for wrongful termination exceeds USD 1.4 billion. The claim has also involved proceedings before the High Court of Singapore for an anti-suit injunction and an injunction preventing termination of the Concession Agreement.
- Acting for the owners of a Bahraini construction company in an LCIA arbitration relating to a dispute involving a private equity investment in the company by an international investment fund. The claim involved allegations of breaches of warranty and allegations of fraud.
- Acting for a high profile GCC individual in an LCIA arbitration relating to an investment in a telecommunications company. The claim is for in excess of USD 500M. The case involved competing proceedings in the local court and ongoing applications for anti-suit relief.
- Acting for a IT company in a number of disputes in the GCC with government entities.
- Representing a high profile individual in a dispute involving the management of an unincorporated association that controls fishing rights over the River Eden (***Norbrook Laboratories Ltd & Anor v Carr & Anor*** [2010] EWCA Civ 1108 and *Norbrook Laboratories Ltd & Anor v Carr* [2013] EWHC 476 (QB) **-** led by Justin Fenwick QC and John Brisby QC).
- Advising individuals seeking to enforce a Florida judgment in England and Wales.
- Representing an individual seeking a declaration in High Court Proceedings that he is the beneficial owner of shares that were the subject of a fraudulent transfer.
- Acting for a company director in proceedings for a personal costs order against the director.

Construction & Engineering

Tim is regularly instructed in construction and engineering disputes and has extensive experience of domestic and international construction related litigation and arbitrations. He spent two years living in Dubai on secondment to a law firm and hence has experience of a wide variety of disputes relating to projects in the Middle East involving, in particular, allegations of delay and disruption. He is familiar with most standard form contracts with particular expertise in FIDIC based contracts.

Tim is a TECBAR accredited adjudicator and has considerable experience of adjudication in England and Wales and the enforcement of adjudication awards in the Technology and Construction Court. He has dealt with a number of adjudications which raised issues of jurisdiction and procedural unfairness. Tim has also advised on a number of occasions as to the applicability and effect of the Housing Grants, Construction and Regeneration Act 1996.

Examples of recent work include:

- Acting (as sole advocate) for the Chinese main contractor in a number of hearings dealing with UAE law issues in a dispute involving a strategic oil pipeline constructed across the UAE. The contract value was in excess of USD 3 billion and the sum in issue was in excess of USD 500 million.
- Acting for the main contractor in a dispute relating to the construction of two bus depots in the UAE (contract subject to UAE law).
- Acting for the contractor in an UNCITRAL arbitration relating to a claim brought by a contractor against an employer in respect of the construction of a shopping centre and hotel complex in Dubai following the termination of the main contract (governed by UAE law) and an attempt by the employer to call the performance bond. The claim involved issues of wrongful termination and delay and disruption and there were also parallel proceedings in the

Dubai courts relating to a performance bond.
- Acting for a contractor in respect of the construction of a museum in the Middle East in a dispute relating to the construction of the notification provisions in the main contract (subject to the law of Qatar).
- Acting for an employer in a claim against the government entity for delays associated with delays to infrastructure (subject to the law of Qatar).
- Acting for a contractor in a multi-million pound arbitration relating to the retro-fitting of Flue Gas Desulphurisation plant at coal fired power stations.
- Acting for a main contractor on the true construction of an agency agreement and a bank guarantee.

Costs

Tim is a recommended junior in the Legal 500 for costs litigation.

He has extensive experience of costs litigation at all levels up to and including the Court of Appeal. He is regularly instructed in detailed assessment proceedings including assessment of solicitor and client costs under the Solicitors Act 1974. Tim also has experience of disputes between the SRA and solicitors regarding the interpretation of the Solicitors Accounts Rules and has additionally dealt with a number of cases raising costs related issues and wider issues of negligence by the solicitor. Tim also has experience of applications for costs orders being sought against directors of companies involved in litigation.

Tim acted as sole advocate in proceedings that ended in the Court of Appeal where the client successfully challenged the recoverability of an uplift on fees charged by a solicitor at the conclusion of a retainer. The judgment of the Court of Appeal is now the leading authority on the definition of contentious business as defined by the Solicitors Act 1974 (*Bilkus v Stokler Brunton (a firm)* [2010] EWHC Civ 101).

Tim's recent cases include:

- Acting in solicitor own client assessment proceedings where the primary issues involve the wrongful termination of the retainer by the solicitor and whether or not the solicitor is bound by an inaccurate estimate.

- Acting in detailed assessment proceedings where the validity of the solicitor's retainer is challenged.

Insurance & Reinsurance

Tim also regularly advises insurers on coverage issues and additionally on the meaning of policy wording. Tim has particular experience dealing with issues in respect of professional indemnity policies and cases which raise issues where a conflict of interest has arisen between insurers and policyholders.

Tim has also been instructed in a number of cases where the insurance broker is accused of negligence.

Recent cases include acting:

- for insurers in a dispute about the meaning of an accident policy for members of the armed forces;

- for a broker who wished to issue a claim against underwriters for wrongful avoidance of a public liability policy after a number of accidents involving inflatable fairground rides;

- for the claimant in a multi-million pound claim against an insurance broker resulting from the avoidance of a buildings insurance policy following a fire.

Tim also regularly deals with subrogated recovery actions by insurers against construction professionals.

Professional Liability

Tim is a recommended junior in the Legal 500 for professional liability claims.

Tim has extensive experience in the full range of claims brought against professionals and regularly acts for both claimants and defendants. He has acted both for and against solicitors, surveyors, architects, accountants, insurance brokers and financial services professionals. He also has extensive experience of issues relating to the recoverability of solicitors costs, both inter-parties and solicitor own client costs and hence is regularly instructed in matters that raise allegations both of negligence and overcharging.

With a degree in chemistry and professional experience working as a software developer, Tim has a very strong scientific and technical background and hence he is often involved in cases that raise complex scientific and technical issues. These claims include claims against construction professionals, information technology professionals and patent agents.

Accountants, Auditors & Actuaries

Tim's experience of claims against accountants ranges from group litigation by a number of investors in a film finance scheme to claims against accountants by individuals in respect of negligent tax advice

Construction Professionals

Tim is regularly instructed in construction and engineering disputes that involve allegations of professional liability. He has particular experience of construction and engineering disputes in the Middle East.

As Tim has a degree in chemistry and professional experience working in the technology department of Goldman Sachs as a software developer, he particularly enjoys claims which raise complex scientific and technical issues. Tim has extensive experience of claims against construction professionals, particularly architects, quantity surveyors and structural engineers.

Tim is a TECBAR accredited adjudicator and has considerable experience of adjudication in professional liability matters. He has dealt with a number of adjudications and also proceedings to enforce adjudication awards that raised issues of jurisdiction and procedural unfairness.

Recent experience includes acting:

- for a Dubai subsidiary of a Singaporean contractor in a claim against a sub-contractor which involved allegations of defective architectural design work (contract governed by UAE law);
- for a Chinese contractor in respect of a dispute regarding the technical performance of a strategic pipeline constructed across the UAE (UAE law contract);
- for a multi-national company in a claim against an architect and project manager relating to the construction of new commercial premises for the company;
- for a TV production company in a claim relating to the collapse of a temporary pool constructed for the production of a UK TV game show (led by Ben Patten QC);
- for an architect in an adjudication involving the defective design of residential flats;
- in a number of disputes involving allegations of negligent design and supervision of construction projects by architects;
- for quantity surveyors in claims involving allegations of negligent valuation of building work.

Tim has also been instructed in numerous claims where the structural engineer is alleged to have acted negligently. The subject matter of the claims has ranged from a complete collapse of substantial commercial premises in Central London to the settlement of foundations in the course of the construction of a power station in the Philippines.

Financial Services Professionals

Having worked for Goldman Sachs prior to coming to the Bar, Tim is regularly involved in claims involving financial services professionals, ranging from group litigation against accountants accused of giving negligent tax advice to smaller claims against IFAs. Tim was involved in litigation relating to mis-selling of split cap investment trusts. Tim also has experience of claims against fund managers accused of mismanaging investments and other similar claims where investors seek to blame professionals for the performance of their investments.

Insurance Brokers & Agents

Tim is involved in claims both where the primary claim is against the insurance broker and also disputes between policy holders and insurers where the broker has been added as an additional party. He has experience of claims involving material non-disclosure, negligent advice by brokers and also claims where the broker failed to renew insurance policies.

Tim has recently acted for the claimant in a multi-million pound claim against an insurance broker resulting from the avoidance of a buildings insurance policy following a fire by underwriters.

Patent Agents

Tim has experience of claims against patent agents involving allegations of negligent advice in respect of the validity and registration of patents. With his scientific background, Tim is often instructed in litigation that involves complicated technical issues.

Lawyers

Tim has been involved in a substantial number of claims against solicitors and barrister where the underlying subject matter relates to both civil and criminal matters. He has particular experience of claims that relate to the misconduct of litigation and also claims involving residential and commercial conveyancing transactions. He has also been involved in a number of wasted cost claims involving both solicitors and barristers.

As a result of his experience with issues relating to legal costs (Tim is also a recommended junior in the field of legal costs), Tim is also often involved in claims where there are allegations of overcharging and negligence.

Other recent experience includes acting:

- for a senior partner of a London law firm accused of conspiring to defraud investors in the *Innovator* litigation (led by Sue Carr QC). Following a 16 week trial, all claims were dismissed (*Brown & Ors v Innovatorone Plc & Ors* [2012] EWHC 1321 (Comm)).
- for the senior partner of a national law firm accused of deliberate misconduct of an appeal before the Privy Council (led by Roger Stewart QC);
- for a firm of solicitors accused of dishonestly in the course of a conveyancing transaction by another party to the transaction (led by Roger Stewart QC);
- for a major national firm of solicitors in a number of matters involving mismanaged litigation;
- for solicitors accused of mishandling the defence of criminal matters;
- for solicitors in claims involving residential and commercial conveyancing transactions that are said to involve mortgage fraud;
- in numerous claims involving just about every aspect of residential and commercial conveyancing transactions, including claims by lenders, claims involving errors with enfranchisement transactions, claims involving the failure to ensure there was planning consent, listed building approval or Buildings Regulations approval for building works and claims against local authorities for failing to undertake searches correctly;
- for a solicitor accused of negligent drafting of a business tenancy which affected the rent the landlord achieved in the rent review;
- for a barrister accused of misconduct in the course of a trial of a construction dispute (led by Roger Stewart QC).

Surveyors & Valuers

Tim also has experience in claims against valuers involving both residential and commercial property. He has been instructed both by banks seeking to recover losses caused by negligent valuations and also by valuers defending such claims. He also has been involved in a number of mortgage fraud cases. Tim also has experience of contribution claims brought by solicitors against valuers.

International Arbitration

Tim has extensive experience of domestic and international arbitrations and has acted in arbitrations conducted under a wide variety of rules including UNCITRAL, LCIA, DIAC, ADCCAC and ICC. He has also acted in court proceedings in support of arbitration, with particular experience of applications for anti-suit relief. His recent experience includes:

- Acting for the GMR-MAHB Consortium in a number of UNCITRAL arbitrations against the Maldives Government relating to the performance and termination a concession agreement relating to the main international airport in the Maldives. The sum claimed for wrongful termination exceeds USD 1.4 billion. The claim has also involved two sets of proceedings before the High Court of Singapore for an anti-suit injunction and an injunction preventing termination of the Concession Agreement.
- Acting for a high profile GCC individual in an LCIA arbitration relating to an investment in a telecommunications company. The claim is for in excess of USD 500M. The claim also involved related proceedings in the GCC and an application for anti-suit relief to the Tribunal.

- Acting as sole advocate for the main contractor in ADR proceedings in support of an ICC arbitration relating to the construction of a strategic oil pipeline across the UAE. The contract value was in excess of US$ 3 billion and the sum in dispute exceeded USD 500 million. The contract was subject to UAE law.
- Acting for the contractor in an UNCITRAL arbitration relating to a claim brought by a contractor against an employer in respect of the construction of a shopping centre and hotel complex in Dubai following the termination of the main contract (governed by UAE law). The claim involved issues of wrongful termination, delay and disruption and there were also parallel proceedings in the Dubai courts relating to a performance bond.
- Acting for the owners of a Bahraini construction company in an LCIA arbitration relating to a dispute involving a private equity investment in the company by an international investment fund. The claim involved allegations of breaches of warranty and allegations of fraud.
- Acting for an international contractor in an LCIA arbitration against a joint-venture partner in respect of the works carried out to retro-fit of flue gas de-sulphurisation technology at two coal fired power stations. The claim involved allegations of misrepresentation and other breaches of the consortium agreement resulting in delay and disruption to the works.

Information Technology

Tim worked as a software developer for Goldman Sachs prior to coming to the Bar and hence has significant first-hand experience of the full life cycle of IT projects. He has been instructed in a number of disputes relating to IT contracts involving both issues of defective software and late delivery of projects. His cases often involve complex technical expert evidence.

Tim was recently involved in a number of disputes relating to a contracts with a number of governments in the Middle East for substantial infrastructure projects in the region. The cases involved allegations of defects with the software and late delivery of project requirements along with claims of wrongful termination of the contracts. The cases also raised issues relating to national security.

Tim is an editor of the Information Technology chapter of the 7th edition of Jackson & Powell on Professional Liability.