

OUR PEOPLE

Tim Chelmick

CALL 2004

CHAMBERS & PARTNERS

"Incredibly bright and very much to the point. He marries legal know-how with technical excellence."



✉ t.chelmick@4newsquare.com

☎ +442078222023

Tim specialises in commercial, construction, information technology and professional liability disputes. The majority of his claims have an international element and he has advised and appeared as advocate before courts and tribunals in many jurisdictions in disputes relating to disputes in the UK, Middle East, Africa and Asia. He has particular experience of the Middle East having worked for an international law firm in Dubai for two years. Tim is nominated for both Commercial and Construction Junior of the Year at the Legal 500 Middle East and North Africa Awards 2023.

His practice encompasses the full spectrum of litigation and arbitration, both domestic and international. Tim frequently appears in matters governed by laws other than the laws of England and Wales (both Civil Law and common law systems) and before tribunal members qualified in other jurisdictions. Many of his claims involve allegations of fraud and dishonesty.

Tim has a degree in Chemistry and worked as a software developer in an investment bank prior to coming to the bar. He is a member of the Bar Council's IT Panel responsible for advising the profession on all issues relating to Information Technology. As a result of his scientific background, he is regularly involved in cases with a scientific, technical or financial element involving complex expert evidence and cross examination.

Tim is recommended in both UK and international directories for international arbitration, commercial dispute resolution, construction and professional liability disputes. The directories note: "Tim is as smart as any member of the Bar, but what sets him apart is his commerciality. Tim has the ability to deliver clients exactly what they want in an effective and efficient way. Tim is a go to barrister of choice for international clients."

Internationally, he is top ranked for both construction and commercial disputes in the UK bar section of the Legal 500 UAE Guide which states: "Tim is a formidable barrister and cross-examiner, particularly in technical matters that turn on niche expert evidence. He is particularly skilful at breaking down and presenting highly complex material, turning them into strong legal arguments." and "Tim is razor-sharp. He is excellent at cross-examination; his command of technical and financial issues, in addition to legal issues, is exceptional."

Tim also sits as a Civil Recorder on the South Eastern Circuit.

Privacy Policy

Click here for a [Privacy Policy](#) for Timothy Chelmick.

Expertise

International Arbitration

Many of the claims where Tim is instructed are arbitration claims and primarily complex commercial dispute and construction disputes. The subject matter of the arbitrations is often based in the Middle East, Tim having worked for an international law firm in Dubai for 2 years, although Tim also has experience of arbitrations relating to projects in Africa and the Far East

He has experience of arbitrations (including as sole advocate) conducted under a wide variety of rules including UNCITRAL, ICC, LCIA, DIAC and ADCCAC. .

Tim has also acted in court proceedings in support of arbitration, with particular experience of applications for anti-suit relief, enforcement of arbitral awards and applications to set aside arbitration awards.

Tim is a recommended junior in the legal directories for arbitration, both construction and commercial.

Recent Experience Includes:

- Acting as sole counsel for a shareholder in a dispute under a SHA regarding the buy-out provisions. The claim involved complex valuation issues determined by expert evidence.
- Acting for a shareholder in a dispute before the DIFC Court regarding the enforcement of an arbitration award (which raises a novel issue of UAE public policy).
- Acting for the employer in an ICC arbitration regarding the construction of a coal fired power station in India. The claim involves issues of delay and defective work along with allegations that performance securities were wrongly called. The claim also involved allegations of fraud relating to some of the heads of claim. The sum in issue was in excess of USD 300 million.
- Acting as sole counsel in a dispute regarding the termination of a software contract (sum claimed in excess of USD 40 million).
- Acting as sole counsel for a dredging contractor in an ADCCAC arbitration regarding dredging works in the Arabian gulf.
- Acting for the main contractor in two ICC arbitrations with a sub-contractor regarding one of the major packages in a Middle East Airport.
- Acting for the main contractor in an ICC arbitration with the MEP sub-contractor in a dispute regarding the works at a Middle East Airport.
- Acting as sole counsel for a Qatari re-insurer in an arbitration against the Insurer regarding construction bond Insurance.
- Acting for an Egyptian company in an ICC arbitration defending a claim for in excess of \$500 million brought under a gas tolling contract as the contract was procured by fraud (led by Justin Fenwick KC).
- Acting for Kuwaiti investors in respect of a fraud relating to the purchase of UK
- Acting as sole counsel for a Chinese contractor in an ICC arbitration against an African government entity regarding a road construction contract (FIDIC form). The issue related to charging VAT. Contract subject to the law of the African Country.
- Acting as sole counsel for a Chinese contractor in an ICC arbitration against a joint-venture owned by a number of African governments relating to the construction of a hydro-electric power station. This turned on the proper meaning of the

price adjustment clause in the FIDIC standard form. Contract subject to the law of an African Country.

- Acting for a high profile GCC individual in an LCIA arbitration relating to an investment in a telecommunications company in a claim for in excess of US\$ 500M. The claim also involved related proceedings in the GCC and an application for anti-suit relief to the Tribunal.
- 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 (with Bankim Thanki QC and Justin Fenwick QC). The sum claimed for wrongful termination exceeded 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 (Maldives Airports Co Ltd and Anor v GMR Male International Airport Pte Ltd [2013] SGCA 16)

Construction & Engineering

Tim is a recommended junior in the domestic and international directories for construction and engineering disputes which mention that he is: *"Incredibly bright and very much to the point. He marries legal know-how with technical excellence"*.

His practice encompasses the full spectrum of litigation and arbitration, both domestic and international. Recent infrastructure projects have included airports, power stations (wind, coal and hydro), roads, waste and hospitals in various jurisdictions including England, India, Africa and the Middle East. In addition to the usual claims for delay and disruption, many of the disputes involve a scientific, technical or financial element involving complex expert evidence and cross examination which play particularly to Tim's strengths. As the legal directories note: *"Tim is a formidable barrister and cross-examiner, particularly in technical matters that turn on niche expert evidence. He is particularly skilful at breaking down and presenting highly complex material, turning them into strong legal arguments"*.

Expert issues raised in recent cases where Tim has been responsible for the cross-examination include:

- Steel fabrication for the main structure of an airport;
- Dredger performance based on sand particle size;
- Valuation issues relating to the value of shares in a SPV owning a desalination plant;
- Quantum issues relating to a MEP sub-contract for an airport;
- Transformer design in a gas fired power station;
- The correct approach to loss of profit in a sub-contract relating to the construction of an airport terminal; and
- Technical issues regarding the ash handling system of a coal fired power station in Asia.

He is familiar with most standard form contracts with particular expertise in FIDIC based contracts. He has also been involved in a number of disputes involving PFI and other long term relationship contracts, both domestically and internationally.

Tim is a TECBAR accredited adjudicator who acts in adjudications both as adjudicator and counsel. He is also often involved in proceedings for the enforcement of adjudication awards in the Technology and Construction Court. He has dealt with a number of adjudications which raise issues of jurisdiction and procedural unfairness.

Recent experience includes:

- Acting for the main contractor in an ICC arbitration with a sub-contractor regarding one of the major packages for a Middle East airport. The claim was for in excess of USD 150 million and Tim was instructed to deal with all technical and quantum issues at the final hearing.
- Acting as sole counsel TCC proceedings against a construction professional and a solicitor for failure to serve proper notices under a JCT contract.
- Acting as sole counsel in a claim brought by the NHBC relating to the design and installation of a heating system.
- Acting as sole counsel for a dredging contractor in a claim for additional payment as a result of unforeseeable ground conditions.
- 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 employer in an ICC arbitration regarding the construction of a coal fired power station in India. The claim involves issues of delay and defective work along with allegations that performance securities were wrongly called.
- Acting for the EPC contractor against the local authority in a TCC dispute regarding the operation of a PFI contract relating to an MBT waste facility in Southern England (with Roger Stewart QC).
- Acting for the operator in a number of related adjudications against a government entity relating to the operation of a long term PFI contract relating to the sewage system in Northern Ireland.
- Acting for the employer in an ICC arbitration relating to the construction of a gas fired power station in Iraq. The claim raised issues of misrepresentation (including fraudulent misrepresentation) along with issues of delay and disruption. The sums claimed were in excess of US\$ 100 million. Tim was instructed as the sole advocate on behalf of the employer at the final hearing before 3 arbitrators that lasted approximately 4 weeks.
- 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 (with Bankim Thanki QC and Justin Fenwick QC). The sum claimed for wrongful termination exceeded 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 (Maldives Airports Co Ltd and Anor v GMR Male International Airport Pte Ltd [2013] SGCA 16)
- Acting for the sub-contractor in an ICC arbitration relating to the construction of an oil processing facility in the Kingdom of Saudi Arabia.

Commercial Litigation

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

Many of his claims involve allegations of misrepresentation and fraud.

Tim is a recommended junior for commercial disputes in the Legal 500, both domestically and in the UAE which notes that he is: *"Very good on his feet, authoritative advocacy. Good on paper too."* and *"Tim is razor-sharp. He is excellent at cross-examination; his command of technical and financial issues, in addition to legal issues, is exceptional."*

Recent experience includes the following:

- Acting for two individuals members of a Private Equity LLP in a dispute before the English Court brought by former investors in the LLP (value in excess of £10 million). The claim raises allegations of fraud and conspiracy.
- Acting for a private equity investor in respect of a number of warranty claims arising out of the purchase of a paper business.
- Acting for Trustees in proceedings brought by a potential beneficiaries of a complex trust structure (holding assets worth over \$ 500 million) where both the Trustee and the beneficiary are facing allegations of fraud when dealing with trust assets (led by Justin Fenwick KC). There are currently proceedings before the Courts in the Cayman Island, the BVI, London, Lichtenstein, Switzerland and Delaware.
- Acting for a construction company in England which had been the subject of a major fraud. Norwich Pharmacal relief successfully obtained against various financial institutions.
- Acting for a healthcare provider in proceedings before the DIFC Court.
- Acting for a building services manager in proceedings before the English Court which relate to payments under a Facilities Management agreement for a number of hospitals.
- Acting for an Egyptian company in an ICC arbitration defending a claim for in excess of \$500 million brought under a gas tolling contract as the contract was procured by fraud (led by Justin Fenwick KC).
- Acting for Kuwaiti investors in respect of a fraud relating to the purchase of UK property. All issues resolved in favour of the investors – Abdulrida and others v Al-Najar and others [2021] EWHC 398 (Ch).
- 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 as sole counsel for a Chinese contractor in an ICC arbitration against an African government entity regarding a road construction contract (FIDIC form). The issue related to charging VAT. Contract subject to the law of the African

Country.

- Acting for a JV partner in a dispute involving allegations of fraud by a joint venture partner in respect of the running of a site fabrication yard in the Kingdom of Saudi Arabia.
- Acting for a trade body in the construction industry accused of conspiracy to injure a company providing training services.
- Acting for a high profile GCC individual in an LCIA arbitration relating to an investment in a telecommunications company in a claim for in excess of US\$ 500M. The claim also involved related proceedings in the GCC and an application for anti-suit relief to the Tribunal.

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 has direct experience of cyber security claims and is involved with advising the profession of cyber security and other IT issues (as a member of the Bar Council IT panel). He is also a member of the Bar Council/Law Society Cyber Security working group

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

Recent claims include:

- Acting for a government entity in the Middle East in an arbitration relating to the provision of software for technical training. The claim involved allegations of wrongful termination and a substantial claim for loss of profits.
- Acting for a major IT provider in a claim relating to the provision of technology services to the NHS. The sum in issue was in excess of £100 million and the claim involved allegations of fraudulent misrepresentation.
- Advising a local authority in respect of the proper construction of an outsourcing contract.
- Acting in a number of disputes relating to 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.

Professional liability

Tim is a recommended junior in both Legal 500 and Chambers & Partners for professional liability claims (and has been for many years). He is also ranked in Chambers & Partners for Professional Negligence: Technology & Construction .

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.

Tim is an editor of the Construction Professionals chapter of Jackson & Powell on Professional Liability.

Recent experience includes:

- Acting as sole counsel for a firm of architects in respect of a claim relating to the construction of a basement slab for a

residential development in the Middle East.

- Acting as sole counsel for a barrister in a fees claim which raised novel issues regarding the duty owed by a barrister to a solicitor (*McFarland-Cruickshanks v England Kerr Hands Solicitors Ltd* [2021] EWHC 525 (Comm)).
- Acting for an individual in a claim against a firm of solicitors arising out of lost litigation in the High Court relating to a construction project. The underlying claim involved allegations of conspiracy.
- Acting against an auction house in a conspiracy claim which relates to the sale of a substantial collection of classic cars, purchased for €90 million which includes a Ferrari GTO which sold for a then world record sum of \$38 million.
- Acting against a construction professional and a firm of solicitors for negligent advice regarding adjudication proceedings which arose as a result of a failure to serve a pay less notice. The claim involves interesting issues of causation and also proximate cause of loss when two professionals are negligent.
- Acting for a firm of insurance brokers in a claim brought against both insurers and brokers. The claim relates to a fire of property insured by the first Defendant. Cover has been avoided as it is said the Claimant made a number of misrepresentations. The case will be one of the first to consider the provisions of the Consumer Insurance (Disclosure and Representations) Act 2012.
- Acting as sole counsel for a firm of solicitors in a claim brought by trustees of a development property.
- Acting for a high net worth individual in a claim relating to the construction of a substantial residential dwelling in the Channel Islands. This raises jurisdictional issues as to forum and governing law.
- Acting for a sub-contractor in a claim relating to the design of a fire alarm system in a substantial residential development.

Insurance

Tim regularly advises insurers on coverage issues and additionally on the meaning of policy wording, in particular in respect of professional indemnity policies and construction related insurance. He has extensive experience of 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.

Tim is often instructed in subrogated recovery actions by insurers against construction professionals.

Featured Insurance cases

- Claim against insurer and broker following a fire in residential premises in the England. The claim raises novel issues relating to CIDRA. Tim acts as sole counsel for the broker.
- Coverage dispute regarding a workmanship exclusion in a construction professional indemnity policy.
- Arbitration in Qatar: acting for a re-insurer in a claim relating to a claim made under a construction bond insurance policy.
- Arbitration in Dubai; Acting for an insurer in an arbitration (in Dubai) regarding an insurance claim following a fire at commercial premises (policy governed by UAE law).
- *RR Securities Ltd & Ors v Towergate Underwriting Group* [2016] EWHC 2653 (QB); Acting as sole counsel for the successful Claimant in a trial in the Mercantile Court in a claim involving allegations of failure to advise on minimum security standards.
- Claim against insurance broker; Acting for a producer of industrial chemicals in a claim against its insurance broker following a fire in the course of the construction of a new chemical plant.
- Claim against insurance broker; Acting for the claimant in a claim against their insurance brokers involving allegations of failure to advise about material terms in the policy.
- Claim against insurance broker; Acting for a commercial laundry in a claim against its broker involving allegations of under-insurance.
- Claim against insurance broker; Acting 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.
- Repudiation of cover; Acting for the claimant in a claim for against insurers for wrongfully repudiating cover following a fire in the course of the construction of a chemical factory.

Awards



Qualifications

MChem (Oxon) Dip. Law (City)

COMBAR

PNBA

TECBAR – accredited adjudicator