



CONSTRUCTION, ENGINEERING AND  
INFRASTRUCTURE  
ARBITRATION  
ENERGY AND UTILITIES  
PROFESSIONAL NEGLIGENCE  
INFORMATION TECHNOLOGY AND  
TELECOMMUNICATIONS  
ADJUDICATION  
GENERAL COMMERCIAL

## Mathias Cheung

Call Date: 2015 // [mcheung@atkinchambers.com](mailto:mcheung@atkinchambers.com)

---

## PRACTICE

Mathias' domestic and international commercial practice covers all areas of Chambers' work, including construction, engineering and infrastructure, energy and utilities, information technology, professional negligence, and international arbitration. In addition to these specialist areas, he has also gained experience in a wide range of commercial disputes, including cases on banking, insolvency, fraud, insurance, assignment, subrogation, conflicts of law and airline claims.

Mathias has experience at all stages of mediation, litigation, adjudication, and arbitration, and he has worked with a variety of bespoke and standard form contracts including the FIDIC, JCT, NEC and ACE forms, as well as various forms of PFI contracts.

Mathias has recently been ranked by [Chambers and Partners UK](#) and by [The Legal 500 \(London Bar\)](#) as a leading junior in Construction Law and a rising star in Energy Law, "who is fast becoming a favourite among solicitors" and regarded as "one to watch" and "a very impressive junior who is clearly going places" in construction, infrastructure and commercial matters. He is described by clients and colleagues as "user-friendly, hard-working and extremely clever", "amazingly hard-working and a real team player who gets stuck in and has a great eye for detail", and "very intelligent, meticulous and user-friendly".

As a native of Hong Kong, Mathias is fluent in both Cantonese and Mandarin, and he is therefore able to take instructions for cases involving Chinese-speaking parties and Chinese documentation in Hong Kong, Macau, Mainland China, Singapore, and other jurisdictions. He is recognised for his international practice by [The Legal 500 \(Asia Pacific\)](#), and is ranked as a Tier 1 "rising star" who "understands highly complex and technical subject matter and is very detail-oriented and organised in working with witnesses". Mathias also has working proficiency in French.

Mathias was the winner of the SCL Hudson Prize 2015 for his essay entitled 'Shylock's Construction Law: the Brave New Life of Liquidated Damages?' on the Supreme Court decision regarding penalty clauses. He

has also published in *the Construction Law Journal*, *International Construction Law Review*, *TECBAR Review* and *Construction Law newsletter*.

---

## CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

Mathias has acted in disputes over design and workmanship defects, delays, variations, loss and expense, and termination in respect of a range of projects from residential and commercial construction to complex infrastructure and PFI projects. Recent work includes:

- Involvement in a high-profile public inquiry in Hong Kong with numerous involved parties, regarding alleged structural engineering and workmanship issues in a major public infrastructure project.
- Successfully obtaining default judgment for the claimants in **McDonald v D&F Contracts** [2018] EWHC 1600 (TCC); [2018] 1 WLR 5695, resolving a conflict in authorities regarding applications under CPR Part 12 where an acknowledgment of service or defence is filed late but before the date of the application.
- Acting as sole counsel for a group of leaseholders and their management company in an ongoing multi-partite dispute with the employer, contractors, and consultants for a residential development in Greenwich, concerning the use of combustible cladding materials and defective fire-stopping and fire compartmentation works which had to be rectified after the Grenfell Tower tragedy.
- Acting as sole counsel for a Scottish cladding supplier in an ongoing dispute arising from the supply of Aluminium Composite Material (ACM) cladding panels for the refurbishment of a number of tower blocks in South Wales, which had to be replaced after the Grenfell Tower tragedy.
- Acting as junior counsel for a subsequent purchaser of a hotel and residential tower in Central London in an ongoing claim against the contractors and consultants involved in the design and construction of the building, concerning the use of combustible cladding and insulation materials which were identified in light of the Grenfell Tower tragedy.
- Acting as junior counsel in a dispute and evaluative mediation arising from a project involving a city tram system's extension works in the Midlands region.
- Acting as junior counsel for a main contractor in a multipartite dispute concerning delay and defects in the design, construction, and commissioning of the Rolls Building, involving complex factual and expert evidence on delay analysis and quantum.
- Acted as sole counsel in a multi-track claim under NHBC Buildmark covers involving defective design and workmanship in a residential development.
- Advising a pharmaceutical company on the termination and/or repudiation of a JCT Intermediate Building contract regarding laboratory and fit-out works in the Porton Down Science Park.
- Advising a facilities management contractor on claims and deductions arising from issues of health and safety and defects in a PFI hospital project in Middlesbrough.
- Advising a facilities management contractor on a complex delay and disruption claim arising from asbestos contamination in a PFI school project in London.
- Advising a facilities management contractor on the interpretation of the payment mechanism and service failure deductions in a PFI hospital project in Portsmouth.

- Advising a facilities management contractor on the interpretation of a PFI contract concerning the reimbursement mechanism for the use of biofuels in a number of schools in Salford.
  - Advising on the finality of milestone certificates in a PFI contract concerning the rehabilitation and maintenance of roads in Birmingham.
  - Advising on and preparing for an application for an interim injunction against an employer calling on an on-demand performance bond under the FIDIC Yellow Book Conditions.
- 

## ARBITRATION

Mathias has acted in commercial and construction arbitrations both in the UK and abroad. Recent work includes:

- Acting as junior counsel for a main contractor in a high-value international arbitration in Singapore (SIAC rules) concerning outstanding payments, delays, variations, and wrongful termination under an amended FIDIC form of contract for a mixed-use high-rise development in Cambodia.
  - Acting as junior counsel for the owner / respondent in a high-value international arbitration in London (ICC rules) arising from delays and variations in the engineering, procurement, and construction of a new combined cycle power plant in South Jamaica.
  - Acting as junior counsel for a Danish design consultant in a high-value and complex international arbitration seated in Oman and governed by the Oman Arbitration Law, concerning delays, defects and outstanding professional fees arising from the design and construction of two new airports in Oman.
  - Acting as junior counsel for a well-known multi-national conglomerate in a high-value arbitration in London (UNCITRAL rules) arising from a long-standing delay and disruption dispute concerning the construction of one of the largest power plants in South Africa.
  - Acting as junior counsel for a main contractor in an upstream and downstream arbitrations in Hong Kong (HKIAC rules) in a final account dispute arising from the termination of the redevelopment of a commercial office building in Hong Kong.
  - Acting as junior counsel for a main contractor in an arbitration in Hong Kong (HKIAC rules) in a dispute concerning piling foundations in a residential development in Hong Kong.
  - Acting as junior counsel for a local contractor in an arbitration in Hong Kong (HKIAC rules) in a dispute concerning the construction of a residential complex in Macau.
  - Acting as sole counsel for an employer in a CIMAR arbitration in respect of widespread defects in the design and construction of student accommodation under a JCT Design and Build Contract.
- 

## ENERGY AND UTILITIES

Mathias has undertaken work on a range of energy projects in line with Chambers' specialisms. Recent work includes:

- Acted as junior counsel in a 5-week hybrid TCC trial in June / July 2021 concerning delays, defects and termination/repudiation arising from the construction of a new fluidised bed gasification plant in Hull which was designed to process, and use refuse derived fuel (RDF).

- Acted successfully (as junior counsel) for the Claimant in the preliminary issues hearing in an ongoing multi-partite, high-value and technically complex TCC action concerning the construction of a waste-to-energy plant under an EPC Contract. The preliminary issues concerned (i) the legal effect of the post-termination assignment of a sub-contract, and (ii) whether the main contractor and the sub-contractor's liabilities represent the same damage for the purposes of the Civil Liability (Contribution) Act 1978: **Energy Works (Hull) Limited v MW High Tech Projects UK Limited** [\[2020\] EWHC 2537 \(TCC\)](#).
- Acting as junior counsel for a US-based multi-national conglomerate in a high-value arbitration (UNCITRAL rules) arising from a delay and disruption dispute concerning the construction of one of the largest power plants in South Africa.
- Advising a large oil refining company in the Middle East on potential contractual claims against a contractor consortium in respect of delays and defects in the construction and commissioning of a plant, involving the interpretation of liquidated damages for delay and performance guarantees, omission of works, injunctions against termination, and carve-outs for gross negligence and willful misconduct.
- Advising a Liberian company on conflicts of law issues and service out of jurisdiction in relation to a claim brought against foreign entities regarding the early termination of a contract for the construction of various mining camps.
- Acting as sole counsel for a contractor in its application to strike out a claim by a utilities undertaker in respect of alleged damage to underground apparatus and associated diversionary works in a construction site.
- Acting for a leading manufacturer of cement in a claim concerning overpayments for excavation and restoration works at a quarry under a re-measurement contract.
- Acting in a claim concerning payments for sewerage services allegedly provided by a statutory undertaker under the Water Industry Act 1991.
- Advising on delays and extensions of time in a project involving the construction of a combined heat and energy plant pursuant to the FIDIC Yellow Book Conditions.
- Advising on the various causes of action in a dispute concerning subsidence in a property constructed over an abandoned mine shaft.
- Advising on delays and extensions of time in an international project for the construction of a power plant.
- Advising on and drafting a defence in a claim concerning the international sale and purchase of crude oil.

---

## PROFESSIONAL NEGLIGENCE

Mathias has advised on and acted in various cases of professional negligence. Recent work includes:

- Successfully acting as sole counsel for the claimant in a 3-day trial under the Shorter Trials Scheme in **DBE Energy Ltd v Biogas Products Ltd** [\[2020\] EWHC 1232 \(TCC\)](#) (liability and quantum) and **DBE Energy Ltd v Biogas Products Ltd** [\[2020\] EWHC 1285 \(TCC\)](#) (interest and costs), where the defendant was found to be negligent and in breach of contract for failing to properly design and supply pressure equipment which was fit for purpose for an anaerobic digestion facility in Dunsfold Park.

- Successfully acting as sole counsel for the claimant in **DBE Energy Ltd v Biogas Products Ltd** [2020] [EWHC 401 \(TCC\)](#) in an application to expunge the defendant's technical expert evidence in respect of unpleaded issues.
- Acting as junior counsel for a real estate investment trust in an ongoing tripartite claim under collateral warranties against the architect and cladding sub-contractor for negligently designing the external rainscreen cladding system during the redevelopment of a mixed-use high-rise building in Swindon, including the use of combustible Kingspan insulation materials, the omission of cavity barriers, and various other fire safety defects which were identified after the Grenfell Tower tragedy.
- Acting as sole counsel in a tripartite dispute between a main contractor and an architect and between the architect and the fire engineer, concerning the failure to design and specify the appropriate level of fire resistance (intumescent coating) for structural steelwork in a mixed-use hotel, carpark, and retail complex in Liverpool.
- Acting as sole counsel for residential owners in a dispute over an architect/contract administrator's negligence in supervising the works and certifying payments.
- Acting as sole counsel for a residential owner in a dispute over defects in the design of a residential property resulting in overheating and other health risks, including advice on mediation, stay of proceedings to enforce ADR clauses, and Part 36 offers.
- Advising on design coordination issues and professional negligence of a lead consultant in respect of a major PFI hospital project.
- Advising on professional negligence issues arising from a dispute concerning subsidence of land.
- Drafting a defence to a claim against a surveyor in respect of the valuation of a property.
- Drafting a skeleton argument for an appeal concerning the proper construction of an exclusion and limitation of liability clause in a contract for the provision of consulting engineering services.

---

## INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

Mathias has experience of cases in the I.T. and telecommunications sector. Recent work includes:

- Acting as sole counsel in a number of claims brought by a statutory undertaker for telecommunication networks in respect of damage to its apparatus by groundworks and consequential diversionary works, involving issues of vicarious liability and non-delegable duties in tort.
- Advising on and preparing submissions for an expedited trial concerning key performance indicators and the termination of an outsourcing contract for the provision of health, transport, communications, and public safety services.
- Advising on and preparing opening submissions for a Part 8 trial concerning obligations in respect of the database and calculations used in connection with the rehabilitation and maintenance of roads under a PFI contract.

---

## ADJUDICATION

Mathias has extensive experience of all aspects of statutory and contractual adjudication. He has recently been instructed in a number of cases, including:

- Acting as junior counsel for the successful claimant in **Vinci Construction UK Ltd v Beumer Group UK Ltd** [2018] EWHC 1874 (TCC); [2018] BLR 575, where the losing party sought to resist enforcement of an adjudication decision relating to upgrading works at Gatwick Airport on the basis of breach of natural justice.
- Acting as sole counsel for the successful claimant in **DSVG v Conneely** [2018] EWHC 4005 (TCC), where the losing party sought to resist enforcement of an adjudication decision on the basis of **Grove Developments Ltd v S&T (UK) Ltd** [2018] EWHC 123 (TCC) and an alleged failure to exhaust the adjudicator's jurisdiction in respect of an interim payment dispute.
- Acting as junior counsel for a Chinese property developer in an adjudication on loss and expense claims arising from the construction of one of the tallest mixed-use skyscrapers (including a luxury hotel) in London.
- Successfully acting for a main contractor in an adjudication under a JCT contract involving an employer's claim for liquidated damages where sectional completion has not been properly defined.
- Successfully acting for a main contractor in an adjudication under a NEC contract regarding a railway development project, involving extensions of time arising from compensation events.
- Successfully acting for a main contractor in an adjudication under a NEC subcontract regarding delays and liquidated damages in respect of upgrading works at the Gatwick Airport.
- Successfully acting for the litigation funder in an adjudication of final account claims under a NEC contract assigned from a liquidated subcontractor in respect of landscaping works in an Olympic stadium in London and advising on mutual set-off under the Insolvency Rules.
- Successfully acting for building contractors (referring parties) in a number of recent adjudications involving the validity of payment applications/invoices and pay less notices.
- Successfully acting for a reputable building contractor (referring party) in a substantial adjudication arising from design issues and professional negligence in a PFI hospital project.
- Successfully acting as sole counsel for a contractor in TCC proceedings for the enforcement of multiple adjudication decisions in respect of a number of contracts between the same parties.
- Successfully acting for a contractor (responding party) in an adjudication concerning various allegations of repudiation under a FMB Plain English Domestic Building Contract.
- Successfully acting for a construction management company (referring party) in an adjudication concerning wrongful termination, allegations of material breach and deductions from interim payments/final account under a letter of intent, including a jurisdictional challenge on contract/no contract grounds.

---

## GENERAL COMMERCIAL

Mathias has advised on several commercial disputes related to, or outside the field of, construction. Recent work includes:

- Successfully opposing a late specific disclosure application arising from a party wall dispute regarding a residential property in London.

- Successfully defending one of the largest air carriers in the UK in an EC261 compensation claim for flight delays/cancellation due to extraordinary circumstances (weather conditions incompatible with the safe operation of the flight concerned).
- Advising a number of bank account holders on injunction applications against a bank's proposed closure of their bank accounts contrary to express assurances and representations.
- Advising a foreign bank on chargeback and restitutionary claims against a UK bank in relation to known fraudulent transactions.
- Advising a reputable pharmaceutical company on the review and amendment of standard form building contracts which were the subject of a novation.
- Acting for and advising a reputable building contractor in resisting an application to the Companies Court by a subcontractor's liquidators under section 236 of the Insolvency Act for an account of all dealings.
- Acting for and advising an employer on winding-up proceedings in Manchester arising from a contractor's adjudication where there is a serious and genuine cross-claim due to defects.
- Advising on the restoration of a company voluntarily struck off contrary to the Companies Act 2006, application for a company director disqualification order and personal remedies against a sole director in compulsory winding up proceedings under the Insolvency Act 1986.
- Advising on the construction of an insurance policy in respect of loss and damage arising from subsidence.
- Advising on the duty of good faith and the issue of apparent/ostensible authority in a multi-partite dispute concerning the termination of an outsourcing agreement.
- Advising on the proper construction of an agreement involving the partial assignment of a debt and subrogation in an international sale.

---

## NOTABLE REPORTED CASES

**Energy Works (Hull) Limited v MW High Tech Projects UK Limited** [2020] EWHC 2537 (TCC)

**DBE Energy Ltd v Biogas Products Ltd** [2020] EWHC 1285 (TCC) (interest and costs)

**DBE Energy Ltd v Biogas Products Ltd** [2020] EWHC 1232 (TCC) (liability and quantum)

**DBE Energy Ltd v Biogas Products Ltd** [2020] EWHC 401 (TCC) (application to expunge expert evidence)

**Vinci Construction UK Ltd v Beumer Group UK Ltd** [2018] EWHC 1874 (TCC) (breach of natural justice)

**DSVG v Conneely** [2018] EWHC 4005 (TCC) (enforcement of "smash and grab" adjudication after *Grove v S&T*)

**McDonald & Anor v D&F Contracts Ltd** [2018] EWHC 1600 (TCC) (default judgment – late Defence)

---

## QUALIFICATIONS AND AWARDS

2015	SCL Hudson Prize (1st Prize) for 'Shylock's Construction Law: The Brave New Life of Liquidated Damages?' (available to download <a href="#">online</a> and published in the Construction Law Journal)
2015	Buchanan Prize, Lincoln's Inn; top student in July 2015 call
2015	Berwin Leighton Paisner Prize, Worshipful Company of Arbitrators Arbitration Weekend 2015
2014-2015	Bar Professional Training Course (Outstanding), City Law School
2013-2014	BCL, Magdalen College, University of Oxford (Master's in Law – Competition Law; Jurisprudence and Political Theory; Restitution of Unjust Enrichment; Comparative Public Law); Law Faculty Graduate Assistance Fund Scholarship
2013	Champion of Oxford Hong Kong Mooting Competition
2013	Lord Denning Scholarship, Lincoln's Inn
2013	Member of KCL team in Philip C Jessup International Law Moot Court Competition
2013	Helen Gibbons Prize in Commercial Law (Best Paper)
2012	King's Leadership Award
2012	Best Advocate (Commission Representative) Award, European Law Moot Court Competition
2011	Sir Francis Jacobs Prize in EU Law 2011 (Best Paper) Wragge & Co Prize in Trusts
2011	King's myScholarship 2011 for excellence and contribution
2010-2013	LLB Hons (First Class Honours), King's College London

---

## LEGAL TEXTS

Case Analysis [expert panel member](#) for Lexis®PSL Construction (2020 – present)

*'A return to orthodoxy – Supreme Court decides on Triple Point v PTT'* (Lexis®PSL, 2021)

*'Construction law in 2020: a review of key legal and industry developments'* (Informa, March 2021).

*'Guide to insolvency in PFI/PF2 projects'* (Lexis®PSL, 2021)

*'COVID-19: "Legal view: how to implement site operating procedures"'*, Building Magazine (4 May 2020).

*'Construction law in 2019: a review of key legal and industry developments'* (Informa, May 2020).

*'Guide to insolvency in PFI/PF2 projects'* (Lexis®PSL, 2018)

*'Construction law in 2018: a review of key legal and industry developments'* (Informa, May 2019).

'Construction law in 2017: a review of key legal and industry developments' (Informa, April 2018).

'Taking the Measured Mile', Construction Law (2 November 2017).

'Belt and Road projects – legal issues when East meets West', Construction Law (1 October 2017).

'Ethics in the Tender Process: Implied Duty of Good Faith and Remedies for Breach' (2017) 34(3) ICLR 242.

'Shylock's Construction Law: the Brave New Life of Liquidated Damages?' (2017) 33(3) Const LJ 173.

---

## ADDITIONAL INFORMATION

Mathias is a member of COMBAR, TECBAR and the Society of Construction Law. He is also a member of the Human Rights Lawyers Association and a committee member of the UK Association for European Law.

In 2015 Mathias was a Stagiaire (judicial assistant) in the Cabinet of Judge Christopher Vajda QC at the Court of Justice of the European Union in Luxembourg. During this year he also completed a research externship at JUSTICE, specialising in complaints and ombudsman system in the UK.

---

## RECENT RECOMMENDATIONS

*"Exceeds pre-requisites for a junior barrister."*

Construction, Energy and Infrastructure, The Legal 500 Asia Pacific 2022

*"He is able to provide very accurate advice on complex and specialist construction issues, where his broad knowledge of applicable case law and current developments is first-rate."*

*"He is an absolute superstar. He's exceptional on the law and very good grasping the commercial elements of disputes."*

Construction, Chambers and Partners UK Bar 2022

*"Mathias is top notch. He assimilates information at record pace and quickly gets to grips with the issues. He is great with clients – approachable, dependable, nothing is too much trouble."*

Construction, The Legal 500 UK Bar 2022

*"Incredibly hard working, responsive and helpful, he gets into the detail and is a highly skilled advocate."*

Energy, The Legal 500 UK Bar 2022

*"Understands highly complex and technical subject matter and is very detail-oriented and organised in working with witnesses and analysing oral transcripts."*

International Arbitration, The Legal 500 Asia-Pacific 2021

*"He is an absolute star - energetic, responsive, sharp and astute."*

*"Head and shoulders above all the juniors at his level."*

*"A junior who will go far."*

Construction, Chambers and Partners UK Bar 2021

*“A real star. Head and shoulders one of the best juniors at the Bar. Cerebral, clients love his work ethic.”*  
Construction, The Legal 500 UK Bar 2021

*“One to watch.” “A very impressive junior who is clearly going places.”*

*“User-friendly, hard-working and extremely clever.”*

*“Amazingly hard-working and a real team player who gets stuck in and has a great eye for detail.”*

*“Very intelligent, meticulous and user-friendly.”*

Construction, Chambers and Partners UK Bar and Global 2020