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## JUSTIN MORT QC

Call: 1994 / Silk: 2014

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### Areas of practice

- Construction & Engineering
- Infrastructure & Utilities
- Energy & Natural Resources
- PFI/PPP
- Arbitration

### Clerks' Details

Declan Redmond  
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### Practice overview

Justin Mort QC specialises in high value construction disputes with a particular interest in and expertise in (1) energy, (2) infrastructure and (3) process engineering projects.

Justin is recommended for Construction in both Chambers and Partners and Legal 500, and has an unparalleled reputation as a successful trial advocate / cross-examiner, strategist and lawyer.

His innumerable reported cases arising from court proceedings, particularly in the TCC, and the original and ingenious legal arguments that he has deployed in fighting them, together constitute a formidable contribution to the law governing construction claims, arbitration, adjudication and related topics.

Comments in the directories include: "Justin is a fantastic lawyer as he gets straight into things and works incredibly hard on the detail. He can rip apart cases that need a detailed analysis", "A strong, forceful advocate who is completely at home in the TCC" and "singled out for the strength of his intellect, and his vast knowledge of the technicalities of construction law".

He has lately worked on disputes arising from infrastructure and/or energy projects in the Middle East and North Africa (including Iraq, Saudi Arabia, Qatar, Algeria, Dubai), numerous European jurisdictions (including Ukraine, Kazakhstan and Russia), Hong Kong, Singapore, Malaysia and Thailand, the West Indies, the Falkland Islands, Venezuela and Zambia.

His practice is fairly spread across the High Court (TCC and Commercial Court), international arbitration (including all of the principal institutional rules) and adjudication / dispute adjudication boards or their equivalent.

Justin also has particular experience of obtaining and resisting applications for injunctions in the context of construction disputes and in support of arbitration proceedings.

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## Recent Cases

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### Infrastructure & Utilities

Justin has extensive experience of disputes, determined in arbitration, litigation or by other means, arising out of major infrastructure projects, including those with a significant IT element. Some recent examples, from both the UK and international arbitration, include:

- Acting for a contractor in a series of disputes (in arbitration) subject to UAE law, including claims for variations and extension of time.
- Acting for an Austrian contractor pursuing a claim for extension of time and loss and expense arising out of the installation and upgrading of a sophisticated traffic control and management system.
- Acting for a consortium of contractors in relation to claims for payment arising out of the construction and upgrading of extensive waste treatment facilities.
- Acting in a great number of cases for either the contractor or the statutory authority or other employer in connection with disputes arising out of the construction, upgrading, and/or maintenance and repair of roads / highways or road networks.
- Acting for either the employer, contractor or specialist subcontractor in relation to disputes arising out of the construction, extension or upgrading of rail networks (above or below ground), and/or the design, manufacture and maintenance of rolling stock.
- Acting for various contractors in relation to disputes arising out of infrastructure works required for the London 2012 Olympics and other associated construction projects.
- Acting for various contractors engaged in the Crossrail project.

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“A razor-sharp barrister with an extraordinary ability to immediately identify the key points.”

Chambers UK Bar 2020

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### Energy & Natural Resources

Justin has experience of disputes arising under bespoke and standard forms of contract. Below are some examples; all of the disputes referred to below were for multi-million euros or the local currency equivalent:

- Acting for a (French) EPC / main contractor in relation to disputes concerning termination, calculation of the final account, and claims for extension of time and further payment arising out of the construction of a gas power station (amended FIDIC red book).
- Acting for the employer defending claims for extension of time and additional payment in relation to the design and construction of a biomass energy project (FIDIC yellow book).
- Acting for a Spanish EPC contractor bringing claims for extension of time and associated loss and expense in relation to the construction of a gas turbine power plant (amended FIDIC form).
- Acting for the (Danish) main contractor bringing a claim for extension of time and associated loss and expense arising out of the construction of an onshore wind farm.
- Acting for the (US) main contractor bringing a claim in respect of unforeseen ground conditions arising out of the construction of a hydro-electric dam in the Far East (FIDIC red book).
- Final account dispute arising out of the installation of an uninterruptible power supplies in a data centre by an Austrian contractor.
- Acting for a (US) EPC contractor pursuing claims in respect of unforeseen ground conditions arising out of the construction of a gas power station in the Far East.
- ICC arbitration arising out of the construction of a gas pipeline: resisting allegations of defective work and pursuing claims for variations and delay.
- UNCITRAL rules arbitration arising out of the procurement and construction of a sunflower oil facility in Ukraine.

- LCIA arbitration concerning the refurbishment of an oil platform in the Middle East: defending the contractor's delay claim on behalf of the employer.
- Acting for the EPC / main contractor bringing a claim for extension of time in relation to the construction of a CHP waste to energy plant.
- Acting for the employer defending a delay claim arising out of a copper mining project in Zambia (adjudication and LCIA arbitration, as well as in the Commercial Court).

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“Justin turns the most complex matters around very quickly and with superb attention to detail.”

Chambers UK Bar 2020

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#### Other engineering or geotechnical disputes

- Claims by contractor for (a) unforeseen physical conditions and (b) force majeure, arising out of the construction of a landfill site in St Lucia under a FIDIC form.
- Acting for the main contractor bringing claims for payment, and resisting allegations of defective work, in relation to the construction of a high tech paint manufacturing facility.
- Acting for the US and German partners in a joint venture dispute arising out of the construction of a facility for the processing of hydro-carbon by-products.
- Acting for a developer in relation to the defective construction of a factory outlet shopping centre due to physical conditions.
- Acting for a Japanese contractor in relation to claims for additional payment and delay arising out of the construction of an EVOH process plant.

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“An intellectually extremely sharp barrister who thinks around corners.”

Chambers UK Bar 2018

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#### PFI/PPP

- Final account dispute arising out of M&E works undertaken at a psychiatric hospital built for North Tyneside and Northumberland Mental Health NHS Trust: trial in the TCC.
- Acting for PFI concessionaire as defendant in TCC claim for additional payment brought by building contractor and as claimant in corresponding pass-through claim against South Tees Acute Hospitals NHS trust.
- Acting for a main contractor in a delay claim against Central Manchester and Manchester Children's University Hospitals NHS Trust.
- Acting for a groundwork subcontractor in claim arising out of the construction of a community college.
- Acting for the operator of a local authority leisure facility and teaching pool against the maintenance contractor in a series of adjudications.

#### Injunctions

Recent experience of injunctive work includes the following:

- Acting for a contractor, resisting an application for a final injunction to prevent it from bringing a second adjudication, in circumstances where it had abandoned an earlier adjudication in relation to the same or overlapping subject matter (Jacobs UK Ltd v Skanska Construction Ltd).

- Acting for a designer, resisting an application for an interim mandatory injunction requiring the designer to restore its client's access to the building information model (BIM) maintained by the designer.
- Obtaining a freezing order on behalf of a design and build contractor against an employer registered in the BVI, following a determination in adjudication that the employer had repudiated the building contract (*Primus v Cannon*).
- Acting for a contractor, resisting (1) an application by the employer in the TCC for a mandatory injunction for delivery up of project documents following, the determination of the employer's entitlement to the documents in adjudication (2015), and (2) subsequent court proceedings (2017) in relation to the same or similar subject matter (*Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd*).
- Acting for an employer, resisting an application for an injunction to prevent the employer from making a call on an on demand bond, in the context of an amended FIDIC contract (*J Murphy & Sons Ltd v Beckton Energy Ltd*).
- Resisting an ant-suit injunction in the commercial court to prevent enforcement of interim injunctive relief obtained in support of arbitration (*U&M Mining Zambia Ltd v Konkola Coper Mines plc*).
- Obtaining an interim injunction on behalf of a contractor to prevent the employer from making a call on an on-demand bond (*RG Spiller Ltd v Derhalli*).
- Acting for a contractor seeking an injunction in the TCC to prevent the contractor's solicitors from acting against it in adjudication proceedings.
- Acting for the claimant in a claim in the TCC for interlocutory and final mandatory injunctions (alternatively: order for delivery up), requiring the return of takeover packages unlawfully removed to Italy (*Alstom Power Ltd v SOMI Impianti SRL*).
- Application for injunction and strike out of a winding-up petition in the companies' court; subsequent application for indemnity costs.
- Resisting an application in the TCC for an injunction requiring the main contractor on a sensitive building project to permit the employer's remedial works contractor to attend site.

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“Astonishing ability to get to the heart of complex issues quickly.”

Legal 500 2020

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#### Applications arising under the Arbitration Act 1996

- Dispute as to a party's entitlement to seek interim injunctive relief in the court local to the project in circumstances where the seat of the arbitration was London under the LCIA rules (commercial court): sections 2(3) and 44 of the Arbitration Act 1996 and article 23.5 of the LCIA rules considered.
- Application to set aside an arbitral award under section 68 of the Arbitration Act (serious irregularity) together with application for permission and appeal under section 69 on a question of law: construction of sections 57 and 70.
- Resisting a section 9 application to stay TCC proceedings for arbitration in Denmark arising out of a BVI company's building project in the UK.
- Resisting an application to stay a counterclaim for arbitration made by the claimant at the same time as its own application for summary judgment under the same contract.
- Application to stay a counterclaim for arbitration in circumstances where the claim arose from a contract that provided for the resolution of disputes in litigation whereas the counterclaim arose out of a contract containing an arbitration agreement.
- Appeal in the TCC from an arbitrator's refusal to grant security for costs in a final account arbitration arising out of the construction of a residential development.

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## Selected Reported Cases

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- Swansea Stadium Management Company Ltd v City and County of Swansea [2019] EWHC 989 (TCC)
- Barry M Cosmetics Ltd v Merit Holdings Ltd [2019] EWHC 136 (TCC)
- Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd (Costs: quantum) [2018] EWHC 1577 (TCC)
- Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd (No.2 quantum) [2018] EWHC 1577 (TCC); [2018] TCLR 6; 178 Con LR 89; [2018] CILL 4153
- Rawlings Consulting (UK) Ltd v Maelor Foods Ltd [2018] EWHC 2277 (TCC)
- Maelor Foods v Rawlings Consulting (UK) Ltd [2018] EWHC 1878 (QB); 180 Con LR 219; [2018] CILL 4185
- Swansea Stadium Management Company Ltd v City and County of Swansea [2018] EWHC 2192 (TCC)
- Swansea Stadium Management Company Ltd v City and County of Swansea [2018] EWHC 2210 (TCC); CILL; [2018] BLR 652; 179 Con LR 91; [2019] PNLR 4
- BDW Trading Ltd v Integral Geotechnique (Wales) Ltd [2018] EWHC 1915 (TCC); [2019] TCLR 1; [2018] PNLR 34; 179 Con LR 112
- Victory House General Partner Ltd v RGB P&C Ltd [2018] EWHC 102 (TCC); (2018) 176 Con LR 78; [2018] BLR 133
- Adam Architecture v Halsbury Homes Ltd [2017] EWCA Civ 1735
- Merit Holdings Limited v Michael J Lonsdale Limited [2017] EWHC 2450 (TCC)
- Jacobs UK Ltd v Skanska Construction Ltd [2017] EWHC 2395 (TCC)
- Kersfield Developments (Bridge Road) Ltd v Bray and Slaughter Ltd [2017] EWHC 15 (TCC), 170 Con LR 40
- Trant Engineering Ltd v Mott McDonald Ltd [2017] EWHC 2061 (TCC)
- Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd (Costs) [2017] EWHC 2299 (TCC)
- Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd (Liability) [2017] EWHC 1763 (TCC)
- Lea Valley Developments Ltd v Derbyshire (Substantive Issues) [2017] WLR(D) 414, [2017] EWHC 1353 (TCC), [2017] 4 WLR 120
- Lea Valley Developments Ltd v Derbyshire (Jurisdiction) [2017] EWHC B22 (TCC)
- J Murphy & Sons Ltd v Beckton Energy Ltd [2016] EWHC 607 (TCC)
- Commercial Management (Investments) Ltd v (1) Mitchell Design & Construct Ltd (2) Regorco Ltd (Formerly Roger Bullivant Ltd) [2016] EWHC 76 (TCC); [2016] All ER(D) 26 (Feb)
- North Midland Construction plc v Geo Networks Ltd (judgment on costs) [2015] EWHC 3063 (TCC); [2015] All ER (D) 53 (Nov)
- Imperial Chemical Industries Ltd v Merit Merrell Technology Ltd [2015] EWHC 2915 (TCC); [2015] All ER(D) 220 (Oct); [2016] CILL 3755
- William Clark Partnership Ltd v Dock St PCT Ltd (trial) [2015] EWHC 2923 (TCC); [2015] All ER(D) 226 (Oct); 163 Con LR 117
- North Midland Construction plc v Geo Networks Ltd [2015] EWHC 2384 (TCC); [2015] All ER(D) 69 (Aug)
- Transformers & Rectifiers Ltd v Needs Ltd (decision of Coulson J) [2015] EWHC 1687 (TCC); [2015] 3 Costs LR 611; [2015] CILL 3702; [2015] WLR(D) 256; [2015] All ER(D) 173 (Jun)
- William Clark Partnership Ltd v Dock St PCT Ltd [2015] EWHC 1521 (TCC); [2015] All ER(D) 186 (Jun)
- Transformers & Rectifiers Ltd v Needs Ltd (decision of Edwards-Stuart J) [2015] EWHC 269 (TCC); [2015] All ER (D) 178 (Feb); [2015] BLR 336; [2015] TCLR 2; 159 Con LR 33
- Hurley Palmer Flatt Ltd v Barclays Bank plc [2015] BUS LR 106; [2014] EWHC 3042 (TCC); [2014] All ER (D) 162 (Sep); [2014] BLR 713; (2014) 156 Con LR 213; [2014] CILL 3577

- Parkwood Leisure Ltd v Laing O'Rourke Wales and West Ltd [2013] All ER (D) 221 (Aug); [2013] CILL 3413; [2013] BLR 589; 150 Con LR 93; [2013] EGLR 6
- Fileturn Ltd v The Belgrave London Ltd [2013] All ER (D) 124 (Apr)
- U&M Mining Zambia Ltd v Konkola Copper Mines plc [2013] CILL 3328; [2013] All ER (D) 193 (Feb); [2013] 2 Lloyd's Rep 218; [2013] 1 CLC 456; [2013] Bus LR D54
- Atkins Ltd v Secretary of State for Transport [2013] BLR 193; (2013) 146 Con LR 169; [2013] CILL 3337; [2013] All ER (D) 53 (Feb)
- Alstom Power Ltd v Somi Impianti S.r.l (Declaration, judgment 8 October 2012) [2012] EWHC 2644 (TCC); [2012] BLR 585; (2012) 145 Con LR 17; [2012] CILL 3241; [2012] All ER (D) 74; (Oct) NLJ 19; [2012] NLJR 1323
- Sprunt Ltd v London Borough of Camden [2012] CILL 3124 TCC; [2012] BLR 83; (2011) 140 Con LR 111; [2012] 1 EGLR 19; [2012] 9 EG 152; [2011] All ER(D) 87 (Dec)
- Alstom Power Limited v Somi Impianti S.r.l (Summary judgment and contempt of court, judgment 21 December 2011) [2011] EWHC 3941 (TCC), [2012] All ER(D) 170 (Jan)
- Alstom Power Ltd v Somi Impianti S.r.l (Injunction, judgment 21 November 2011) [2011] EWHC 3157 (TCC); [2012] CILL 3113
- Rust Consulting Ltd v PB Ltd (decision of Edwards-Stuart J) [2011] EWHC 1622 (TCC); [2011] PNLR 33; [2011] All ER(D) 201 (Jun); in the Court of Appeal: [2012] EWCA Civ 1070; [2012] BLR 427; (2012) 144 Con LR 63
- Rust Consulting Ltd v PB Ltd (decision of Akenhead J) [2010] EWHC 3243 (TCC); [2011] 1 All ER (Comm) 951; [2010] All ER(D) 271 (Dec); (2010) 135 Con LR 69; in the Court of Appeal, twice: [2011] EWCA Civ 899; (2010) 137 Con LR 92; [2012] 1 All ER (Comm) 455 and [2012] EWCA Civ 1070; [2012] BLR 427; (2012) 144 Con LR 63
- GPS Marine Contractors v Ringway Infrastructure Services [2010] BLR 377; [2010] Bus LR D129; [2010] All ER(D) 232 (Oct)
- Beck Interiors Ltd v Dr Russo [2010] BLR 37; (2009) 132 Con LR 56
- Heifer International Inc v Helge Christiansen Arkitekter KS MAA PAR [2008] 2 All ER (Comm) 831; [2008] All ER(D) 120 (Jan); [2008] Bus LR D49; [2007] ArbLR 31; (2007) 119 Con LR 155
- Construction Partnership UK Ltd v Leek Developments Ltd [2006] CILL 2357 TCC
- Plymouth and South West Co-operative Society Ltd v Architecture Structure and Management Ltd [2006] EWHC 5 (TCC); 108 Con LR 77; [2006] CILL 2366 (also reported on costs at [2006] EWHC 3252 (TCC); 111 Con LR 189; [2007] Lloyd's Rep. I.R. 596)
- Cunningham v Collett and Farmer (2006) 113 Con LR 142; [2006] All ER(D) 233 (Jul); decision on costs reported at [2006] BLR 66; and see subsequent litigation reported as McFaddens v Platford [2009] PNLR 26
- Multiplex Constructions (UK) Ltd v West India Quay Development Company (Eastern) Ltd (2006) 111 Con LR 33
- Captiva Estates Ltd v Rybarn Ltd [2006] BLR 66 TCC; [2006] CILL 2333
- Bella Casa Ltd v Vinestone Ltd [2006] BLR 72; (2005) 108 Con LR 148; [2006] TCLR 2; [2006] CILL 2344; [2005] All ER (D) 163
- Brian Warwickshire Partnership v HOK [2006] PNLR 5; (2005) 103 Con LR 112; The Times, 19 September 2005; [2005] Lloyd's Rep Med 464; [2005] All ER(D) 386 (Jul)
- Tracy Bennett v FMK Construction Ltd (2005) 101 Con LR 92; [2005] All ER(D) 377 (Jun)
- Rossco Civil Engineering Limited v Dwr Cymru Cyfyngedig [2004] All ER (D) 339 (Jul)
- Galliford Try Construction Ltd v Michael Heal Associates Ltd (2003) 99 Con LR 19; [2003] All ER(D) 07 (Dec)
- Simons Construction Ltd v Aardvark Developments Ltd [2003] EWHC 2474 (TCC); [2004] BLR 117; [2004] TCLR 2; 93 Con LR 114; [2003] CILL 2053; [2003] All ER(D) 482 (Oct)
- Orange EBS Ltd v ABB Ltd [2003] BLR 323; (2004) 20 Construction Law Journal 30 (adjudication enforcement)
- RC Residuals Ltd v Linton Fuel Oils Ltd [2002] 1 WLR 2782; The Times, 22 May 2002; [2002] All ER(D) 32 (May);

- David McLean Housing Ltd v Swansea Housing Association Ltd [2002] BLR 125 TCC, [2002] CILL 1811; [2001] All ER(D) 519 (Jul)
- Outwing Construction Limited v Thomas Weatherald Limited [1999] All ER (D) 1012

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## Education & Professional Career

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TECBAR Accredited Adjudicator	
Public Access Training	2008
Keating Chambers	2003
MSc in Construction Law and Arbitration, King's College London	1999
Tenant, 2 Temple Gardens	1995
Called to the bar (Middle Temple)	1994
Middle Temple Jules Thorn Scholar	1992
BA, Durham University	1992

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## Memberships

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Society of Construction Law  
Technology and Construction Bar Association (committee member 2008-2012)  
LCIA  
King's College Construction Law Association  
Commercial Bar Association

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## Seminars and Publications

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Contributor to Keating on Construction Contracts 10th Edition (2016)  
Contributor to Keating on NEC3 (2012)

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## Additional Information

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Justin Mort QC has an MSc from King's College London in Construction Law and Arbitration and occasionally lectures at King's.

He has written articles and given seminars on subjects relevant to his practice, including partnering agreements and adjudication enforcement. He has acted as an adjudicator and is on the TECBAR panel of adjudicators.