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ALEXANDER NISSEN KC

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Areas of Practice

- Construction & Engineering
- PFI/PPP
- Professional Negligence
- Energy & Natural Resources
- Offshore Construction & Marine Engineering
- International Arbitration
- Adjudication
- Mediation

Clerks' Details

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Practice Overview

Alexander Nissen was called to the Bar in 1985, became a Queen's Counsel in 2006 and was appointed Head of Chambers in 2020. He specialises in advocacy and advisory work, adjudication, arbitration, litigation and the mediation of construction, engineering, energy and professional negligence disputes.

Alexander's practice covers a wide variety of cases ranging from client/developer claims, PFI disputes, and adjudication enforcement to professional negligence cases (architects, surveyors, valuers, solicitors and civil, structural and geotechnical engineers). He deals with both contractors' and sub-contractors' claims and defects disputes. His work also covers rail projects, disputes relating to bonds (both domestic and international), power stations, waste recycling facilities and oil and gas projects. He is familiar with all the standard forms of contract including JCT, NEC, I Chem E and FIDIC. Following his successful involvement in the two Grove Development cases, Alexander has acquired a formidable reputation in the field of payment disputes under the HGCRA.

Alexander is a Chartered Arbitrator, an accredited adjudicator and mediator. His arbitration work covers both domestic and international disputes. He has been appointed both through party selection and by the ICC. He was appointed as a Recorder in 2007 and as a Deputy High Court Judge in 2013. Since 2015 he has been sitting in the TCC.

Recent Cases

Construction & Engineering

- Acted in litigation relating to a defective car park for a prestigious shopping centre with substantial consequential loss claims.
- Acted in litigation relating to a defective gasholder at Port Talbot steelworks (remedial costs £16m).
- Acted in multi-party litigation relating to the defective design and construction of a warehouse extension with substantial consequential loss claims.
- Acted in litigation (including Court of Appeal) concerning a £14m dispute over the validity of a payment notice and the right to adjudicate over its true value: (Grove Developments Ltd v S&T(UK) Ltd, CA).
- Acted in litigation (including Court of Appeal) concerning the validity of a £3m payment notice on a power plant project: (C Spencer Ltd v MW High Tech Ltd).
- Acted in litigation in respect of the provision of a bond on a substantial development project in Nine Elms.
- Acted in adjudication on £11m “smash and grab” payment dispute.
- Acted in adjudication in respect of a £22m claim for failure to serve Pay Less Notice.
- Acted in Part 8 claim in respect of dispute over periodic payments under amended JCT Contract: (Grove Developments v Balfour Beatty).
- Acted in £15m adjudication in respect of a disputed Side Agreement to a JCT Contract.
- Acted in litigation in respect of the legal effect of expert determination clause.
- Acted in multi-party litigation for tenant in relation to substantial defects claim at warehouse premises (claim circa £130m): (Accolade Wines Ltd v Volkerfitzpatrick and ors.).
- Acted in litigation for apartment owners in relation to a claim under the Defective Premises Act against the contractor (claim circa £35m). (Rendlesham Estates plc v Barr).

“Alexander is an extremely compelling advocate.”

Chambers & Partners UK Bar 2024

PFI/PPP

- Advised Hospital Trust in respect of £10m defects claim against Project Co.
- Advised Project Co in respect of Unavailability Dispute on a significant public building.
- Advised on Notice of Default in respect of Project Agreement for the provision of Waste Management Services.
- Advised on breach of performance standards and reporting obligations in respect of contract for the provision of Waste Management Services.
- Acted in adjudication in respect of payment dispute over Deductions and reporting issues at a hospital.
- Acted for Project Co in respect of dispute concerning Unavailability at school premises caused by an alleged design and construction defect.
- Acted in adjudication in dispute over provision of catering services at PFI hospital.
- Dispute over scope of responsibility for maintenance services in relation to a hospital.

Professional Negligence

- Advised in litigation in relation to defective design of cladding on university buildings.
- Advised in relation to claim for the defective design of a water treatment facility.
- Advised in relation to dispute concerning ground investigations at a residential development.
- Acted in multi-party litigation relating to the defective design and construction of a warehouse extension with substantial consequential loss claims.
- Acted for client in respect of proceedings for negligent design of forecourt at vehicle servicing depot.
- Acted for client in respect of claim for negligent design and supervision by an architect of multiple properties at a housing estate.
- In arbitration proceedings, acted for contractor/designer on design and build project in which the client sued for the cost of demolishing and rebuilding industrial premises due to settlement conditions. Subsequently acted for contractor in passing on claim to the structural engineers in proceedings before the TCC.

“Alexander is technically exceptional, with a brilliant understanding of judicial thinking.”

Legal 500 2023

Energy & Natural Resources

- Acted in arbitration in respect of \$50m claim for construction of maritime jetty at LNG plant in Chile.
- Acted in arbitration in respect of \$50m claim on termination account at Waste Facility project in Scotland.
- Advised in respect of substantial dispute concerning a project for the installation of gas compressors.
- Advised client in respect of arbitration claim concerning plant designed and constructed under I Chem E contract.
- Acted for subcontractor in arbitration proceedings in relation to £16m final account claim for civil engineering works at power station.
- Acted for company engaged in commercial exploitation of natural gas produced at landfill site in relation to proposed claim circa £20m.
- Acted for contractor in respect of claim for installation of wind turbines in Scotland.
- Acted for contractor in respect of arbitration claims for work done at mineral sands extraction process plant and associated sub-station works in Mozambique.
- Acted for employer on £2m adjudication dispute relating to the installation of a gas pipeline.
- Acted for contractor in respect of dispute concerning the installation of an energy from waste facility, including claim for £16m liquidated damages.
- Acted for contractor in respect of dispute concerning conversion of wood to energy plant.
- Acted for contractor in TCC litigation concerning £4.5m claim in respect of the design and construction of a petroleum complex in Qatar.
- Acted for contractor in respect of loss and expense claim for work done at a power station.

Offshore Construction & Marine Engineering

- Acted in arbitration in respect of \$50m claim for construction of maritime jetty at LNG plant in Chile.
- Advised in respect of a claim for £75m in respect of damage to electrical cabling laid on the sea bed for connection to wind turbines.
- Acted for subsea services provider in respect of claim for accidental damage costs of £15m.
- Acted for Korean shipbuilder in connection with claim for delay relating to a semi- submersible drilling rig (\$100m).
- Acted for party in connection with late delivery of vessel for use in North Sea.

“Incredibly clever and gets through the most difficult of legal issues with seeming ease.”

Chambers & Partners UK Bar 2022

Appointments

International Arbitration

- Appointed as party nominated arbitrator on ad hoc Omani arbitration concerning a project for the construction of reservoirs and water towers.
- Appointed as president of ICC arbitration tribunal in respect of a \$80m claim for payment and \$570m counterclaim for defective construction of modules for installation at LNG plant in Australia.
- Appointed as party nominated arbitrator on dispute about the recommissioning of two gas turbines.
- Appointed as party nominated arbitrator on ICC arbitration in respect of cladding dispute on a development in Kazakhstan.
- Appointed by the ICC in respect of a dispute over fees for services relating to a project for the construction of a road in Qatar.
- Appointed as party nominated arbitrator on LCIA arbitration in relation to extension of time and associated claims on a pipework project in the Caribbean.
- Appointed as party nominated arbitrator on ICC arbitration in respect of a US \$100m dispute over the construction of a hotel in Azerbaijan.
- Appointed as party nominated arbitrator on ICC arbitration in respect of a dispute over the price for supply of gas supplied by Swiss Company to Italian purchaser.
- Appointed as party nominated arbitrator on DIAC arbitration in respect of late completion of a substantial development project.
- Appointed as party nominated arbitrator on DIAC arbitration in respect of dispute concerning termination, extensions of time and costs of major City Expansion Scheme.
- Appointed as arbitrator by Supreme Court of Turks and Caicos to determine dispute between contractor and hotel developer in Turks and Caicos.
- Appointed as sole arbitrator by the ICC in connection with a dispute concerning the audit of records on a project for the production and delivery of two off-shore production structures, production decks and related equipment in the Black Sea.

Domestic Arbitration

- Appointed as sole arbitrator in respect of dispute over fire proofing defects in a PFI hospital and their consequences re: Deductions, SFPs etc.

- Appointed as sole arbitrator in respect of dispute over design responsibility for structures on a substantial road building project in Wales.
- Appointed as sole arbitrator on two disputes about fire proofing defects in various schools.
- Appointed as sole arbitrator on payment claim for sums arising out of waste disposal agreement.
- Appointed as sole arbitrator in respect of an insurance claim for the cost of rebuilding a substantial swimming pool house following a fire.
- Appointed as sole arbitrator on a JCT Arbitration between a contractor and hotelier relating to refurbishment works at a hotel.

Adjudicator

- Appointed by the parties as adjudicator in respect of dispute over the proper construction of a PFI Project Agreement for a road maintenance contract.
- Appointed by the parties as adjudicator in respect of an underground survey of electrical cabling responsible for a fire in central London.
- Appointed by the parties as adjudicator in respect of a complaint about architectural design defects at a hospital.
- Appointed by the parties as adjudicator in relation to a claim for a change in CAPEX costs at a PFI waste recycling facility in Scotland.
- Appointed by the parties as adjudicator in relation to a dispute over the value of an additional works claim for maintenance and repair of mechanical and electrical services.
- Appointed by the parties as adjudicator in relation to the valuation of an omission of services provided on a long-term maintenance contract.
- Appointed as adjudicator on dispute relating to payment, extensions of time and loss and expense.
- Appointed by the parties as adjudicator in relation to a dispute over a collision involving a tube train.
- Appointed as adjudicator by the parties in a dispute over variation claim in relation to a community school PFI project.
- Appointed as adjudicator by the parties in a dispute over termination in relation to a PFI contract for the design, construction and maintenance of new accommodation for the kennelling of military dogs.
- Appointed as adjudicator by the parties in a dispute over compensation event claim in relation to contract for the demolition and new build or refurbishment of sheltered and warden supported properties under a PFI contract.
- Appointed as adjudicator by the parties in a dispute over deductions made by an Authority in relation to contract for the demolition and new build or refurbishment of sheltered and warden supported properties under a PFI contract.
- Appointed as adjudicator by the parties in a dispute over further deductions made by an Authority in relation to drainage at sheltered and warden supported properties under a PFI Contract.
- Appointed as adjudicator by the parties in a dispute over scope of contractual obligations arising out of Project Agreement for the demolition and new build or refurbishment of schools pursuant to the BSF initiative (PFI contract).
- Appointed as adjudicator by the parties in a dispute over a Compensation Event pursuant to a contract concerning a flood prevention scheme in Scotland.

Mediator

- Appointed as mediator in respect of multi-party dispute over claim for defects in a swimming pool at a holiday complex.
- Appointed as mediator in respect of a Commercial Court dispute (\$25m) about the partial collapse of a beam on a semi-submersible drilling rig in Singapore.
- Appointed as mediator in respect of TCC litigation over the outcome of a profit share agreement on two development schemes.

Selected Reported Cases

- C Spencer Limited v MW High Tech Projects UK Limited [2020] EWCA Civ 331
- Grove Developments Ltd v S&T (UK) Ltd [2018] EWCA Civ 2488 and [2019] BLR 1
- Balfour Beatty Regional Construction Ltd v Grove Developments Ltd [2016] EWCA Civ 990 and [2017] BLR 1
- Al-Waddan Hotel Ltd v Man Enterprise Sal (Offshore) [2015] BLR 478
- Rendlesham Estates Plc & Ors v Barr Ltd [2015] BLR 37, [2015] WLR 3663
- UK Highways A55 Ltd and Others v Hyder Consulting UK Ltd and Hyder Consulting [2013] BLR 95
- Priory Caring Services Limited v Capita Property Services Limited [2010] 129 Con LR 81 (CA), and [2010] EWCA Civ 226
- William Hare Ltd v Shepherd Construction Ltd [2010] EWCA Civ 283; [2010] BLR 358, [2010] 12 EG 96, 130 Con LR 1, [2010] CILL 2825, [2010] 22 EG 108
- LPI (Hotels) Ltd v Technical and General Guarantee Co SA [2010] EWHC 2049 (TCC), CILL 2926 TCC; Vol.132 Con LR 90
- CR Reynolds Construction Ltd v Shepherd Construction Ltd [2009] BLR 447 TCC
- VGC Construction Ltd v Jackson Civil Engineering Ltd [2008] EWHC 2082, TCC, (2008) CILL 2627
- Claymore v Nautilus Properties [2007] BLR 452 TCC and [2007] EWHC 805 (TCC) • Mott MacDonald Ltd v London & Regional Properties Ltd [2007] All ER (D) 431 TCC, [2007] CILL 2481, 113 Con LR 33 and [2007] EWHC 1055 (TCC)
- McConnell Dowell Constructors (Aust) Pty Limited v National Grid Gas plc [2006] EWHC 2551, All ER (D) 27 (TCC), BLM Vol.24 No1 TCC and [2007] BLR 92
- L Brown & Sons v Crosby North West Homes [2005] All ER (D) 63 TCC and [2005] EWHC 3503 (TCC)
- Birse Construction Ltd v McCormick (UK) Ltd [2005] EWCA Civ 940; [2005] B.L.R. 523; [2005] All E.R. (D) 366 (Jul)
- Newfield Construction Ltd v Tomlinson [2005] 97 Con LR 148 TCC and [2004] EWHC 3051 (TCC)
- GPN Ltd v O2 (UK) Ltd [2005] CILL 2285 TCC and [2004] EWHC 2494 (TCC)
- Earl's Terrace Properties Ltd v Nilsson Design Ltd [2004] 94 Con LR 118, [2004] BLR 273, [2007] Lloyd's Rep PN 28 and [2004] EWHC 136 (TCC)
- RSL (South West) Ltd v Stansell Ltd [2003] CILL 2012 TCC and [2003] EWHC 1390 (TCC)
- Earls Terrace Properties Ltd v Waterloo Investments Ltd [2002] CILL 1889 TCC
- Discaint Project Services Ltd v Opecprime Development Ltd [2001] 80 Con LR 95 and [2001] BLR 285 TCC
- ABB Power Construction Ltd v Norwest Holst Engineering Ltd [2001] 17 Const LJ 246 and 77 Con LR 20
- Christiani and Nielsen Ltd v The Lowry Centre Development Co. Ltd [2000] TCLR 2 TCC
- Demolition Services Ltd v Castle Vale Housing Action Trust Ltd [1999] 79 Con LR 55. TCC
- Darlington Borough Council v Wiltshire Northern Ltd [1995] 1 WLR 68; [1995] 3 All ER 895

Education & Professional Career

Head of Keating Chambers

2020

Chairman of TECBAR	2017-2019
Vice Chairman of TECBAR	2015-2017
Recommended PIAC International Arbitrator	2016
Deputy High Court Judge (TCC)	2015
Approved Arbitrator, Kuala Lumpur Regional Centre for Arbitration	2014
Deputy High Court Judge (Administrative Court)	2013
Public Access Training	2008
Recorder	2007
Queen's Counsel	2006
Accredited Mediator	2004
Chartered Arbitrator	2003
TECBAR Accredited Adjudicator	2002
FCIArb	2000
Called to the Bar (Middle Temple) 1985 Keating Chamber	1989
LL.B., University of Manchester	1984

Seminar, Publication & papers

- Keating on Construction Contracts 11th edition contributor (2020).
- Role of the Expert Witness Alexander Nissen QC (11 February 2008).
- Contributor, Keating on Construction Contracts - Eighth Edition (2006), Ninth Edition (2012) and Tenth Edition (2016).
- Editorial team, Keating on Building Contracts, (5th, 6th and 7th editions including supplement to 7th edition).
- Associate Editor of Construction Law Yearbook (1995 – 2000).
- Article: Construction Law Journal (2003).

Memberships

- Society of Construction Law (former Council Member)
- Technology and Construction Bar Association (TECBAR)
- Commercial Bar Association (COMBAR)
- Law Society Panel of Arbitrators 2006

Additional Information

Alexander enjoys theatre and watching (but not playing) tennis.