

Keating Chambers
15 Essex Street
London
WC2R 3AA

DX: LDE 1045

T +44 (0)20 7544 2600
F +44 (0)20 7544 2700
keatingchambers.com

KEATING
CHAMBERS



JUSTIN MORT QC

Call: 1994 / Silk: 2014

jmort@keatingchambers.com

Areas of practice

- Infrastructure & Utilities
- Energy & Natural Resources
- PFI/PPP
- Arbitration
- Professional Negligence

Clerks' Details

Declan Redmond

T: +44 (0)20 7544 2616
E: dredmond@keatingchambers.com

Rob Cowup

T: +44 (0)20 7544 2750
E: rcowup@keatingchambers.com

James Luxmoore

T: +44 (0)20 7544 2769
E: jluxmoore@keatingchambers.com

Jessica Edson

T: +44 (0)20 7544 2658
E: jedson@keatingchambers.com

Practice overview

Justin Mort QC specialises in disputes arising out of construction, energy, infrastructure and process engineering projects. He is recommended for Construction in both **Chambers and Partners** and **Legal 500**.

He has an unparalleled reputation as a successful trial advocate, strategist and lawyer. 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 recently worked on claims arising from a variety of energy projects including the construction of a wind farm in Scotland (delay claim), Pembroke power station (termination and final account dispute), a gas power station in Singapore, a hydro-electric dam in Malaysia (unforeseen grounds conditions claim) and a waste to energy power plant in England.

Lately he has worked on disputes arising in Dubai, Hong Kong, Singapore, Malaysia, Thailand, Ukraine, Kazakhstan, Venezuela, Gibraltar, Denmark, St Lucia, and Zambia as well as the UK. Infrastructure projects that Justin has worked on include major works for the supply of electricity, the maintenance of trunk roads and other transport projects, and numerous PFI projects. Justin is presently working on two (unrelated) disputes arising out of the 2012 London Olympics. Justin taught construction and arbitration law as part of the LLM at the Centre of Commercial Studies at Queen Mary College. He has appeared in numerous reported decisions concerning the interpretation and application of the Arbitration Act 1996. He has detailed knowledge and experience of the principal arbitration rules.

Justin also specialises in injunctive proceedings. He has recently acted for a party seeking an injunction to prevent a firm of solicitors from acting against their client, a mandatory injunction for return of takeover packages removed to Italy (*Alstom v SOMI*), an anti-suit injunction in the Commercial Court (*U&M v KCM*) and an injunction in the Companies' Court to prevent the presentation of a winding-up petition. He edited the section on injunctions in *Keating on Construction Contracts*.

Justin is a renowned authority on the Housing Grants Construction and Regeneration Act 1996. In 2013 he expanded the application of the Act by arguing that a collateral warranty was a "construction contract" (*Parkwood v Laing O'Rourke*). In September 2014 he successfully argued that an express contractual right to adjudicate did not fall within the operation of the Contracts (Rights of Third Parties) Act 1999 (*Hurley Palmer Flatt Ltd v Barclays Bank plc*).

Recent Cases

Infrastructure & Utilities

- Acting for a number of contractors and professionals in claims arising out of various infrastructure projects relating to the Olympics under NEC3 and the NEC3 professional services contract.
- Claim in respect of unforeseen defects arising out of the maintenance of a road network on an amended NEC3 form of contract: adjudication and subsequent arbitration.
- Claim for additional costs arising out of the demolition and construction of a bridge under the A404(M), NEC2 form of contract.
- Acting for the main contractor responsible for connecting new street lighting in two London boroughs over a 6 year period; various disputes referred to adjudication (against Adam Constable QC).
- Acting for Alstom in TCC litigation relating to delay in the design and manufacture of the Pendolino (tilting) trains.
- Acting for the main contractor in disputes arising out of the refurbishment of the Jubilee line under NEC2, led by David Thomas QC.
- Acting for a consultant in dispute about payment and services provided in connection with the Crossrail project.
- Acting for a subcontractor carrying out railway maintenance works under the MF/1 form.
- Acting for HSBC Rail in TCC litigation arising out of the late supply and refurbishment of trains.

“Cerebral, understated, but lethal on his feet.”

Legal 500, 2015

Energy & Natural Resources

- Final account, termination and delay dispute between main contractor and steelwork subcontractor arising out of the construction of a power station: various adjudications and litigation (against Marc Rowlands QC and subsequently against Simon Hughes QC).
- Final account dispute arising out of the installation of an uninterruptible power supplies in a data centre: adjudication and subsequent litigation.
- Delay claim arising out of the procurement and construction of a sunflower oil facility in Ukraine: LCIA arbitration, led by Marcus Taverner QC.
- LCIA arbitration concerning the refurbishment of an oil platform in the Middle East: defending the contractor's delay claim on behalf of the employer.
- Claim by contractor under a FIDIC form for unforeseen grounds conditions arising out of the construction of a hydro-electric dam in Thailand: arbitration.

- Acting for Black and Veatch in a delay claim arising out of the construction of a gas power station in Singapore.
- Acting for the owner in a dispute arising out of the operation of a glass re-cycling facility.
- Acting for the owner in a dispute arising out of an alternative energy project for the production of renewable natural gas.
- Delay claim arising out of the construction of a wind farm in Scotland.

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.
- Claim in respect of geotechnical engineering services arising out of the construction of a shopping village at Ebbw Vale. Led by David Thomas QC; the case also involved Marcus Taverner QC and Krista Lee who acted for the civil engineer.
- Acting for the employer defending a delay claim arising out of a copper mining project in Zambia, based upon an allegation of failure to dewater the site.
- Assisting Finola O'Farrell QC with proceedings in the TCC arising out of the procurement and construction of a fire training facility in South London.

“He is very thorough and very good at getting to the heart of the problem”...“he really thought about difficult issues and was prepared to tackle complex technical matters and challenge experts in order to get to the bottom of things. He’s always prepared to get involved in every part of the dispute.”

Chambers UK Bar, 2015

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 (against Alexander Nissen QC).
- 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

Justin Mort QC prepared the section on injunctions in the 9th edition of Keating on Construction Contracts

- Resisting an anti-suit injunction in the commercial court to prevent enforcement of interim injunctive relief obtained in support of arbitration: see arbitration claims below.
- 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.
- Application for injunction and strike out of a winding-up petition in the companies' court: petition withdrawn and costs awarded on an indemnity basis.
- 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.
- Preparing an application for an emergency injunction in the TCC against a contractor working for a local authority.
- Successful appeal from an order striking out a claim for a prohibitory injunction (nuisance).
- Advising in a claim for an injunction requiring delivery to the subcontractor of the main contract.

Arbitration

Justin Mort QC has lectured on arbitration law at Queen Mary College, London.

- 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.

“Very good on his feet and takes real control of hearings”

Legal 500, 2014

Professional Negligence

- Architects and quantity surveyors negligence trial in the TCC, led by Paul Darling QC, arising out of the refurbishment of a shopping centre in Plymouth.
- Claim against a quantity surveyor arising out of the development of a shopping centre in Leeds.
- Acting for employer in the TCC against architect in connection with the installation of double glazing units in the River and Rowing Museum in Henley.
- TCC trial arising out of the development of a shopping centre and cinema complex in North London: respective liabilities of building services engineer and architect.
- Claim against architect arising out of use of letter of intent (TCC trial).

Justin has also acted in a range of domestic and international building disputes, including acting for high net worth individuals in connection with various residential projects in adjudication, arbitration, litigation and mediation.

Selected Reported Cases

- *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)
- *North Midland Construction plc v Geo Networks Ltd* [2015] EWHC 2384 (TCC); [2015] All ER(D) 69 (Aug); judgment on costs at [2015] EWHC 3063 (TCC)
- *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)
- *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)
- *Rosscro 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

Education & Professional Career

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

Memberships

Society of Construction Law

Technology and Construction Bar Association (committee member 2008-2012)

LCIA

King's College Construction Law Association

Commercial Bar Association

Additional Information

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.