



DAVID THOMAS QC

David Thomas QC, awarded Construction Silk of the Year in the 2021 Chambers UK Bar Awards, is known for his forceful advocacy, incisive cross-examination skills, commercial awareness, and the clarity and practicality of his advice. David has a busy UK construction practice, and he appears regularly in the Court of Appeal and the TCC on a range of high-profile matters, as well as in international arbitrations arising from GCC countries, Africa and Asia. He has been instructed in some of the biggest and highest profile cases in the world including the Shard, Wembley Stadium, the Olympic Stadium and the Burj Khalifa.

You were recently awarded Construction Silk of the Year at the Chambers UK Bar Awards. What advice would you give a junior barrister aspiring to this accolade in their career?

If you love your work, then success tends to come. So, I would say stand back and realise how enjoyable the work is and how lucky we are to practice in such a fantastic area of law. It is a really fun job; we get to see some fascinating projects, analyse the complex contracts that are put in place to achieve them, and learn the stories of how they were built from those involved. It's great to have such stimulating work.

What has been a career highlight for you to date?

There have been so many. I loved the big engineering projects that I have been involved in around the world as I learned, for example, how you get oil and gas out of the ground, how you build a long bridge or tunnel or a very tall building, or how solar or hydro-electric power is generated, to name just a few.

If I had to choose one, it would be my time working with the developer and project management team on the Shard in London. It was not a case that went to a hearing, but I was retained by the developer to make site visits every 6 weeks or so throughout the project, so I understood the building in case there was a big dispute at the end. On each visit I had a tour of the site, and then discussed any contractual matters that were arising at the time and provided very early legal input to help resolve issues before they became serious. It was a wonderful opportunity to actually see such an iconic building being built in real time, which is quite an unusual experience for a barrister.

What types of issues do you typically tend to see as a construction barrister?

The most common types of legal issues we see revolve around interpretation of the contract. Construction contracts tend to be lengthy and complicated, and a lot of the disputes go back to a question over what the words in the contract mean. There are also a lot of technical issues. I find myself having to learn about such things as chemical processes, computer modelling, statistics or the way concrete behaves under different stresses and strains, to name a few recent instances. It's a privilege to work with engineers and scientists in their specialist fields.

How did you find the transition from working and attending hearings in person, to a sudden shift towards virtual working and importantly, virtual hearings?

What I found more challenging than the hearings themselves was the virtual preparation. In my field of work, especially when working on large projects with a team of lawyers, clients and experts, there is sometimes no substitute for getting everyone round the same table with their sleeves rolled up, with the documents, and going on until you get to the bottom of things. That just does not work nearly so well on a Zoom call. Remote hearings are obviously not as good as in-person ones. As an advocate I want to be present with the people that I am trying to persuade. That said I think the relative formality of hearings, with everyone having their turn to speak, meant they were often less of a challenge than the preparation. Anyway, it was something that we all just got on with.

You have an extensive international practice arising from GCC countries, Africa, and Asia in particular. What do you enjoy most about having a broad, international case load?

I really enjoy travel and my international practice has given me the chance to visit countries that I may not otherwise have visited, which has been very rewarding. It is great to have the opportunity to make friends around the world and get insights into the way another country works. For the most part we are talking about up and coming, young countries. Efficient dispute resolution is a necessary ingredient in the success of these countries, and to have a role in providing that is rewarding. The projects also often bear remarkable testimony to human vision – just look at Dubai – and it is exciting to see them.

What are the key challenges facing the construction industry at present?

The first thing that comes to mind is skills shortages, and somewhat linked to that is the adoption of technology. Technology is both becoming rapidly available and rapidly changing, and I think the industry is challenged as to how to use all the new tools at its disposal. For example, how does the construction industry best use artificial intelligence, drones and robotics to improve design, efficiency, and safety. I have no doubt that those who adopt the



best technology, use it well and get it right will find themselves with a competitive advantage.

How has the role of a specialist construction barrister evolved since you were called to the Bar?

From my perspective, we are seeing more international work and more arbitration, as well as diversification of the types of cases we are involved in. When I was a very junior barrister the 'Building Bar', as it was then called, was a lot more about disputes over building buildings in the United Kingdom. Whereas now we work on cases that are about projects all over the world, and whilst some are still about the construction of buildings, we now cover so many different industries; in particular, a lot of work comes from the energy, process and infrastructure sectors. The financing has also changed, which means that we get involved in not just a single contract, but a whole suite of contracts, including the financing agreements. As a result, sometimes we find ourselves dealing with matters that are not really construction disputes at all, but more generally in the commercial sphere and tangential to the construction project itself.

Outside of the law, what are your other interests or passions?

I love tennis and gardening.