

**Keating Chambers**  
15 Essex Street  
London  
WC2R 3AA

T +44 (0)20 7544 2600

[keatingchambers.com](http://keatingchambers.com)

**KEATING**  
CHAMBERS

DX: LDE1045



## SIMON HUGHES KC

Call: 1995 / Silk: 2011

[shughes@keatingchambers.com](mailto:shughes@keatingchambers.com)

### Areas of practice

- Construction & Engineering
- Energy & Natural Resources
- Offshore Construction & Marine Engineering
- International Arbitration
- Professional Negligence

### Clerks' Details

**James Luxmoore**

T: +44 (0)20 7544 2769

E: [jluxmoore@keatingchambers.com](mailto:jluxmoore@keatingchambers.com)

**Jade Clark**

T: +44 (0)20 7544 2600

E: [jclark@keatingchambers.com](mailto:jclark@keatingchambers.com)

**Sam Kennett**

T: +44 (0)20 7544 2604

E: [skennett@keatingchambers.com](mailto:skennett@keatingchambers.com)

**Jacob Watson**

T: +44 (0)20 7544 2679

E: [jwatson@keatingchambers.com](mailto:jwatson@keatingchambers.com)

**Charlotte Hindmarsh**

T: +44 (0)20 7544 2750

E: [chindmarsh@keatingchambers.com](mailto:chindmarsh@keatingchambers.com)

### Practice overview

Simon Hughes KC is a specialist silk in major construction, engineering, shipbuilding and other off-shore and energy related disputes was recently awarded "Construction and Energy Silk of the Year" for 2019 by the Legal 500. He comes recommended for his client-focused approach, understanding of the technicalities of disputes and his "exceptional" advocacy, cross-examination, and advice.

Simon has been fortunate to have acted on some of the largest, and most challenging, heavy civil engineering disputes of the day (including a great deal of highway/highway infrastructure and associated geotechnical work).

Simon has been involved in disputes involving most standard form contracts used for substantial projects including the JCT standard forms, ICE 5th and 6th editions, the NEC, IChemE, FIDIC (Green, Red, Yellow and Silver Books), and derivative standard form agreements. He has particular experience of FIDIC forms and the NEC. In terms of types of dispute, Simon has particular experience of international power-plant disputes, major infrastructure projects and shipbuilding work, particularly in the Far East, and in disputes where the governing law is not English law. He has represented and advised clients on disputes in Hong Kong, Singapore, Korea, Australia, Dubai and other parts of the UAE, various islands within the Caribbean and New Zealand. Simon has significant experience of working with Korean clients, and particular major Korean contractors, in connection with the mega-projects in which they are often play a crucial role. He has also been admitted to the Bar in Trinidad & Tobago and New Zealand for specific cases.

Whilst a lot of Simon's work involves arbitration – and he has experience of over 20 different national legal systems being the law of the contract – he is also well-known as a court advocate, both in the TCC and Commercial Court in London, and has been successful in a large number of reported cases.

Disputes in the energy sector are a central part of Simon's practice as a senior KC. Simon's dispute and advisory practice encompasses construction of power-generating facilities across the whole spectrum of fuels; transportation and sale of oil, gas and electricity; drilling and exploration disputes; and nuclear new-build and decommissioning disputes. He has recently been selected as the KC to work alongside NNB Genco (HPC) as their project to build two new nuclear reactors at Hinkley Point C in Somerset takes shape.

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## Recent Cases

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### Construction & Engineering

Simon has been involved in major one-off UK projects such as the Channel Tunnel, the Jubilee Line Extension, the refurbishment of Blackwall Tunnel and work to Thelwall Viaduct. In the international context, involvement in substantial disputes has included those in Nigeria concerned with LNG facilities; pipe line construction and protection works in Kazakhstan and Georgia; and major road projects for a US contractor in Eastern Europe.

- **Substantial retail developments.** Simon is currently involved in disputes relating to the construction of a massive out-of-town shopping complex, and also has an up-coming trial in relation to a very substantial distribution centre in the Midlands (UK). He has extensive experience of new build construction of complex retail, together with disputes arising out of re-development and adaptation of existing construction, both in the UK, the Middle East and in Hong Kong and Singapore.
- **Adjudication across the sector.** Simon has very substantial experience of coming along side clients and supporting them across the whole breadth of adjudications. Simon will get involved at different stages depending upon complexity and client need. In large adjudications and for 'DAB' matters, Simon has prepared the written papers and conducted the hearings, and in the UK, Simon has been counsel in a significant number of the landmark cases on enforcement of adjudicators' decisions by the UK Courts. Simon has experience of a very wide range of disputes in adjudication, from large final account disputes, to specific technical issues raised during major 'live' projects, to claims for professional negligence and disputes over nuclear decommissioning.

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*“He is very impressive as an advocate and has been exceptionally good at client management.”*

Chambers UK Bar 2020

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- **Complex housing and hotel developments.** In terms of UK work, Simon has acted for employers, contractors and consultants on very prestigious individuals houses, and more often on large commercial developments. He has acted on very large and high-profile disputes over piling in Hong Kong and also disputes in Singapore (where, for example, he acted in an arbitration concerned with construction of a landmark hotel and its casino).
- **Sports venues and stadia.** Simon has been involved in substantial arbitrations concerning race courses and football stadia, both in the UK and overseas. He was involved in litigation and various adjudications associated with the construction of Wembley Stadium.

### Infrastructure & Utilities

- **Airports.** Simon has been involved in a substantial amount of complex disputes associated with the construction of airports around the globe. He advised and acted for the JV involved in Manchester Airport and was also involved in the expansion of Heathrow. As a

junior, he was involved in disputes over Hong Kong airport. More recently, he led a team in a successful DIAC arbitration concerning Dubai's third terminal. He is currently instructed on a substantial Hong Kong arbitration concerned with an air/military base.

- Billion-dollar dispute in relation to multiple road & infrastructure schemes in the Caribbean generally based on the FIDIC Red Book.

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*“Ferociously hard-working, very experienced and knowledgeable in construction law, and good with the clients.”*

Chambers UK Bar 2020

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### Energy & Natural Resources

- LCIA arbitration relating to a new-build nuclear station in Abu Dhabi [**nuclear**]
- ICC arbitration (London seat) arising out of the development of the largest gas bloc in Algeria [**natural gas**]
- ICC arbitration (Abu Dhabi seat, Paris hearings) arising out of the development of a very large oil field in the UAE [**oil**]
- A major dispute between a financial institution and a French power generator relating to Teesside power station (TCC London) [**natural gas**]
- Disputes arising out of de-sulphurisation works to an existing coal-fired power station in South Wales (TCC London) [**coal**]
- Currently involved in an arbitration involving a large coal-fired station in South Africa [**coal**]
- A major dispute between a German power generator and Sellafield over the cost of spent fuel reprocessing (Chancery Division London) [**nuclear – spent fuel reprocessing**]
- A series of substantial disputes, in arbitration and ultimately compromised, concerning the construction of wind farms in the North Sea [**wind**]
- A major dispute over a co-generation plant constructed in the North Island of New Zealand which involved Simon spending over 12 months in the Auckland High Court representing Rolls-Royce plc [**wood and natural gas**].

The nuclear power sector has always been of substantial interest to Simon. Shortly after being taken on at Keating Chambers, he worked for several months at Sellafield. Far more recently, Simon has conducted a number of adjudications concerned with various decommissioning projects within the UK. He was involved in a major arbitration associated with the UK's nuclear deterrent. He has also acted for a major German power generating company in relation to its costs of having spent fuel reprocessed in the UK.

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*“He fills our clients with complete trust and confidence that they are in a safe pair of hands.”*

Chambers UK Bar 2019

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### Offshore, Shipping & Marine Engineering

This is a substantial part of Simon's practice in silk, and an area in which he offers substantial experience. The following are examples of work in recent years:

- Acting in an ICC arbitration for a Chinese yard in relating to Italian engineers in relation to quality of welding.
- Acting for a Chinese/Singaporean yard against a US buyer in an LMAA arbitration who had just entered Chapter 11 in New York.
- Currently acting against a Chinese yard, on instructions from a law firm in Singapore, in an LCIA arbitration in London.
- Acting for a substantial Norwegian engineering services provider against an Egyptian owner of an FPSO in an LMAA arbitration.
- Acting for cabling specialist in connection with a very substantial dispute over sub-sea cabling works.
- Acting in an ad hoc arbitration on behalf of Norwegian buyers of a vessel under construction by a major Korean yard.

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*“Hands on, sharp and excellent in cross examination. He can easily navigate through the complex issues at stake while maintaining an eagle eye focus on the main point.”*

Legal 500 2023

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#### **FIDIC Experience**

A specialist area for Simon is large disputes where the contracting terms are based around, or incorporate, FIDIC Conditions of Contract. Simon is the co-author of a leading commentary on the FIDIC Red Book (latest edition now includes Yellow Book) and Simon has previously taught LLM courses, and continues to give seminars, focused on FIDIC. The following examples of recent work show the range of Simon’s experience:

- Billion-dollar dispute in relation to multiple road & infrastructure schemes in the Caribbean generally based on the FIDIC Red Book.
- Substantial dispute concerned with a coal-fired power plant in South Africa where the contract is generally based on the FIDIC Yellow Book.
- Substantial dispute in relation to an airport project in the UAE where the contract was based on the Silver Book.
- A series of disputes relating the hospital projects in the Caribbean where the contracts were variously based around the Red Book, the Yellow Book and the FIDIC Sub-Contract Form.

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*“He has a keen eye for detail and works enormously hard to achieve the right result for the client.”*

Legal 500 2020

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#### **Professional Negligence**

Construction-related professional negligence is a significant part of Simon’s overall practice. Simon has acted in claims against consulting engineers in connection with the design and build of a well-known sports stadium and architects in relation to the design of a

new stand at a well-known race course. He has acted both for and against professionals in a series of 'fire cases' involving complex technical issues relating to causation and also extent of recoverable loss. Simon has particular experience of professional negligence arising in the context of earthworks, geotechnical investigations, soil stabilisation and complex sub-sea engineering work (cabling, tunnelling and drilling).

### Commercial Litigation

Simon regularly becomes involved in 'commercial' issues and disputes, whether as a function of his main construction & engineering/energy practice or in any event. Simon is regularly involved in disputes relating to bonds & guarantees; complex issues over insurance and reinsurance of risk; disputes over ownership and entitlement particularly in the insolvency context; and the full range of interlocutory measures aimed at supporting and enforcing international arbitration.

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*“He’s very much at home in the arena, like a gladiator, and he makes it his business to be the most persuasive person in the room.”*

Chambers UK Bar 2023

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### Selected Reported Cases

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- **Lutchmeesingh’s Transport Contractors v National Infrastructure Developmet Co Limited** (High Court, Trinidad & Tobago, Kokoram J, dated 7 July 2016)
- **Arcadis Consulting (UK) Ltd v AMEC (BSC) Ltd** [2016] EWHC 2509 (TCC)
- **National Stadium Project (Grenada) Corporation v NH International (Caribbean) Ltd** [2015] UKPC 6
- **Squibb vs London Pleasure Gardens and London Borough of Newham** [2013] EWHC 3275 (TCC) (contract/no contract issues)
- **Oakapple Homes v DTR & Others** [2013] EWHC 2394 (TCC) (insurance and collateral warranties)
- **Alstom Power Limited v Somi Impianti SRL** [2012] EWHC 2644 (TCC) (vesting clauses in terms of plant brought to site)
- **Carillion v RWC and Phi Group Limited** [2011] EWHC 1379 (TCC) (professional negligence in the context of soil stabilisation works)
- **RWE Npower Plc v Alstom Power & Others** [2010] EWHC 3061 (TCC) (interpretation of a complex power plant contract)
- **Carter Holt Harvey v Rolls-Royce plc and Others** (Cooper J on 27 August 2009, Auckland High Court) (issues raised during a complex and long running trial about admissibility of expert evidence)
- **Multiplex Constructions Limited v Mott Macdonald** [2007] EWHC 20 (TCC) (adjudication enforcement in relation to project documentation held by the consulting engineers to the project)
- **British Nuclear Group Sellafield Ltd v Kernkraftwerk Brokdorf and others** [2007] EWHC 2245 (Ch) (long trial concerning re-processing of spent fuel at Sellafield)
- **Scheldebouw BV v St James Homes (Grosvenor Dock) Ltd** [2006] BLR 113 TCC; Cons LJ Vol. 22 No.6; CILL 2313; BLM Vol.23 (question of construction as to whether the employer could replace the independent certifier by stepping into the role himself)
- **Wimbledon Construction Co 2000 Ltd v Vago** [2005] 101 Con LR 99 TCC (adjudication/stay of execution)

- **AMEC Civil Engineering Ltd v Secretary of State for Transport** [2005] 1 WLR 2339 CA, [2005] Con LJ Vol. 21 No.8 p.640 CA, [2005] 101 Con LR 26 CA, [2005] CILL 2228 and [2005] BLR 227 CA and [2005] CILL 2189 TCC (the meaning of 'dispute' and the operation of Clause 66 of the ICE standard form)
- **Rupert Morgan Building Services (LLC) Ltd v Jervis** [2004] 1 WLR 1867 (summary judgment on a certificate)
- **Picardi v Cuniberti** [2004] 94 Con LR 81 TCC (whether the Unfair Terms in Consumer Contract Regulations applied to adjudication)
- **Dwr Cymru (Welsh Water) v Carmarthenshire County Council** [2004] EWHC 2991 (TCC) (limitation and acknowledgment of a debt)
- **Thames Water Utilities Ltd v London Regional Transport** [2004] 95 Con LR 127 TCC (causation issues in relation to the failure of a substantial water main)
- **PC Partitions v Canary Wharf Contractors Limited** [2004] EWHC 1766 (TCC) (contract/no contract issues)
- **Rupert Morgan Building Services v Jervis** [2004] 91 Con LR 81 and [2004] BLR 18 CA (summary judgment on a certificate)

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## Education & Professional Career

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BA in Modern History and Modern and Mediaeval Languages, Magdalen College, Oxford (Scholar, Double First Class)	1990-1993
Heath Harrison University Prize for German	1991
Thyssen Prize in Modern and Mediaeval History	1991
Diploma in Law, City University	1994
Called to the Bar (Gray's Inn)	1995
Keating Chambers	1996
Judicial Assistant to the Court of Appeal	1997
Queen Counsel	2011
Public Access Training	2015

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## Memberships

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Member of the Society of Construction Law  
 Member of Technology and Construction Bar Association (TECBAR)  
 Member of Commercial Bar Association (COMBAR)

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## Seminars, Publications & Papers

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- Contributor to GAR Guide to Construction Arbitration (2018, 2nd edition).
- Co-author in relation to chapters on Adjudication and FIDIC, Keating on Construction Contracts - Tenth Edition (2016)
- Understanding the FIDIC Red Book 2nd Edition Simon Hughes QC 10 January 2012.
- Contributor, Keating on Construction Contracts - Eighth Edition (2006) and Ninth Edition (2012).
- Understanding the New FIDIC Red Book: a clause-by-clause commentary Simon Hughes QC & Jeremy Glover. Third Edition recently published as a commentary on the Red and Yellow Books, 2017 Amendments.

- Editor of Chitty on Contracts (29th Edition 2004).

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## Languages

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German