



KIM FRANKLIN QC

**Chartered Arbitrator, Construction
Adjudicator and Counsel**

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RECOMMENDATIONS

Chambers UK

'She has a deep knowledge of construction law and is a very skilled advocate.' (2016)

'She has a good , firm hand on the tiller and is very good at steering a case.' 'She shows a great deal of energy and endless patience.' 'She gets the job done and puts her back into it. She always directs us how to solve the problem.' (2015)

'extremely talented' with 'formidable attention to detail and enormous experience.' (2014)

'wins praise for her excellent courtroom manner and open approach with clients' (2013)

'does a sterling job- she keeps calm throughout stressful situations, and has a strong grasp of adjudication and arbitration.' (2012)

Legal 500

'A true construction expert, especially good on international cases.' (2015)

'very thorough and brings sense to document-heavy cases without any fuss' (2010)

PRACTICE OVERVIEW

Kim a recognised specialist international lawyer in the construction, engineering and infrastructure sectors, focussing on resolution of disputes arising from complex projects in international arbitration. She acts as counsel in the UK Construction and Appeal Courts, including the Privy Council (Supreme Court) and in the Caribbean.

Kim has conducted numerous ICC and DIAC arbitrations in the UK, the UAE and GCC countries. She acts as party appointed arbitrator and Tribunal Chair and also acts as Construction Adjudicator for complex UK disputes.

Appointed Queen's Counsel in 2016, Kim has a flair for technically complex, document-heavy disputes, often involving project delay. She has sound strategic judgment and is popular with clients. She speaks at international conferences including the Superyacht Design Symposia, and has a keen interest in superyacht procurement.

RECENT WORK AS COUNSEL

Successfully represented international contractors in an ICC arbitration against Dubai's largest residential developer (2015).

Acted with success as leader in a Privy Council appeal by an electricity supplier against an American Bank in Antigua (2014)

Represented international M&E consultants successfully defending complex arbitration claims for the fit out of the largest retail outlet in Dubai Mall (2013)

Appeared before the Privy Council, Successful appeal to the Privy Council against the Antiguan Government concerning a Joint Venture for the construction of a power plant and power purchase agreement (2013)

Acted with success as leader, representing a multi-national joint venture in arbitration under UAE law concerning a hotel and residential complex on the Dubai Palm (2012)

Upheld a one year limitation provision in the Court of Appeal successfully striking out of developer's claim (2012)

Advised international lawyers in the BVI, representing hotel developers in St Lucia.

Advised an Urban Development Corporation in a Government Enquiry into construction procurement in Trinidad & Tobago.

Represented successful Japanese developers in a lengthy ICC arbitration over a UK chemical processing plant.

ARBITRAL APPOINTMENTS

Kim Franklin QC is a Chartered Arbitrator. She is appointed as party-representative and chair for domestic and international arbitrations including ICC, DIAC and ad hoc appointments, including:

- Party appointment for arbitration under UNCITRAL rules seated in Bahrain for claims arising out of a contract for dredging and land reclamation works.
- Party appointment for ICC arbitration concerning defects to a fertilizer terminal in Tanzania.
- Tribunal chair for ICC arbitration for specialist contract claims for airport construction in Qatar.
- Party appointment in ICC arbitration of specialist contract claims for airport construction in Oman.
- Tribunal chair for DIAC arbitration concerning the design and construction of a residential complex in Dubai.

- Party appointment for DIAC arbitration under a contract for the construction of marine infrastructure in Dubai with interlocutory issues of UAE law.
- Sole determination of issues arising on a PFI maintenance contract for 30 schools in the UK.
- Sole arbitrator for claims by Local Authorities for defective housing stock in the UK's South East.
- Sole arbitrator for claims by contractors arising out of contracts for MOD housing in the UK's South West.

ADJUDICATOR APPOINTMENTS

Kim Franklin QC is an accredited Construction Adjudicator with TecSA, TECBAR, CI Arb and the RIBA. She specialises in complex disputes, often working with other expert disciplines. Recent adjudications include:

- Engineering services claims for the design of a UK 'black sack' waste recovery park (2016)
- Very complex £12m claims under two contracts for maintenance of large scale social housing in two regions of the UK (2016)
- Successive claims by design and build contractors for a large residential development in West London (2016/2015)
- Complex £4m claims arising out of the refurbishment of an historic estate residence in the UK - conducted over 4 months (2014)
- Claims by international consultants for services provided at UK steelworks (2014)
- A series of claims by interior designers and contractors for the refurbishment of luxury London residences including double basement excavation (2014/2013)
- Defective panoramic elevator system for iconic project on the UK's south coast (2013)
- Claims against professional consultants - Terminal 5, London Heathrow (2010)
- Disputed contractor's claims for works at a UK liquid gas processing plant (2010)

POWER ENERGY AND RECYCLING SYSTEMS

Decided as Adjudicator claims by international engineers for services provided in connection with a UK waste recovery park.

Acting as leader for an Antiguan power provider in its successful Privy Council Appeal against an American Bank.

Advising an Antiguan power company in relation to claims against the Government for breach of a Joint Venture Agreement in favour of a rival foreign contractor. Representing the power company at first instance, the Eastern Caribbean Court of Appeal and appearing for the power company in its successful appeal to the Privy Council. Advising on complex damages claims and claims for procuring a breach of contract.

Advising power providers in the UK in connection with claims arising out of the construction of power plants in the UK. Advising and acting in several arbitration hearings of claims including the construction of the piled foundations.

STEELWORKS AND PROCESSING PLANT

Acting as party-appointed Arbitrator in an ICC Arbitration arising out of a contract for a fertilizer terminal in Tanzania.

Decided as Adjudicator claims by international consultants for services provided at UK steelworks.

Decided as Adjudicator a dispute between steelwork suppliers and contractors in connection with a LNG processing plant in the UK

Advising a Japanese chemical company in connection with claims by a Japanese contractor for the construction of a chemical processing plant in the UK. Represented the successful developers in an extended series of arbitration hearings under ICC rules in London.

HOTELS AND LEISURE COMPLEXES

Acting as Arbitrator for disputes concerning the management of a number of leisure and holiday parks in the UK.

Acting for an international joint venture in a dispute arising out of the construction of a hotel and residential complex on the Jumeriah Palm, Dubai. Representing the contractors at an arbitration hearing held under DIAC rules in Dubai.

Advised international lawyers in the BVI representing developers of a hotel complex in St Lucia

Acted for developers of a multi-million pound leisure development in the UK resisting multi-party High Court claims for vibration damage to a night club floor.

Advised specialist fit out contractors in their adjudication claims arising out of the internal finishes to a casino complex in the UK.

INFRASTRUCTURE PROJECTS

Acting a party appointed arbitrator for an ad hoc arbitration of claims under a contract for dredging and land reclamation works in Bahrain.

Acting as chair for an ICC Arbitration concerning specialist contractor claims arising out of the construction of an airport in Qatar.

Acting as party appointed arbitrator for an ICC Arbitration concerning specialist contractor claims arising out of the construction of an airport in Oman.

Acting as party appointed arbitrator for a DIAC Arbitration dispute over the construction of a canal system linked to the Creek, Dubai.

Advised an urban development corporation in Port of Spain, Trinidad, in respect of a government enquiry into public procurement of its opera house, library, sports facilities and public office developments.

Deciding, as sole UK arbitrator, disputes arising out of the refurbishment of railway stations in the South West.

MECHANICAL AND ELECTRICAL SYSTEMS

Represented global MEP consultants at a DIAC arbitration hearing of extensive claims arising out of the fit out of a luxury retail store in Dubai's largest Mall.

Decided as Adjudicator a dispute between a UK Contractor and Italian lift suppliers concerning the provision of an external panoramic lift for a landmark tower on the UK's south coast.

Advising mechanical and electrical engineers in connection with claims arising out of the installation of the air conditioning systems at an iconic ten storey office building in Birmingham.

Advising mechanical and electrical engineers responsible for the design of smoke control systems to several large residential blocks in London's Docklands.

SPORTING VENUES

Acting for structural engineers resisting claims for defective design of an innovative indoor go-carting stadium.

Advising steelwork contractors in connection with payment claims for structural works for the roof of the New Wembley Stadium.

Advising developers of a leisure complex on claims arising out of vibration damage caused to a bowling alley.

Advising an urban development corporation in Port of Spain, Trinidad in connection with the public procurement of a the Brian Lara Cricket Stadium

RETAIL DEVELOPMENTS

Acting for global mechanical and electrical consultants resisting arbitration claims under UAE law for defects in design and delay in the mechanical and electrical systems for one of the largest luxury retail stores in the Dubai Mall, Dubai.

Advising structural engineers in respect of allegations of negligent design and delay to the structural steelwork of a shopping centre in the UK. Successfully resisted enforcement of an adjudicator's decision in the TCC.

FIRE CLAIMS

Representing a family development company claiming loss of future development profits after the destruction of a development property by fire. Appeared with success in the TCC.

Acting for a national contractor successfully resisting a contribution claim arising from the fire damage to the Co-op's headquarters building. Appeared with success in the TCC, the Court of Appeal and the House of Lords.

Advising on complex limitation issues arising out of High Court claims for fire damage to a retail development in the South East.

LUXURY RESIDENTIAL

Acting as Counsel for an international contractor in its arbitration claim against Dubai's largest residential developer arising out of one of Dubai's first foreign built residential tower blocks.

Deciding as Adjudicator for complex disruption claims under a contract for the refurbishment of an historic estate residence in Hampshire, UK.

Deciding as tribunal chair a Dubai Arbitration concerning concrete defects in a residential complex in Dubai.

Deciding as Adjudicator claims by interior designers and contractors arising out the refurbishment of luxury London residences.

Deciding as Adjudicator for extension of time claims under a contract for the construction of a double level basement excavation extension for a prestigious residential property in Notting Hill, London.

Advised developers of two high specification residential properties in London's Avenue Road in connection with party wall disputes arising from the construction of multi level subterranean basements.

Advised architects designing luxury town house developments in Chelsea, London and successfully resisted the developer's adjudication claims.

Represented specialist fit out contractors in their high profile claims for the refurbishment of a luxury family residence in London's Notting Hill for a high net-worth owners.

SUPERYACHT

Advising superyacht project rescue consultants on issues arising out of the construction of two 100m private yacht projects. Speaker at the Superyacht Design Symposium at Palm Beach, Florida US 2011

CONSTRUCTION PROFESSIONAL NEGLIGENCE

Represented site audit surveyors in a ground breaking High Court negligence by latent defects insurers arising out of insurance cover provided to over 22 housing estates in Eire.

Advised geotechnical engineers at Staffordshire County Council in connection with complex High Court claims for misrepresentation of ground conditions at a reclaimed mining site in the UK.

Acted for a building surveying practice successfully resisting High Court claims raising issues of negligence, fraud and reputation arising out of the refurbishment of a luxury family home in North London. Appeared with success at several arbitration hearings, 2 reported appeals to the TCC, contested enforcement proceedings and a second action by trustees.

SELECTED REPORTED CASES INCLUDE

American International Bank Ltd (in receivership) v Landmark Ltd [2014] UK PC 17 (Privy Council) successfully upheld agreement for electricity supply in Antigua.

Antigua Power Company Ltd v Attorney General [2013] UKPC 23 (Privy Council) successful appeal upholding JVA for electricity provision in Antigua.

Inframatrix Investments Ltd v Dean Construction Ltd [2012] EWCA Civ 64 (CA) successful strike out of proceedings brought outside contractual 1 year limitation period.

Liberty Syndicate Management Ltd v Campagna Ltd [2011] 27 Constr LJ 275 – test case of duties owed by site audit surveyors to latent defects insurers.

Aldgate Construction Company Ltd v Unibar Plumbing and Heating Ltd (TCC) [2010] 26 Constr LJ 478 – successful claim for lost profits from fire damaged development.

The Edmond Stern Settlement v Simon Levy Associates No.s 1 and 2 [2009] EWHC 14 (TCC); [2009] N.P.C. 6 (2007) 113 Con LR 92 – Successful appeal from Arbitrator's Awards on point of law.

London & Amsterdam Properties v Waterman Partnership [2004] BLR 179 – Successful enforcement of an Adjudicator's decision on the grounds of natural justice.

CRS v Taylor Young & Partners [2002]1 WLR 1419 HL – Contribution claim by construction professionals successfully struck out – Contractor co-insured with the Employer and not 'liable' under S.1 of the Civil Liability (Contribution) Act 1978.

West Faulkner Associates v. London Borough of Newham (1994) CA 71 BLR 1 – Successfully resisted Architects' negligence claims. Meaning of 'regularly and diligently' in JCT Contract.

PUBLICATIONS & CONFERENCES

Kim Franklin QC is a joint editor of the long established Construction Law Journal. With Susan Lindsey she was well known for their popular Legal Column in The Architects Journal.

Kim addressed the inaugural meeting of the UK Adjudication Society, Manchester (May 2016), the Society of Construction Law Conference (March 2016) – conflict in arbitration and adjudication - and lectures on the Construction Law MSc, Kings College London – issues in arbitration. She presented a paper at the Superyacht Design Symposium, Florida on dispute avoidance.

PROFESSIONAL MEMBERSHIP

Technology and Construction Courts Barristers Association (TECBAR) (Former Committee Member)

Chartered Institute of Arbitrators (Former PCC Chair)

Society of Construction Arbitrators (First Woman Member)

Society of Construction Law (Former Council Member)

Worshipful Company of Arbitrators (Liveryman)

EDUCATION

LLB University of Warwick 1983

Called to the Bar (Middle Temple) 1984

FCI Arb - 1997

Accredited Adjudicator – 1998

Chartered Arbitrator – 2000

Queen's Counsel - 2016

KFQC/2016