

NICHOLAS GOULD

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Nicholas is a Partner in one of the UK's leading construction solicitors Fenwick Elliott. He conducts a mix of dispute resolution and non-contentious work. Predominately advising institutions and companies who own, finance, invest, build and facilitate development opportunities and construction projects. He acts in a wide range of construction sectors including general construction, office, retail, leisure, hotels, residential, transport, waste, infrastructure, rail, communications, industrial, process plant, power stations, wind farms, desalination plants, airports, telecommunications, petrochemical, oil and gas. Dispute resolution experience spans litigation, arbitration (domestic and international), adjudication (in more than 100 adjudications), dispute boards (DAB/DRB), mediation and expert determination.

Chamber & Partners 2011 notes Nicholas for his *"ability to pre-empt potential problems and provide advice in a clear manner that maintains the individual needs of clients"*. Legal 500, 2011 edition list Nicholas as a leading figure for Construction and Mediation who is *"extremely knowledgeable and listens carefully to his clients"*. The IBA's 2008 edition of International Who's Who of Business Lawyers Today, listed Nicholas as one of the *"ten most highly regarded individuals internationally for construction law"*.

He regularly acts as a mediator (in more than 70 mediations) in construction, engineering, insurance, property and commercial disputes (CEDR Chambers, LCIA, Clerksroom) including complex multi-party mediations conducted over several days. He also acts as adjudicator (TeCSA, RIBA, CEDR, and CI Arb, registered), dispute board member (DRB/DAB, registered with DRBF) arbitrator (ICC, LCIA, DIAC, DIFC) and early neutral evaluator. He has trained mediators, adjudicators and dispute board members for CEDR, CI Arb, ICE, DRBF and the IFC (World Bank).

He qualified at Masons, and was formerly a senior lecturer at the University of Westminster. Before joining the University of Westminster in 1993 he worked in the construction industry for a period of approximately 8 years. A solicitor and chartered surveyor, his dual qualifications provide a layer of expertise that adds a practical level to his work.

Nicholas is Chairman of the ICC's International Sub-Committee for Expertise, past Chairman of the Society of Construction Law, and past President of the Dispute Resolution Board Foundation (Region 2). He is a Visiting Senior Lecturer (Executive Committee Member, and Examination Assessor) at the Centre of Construction Law and Dispute Resolution, King's College London, and a visiting lecturer.

He conducted Government funded research into dispute resolution for the DETR (as it was), and more recently the funded TCC High Court Mediation research project. He has published widely in the area of construction law and dispute resolution, and won a Silver Award at the CIOB Literary Awards in 2000 for his book "Dispute Resolution in the Construction Industry" published by Thomas Telford. The Rt. Hon Sir Philip Otton described the book as *"the most fascinating publication to come across [his] desk for many a year."* In March 2009 he chaired the first Informa live Web Congress on construction law. He now advises Lexis/Nexis in respect of their webinars

Academic Qualifications

- Higher Right of Audience Certificate (Civil Proceedings), College of Law (March 2012).
- Dispute Resolution Board Foundation's DRB/DAB practices and procedures training and the advanced chairing workshop (October 2004, San Francisco).
- LLM. Masters Degree in Laws, University College London (1996/97).
- LPC. Diploma in Legal Practice at the College of Law, Store Street, London (1995/96). Awarded a **Commendation**
- Dip Law. Post-graduate Diploma in Law from the University of Westminster (1993-95) Part-time student representative.
- BSc (Hons). First class Honours Degree in Quantity Surveying (1990-92). Royal Institution of Chartered Surveyors **Prize** for best student and a prize-winner of the KPMG **Faculty Award** for major project cost planning.

Directory Listings

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IBA's Who's Who Legal Construction 2010 lists Nicholas within Europe as a specialist in energy, petrochemical industrial and process plant related projects.

IBA's Who's Who Legal Construction 2008 lists Nicholas as *"a star"* highlighted for his *"contract drafting, strategic advice and dispute resolution practice and well known chairman of the Society of Construction Law"*.

IBA's Who's Who Legal Construction 2007 *"revered for his excellent mind"*.

IBA's Who's Who Legal Construction 2011 *"a "strong" reputation for dispute resolution work with contract drafting and project strategy expertise, and sources were quick to praise him as "an innovator" in the field of construction..."*

Chambers and Partners (2006) *"up and coming"* and *"very well known in his field"* with *"a good grasp of the issues"*.

Client References

"In simple terms Nicholas is a pleasure to work with."

"Extremely friendly, professional, and down to earth."

"For their involvement in our project, given the outcome, extremely valuable - avoidance of a costly arbitration - value circa Eur 100m dispute."

"Fee rates were made clear, invoicing has been timely and clearly defined."

“Nicholas is a top quality international construction lawyer who draws on his wide experience obtained from around the world.”

“He communicates clearly and concisely the issues, solutions and potential difficulties and in doing so pro-actively seeks to understand the needs of his client.”

“Advice provided was clearly based upon expansive relevant knowledge and experience.”

Contract and procedural experience

Contracts: FIDIC, ICE, NEC, ORGALIME, JCT, PPC, IChemE, M/F, GC/Works, BPF/ACA, ACE, RIBA, and various EPC, EPCM and PFI/PPP contracts. Subcontracts; NEC, Dom 1 and 2, ECA, FCEC Blue Form, JCT. Procedural rules; DIAC, CEDR, ICC, UNCITRAL, ICE, SIAC, CIMAR, LCIA, FIDIC, LMAA, CI Arb, TecSA, CIC, and the Scheme. He led the drafting of CEDR’s Project Mediation Procedural Rules.

Panel Listing: arbitrator, mediator, adjudicator

DIFC/LCIA Dubai registered arbitrator (2012).
TeCSA - Adjudicator, Technology and Construction Solicitor’s Association (March 2011).
RIBA - Royal Institute of British Architects (Adjudicator) (2009).
IMI - International Mediation Institute (Netherlands) (2009).
LCIA - London Court of International Arbitration (2009).
Clerksroom - Listed as an Elite Mediator (2009).
ICC - International Chamber of Commerce (2008) as mediator, DB member and arbitrator.
DIAC - Dubai International Arbitration Centre (February 2008).
DBF - Dispute Board Foundation (2008).
DRBF - Dispute Review Board Foundation (2005).
CI Arb - Chartered Institute of Arbitrators (2003).
AICA - Association of Independent Construction Adjudicators (2006).
ADR Chambers (2004).
CCG - Construction Conciliator’s Group (2003).
Mediation UK Registered Mediator (1999).
CEDR - Centre for Effective Dispute Resolution (1998).
CMA - Croatian Mediation Association (2012).

Professional Qualifications and Memberships

Admitted as a Solicitor of the Supreme Court (1999).
Fellow, Royal Institution of Chartered Surveyors (2000 FRICS, ARICS since 1994).
Fellow, Chartered Institute of Arbitrators (FCI Arb 2007, MCI Arb since 2003).
Honorary Member, Croatian Mediation Association (March 2012).
Member, International Chamber of Commerce (ICC).
Member, London Court of International Arbitration (LCIA).
Member, International Bar Association (IBA).
Member, Technology and Construction Solicitor’s Association (TeCSA).
Member, Society of Construction Law (SCL).
Member, Dispute Resolution Board Foundation (DRBF 2003).
Member, Adjudication Society (since formation 1999).
Member, Chartered Institute of Building (1996 MCI OB, Associate since 1990).
Freeman, Worshipful Company of Arbitrators (2007).
Member, NEC User’s Group (from inception to 2011).
Member, FIDIC NET (from inception).

Official Positions

Member, Policy Sub-Committee, CI Arb (Autumn 2010).
Chairman, Adjudication Committee for the CI Arb (Autumn 2010).
Chairman, Standing Sub-Committee of the International Chamber of Commerce's (ICC) International Centre for Expertise (Le Centre international d'expertise de la CCI), (2007).
Past President, Dispute Resolution Board Foundation (DRBF) Region 2 (May 2010 until May 2011)
Past Chairman, Society of Construction Law 2006/07 (Vice-Chairman 2005, Secretary 2004 Co-opted, from, 2001) and past Chair of Junior Committee and Advocacy Training (2003).
Past Chairman (2008-10), Adjudication Society (Vice Chair 2006-08) and case notes editor since inception (1999).
Co-Chair, International Bar Association's International Projects and Dispute Conference, Brussels (2008).
Module Assessor and Visiting Lecturer, Department of Building Engineering, University of Manchester (originally UMIST), Manchester (from 2001).
Publicity Officer, Construction Conciliator's Group (since formation 2003).

Previous appointments

RICS Dispute Resolution Faculty Board, Co-opted (2004 until 2010).
RICS Expert Witness Practice Statement Review adviser (2008).
RICS Contracts Panel (2007 until 2010).
RICS Advocacy working group (2005).
CI Arb ADR Practice Sub-Committee (2004).
Forum for Construction Law Reform led by Tony Baldry MP (Academic Liaison).
RICS Dispute Panel.
CIB Task Force 15 (dispute avoidance and management).

Overseas Experience (31 countries)

Afghanistan (Kabul), Brazil, British Virgin Islands, Bulgaria, Canada (Manitoba and British Columbia), Croatia, Egypt, France, Georgia, Germany, Hungary, Indonesia, Isle of Man, Italy, Kuwait, Nepal, Oman, Poland, Qatar, Romania, Russia, Saudi Arabia, Singapore, Republic of Ireland, Scotland, St Lucia, Tasmania, Turkey, UAE (Abu Dhabi & Dubai), USA and Ukraine.

Academic positions

Leading the TCC/King's College funded research into the use of mediation in construction disputes (2006-08).
Visiting Senior Lecturer, King's College London, Centre of Construction Law and Dispute Resolution (from 2005, Visiting Senior Research Fellow since 1999).
Executive Committee Member and Examination Assessor, King's College, London, Centre of Construction Law and Dispute Resolution (2004).
Visiting Lecturer, University of Vienna (from 2011)
Visiting Lecturer, University of Reading (from 2007).
Visiting Lecturer, National University of Singapore (2004-09).
External Examiner, MSc in Construction Law, Wolverhampton University (2002-05).
Visiting Research Fellow, University of Westminster (1996-2000. The University won the Queen's Award for Enterprise on 21 April 2000).
Association of Researchers in Construction Management (ARCOM, 1994).
External assessor for the MSc in Construction Law for the University of Lancashire (1996).

Lecturing

Visiting Senior Lecturer, Centre of Construction Law and Dispute Resolution, King's College London. Acting as the research development liaison for the Centre, lecturing on the introduction day, during the academic year and dissertation supervisor (from 1999). Member of Executive Committee responsible for running the MSc and for assessing the students (from June 2003).
Jesus College, Cambridge University. Lecturing on the IBC Construction Law Summer School. (September 2002 onwards).
International Financial Corporation (World Bank). Running with CEDR an advanced mediator training course for engineers, Belgrade, Serbia (2010).
CEDR, speaking at their forums and training mediators with them. Developing with CEDR the ACCM, Advanced Course for Construction Mediators for the ACE (2009)
Visiting Lecturer, National University of Singapore (from 2004).
Chartered Institute of Arbitrators, lecturing on the Construction Adjudication Training Course (December 2004).
International Bar Association, lecturing at the junior international conference in Brussels (2004, chairing in 2006).
Attending Pickavance Masterclass and lecturing on notices and extension of time provisions (21/22 November 2002 and May 2002).
Running a workshop at the First National Adjudication Society's Conference (and organising conference proceedings and venue) 20 November 2002. And for subsequent conferences in 2003, 2004, 2005, 2006 and 2007.
In house lectures and ad hoc lectures include; ICE Construction Mediation Surgery, 24 June 2002 and 1 day programmes for various clients.
External Examiner, MSc in Construction Law, University of Wolverhampton (from May 2002-2005).
Visiting Lecturer, Department of Building Engineering, UMIST, Manchester (from 2000).
Visiting Research Fellow, University of Westminster (from 1997).
Senior Lecturer (full time) and course leader, University of Westminster (1994-1997).
RICS, Adjudication update lectures and other CPD lectures.
Regularly lectured for; ICC, ICE, DIAC, FIDIC, RICS, CIOB, CI Arb, SIA, IBC, IBA, DRBF, College of Law. Lexis/Nexis, LDR, White Paper Conferences, Sweet & Maxwell.

Interests

Running, sailing (RORC Member), diving.

Key Experience

Acting as Mediator, Adjudicator and Arbitrator

Has acted as lead mediator since 1998 conducting at least 70 mediations. Acted as a project mediator, early neutral evaluator, statutory and contractual adjudicator on many occasions, arbitrator and international dispute board member. Examples:

- A member of an arbitral tribunal for a construction dispute between a local Dubai developer and a contractor under the LCIA procedural rules.
- Sitting as one of 3 arbitrators in an UNCITRAL arbitration in respect of a power generation plant in Asia.
- Sitting as sole arbitrator in a power/energy and property dispute. Appointed under LCIA rules, and subject to English law.
- Acting as an LCIA nominated adjudicator in respect of a disputed valuation.

- Acting as an RIBA nominated adjudicator in respect of a final account dispute.
- Sitting as adjudicator in a three party utilities dispute in respect of a PFI scheme.
- Sitting as a member of an international dispute adjudication board for a shopping centre project in Romania. Based on the FIDIC form of contract, with ICC arbitration, subject to Romanian law with a French contractor.
- Sitting on an international DAB for a 99,000 square metre residential development in Romania, under an amended FIDIC (Red Book) form of contract with ICC arbitration.
- Acting as an early neutral evaluator for a mechanical and electrical dispute arising from a PFI hospital. Settled.
- Appointed as adjudicator in respect of a dispute on a process engineering plant (CEDR Adjudication Rules) in the middle east.
- Serving on several dispute adjudication boards in Romania under the FIDIC Adjudication Procedure.
- Standing member of a contracted mediation panel for a new £35 million hospital development which started in the summer of 2002 (GMP Contract with bespoke contracted mediation procedure). The first joint session was attended by 47 people representing 8 parties.
- Mediator for a 5 party insurance, property and construction defects dispute arising from substantial flooding of a city bank and computer server centre. Settled on the day.
- Mediating a dispute in respect of liability and quantum for the costs of substantial flood damage to a property. Dealing with the CCFA implications of the settlement. Multi party dispute between insurers of the property owners (subrogated claim), the contractor, mechanical subcontractor, the supplier and manufacturer (again with insurers).
- Mediator for a substantial multi-party construction dispute concerning defects, delays and money claims in respect of the re-development of a town centre. The 4 parties attended a two-day mediation resulting in two separate (a two party and a three party) settlement agreements resolving all of the inter-related, and inter-party disputes.
- Mediator in respect of a specialist metalwork and atrium glazing dispute. Settled on the day of mediation.
- Mediating a property related dispute of approximately £1.2M arising from the removal of “fixtures and fittings” at a chemical process engineering plant.
- Acting as mediator in respect of a substantial value 5 party dispute arising from water damage caused by bursting pipes at a commercial premises during construction work. Successfully resolved in a one-day mediation, with two separate settlement agreements spanning all parties.
- Mediator for a defects/property dispute where the claim value was £450,000. A settlement was reached on the day of mediation.
- Mediator for a property dispute between a property investment company and the tenant (a substantial charity) involving a schedule of dilapidations. The parties were about £200,000 apart. A settlement was reached at the end of a one-day mediation.
- Mediator for a variety of property development disputes and landlord and tenant disputes. All resolved on the day of mediation.

Dispute Resolution

Advising on and conducting international arbitrations under numerous rules and procedures including ICC, LCIA, UNCITRAL, SIAC, DIAC, AAA, LMAA, ICSID and CIMAR.

Regularly advising owners, contractors, and sub-contractors in bringing or defending a wide range of adjudications varying from small financial claims to large complex multiple issue claims in respect of time, money, defects and other issues. Also advising adjudicators during adjudications, and advising parties in respect of enforcement (conducted more than 100 adjudications) and enforcing and representing as necessary and acting as adjudicator. Regularly acts as a legal representative for parties to mediation.

Experience in this area includes professional negligence, defects, defective mechanical and electrical installation, loss and expense claims, delay and disruption claims across many industry sectors. Examples:

Energy and power

- Renewable Energy (Ocean Current Power Generation). Drafting contracts for the innovative renewable ocean current energy generation project in the Firth and Orkney Waters, Scotland. Our client produced the World's first commercial scale grid connected shoreline wave energy device, and this technology has played a substantial part in developing commercial use of this renewable energy source.
- Acting for a joint venture contractor in respect of a substantial off shore wind farm under an amended FIDIC 1999 Yellow Book. Providing advice in respect of design obligations, extensions of time, disruption, money claims and dispute resolution procedures.
- Acting for a joint venture contractor in relation to a potential high value (circa £150 million) dispute arising from a UK off shore wind farm project. Advising on various contractual issues, entitlement to extensions of time and associated additional costs as a result of variations and developing overall strategy.
- Acting for one of the world's largest specialist power station contractor in respect of a substantial extension of time and prolongation claim under a bespoke EPC contract. Dealing with technical issues relating to ground condition, piling and changes in design, as well as advising on the legal mechanisms in the contract. Advice in respect of the dispute resolution provision comprising mediation, contractual adjudication and High Court litigation.
- Acting for the National Energy Authority of a Government to advise on and defend an ICC arbitration under an amended FIDIC 1987 Red Book contract for the construction of a hydroelectric dam in Asia. The joint venture contractor's claim of Euros 145 million (including many years of delay) was met with a counterclaim of Euro 162 million, so the parties were in excess of Euro 330 million apart.
- Advising on intellectual property rights relating to the design of cooling systems of a power station.
- Providing contractual and claims advice in respect of a JV agreement and EPC turnkey agreement for a 900 MW oil fired steam power plant and desalination plant (880,000 cubic metres of fresh water per day). Project cost \$1.8 billion. One of the largest independent water

and power projects in the world at the time. English law, bespoke adjudication and ICC arbitration. Claims circa USD300million.

- Advise in respect of force majeure claims under a bespoke EPC (FIDIC based) contract for a combined cycle power plant.
- Acting for EPC contractor in a claim against a Saudi Arabian company on an IWPP Project in Saudi Arabia. Arbitration proceedings in London under the UK Arbitration Act 1996. Claim successfully settled.
- Advising an EPC contractor on legal issues arising throughout construction of an IWPP Project in Qatar, including advising on claims against consortium partner, multiple claims against Owner in relation to delays and cost overruns. Advised on contractual adjudication proceedings against Owner and on potential arbitration proceedings against owner and consortium partner. Claims circa USD30million.
- Advising contractor in respect of the refit of the Aswan hydro electric dam, Egypt.
- Advising power station constructor in respect of force majeure and financial claims brought by a package contractor in respect of a hydro-electric project in Canada (Canadian law, bespoke EPC Contract, ICC arbitration).
- Advising joint venture power station contractors relating to their right to further work under an agreement requiring notices to commence phases of work, and drafting advice relating to a contract for supervision and commission of turbines for a power station in Tasmania (Tasmanian law, bespoke EPC Contract).
- Representing and providing strategic advice to a specialist hydro-electric manufacturing and installation contractor for delay, limitation of liability and damages provisions in respect of a project in Georgia (English Law, ICC Arbitration, Bespoke EPC Contract).
- Advising joint venture power station contractor in respect of claims arising from the construction of a power station in Brazil (Brazilian Law, bespoke EPC Contract).

Data centre

- Providing advice in respect of a fatality, including HSE and police investigation issues, indemnity, insurance, delay, and financial issues. Providing strategic advice in respect of delays, disruption and prolongation claims in the context of adjudication and court proceedings. Settled by negotiation.

Oil and gas

- Providing strategic advice to an oil company in respect of project delays and cost overruns relating to the upgrading of a tank farm, new pipe work installation, pumping systems, the renovation of existing aviation fuel lines, leak detection and SCADA systems (various bespoke forms of contract and ICE 6th).
- Defending an oil company from claims brought by welding and pipe work trade contractor.
- Advising an oil company in respect of third party claims for defective pipe manufacture.
- Drafting set of co-ordinate documents including security documents and letters of credit for a bio-diesel process engineering plant for use with UK and European contractors (NEC Option F: Management Contract and FIDIC EPC/Turnkey “Silver Book”).

Process engineering, waste and water

- Representing a German contractor in relation to the construction of a waste management site in Romania under an amended FIDIC design and build contract, subject to Romanian law. Advising on delay and money claims, implications of the determination of the engineer's appointment, completion, DAB provisions and direct referral to ICC arbitration.
- Advising and conducting an international arbitration in Singapore at SIAC under the UNCITRAL Procedural Rules, subject to Singapore procedural law and the substantive law of Indonesia in respect of a PTE Process Engineering Plant constructed in Indonesia.
- Representing a Caribbean government in front of a dispute board for a waste management plant. A series of disputes were referred by an international contractor under the FIDIC Orange Book for a variety of extension of time issues, variations and prolongations costs. Advice in respect of the contract under the local law, enforcement, and injunctions in the Caribbean and Canada, and ICC arbitration.
- Representing contractor in respect of claims relating to a desalination plant (multistage flash plant) under and EPC contract in Kuwait. ICC arbitration.
- Advising EPC Contractor on legal issues at early stages of an IWPP Project in the United Arab Emirates, including detailed review of draft EPC Contract terms, review of Consortium Agreement Term Sheet, review of major supply contracts, advice on liability caps and exclusions; and advice on warranty obligations.
- Advising desalination contractor in relation to termination of a project in Saudi Arabia, LCIA arbitration, and enforcement. Settled.

Transport, rail and airports

- Advising an international locomotives manufacturer in respect of a 27 year concession agreement.
- Advising the Central Finance Department of a European Country in respect of procurement, ISPA and EIB funding arrangements and disputes arising from an amended FIDIC Yellow Book highway contract.
- Advising a joint venture contractor in respect of a EIB funded motorway project against a national authority for roads in respect of extension for time, prolongation and disruption costs under a FIDIC 1999 amended Yellow Book in DAB proceedings and ICC arbitration.
- Advising a government's transport ministry in respect of a new metro system. Including procurement advice, drafting FIDIC (Yellow 1999) based contracts for tunnelling, track, stations, electrification, systems and communications. Drafting engineer's appointment. Project value in excess of €500million.
- Advising a Germany company with regards to the supply of locomotive parts (engines, gear boxes etc) to Africa under and amended ORGALIME contract.
- Advise regarding a dispute for the purchase and finance of an airline plane for a private individual.
- Defending a claim under the LMAA arbitration rules for a civil claim arising from a fatality on a super tanker's maiden voyage.
- Advising a ministry of transport in relation to claims and termination of an EU funded (ISPA and IEB) rail renovation works, related civil engineering, electrification, catenary and SCADA

systems under an amended FIDIC 1999 Yellow Book. Issues included land appropriation, permits, delays, variations, supplemental agreements and financial claims in excess of €100million. Advising in respect of DAB proceedings and ICC international commercial arbitration.

- Advising an airport owner in respect of a £4.2 billion airport development in respect of claims under bespoke NEC based partnering packages for the building management system and related claims.
- Advising an international telecommunications company with regards to repudiation of an agreement for signalling, communication and train control systems for a new railway installation at a substantial new airport terminal in Europe (NEC bespoke Partnering Framework Agreement).
- Advising international contractor in respect of train control systems for the upgrading of a tube train system (NEC based). Advice related to claims and potential adjudications.
- Advising and negotiating bespoke contracts for rolling stock for over ground rail system in Australia, and co-counselling with local lawyers.
- Advising a contractor in respect of a disruption claim (measured mile analysis) for works to a metro station under a bespoke subcontract.
- Advising in respect of claims for electro magnetic resonance allegedly caused by electrified railway affecting the steel structure of a bridge building.

Roads, bridge and tunnels

- Advising and representing a joint venture contractor in relation to a motorway in Romania under an amended FIDIC Yellow book, subject to Romanian law. Advising on land acquisition, extensions of time, money claims, clause 20, DAB and ICC arbitration.
- Advice regarding strengths and weaknesses and the appropriate procedure for bringing a multi party design and workmanship claim against a contractor and a consultant for a defective mechanical swinging bridge.
- Advising civil engineering contractor in relation to extensions of time, disruption variations, loss and expense to road widening and upgrading works.
- Advise relating to delay and money claims arising from motorway traffic control and communications systems.

Sports stadia, leisure and entertainment

- Drafting and advising the contractor in respect of the key subcontracts for Twickenham rugby stadium.
- Advising a major leisure company in respect of claims brought in adjudication for a water theme park hotel in the UK (JCT WCD 98). Advising in respect of defective pools and flumes. JCT adjudication rules and CIMAR arbitration.
- Advising one of the world's largest entertainment companies in respect of delay and financial claims arising from a chilled ceiling installation at their new Central London headquarters. The potential adjudication was settled.
- Drafting contracts for the 4D cinema at the London eye.
- Advising owner in respect of the contractual documentation for the refurbishment of the Blackpool Tower.

- Drafting and settling contract documents for Sealife Centres in Portugal, Italy, Denmark and the UK (including the London Aquarium)
- Advising on contracts for roller coaster rides manufactured in the USA and installed in Europe.
- Advising and drafting contract documentation for renovation works, and new attractions for Legoland, Thorpe Park, Chessington World of Adventures, and Madame Tussauds.
- Producing claim documentation for a hotel owner (Jasper Conran) in respect of the mechanical and electrical works (carried out by Clarke, & Sulzer) in respect of the case of Great Eastern Hotel Co Ltd v John Laing Construction Ltd (2005) EWHC 181 TCC.
- Conducting an arbitration for a specialist contractor in respect of claims and repudiation relating to mechanical, electrical and public health works carried out to an apart'hotel in London (amended JCT D&B, CIMAR Rules). Enforcing award in Europe under the New York Convention 1958.
- Defending a high value adjudication for and extension of time, variations, loss and expense under an amended JCT design and build contract in respect of mixed use (mainly hotel and apart'hotel) development.

Banking, bonds and guarantees

- Advising client in regards to a call against a bondsman (Technical and General). Advice regarding settlement, timing and issuing of proceedings and advice regarding strength of claim. Advice regarding insolvency of Technical and General.
- Advising bank after the insolvency of a developer in respect of an incomplete building with deep excavations and hydraulic temporary support.
- Advising bank in respect of stepping into a part complete development after building owner arrested on allegations of fraud.
- Advising airport operator in respect of a potential call on a bespoke guarantee.
- Advising transport authority in relation to calling on advanced payment and performance bonds.

Hospitals and Medical

- Advising client in respect of contract PFI Obligations and contract formation between the contractor and key sub-contractor. Specific advise in respect of misrepresentation and areas of/or mistakes.
- Acting as an early neutral evaluator in respect of a dispute arising between an SPV and contractor in relation to a PFI hospital.
- Advise in respect of interior fit out works to a chain of dental surgeries.

Construction and engineering

- Acting as the mediator for a multiparty specialist contractor, supplier and manufacturer dispute in respect of a manufacturing defect with values in fan coil units of an HVAC system. The dispute concerned the liability for and cost of replacing the valves after the ceilings had been installed, re-balancing the system and the associated delay and disruption. A settlement was reach at the mediation.
- Acting in an international arbitration under the DIAC rules for a civil engineering contractor in Abu Dhabi in respect of a claim relating to part of a major development in Dubai under a

bespoke contract. The international tribunal held regular telephone conferences to review trial preparation and deal with procedural matters.

- Advising and representing a contractor in respect of repudiation of a series of contracts and payment claims relating to 11 construction sites with the same employer. Following the Construction & Engineering Pre-Action Protocol and pursuing litigation in the Technology and Construction Court, London.
- Advising Turkish contractor in respect of claims against an American organisation for construction of a hospital carried out in the Afghanistan (bespoke contract).
- Advising leading specialist M&E contractor in a 6 party dispute in the Technology and Construction Court relating to alleged defective bus bars, the explosion of a transformer, warranties, limitation and level of damages. Settled in mediation.
- Conducting defence for a hotel owner in relation to a £120,000 fee claim. Claimant ordered to pay our defendant client £1,650 (see *Nigel Witham Ltd v Smith& Isaacs* [2007] EWHC 3024 TCC). See also the costs case and Halsey mediation issue case (*Nigel Witham Ltd v Smith& Isaacs* [2008] EWHC 12 TCC).
- Advising a contractor in respect of defects claim, insurance issues and mediation arising from the construction of one of the largest pre-cast concrete car parks constructed in the UK, defending the contractor in an adjudication brought by the specialist pre-cast concrete sub-contractor.
- Conducting a series of adjudications for a civil engineering contractor in respect of substantial claims relating to the construction of a luxury car manufacturing plant in Sussex. Bespoke management form with bespoke adjudication procedures.
- Advising a civil engineering contractor in respect of the operation of NEC sub-contract (containing Z clauses). Providing strategic advice in respect of the claim development, presentation and settlement.
- Advising an Irish contractor in respect of an arbitration for repudiation of contract, money and time claims (Government Departments and LA conditions of contract GDLA 1982).
- Advising and representing fit-out contractor in respect of a time, disruption and money claim brought by a sub-contractor in adjudication (bespoke sub-contract form).
- Advising fit-out contractor in respect of a potential claim brought under a bespoke management trade contract for a residential central London development.
- Advising contractor in respect of a disputed settlement agreement, and representing it during an adjudication and potential litigation (disputed terms of contract). Settled.
- Advising and representing a contractor in respect of a defective window claim to a new office in Croydon (JCT 98). Dealing with both employer and window sub-contractor issues.
- Defending litigation for a specialist contractor in respect of building management systems and mechanical and electrical works to a government department.
- Defending fit-out contractor in an adjudication brought by a specialist air conditioning company. Resisting enforcement in the Technology and Construction Court, and settling the matter.

- Carrying out a claim audit and providing strategic advice to a developer in respect of a claim brought by a contractor (amended JCT WCD 98). The contract was an amended ICE 6th Edition, with adjudication provisions and litigation.
- Advising contractor in respect of a claim brought (and potentially defending a contractor against employer's claim) in respect of an allegedly defective cold sealed standing seam flat roof.
- Advising various parties in respect of party wall disputes under the Party Wall Act etc 1996.
- Advising specialist finishing contractor in respect of a VAT dispute.
- Advising management company in respect of a claim for a defective mechanical installation and roof installation of a residential block of 140 apartments in Central London.

Professional Negligence

- Claims relating to the design and project management of the renovation of existing hydro carbon oil installation and pipework.
- Litigation in the TCC in respect of the design of rehabilitation work to a tank farm.
- Multi-party claims in respect of design, project management and costs of an adventure park ride.
- Claims in respect of geotechnical design.
- Multi-party claims relating to structurally defective buildings and warehouses.
- Multi party claims in respect of substantial settlement, structural failure, piling design of a pumping station.
- Claims arising from the collapse of the façade supported rear-elevation of a building under renovation.
- Claims relating to an architect's design and contract administration.

Development and Project Work

- Negotiating a contract for an international bank fitting out part of the Swiss Re Tower St Mary Axe, London. The iconic Swiss Re Tower is better know as the "Gherkin".
- Acting for the second largest entertainment company in the world, drafting and advising them in respect of new developments in the UK and around the world. Establishing a suite of construction precedents and negotiating new developments at Chessington World of Adventures, the London Eye, the London Aquarium, as well as roller coaster rides, sea life centres, cinemas and other projects in various countries.
- Acting for Canary Wharf Contractors negotiating and settling construction documentation with trade contractors, and for agreements for lease, and fit out works for various towers including; BP1 (Barclays tower), BP2 (similar tower), BP3, BP4, HQ2, HQ3 Cabot Hall, and DS7. Dealing with many of the well now contractors and specialist as well as those taking leases at the towers at Canary Wharf.
- Negotiating the project documentation for the developer of a substantial mixed use development (residential, hotel, retain, car parking) in Broad Quay in Bristol.
- Providing public procurement and strategic construction procurement and documentation advice for a new phase of a metro system. Comprising tunnel boring, track, communication systems, sunk station box and new stations.

- Drafting set of co-ordinate documents including security documents and letters of credit for a bio-diesel process engineering plant for use with UK and European contractors (NEC Option F: Management Contract and FIDIC EPC/Turnkey “Silver Book”).
- Advising international specialist curtain walling contractor in respect of a framework agreement for tunnel lining and cladding systems to a new major airport terminal in Europe (bespoke partnering framework agreement).
- Drafting and settling construction documentation for the £140M redevelopment of the Harrods Depository in London comprising demolition, new build apartments, penthouses, townhouse and retail (reported in *Legal Business*, November 2001), *Commercial Lawyer*, issue 49, 2001, and Sunday Times, 25 November 2001).
- Advising specialist hydro-electric contractor in respect of bidding for EPC projects (various forms of bespoke EPC Contracts, in various parts of the world including Canada, Latin America, USA, Central Europe and Australia).
- Drafting co-ordinated development documentation for a developer for a series of apart’hotels and residential developments throughout the UK. Settling building contracts, security documents, and professional team appointments.
- Advising contractors and sub-contractors in respect of bespoke amendments to various standard forms and negotiating and settling the same (JCT, NEC, DOM etc).
- Drafting and advising upon co-ordinate documents for a substantial development on an island site in Bristol comprising apartments, a serviced apart’hotel, a hotel, retail and car-parking to be carried out in phases.
- Providing contract advice to a major contractor in respect of a Central London, Mayfair hotel. Drafting step-down sub-contract provisions.
- Drafting bespoke step-down sub-contract provisions in respect of the redevelopment of a major rugby football club.
- Advising specialist industrial contractor in respect of a bid for the upgrading of a coal power station in Bulgaria (Bespoke EPC Contract).
- Advising European turbine specialist in respect of a joint venture with a substantial UK based international turbine manufacturer.

Investors and Funding Institutions

- Advising pension fund on the forward funding of Kensington Village London, comprising 157,000 sq ft of office (reported in *Legal Business*, November 2001).
- Advising funding institution in respect of new 50,000 sq ft. shopping store in Maidstone involving the canalisation of the River Len.
- Working with a property group to sell Guardian Assurances £700M UK property portfolio (reported in *Gazette* 28 January 2000).
- Auditing documentation for an investor in respect of freehold Central London office development of 93,000 sq ft.
- Auditing construction documents for international telecommunication company’s purchase of 120,000 sq ft of new office at Chiswick Park, London (featured in *Building*, 24 November 2000, pages 40-45).

- Drafting documents for Zandra Rhodes' fashion museum, Bermondsey Street, London (featured in *Building*, 18 August 2000, pages 14-15).
- Working with property group to package and sell an investment portfolio of £180m worth of property developments. The developments were in various stages of construction.

Publications

Nicholas has written or edited all of the 380 Case Summaries for the **Adjudication Society**, which are published in their Newsletter and available on their website at www.adjudication.org (since its inception in 1999). He writes or edits the Case Summary every week for the internet site of **Building Magazine** (since 2003) and has written case summaries and book reviews for the **Construction Industry Law Letter**. He drafted CEDR's **Project Mediation Procedural Rules** and the **PFE Change Management Supplement and Guidance Notes** (2003/04) with Keith Pickavance and Dr Julian Critchlow. Publications include:

Books, Chapters, Reports, Contracts

- Gould, N. Chairman of drafting committee *et al* (2012) **Guidance Note: Conflict Avoidance and Dispute Resolution**, RICS Black Book.
- Gould, N, King, C, and Lockwood, C. (2011) **Cost Management Pilot Research; Interim report**, King's College London, February.
- Gould, N. King, C. and Britton P. (2010) **Mediating Construction Disputes: An evaluation of Existing Practice**, King's College London. Preface by Rt Hon the Lord Woolf, foreword by Rt Hon Rupert Jackson.
- Gould, N. and Ors (2009) **The Use of Mediation in Construction Disputes: Summary Report of the Final Results**, King's College London and HMCS, 7 May 2009.
- Gould, N. and Russell, V. (2007) Chapter 11 **Claims and Dispute Resolution**, in Pickavance, K. **Practical Construction Guides: Construction Law and Management**, Informa. Preface written by Russell, V. and Gould, N.
- Gould, N. and Hudson Tyreman, A. (2007) **Mediation in Construction; and Interim Report**, Kings College, London.
- Gould, N. and Russell, V. (2005) **Module 10: Dispute Resolution**, part of Self Study Construction Law Course, Informa.
- Gould, N, Pickavance, K and Dr Critchlow, J. (2003/04) **PFE Change Management Supplements and Guidance Notes** for use with the JCT, ICE and NEC contracts.
- Gould, N. Capper, P. Dixon, G. & Cohen, M. (1999) **Dispute Resolution in the Construction Industry**, Thomas Telford, London. Foreword by the Rt Hon Lord Justice Otton FCIA. On 2 March 2001 Nicholas received a **Silver Medal** in the Chartered Institute of Building's Literary Awards for this book.
- Gould, N. Capper, P. Dixon, G. & Cohen, M. (1998) **An Evaluation of the Dispute Resolution Techniques in the British Construction Industry: A Survey and Series of Case Studies of British Practice**, DETR Partners in Technology Report.

Video, Radio and Internet

CPD Cast, 'Mediating Construction Disputes' (April 2011).

Lexis Nexis, Advisor to the first series of the 'Construction Law Webinar' (March 2010).

Informa, Chairman of the first series of 10 Informa **Construction Law Web Congress** (first one 20 March 2009).

College of Law training video 'CDM, Collaboration and the Construction Industry Tax Scheme' Programme 1333, Property; construction update, Legal Network Television, (October 2007).

Einstein Network for a 20 minute training video 'Construction Mediation Update' (November/December 2003).

Speaking live on **BBC Southern Counties Radio** regarding residential defects and NHBC (5 June 2003).

Played the part of a co-mediator in the 15 minutes training and promotional video **MEDIATIONfirst** produced by Manchester mediation services (1999).

Articles, papers and conference proceedings

Gould, N. (2012) "Mediating Construction Disputes" Zagreb, Croatia, 5 March.

Gould, N. (2012) "The Role of the Engineer and Employer's Representative, Subcontractors, Funding and Banks" LLM/MLS International Construction Law, University of Vienna, March.

Gould, N. (2012) "A Practical Approach" **RICS Construction Journal**, Feb-Mar. pp25-26.

Gould, N. (2012) "Dispute Boards: Using them to Make Projects Successful" Workshop, FIDIC Middle East Contract Users' Conference, Doha, Qatar, February.

Gould, N. (2012) "Enforcing DAB's Decisions in Arbitration: the way forward" CI Arb Workshop, Dubai, February.

Gould, N. (2011) "Competence in cash and conflict - Conflict Avoidance & Dispute Resolution" **RICS Construction Journal**, Nov-Dec. pp10.

Gould, N. (2011) "Legal aspects of dispute boards" DRBF, Euro Conference, Brussels, 17-19 November.

Gould, N. (2011) "Dallah at home and away", CI Arb, 16 November.

Gould, N. (2011) "International Construction Law", University of Vienna 6-8 October.

Gould, N. (2011) "Project Management: The Liability & Standards Expected of a Project Manager - Identifying and managing your legal expectations to avoid pitfalls in an increasingly demanding project role" Issue 140, **Australian Construction Law Newsletter**, Sep-Oct. pp 15-33.

Gould, N. (2011) "Dispute Boards" **Civil Engineering Surveyor**, Jul-Aug. pp 32-36.

Gould, N. (2011) "Dispute Boards", **Civil Engineering Surveyor**, July/August, pp 32-36.

Gould, N. (2011) "FIDIC Suite of Contracts" IBC, Construction Law Summer School, Cambridge, 31 August.

Gould, N. (2011) "Recent Trends in Dispute Resolution" RICS (North East London Association), 15 June.

Gould, N. and Darling QC, P. "Adjudication Update" Lexis/Nexis Webinar, 13 June.

Gould, N. (2011) "Contract law and dispute resolution explained" ICE, 3 May.

Gould, N. (2011) "Enforcing DB decisions" DRBF, Vienna, 8 -9 April.

Gould, N (2011) "Nuclear - Law and Regulation", March.

Gould, N. (2011) "DAB Seminar" FIDIC MDB Contract Conference, Brussels, 28 January.

Gould, N. (2011) ICE - Mediation Symposium, 25 January.

Gould, N, King, C and Britton P (2010) "Mediating Construction Disputes: An Evaluation of Existing Practice - Part 4", **Civil Engineer Surveyor**, November, pp 39-43.

Gould, N and Sinclair, S (2010) "Building Bridges", Solutions: Civil Justice Magazine, Issue 20, **The Law Society**, October, p 15.

Gould, N, King, C and Britton P (2010) "Mediating Construction Disputes: An Evaluation of Existing Practice - Part 3", **Civil Engineer Surveyor**, September, pp 45-51.

Gould, N, King, C and Britton P (2010) "Mediating Construction Disputes: An Evaluation of Existing Practice - Part 2", **Civil Engineer Surveyor**, July/August, pp 45-48.

Gould, N, King, C and Britton P (2010) "Mediating Construction Disputes: An Evaluation of Existing Practice - Part 1", **Civil Engineer Surveyor**, June, pp23-26.

Gould, N. (2009) "Experts in International Disputes" **Australian Construction Law Newsletter**, Issue 127, July/August 2009, University of Technology Sydney, pp 40-43.

Gould, N. and Ors (2009) "The Use of Mediation in Construction Disputes : Summary Report of the Final Results" **King's College London and HMCS**, 7 May 2009.

Gould, N. (2009) "Mediation and Construction Disputes : Recent Research" **Building Magazine**, May.

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Gould N. (2009) "Maintaining the Relationship and Building Trust", Contract Management, Performance Monitoring and Dispute Resolution for PPP / PFI Projects, **SMi, Copthorne Tower Hotel**, London (11 and 12 May).

Gould N. (2009) "PPP and PFI in Romania", Inaugural Conference, PPP in Europe, The Financial Aspects - Regulatory and Practical, **SMi**, London (24 and 25 June).

Gould N. (2009) "Alternative Techniques for Dispute Resolution" **International Construction Contracts & Conflict Management Conference**, Park Inn, Russell Square, London (22/23 April).

Gould N. (2008) "Dispute Avoidance and Resolution", **Legal Issues in the Construction Industry Conference**, RICS (21 October).

Gould N. (2009) "Third Party Rights", Module C Paper for **King's College MSc**.

Gould N. (2009) "International Contracts in the Law" Module C Paper for **King's College MSc**.

Gould N. (2009) "Project Security" Module C Paper for **King's College MSc**.

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Gould N. (2009) "Procurement : Choice of Law" Module C Paper for **King's College MSc**.

Gould, N. (2008) "NEC3: Construction Contract of the Future?" **24 Const L. J.**, No 4, Sweet & Maxwell, p 286.

Gould N. (2008) "Institutional and Ad Hoc Arbitration" Paper given at the **DIAC**, Dubai (November).

Gould N. (2008) "Arbitration Procedure, Evidence and Hearings" **DIAC**, Dubai (November).

Gould N. (2008) "FIDIC - MDB Harmonised Construction Contract" **FIDIC International Users Conference 2008**, London (1/2 December).

Gould, N. (2008) "Payment: the Bill and case law" Conference, Updating the Construction Act, **Kings College**, London.

- Gould, N. (2008) "Reducing Risks in Construction" **LDR Conference**, London, 14 May.
- Gould, N. (2008) "Dispute Resolution Update" **MATRICS**, London, 13 May.
- Gould, N. (2008) "Introduction to Construction Law" **G&T Training Course**, London, 13 May.
- Gould, N. (2008) "Dispute Board Costs" Also chairman for the 4 May, **DRBF 8th Annual Conference**, Cape Town, 2-4 May.
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- Gould, N. (2008) "The Role of Experts in International Dispute Resolution", **ICC**, Monaco, January.
- Gould, N. (2008) Chairman, **ICC Expertise Conference**, Paris, 10 January.
- Gould, N. (2007) "Multiparty arbitration clauses in construction" **DIAC**, Advanced Arbitration Training, Dubai, 10 November.
- Gould, N. (2007) "NEC3; The Construction Contract of the Future?" paper given in Singapore in association with the National University of Singapore and the **Society of Construction Law**, 8 February.
- Gould, N. (2007) "Contracts that enhance relationships", paper given at the **White Paper Company Conference**, 30 March.
- Gould, N. (2007) "Constructing the Olympics" **Law Society**.
- Gould, N. (2006) "Establishing Dispute Boards: Selecting, Nominating and Appointing Board Members" SCL paper 135, a paper given at the **Society of Construction Law's International Conference in Singapore** 16-17 October.
- Gould, N. (2006) "Construction Law Round Up", **Gardiner & Theobald**, London, 18 January.
- Gould, N. (2006) "Adjudication and ADR", **MATRICS Lecture**, **Royal Institution of Chartered Surveyors**, London, 7 February.
- Gould, N. (2006) "Institution of Civil Engineers Mediation Workshop," Leading an Open Mediation Workshop, **ICE**, London, 1 November.
- Gould, N. (2006) "What is the status of an Adjudicator's Decision", Is Adjudication Fit for Purpose? **AICA Conference**, Association of Independent Construction Adjudicators, Carthusian Court, London, 2 November.
- Gould, N. (2006) "Standard Forms: Standardisation, Bastardisation and the Virtual Contract", **Gardiner & Theobald Lecture**, London, 8 November.
- Gould, N. (2006) "Establishing Dispute Boards", **Dispute Review Board Foundation's International Conference** Budapest, 6-7 May.
- Gould, N. (2006) "Evolving Justice" **RICS**, **Construction Journal**, June 06, p 14-15.
- Gould, N. (2005) "Adjudication - a UK lawyer's perspective", paper given at the **International Adjudication Conference**, National University of Singapore, 19 September.
- Gould, N. and Chau Ee Lee (2005) "Adjudication - the UK Experience", paper given at the **Singapore Institute of Architects**, Singapore, 17 February.
- Gould, N. (2005) ""The status of an adjudicator's decision; does it create a cause of action in its own right?" Vol. 21, **Construction Law Journal**, No 6, Sweet & Maxwell, pp 435-455.
- Gould, N. (2005) "Praise the Lords" **Building**, 22 July, p 58.
- Gould, N. (2005) "Dispute Resolution Update" **King's College**, Annual Update, Half Day Seminar, London, 7 July.

- Gould, N. (2005) "Dispute Resolution in the Construction Industry", **King's College** and Junior SCL Half Day Introduction to the Basics Conference, London, 8 September.
- Gould, N. (2005) "Adjudication Strategy: A UK Lawyer's Perspective", National University of Singapore, **International Adjudication Seminar**, Singapore, 19 September.
- Gould, N. (2005) Standard Forms' paper given at the **National University of Singapore**, February.
- Gould, N. (2005) "Bonds" paper given at the **National University of Singapore**, February.
- Gould, N. (2004) "Adjudication - Recent Developments; Domestic and International", paper given at **Fenwick Elliott's 10th Adjudication Update**, Savoy, 8 November.
- Gould, N. (2004) series of papers on adjudication; "An Overview", 'Enforcement and Jurisdictional Challenges' and 'Practice and Procedure' given at **King's College**, September.
- Gould, N. (2004) series of papers on, "Formation of Contract", "Mistake" and "Misrepresentation" given at the **National University of Singapore**, September.
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- Gould, N. (2003) "Dispute Resolution" Seminar Paper given at **Construction Law Seminar: Introduction to the Basic 2003**, King's College London, 9 September 2003.
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- Gould, N. (from 2001, ongoing) Adjudication case notes editor for the regular 'Newsletter' of the **Adjudication Society**.
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- Gould, N. (2002) "Dispute resolution" Module 3 of the BT/UMIST Commercial Management MSc, **UMIST**, March.
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