

## CONSTRUCTION DISPUTES

### OVERVIEW

Construction is a dynamic process fraught with complex relationships, sophisticated contracts, financing, design, engineering, procurement, and supply. It's a world of unavoidable risk, and no matter how civil the beginning, exposure to such risk all but ensures the need for compromise and the potential for dispute.

To effectively avoid claims and resolve disputes, construction lawyers must be skilled negotiators, draftsmen, communicators, administrators and advocates. This combination of skills is precisely why BCLP provides unsurpassed value to its construction industry clients.

We work with many of our clients at an early stage, preventing problems on site escalating into formal proceedings. We provide practical advice, fight hard when necessary and maintain pressure on the opponents, whilst always looking to achieve the earliest possible resolution, often through proactive use of mediation and other forms of ADR.

We are extremely experienced at handling matters in a variety of dispute resolution forums, including those that are prevalent in the domestic markets in which we operate (for example mediation, statutory adjudication regimes, or litigation in national or specialist courts). In addition we advise on disputes relating to international projects across many sectors, including large-scale international arbitration across different jurisdictions and under institutional or ad hoc rules, wherever the seat.

The volume of repeat business from our extensive client list of major industry players (including public and private sector employers, contractors and major specialist suppliers) across a very wide range of sectors and our reputation in the field, is testament to the quality of service we provide.

### THE LEGAL 500: CONSTRUCTION COMPARATIVE GUIDE

What are the biggest challenges and opportunities facing the UK construction sector?

From general legal and regulatory compliance obligations, licensing and financial aspects to industry trends and developments, we share insights in this dedicated chapter.

## MEET THE TEAM



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## **RELATED CAPABILITIES**

- International Arbitration
- Commercial Construction & Engineering
- Real Estate
- Environment
- Oil, Gas & Sustainable Fuels
- Energy Transition
- Infrastructure

## **EXPERIENCE**

- Represented major general contractor on regional highway and light rail project administration and litigation including judgment on fraud and veil-piercing claims against subcontractor.
- Represented a US hotel developer in multiple lawsuits and arbitration proceedings relating to design, construction defect and delay claims.
- Acted in a dispute between the owners and developers of a container port in the Middle East and the contractors responsible for building an extension to the port.
- Advising in relation to one of the largest PFI contract disputes in the health sector. The advice included wide ranging issues of a complex nature arising out of the Project Company's performance at two hospitals run by a NHS Foundation Trust, which is one of the largest in the UK with a turnover in excess of £1 billion.
- Providing project advice to a UK university and acting on its behalf in a number of claims brought by four of the contractors involved in delivering this major mixed-use development, including infrastructure, student accommodation, retail and community building contractors.

## RELATED INSIGHTS

Insights

Apr 29, 2025

### **"Battle of the Forms" in the Hong Kong Construction Industry**

Insights

Apr 16, 2025

### **Payment notices under the Construction Act 1996, a welcome clarification**

Insights

Apr 09, 2025

### **Shifting contractual risks and managing electronic contracts**

In this Insight, Shy Jackson takes a look at the decision of *John Sisk and Son Limited v Capital & Centric (Rose) Limited* [2025] EWHC 594 (TCC) where the court had to grapple with interpreting a contract which was kept on a USB drive as well as a bound hard copy, where the key provisions were in a spreadsheet, which included hidden columns, and where the electronic version included a document which did not appear in the paper version.

News

Mar 31, 2025

### **BCLP advise GPE on acquisition of West End HQ development opportunity**

Insights

Mar 11, 2025

### **Building Safety Act: new TCC case on building information orders**

Section 130 of the Building Safety Act 2022 (BSA) allows the High Court to make building liability orders (BLO) if it considers it just and equitable to do so. Section 132 allows the court to make an information order to enable applicants to decide whether to apply for a BLO. In this Insight, Marcus Birch considers the recent TCC decision in *BDW Trading Ltd v Ardmore Construction Ltd & Ors* [2025] EWHC 434 (TCC), which provides guidance on the circumstances in which the court will entertain an application for an information order, and the types of information and documents which it will include in such an order.

Insights

Mar 03, 2025

## **Battle of the forms: a recent example**

In this Insight, first published in the March 2025 edition of the NEC Newsletter, Shy Jackson considers the topic of the “battle of the forms” in the context of a recent Scottish case, *Caledonia Water Alliance v Electrosteel Castings*, where the parties each provided their own standard terms and conditions, but it was held that the applicable terms were governed by the Framework Agreement.

Insights

Mar 03, 2025

## **DIFC-LCIA Arbitration Clauses: Are they enforceable?**

The US Court of Appeals for the Fifth Circuit has recently upheld the enforceability of a DIFC-LCIA arbitration clause, notwithstanding the fact that the DIFC-LCIA no longer exists. The decision highlights the uncertainty that surrounds the enforceability of DIFC-LCIA arbitration clauses.

Insights

Feb 27, 2025

## **Government issues Model Adjudication Documents**

On 10 February 2025, the Development Bureau (“DEVB”) issued a suite of model adjudication documents (“Model Documents”), including a set of model adjudication rules (“Model Rules”). This suite of Model Documents is not issued so as to be binding or operative in their own right. Rather, they are issued as guidance (perhaps strong guidance) for the various entities who will apply to Government to be recognised as approved adjudicator nominating bodies, “ANBs”, for the purposes of the Construction Industry Security of Payment Ordinance (Cap. 652) (“Ordinance”). Although it remains uncertain to what extent the Model Documents will be adopted by nominating bodies, the Model Documents offer a preview of how the Ordinance might function when it comes into operation on 28 August 2025.

Insights

Feb 27, 2025

## **HK Security of Payment Ordinance: what difference might it make in practice?**

In *Wang & Lee Contracting Ltd v Young Kwong Pui Trading as In Tech Engineering* [2025] HKDC 66 (Date of Decision: 3 January 2025), the District Court ordered the court proceedings to be stayed and that the plaintiff’s claims be referred to arbitration. The court’s decision to grant a stay in favour of arbitration is entirely unsurprising and is consistent with Hong Kong courts’ pro-arbitration stance. What this article will explore is how this dispute might have proceeded along a different trajectory if the newly enacted Construction Industry Security of Payment Ordinance (Cap 652) (“Ordinance”) had been in force and applied to this dispute and the facts leading up to it.

