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## ALEXANDRA BODNAR

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### Areas of Practice

- Construction
- Professional Negligence
- Commercial
- Alternative Dispute Resolution
- Energy
- Infrastructure
- Insurance

### Clerks' Details

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### Practice Overview

Alexandra Bodnar is a sought-after barrister specialising in the litigation and arbitration of UK and international construction and commercial matters. She regularly represents clients in the English Technology & Construction Court and Commercial Court, as well as in front of international and domestic arbitral tribunals. Her work involves high-value, complex construction, engineering, infrastructure and energy projects across the globe. This includes PFI projects, EPC projects and substantial commercial supply projects. Much of her work involves allegations of professional negligence against construction professionals and claims concerning significant damage to property.

She has particular expertise in bonds and guarantees, both within the construction sector and concerning business matters more generally. This includes claims for injunctions to restrain guarantee demands, and insurance coverage and avoidance matters.

In addition to acting as an advocate in adversarial proceedings, she advises clients. She also represents clients in alternative dispute resolution proceedings, such as mediation and UK construction adjudication (including adjudication enforcement claims).

Alex is consistently recommended in Chambers UK, the Legal 500 and Chambers Global. She is recommended in the Legal 500, Chambers UK and Chambers Global for her construction

work, and in the Legal 500 for her insurance & reinsurance work as well as her professional negligence work.

## Construction

Alex is a highly regarded, experienced construction and engineering practitioner. She acts for and against owners, developers, contractors, professionals, insurers, funders and public bodies. Her work involves high-value, complex technical and legal issues in UK and international construction, engineering, energy and infrastructure projects. She appears regularly in the English Technology & Construction Court, Commercial Court and in front of arbitral tribunals, as sole and junior counsel.

She has been instructed in several post-Grenfell cladding/fire safety claims and PFI disputes, in addition to construction-related professional negligence and significant property damage claims.

Related to her construction work, Alex has particular experience of bonds and guarantees procured in connection with construction and infrastructure projects, and coverage and avoidance issues arising under CAR and other construction insurance policies.

Current and recent examples of Alex's construction work include:

- Representing a groundworks contractor in this multi-party c. £4m TCC claim by the operator of Twickenham rugby stadium concerning water ingress in ductwork. The case also involved a separate preliminary issues trial and appeal to the Court of Appeal in respect of joint names insurance issues, in which Alex acted as junior counsel.
- Representing a rail company in its c. £6m TCC claim in respect of the catastrophic collapse of an Eco noise barrier and consequential remedial works.
- Acting (as junior counsel) for a rail operator in respect of a derailment and consequential £multi-million claims.
- Advising on contractual responsibility for £multi-million claims arising out of events on site and delays occurring during construction works on a large international infrastructure project.
- Represented (as junior counsel) the owner of a tall building in a c. £4m TCC claim against the contractor, concerning post-Grenfell external wall fire safety defects and consequent remedial works. The claim also involved a separate preliminary issues trial in respect of title to sue and assignment/funding arguments.
- Acted for the lead manufacturer of deep-sea submarine rescue equipment in separate sets of proceedings in the TCC (obtaining an injunction) and the Commercial Court (in connection with delivery and payment obligations).

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*“Alex is a brilliant barrister who provides intelligent comments and sensible solutions throughout her involvement in any matter. She is extremely efficient and reliable. In addition, in court, Alex calmly and methodically sets out the position so it is clear to all and she does this in a manner which is engaging and lively.”*

Legal 500 UK Bar 2024, Construction

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## Professional Negligence

Alex regularly acts in professional negligence claims for and against professionals, often in a construction and engineering context. This includes allegations concerning architects, engineers, other specialists, contract administrators and contract managers, as well as other

professional advisers. Much of Alex's professional negligence work involves property damage in connection with fire, flood, landslip or collapse. She has also been involved in regulatory proceedings.

Current and recent examples of Alex's professional negligence work include:

- Acting for a rail operator in its c. £6m TCC claim against the designer of a tall, 'Eco' noise barrier following its collapse at a railway yard in north London, which caused extensive property damage and financial losses.
- Representing a developer in a claim against geotechnical and other engineering firms in respect of advice provided in connection with development at a complex brownfield site.
- Representing a rail freight operator in very high-value proceedings arising out of a high-profile rail derailment, involving allegations against various professionals.
- Represented (as junior counsel and as sole counsel) various developers/owners in a series of £multi-million TCC claims against design & build contractors concerning post-Grenfell cladding/fire safety design issues at developments across the UK.
- Acting for a defendant in this £multi-million multi-party TCC professional negligence claim arising out of the contamination of pipework and alleged failure to notify of the incident.
- Advised insurers of the defendant solicitors in a claim involving allegations of solicitors' professional negligence, in connection with claims for sums pursuant to a bespoke construction contract.

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Legal 500 UK 2024, Professional Negligence

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### Commercial

Alex has particular expertise in cases involving banking instruments including guarantees, performance bonds and letters of credit. She has been involved, as sole and junior counsel, in some of the leading modern cases on UK construction performance bonds (including the ABI model form). She has significant experience of obtaining and resisting claims for injunctions concerning demands on guarantees.

Alex advises and acts in cases involving international and domestic supply, distribution and transportation contracts, PFI contracts, facilities management contracts, share sale/purchase agreements, mis-selling and damage to goods, and fraud. She has experience of jurisdictional matters, including anti-suit injunctions and parallel proceedings. Alex's work also involves advising on coverage and avoidance issues under insurance policies.

Current and recent examples of Alex's commercial work include:

- Representing a surety in a multi-party Commercial Court claim on an indemnity consequent on a guarantee instrument (sole counsel).
- Representing the contractor in this c. £4.5 million TCC claim involving a preliminary issue about the extent of 'joint names' cover under a project insurance policy (junior counsel).
- Advising a surety in respect of a £multi-million claim involving a Spanish-law guarantee in respect of gaming industry operations (sole counsel).
- Advising a utilities company about a £multi-million claim for fraudulent misrepresentation and breach of a share purchase agreement arising out of the purchase of shares in a technologies business (sole counsel).
- Represented the manufacturer and supplier of specialist deep-sea equipment in a significant \$multi-million Commercial Court claim arising out of the international supply of bespoke equipment to the government of an East Asian country, including resisting an injunction application (sole counsel).
- Obtained an injunction in the Technology & Construction Court against a bank to restrain a \$multi-million fraudulent call on an on-demand guarantee (sole counsel).

## Alternative Dispute Resolution

Alex appears and advises in arbitrations, domestic construction adjudications (statutory and non-statutory) and mediations. She has also been involved in ad-hoc and bespoke contractual binding and non-binding dispute resolution processes.

## Energy

Alex acts in international cases involving high-value, complex engineering projects throughout the world. Her experience encompasses oil and liquefied natural gas plants, water desalination plants, ultra-low sulphur diesel units and cross-border underground power cables.

Alex's UK energy work has involved buildings services management, wind turbines, a gas storage facility, a nuclear project, projects concerning carbon emissions reductions and energy efficiency measures, and large-scale housing insulation projects.

Current and recent examples of Alex's work in the energy sector include:

- Advising a household name energy supplier in relation to jurisdictional/parallel proceedings issues, in connection with a £multi-million claim concerning the sub-contract for the design and supply of energy saving measures (sole counsel).
- Advising an international energy and regeneration company about £multi-million claims encompassing technical and IT issues about the automation and remote management of buildings services (sole counsel).
- Advising a household name energy supplier in respect of a series of £multi-million claims arising out of the alleged defective design, supply and installation of external wall insulation on a large housing project (sole counsel).
- Part of a large counsel team acting in a \$multi-million international arbitration concerning delays and defects at a novel engineering plant in the Caribbean (junior counsel).
- Part of a large counsel team acting on behalf of a sub-contractor in a \$multi-million international arbitration concerning a range of claims for payment in connection with works at a liquefied natural gas plant (junior counsel).

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Legal 500 UK Bar 2024, Construction

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## Infrastructure

Alex is and has been involved in cases about utilities networks, pipelines, gas storage, a nuclear facility, stadia, bridges, cranes, the London underground, the London Olympics 2012, motorways and schools. She has extensive experience of PFI and related contracts. Her international infrastructure work has also involved cross-border power cables and various engineering projects of significance.

Current and recent examples of Alex's infrastructure work include:

- Acting for the manufacturer and supplier of specialist highly-technical deep-sea submarine rescue equipment destined for the government of an East Asian Country, in a number of £multi-million Commercial Court and Technology & Construction Court disputes involving multiple parties in different jurisdictions (sole counsel).
- Acting for a defendant in a multi-party claim about contamination of a water pipe network

- as a result of building works (sole counsel).
- Acting on behalf of a crane hire company in Technology and Construction Court proceedings arising out of the erection of bridges on the M6 motorway in the UK (sole counsel).
- Part of a large counsel team acting in a highly technical \$multi-million international arbitration encompassing various claims and counter-claims in respect of a significant engineering project in the Caribbean (junior counsel).
- Advising and acting on behalf of a local authority in £multi-million Technology and Construction Court proceedings and various adjudications encompassing issues about the provision of utilities at schools, under PFI contracts (junior counsel).

## Insurance

A significant part of Alex's practice involves dealing with guarantees, performance bonds and letters of credit. She regularly advises sureties on the interpretation of these instruments. She represents clients in respect of claims and resisting claims made under such documents, including obtaining and resisting injunctions. Alex has been involved in some of the leading modern cases on UK construction performance bonds (including the ABI model form). Her work also involves claims by sureties on indemnities following bond claims or threatened claims.

Alex's insurance practice also involves coverage and avoidance issues under CAR (including joint names issues), professional indemnity, property damage, defects and public liability policies.

She regularly acts in subrogated proceedings.

Current and recent examples of Alex's insurance work include:

- Represented the contractor in the TCC and in the Court of Appeal as junior counsel in a case about the interpretation of joint names insurance provisions and related arguments about agency and authority, arising out of a construction contract and CAR insurance policy. The joint names point was the subject of a preliminary issues trial and an appeal on all grounds. The underlying claim concerns underground ductwork at the Twickenham rugby stadium.
- Representing the surety in a c. £3m TCC case resisting a claim by the beneficiary on a conditional bond following multiple insolvencies.
- Representing sureties in a c. €2m claim for payment under indemnities following insolvencies within a high-profile group of construction companies.
- Advising the beneficiary in respect of claims under various related conditional bonds following contractor breaches and insolvencies.
- Advising insurers in connection with a performance bond and £multi-million claims on a large international infrastructure project.
- Acted for a manufacturer in the successful pursuit of an injunction against a bank to restrain payment to a third-party beneficiary under an on-demand guarantee.

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*“Alexandra is all-round an excellent barrister. She is very approachable and always makes herself available. She is extremely astute and able to identify pertinent issues quickly, which allows solicitors to get to the heart of any issues without delay.”*

Legal 500 UK 2024, Insurance & Reinsurance

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## Reported Cases

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- USAF Nominee No 18 Ltd and others v Watkin Jones & Son Ltd [2021] EWHC 3173 (TCC); [2021] 11 WLUK 45
- Cleveland Bridge UK Ltd v Sarens (UK) Ltd [2018] EWHC 827 (TCC)
- Cleveland Bridge UK Ltd v Sarens (UK) Ltd [2018] EWHC 751 (TCC)
- Ziggurat (Claremont Place) LLP v HCC International Insurance Company Plc [2017] EWHC 3286 (TCC)
- AECOM Design Build Limited v Staptina Engineering Services Limited [2017] EWHC 723 (TCC)
- CSG (Stratford) Ltd and others v ASB Contractors Ltd and others [2013] EWHC 2868 (TCC)
- Hackney Empire Ltd v Aviva Insurance Ltd (on interest) [2013] EWHC 2212 (TCC)
- Aviva Insurance Ltd v Hackney Empire Ltd (on appeal) [2012] EWCA Civ 1716
- Vertase FLI Limited v Squibb Group Limited [2012] EWHC 3194 (TCC)
- Squibb Group Limited v Vertase FLI Limited [2012] EWHC 1958 (TCC); [2012] EWHC 3194 (TCC)
- Berry Piling Systems Ltd v Sheer Projects Ltd [2012] EWHC 241 (TCC)
- NAP Anglia Ltd v Sun-Land Development Ltd [2011] EWHC 2846 (TCC)
- Hackney Empire Ltd v Aviva Insurance Ltd (first instance) [2011] EWHC 2378 (TCC)
- Chesterton Global Ltd v Finney [2010] (Lawtel ref: AC0124712)
- Cundall Johnson & Partners LLP v Whipps Cross University Hospital NHS Trust [2007] EWHC 2178; [2007] BLR 520

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## Education & Career

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| Barrister Keating Chambers                                  | 2022      |
| Barrister 39 Essex Chambers                                 | 2010-2022 |
| Barrister Hardwicke Chambers                                | 2006-2010 |
| Pupil barrister Keating Chambers                            | 2005-2006 |
| Stagiaire at European Commission, Brussels (Legal Services) | 2005      |

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## Seminars & Publications

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Alex regularly gives seminars in the UK and internationally (including online), and contributes to articles. Recent events include: a series of inter-active seminars on UK construction bonds given in-house to solicitors; two-part article (written jointly with James Bradford of 39 Essex chambers) on Yuanda (UK) Company Limited v Multiplex Construction Europe Limited.

Wilmot-Smith on Construction Contracts (3rd Edition) – Contributor

The Projects and Construction Review (4th Edition) – Contributor

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## Languages

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Alex speaks basic Russian and has very good spoken French.