

Simon Hale

Call 2006



Simon Hale has a wide-ranging commercial practice in domestic and international disputes. His work focuses on construction and energy projects, professional negligence claims, and broader commercial dispute resolution.

Simon was nominated for Construction and Energy Junior of the Year 2020 by the Legal 500.

He is regularly instructed as sole counsel on major disputes, but also enjoys working in larger teams on the heaviest cases. He is an experienced trial and appellate advocate, noted for having “*gravitas beyond his age.*”

Construction & Engineering

Simon has a wide-ranging practice in domestic and international construction matters. He is familiar with many of the commonly used standard forms (including JCT, NEC, FIDIC). He acts across the board for developers, contractors, sub-contractors and consultants, and is experienced in claims from highly specialised sectors such as aerospace, defence and healthcare. His practice takes in TCC litigation, adjudication and domestic and international arbitration.

Simon Hale is ranked in Chambers & Partners Global Guide, Chambers & Partners UK, and in the Legal 500 as a Leading Junior in Construction. Simon was the youngest barrister to be nominated for Construction and Energy Junior of the Year 2020 by the Legal 500.

He regularly handles heavy disputes as sole counsel, or with a junior. However, he has extensive experience of working in teams on the largest matters, and enjoys doing so. Simon understands the vital importance of a responsive and cool-headed approach, especially in time-pressured situations.

Simon is a current member of the TECBAR Executive Committee.

The most recent directory feedback for Simon for construction work is that he is:

- Extremely methodical and exceptionally talented at distilling the issues amongst an ocean of information
- Highly perceptive, intelligent and focused

- Very engaging and dedicated. He has good judgement and technical knowledge

Featured Construction & Engineering cases

Leonardo SpA v Doha Bank Assurance Co LLC [2020] QIC (A) 1, on appeal from [2019] QIC (F) 6. Appeared as sole counsel in the Qatari QICDRC at first instance and on appeal for Leonardo SpA, a global leader in the aerospace, defence & security sectors. Simon successfully enforced two demand guarantees issued in respect of a major military project. The appeal judgment is now a leading international authority on the interpretation of the Uniform Rules for Demand Guarantees (URDG 758).

Blackpool Borough Council v Volkerfitzpatrick Ltd, Caunton Engineering Limited and ors [2020] EWHC 1523 (TCC). Simon appeared as sole counsel for the specialist steelworks subcontractor which had designed and supplied the structure of an electric tram depot. After a 5-week trial, Simon secured the complete dismissal of all claims against his client by the main contractor. The case involved complex questions of interpretation of the main NEC3 design and build contract, of the scope of “design life” obligations, and of corrosion science that was the subject of extensive technical evidence.

Blackpool Borough Council v Volkerfitzpatrick Ltd, Caunton Engineering Limited and ors [2020] EWHC 387 (TCC). Interim application concerning conduct of expert witnesses and whether their impartiality had been compromised.

Acting as sole counsel in consolidated LCIA arbitrations arising from a FIDIC Silver Book contract to build a power station in China. Seat of arbitration: Hong Kong; parallel Dutch injunction proceedings.

Acting for a consultant in connection with the expansion of the Port of Takoradi in Ghana, bringing claims under an agreement that the consultant would provide an operator for the terminal, equipment supply for the terminal, and an EPC partner.

Acting for a global engineering house in its claims for unpaid sums and Variations in the design of a power station on an overseas British military base (leading [Kajetan Wandowicz](#)). The case features complex counterclaims for delays and defective commissioning.

Premier Inn Hotels Limited v McAleer & Rushe Limited v (3) KTD Facades Limited (4) Urban Innovations Limited (5) Michael Slattery & Associates Fire Safety Engineers Limited (6) Bureau Veritas Building Control UK Limited, and other associated matters. Simon acts with Anneliese Day QC for the cladding subcontractors on these “Grenfell” cladding claims concerning a number of the Premier Inn group’s hotels nationwide. The first trial is listed for 5 weeks in January 2021.

Acting for a developer enforcing a performance bond guaranteeing a main contractor’s obligations on a mixed use development of student accommodation in Plymouth.

Successfully defended a developer’s “Grenfell” cladding claims in a heavy adjudication against a main contractor, following the regeneration of 9 tower blocks with a budget of more than £500m.

Mears Limited v (1) Costplan Services (South East) Limited (2) Plymouth (Notte Street) Limited (3) J.R. Pickstock Limited [2019] EWCA Civ 502; [2018] EWHC 3363 (TCC): Acted as sole counsel for the employer’s agent in a dispute over a £35M lease of a £16M block of 348 student flats in Plymouth. Important Court of Appeal authority addressing the concept of “practical completion”.

With [Fiona Sinclair QC](#), defending a main contractor in adjudication proceedings concerning the visual appearance of

rain-screen facades, on a flagship development for a global media company.

Carillion Construction Limited v (1) Woods Bagot Europe Limited (2) AECOM Limited (3) EMCOR Engineering Services Limited (4) EMCOR (UK) Limited [2017] EWCA Civ 65; [2016] EWHC 905 (TCC). Acting for EMCOR on a main contractor's delay and defects claim, and pursuing EMCOR's counterclaims for extension of time and £millions of loss and expense. This high-profile litigation arose from the construction of the Rolls Building, now home to the Commercial Court, the TCC and much of the Chancery Division.

As sole counsel, advising on English law principles in the Bahamas, in a dispute arising from fraudulent misrepresentations about the quantities of materials and labour required for a residential project.

Energy, Natural Resources & Infrastructure

Simon has extensive experience of significant disputes concerning oil and gas, mining, power and transportation, in various locations around the world. He accepts instructions as sole counsel or in larger teams.

Simon was the youngest barrister to be nominated for Construction and Energy Junior of the Year 2020 by the Legal 500.

Simon is fascinated by the complexity and scale of the design and construction operations which underpin projects of this nature. He has long experience of working alongside experts from diverse disciplines and thoroughly enjoys the challenge of mastering the technical issues in these disputes.

Featured Energy, Natural Resources & Infrastructure cases

Acting for a global engineering house in its various claims for unpaid sums and Variations in the design of a power station on an overseas British military base (leading [Kajetan Wandowicz](#)). The case features complex counterclaims for delays and defective commissioning.

Leonardo SpA v Doha Bank Assurance Co LLC [2020] QIC (A) 1, on appeal from [2019] QIC (F) 6. Appeared as sole counsel in the Qatari QICDRC at first instance and on appeal for Leonardo SpA, a global leader in the aerospace, defence & security sectors. Simon successfully enforced two demand guarantees issued in respect of a major military project. The appeal judgment is now a leading international authority on the interpretation of the Uniform Rules for Demand Guarantees (URDG 758).

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Acting as sole counsel for the EPC contractor in consolidated LCIA arbitrations, arising from a FIDIC Silver Book contract to build a power station in China. Claims are for repayment of significant sums from the principal sub-contractor, and for repayment under a demand guarantee issued by a Dutch bank. Parallel Dutch injunction proceedings.

Acting for a consultant in connection with the expansion of the Port of Takoradi in Ghana, bringing claims under an

agreement that the consultant would provide an operator for the terminal, equipment supply for the terminal, and an EPC partner.

Acting for one of the world's largest oil producers in a claim by 142 communities in the Niger Delta region, following an off-shore spill near the Southern coast of Nigeria. The case raised a number of complex issues: of jurisdiction and the correct operation of the Brussels Regulation; of Nigerian law; of the capacity in law of the claimant bodies to bring the action; and of vicarious liability between group companies within the defendant's operations.

Assisting with the preparation of an injunction in support of UNCITRAL arbitration, to prevent an African nation government from expropriating an oil pipeline owned and operated by a consortium of major oil interests.

Advising a large mining company on claims for directors' breaches of pre-acquisition warranties that several major construction projects were on time and on budget.

Acting as sole counsel for a haulage contractor in its claims for unpaid sums following the termination of a £43M contract for the transportation of waste products.

Professional Negligence

Simon has a leading practice in professional liability matters, covering three primary areas: (i) construction professionals, (ii) legal professionals, and (iii) financial services professionals. He is equally comfortable bringing or defending claims and regularly handles both types of instruction.

The most recent directory feedback for Simon in professional negligence work is that he is:

- Excellent: sharp-witted, responsive, pragmatic and client-friendly
- A very accessible barrister who is tenacious, brilliant at turning things around and very reliably on top of the case
- Very talented and though hugely intelligent, wears it lightly. He cuts through the morass and gets right to the heart of the issues with alacrity – with the focus and intensity of a laser beam. His thoroughness and attention to detail is fast becoming the stuff of legend

Construction Sector

Simon handles a full range of claims involving architects (including for heritage and listed developments), engineers (structural / civil / M&E / geotechnical / chemical / electrical), building inspectors, employer's agents, contractors with design responsibility, and surveyors (building / dilapidations).

He is experienced in complex design-related claims from highly specialised sectors such as aerospace, defence and healthcare.

Solicitors and Barristers

Simon has broad experience of claims relating to diverse advice and transactional work, and from numerous forms of litigation. He has handled cases against lawyers following failed or unsatisfactory claims in construction, commercial, insurance, matrimonial, probate and employment matters.

He is regularly called upon by the Bar Mutual Indemnity Fund to defend claims against other counsel. Simon's cases include those where serious and career ending allegations have been made, including of dishonesty and/or deliberately misleading the court.

Accountants, Trustees, Pensions, and Tax

Simon has acted for and against a wide variety of financial services professionals in diverse contexts, including tax advice, claims involving insolvency professionals, broker claims, and various types of claim against accountants.

He also has particular specialist experience of claims against pension scheme advisers, having acted for and against major pension scheme trustees on several heavy claims.

Featured Professional Negligence cases

With [Fiona Sinclair QC](#), acting for a global architectural practice in a £35M delay and damages claim by the main contractor, following delayed completion of a development of 97 ultra-luxury flats in Kensington.

Acting for the main contractor in a £10M arbitration claim against structural engineers following the failure of the foundations of a school.

Multiple ongoing instructions to defend main contractors and architects in claims concerning rainscreen and rendered cladding in the wake of the Grenfell tragedy.

Defended a complex defects claim under a PFI contract, in adjudication, arising from the construction and redevelopment of a hospital. The matter involved specialist design issues specific to the healthcare sector.

With [Fiona Sinclair QC](#), defending a global architectural practice on claims arising from delays and budget increases in the construction of an iconic art gallery in the UK.

Successfully appeared at trial for a solicitor who was accused of deliberately misleading the Court in the course of ancillary relief proceedings (December 2019). All claims dismissed.

Advising and appearing at trial on behalf of the BMIF in claims against various barristers. Examples include in a claim for negligent presentation of an appeal to the Administrative Court arising from underlying disciplinary proceedings against a midwife; a claim for negligent advice on a claim against a local authority employer (QBD trial: December 2019); and a claim for negligent conduct of an Employment Tribunal trial.

[\(1\) Empirical Property Group Limited & \(2\) FSL Properties Limited v \(1\) Gateley Manchester LLP \(2\) Gateley LLP](#) (Commercial Court). Acted for the claimant property developers in a claim against this well-known law firm. As reported in *The Lawyer*, the dispute concerned the redevelopment of the 'Trafford Press' building in Manchester.

Acting for solicitors on a £13m negligent advice claim, following a hedge fund manager's departure from an LLP. The key issue was the power of a partner to terminate an LLP for breach of trust and confidence, which was unsettled law until [Flanagan v Liontrust Investment Partners LLP](#) [2017] EWCA Civ 985.

[Hurry Narain Purrusing -v- \(1\) A'Court & Co \(2\) Houseowners Conveyancers Limited](#) [2016] 4 W.L.R. 81; [2016] EWHC 1528 (Ch). Acted for a conveyancer in this widely reported breach of trust and negligence claim, arising from a Dubai-based identity fraud. First reported decision in which a seller's conveyancer (the other defendant) was held liable for

breach of trust to a claimant who had not instructed it.

As sole counsel, acting for defendant accountant in a claim that it negligently certified the paid-up equity capital of a UK plc to be €120M prior to the company's shares being traded on the Frankfurt Stock Exchange.

Acting for one of the largest occupational pension trusts in the country in a claim against its former investment consultants, following a £250M investment into an emerging market currencies portfolio. The claim was that the use of USD/GBP currency forward contracts within the fund (FX 'hedging') diminished the returns on its investment by £10s of millions.

Assisted in the representation of a financial adviser on a £6M breach of trust and negligence action (one of 11 defendants), involving a series of fraudulent off-shore transfers of investors' securities.

As sole counsel, acting for pension scheme trustees in their claim that the defendant consultants failed to equalise the scheme's benefits, leading to a £15M deficit in provision. Complex limitation issues.

Co-defending accountants in claim about negligent tax planning advice, which was designed to reduce the inheritance and capital gains tax on the claimant family's £3M+ property portfolio.

Commercial Litigation

Simon has a busy and diverse practice in commercial disputes of many kinds. He regularly advises and acts on claims involving share purchase agreements, domestic contracts of sale, international trade, distributorship agency and partnering agreements, claims for non-payment and following termination, disputes over covenants and restraint of trade, and many other forms of commercial activity.

Many (but not all) of Simon's commercial cases feature a technical aspect to the underlying product or service concerned. His practice is primarily claimant focussed, but he accepts instructions on either side of commercial disputes. He is also experienced in fraud and tracing matters.

Featured Commercial Litigation cases

Leonardo SpA v Doha Bank Assurance Co LLC [2020] QIC (A) 1, on appeal from [2019] QIC (F) 6. Appeared as sole counsel in the Qatari QICDRC at first instance and on appeal for Leonardo SpA, a global leader in the aerospace, defence & security sectors. Simon successfully enforced two demand guarantees issued in respect of a major military project. The appeal judgment is now a leading international authority on the interpretation of the Uniform Rules for Demand Guarantees (URDG 758).

QuikClot International Limited v Darwish Bin Ahmed & Co. Acting for UAE military contractor in Commercial Court trial as to its obligations under a sale and distribution contract with the UK based manufacturers of a clotting agent for treating severe battlefield wounds.

Acted for UAE based claimants in respect of defendant's breaches of sale and services contracts, under which the defendant was to care for and rear offspring of valuable hunting birds for onward sale and use in sport across the Middle East.

Acting for a developer enforcing a performance bond guaranteeing a main contractor's obligations on a mixed use development of student accommodation in Plymouth.

Advising a Swiss domiciled, US administered fund about a master supply agreement for the purchase and distribution of anti-malarial drugs to 10 of the poorest countries in the world.

Advised Saudi domiciled investor on its proposed role in a funding agreement for mining project in the Middle East.

Acting for a haulage contractor in its claims for unpaid sums following the termination of a £43M contract for the transportation of waste products.

Acting for a bank in a claim by a legal expenses insurance intermediary, seeking £13M for alleged breaches of a funding agreement which backed a major claims management scheme.

Acting on a claim for breach of confidence against a senior corporate financier, brought by one the largest mining concerns in Kazakhstan.

Acting for a leading global manufacturer of doors in its claims for breaches of pre-acquisition warranties about the quality of fire-rated doors produced by the acquired entity.

Advising a large mining company on claims for directors' breaches of pre-acquisition warranties that several major construction projects were on time and on budget.

Defending a very large commercial fraud claim concerning the proceeds of the sale of three large properties by Hyde Park. Alleged breaches of directors' duties in diverting redevelopment opportunity to a bare nominee or trustee which then sold the properties on with planning, making around £100m profits. Complex tracing claims of the proceeds into various offshore trusts. Parallel proceeding ongoing with around 27 parties, in which the SFO acts as enforcement receiver, seeking to trace into the same money on the basis that in fact, the hotels always remained in the beneficial ownership of Gerald Smith.

As sole counsel, advising on English law principles in the Bahamas, in a dispute arising from fraudulent misrepresentations about the quantities of materials and labour required for a residential project.

Sports Sector Arbitration and Contracts

Simon has particular experience of commercial disputes in the sports sector, and associated forms of arbitration. He has acted in FA Rules arbitrations for Premier League and Championship football clubs, and handled claims involving Premiership Rugby sides and an F1 team.

Simon's experience of the fast-moving world of sport is that disputes in this area often call for urgent action in compressed timeframes, working with clients who are themselves under enormous pressure. Simon works well in this environment and can add real value to a team effort where time is short.

He is also a passionate fan of F1, international cricket and test match rugby, but will watch and enjoy almost any sport

when he has the time.

Featured Sports Sector Arbitration and Contracts cases

CRS GT Ltd v (1) McLaren Automotive Limited (2) McLaren Technology Group Limited (3) Trysome Limited [2018] EWHC 3209 (Comm). Acted for designer and manufacturer of GT series racing cars in injunction and damages proceedings against the well-known vehicle manufacturer McLaren.

Defending a claim brought by the Red Bull Racing Formula 1 team, arising out of a sponsorship and supply agreement, against a major Japanese food and drinks retailer, producer and distiller.

As sole Counsel, acting for Chelsea FC and its PL insurers in an extremely high value claim, where Dean Ashton alleged that his playing career was ended by a player's negligent tackle, and that the FA and Chelsea were vicariously liable for the player's actions (which occurred during training for international duty).

Acting for Premier League club in a claim by a former U 21 squad player, who suffered a serious leg break in a pre-season friendly. Successfully obtained a High Court stay to arbitration under the FA Rules.

Acting in an FA Rules arbitration on a dispute between a former manager and assistant manager of a football league side, to defend the Club against claims for unpaid wages and wrongful termination of their contracts following a disappointing season.

Acting for a Premiership rugby club on allegations of negligent diagnosis and management of a forearm fracture by club medical staff, which the player claimed affected his performance throughout the season and his subsequent career arc.

Advising a Championship football club on a claim that it illegally reneged on its offer of a player contract upon its promotion to the Premiership.

Recommendations

Simon Hale is ranked in Chambers & Partners Global Guide, Chambers & Partners UK, and in the Legal 500 as a Leading Junior in Construction and Professional Negligence. Recent quotes in Chambers & Partners and the Legal 500 include:

- He is brilliant and incredibly bright – just good at everything and a very impressive advocate
- He has gravitas beyond his age
- Extremely methodical and exceptionally talented at distilling the issues amongst an ocean of information
- He cuts through the morass and gets right to the heart of the issues with alacrity – with the focus and intensity of a laser beam. His thoroughness and attention to detail is fast becoming the stuff of legend
- Very talented and though hugely intelligent, wears it lightly
- He is excellent: sharp-witted, responsive, pragmatic and client-friendly
- He is very commercial and grounded and gets on exceptionally well with clients
- A very accessible barrister who is tenacious, brilliant at turning things around and very reliably on top of the case
- He thinks about the big picture, and provides clear, well-founded and pragmatic advice
- Hardworking, responsive under pressure and a clear thinker
- Very engaging and dedicated. He has good judgement and technical knowledge

- He has an excellent ability to deliver the goods
- Very no-nonsense and gives targeted advice, exactly on brief
- Thoroughly respected

Accreditations

