

4 NEW SQUARE

C H A M B E R S



OUR PEOPLE

Siân Mirchandani KC, FCI Arb

CALL 1997

SILK 2019

LEGAL 500

Clients say her detailed legal and procedural knowledge “inspires trust and confidence” and she is “quickly able to master the technical details of large scale construction projects” and “exceptionally bright. She is a joy to work with.”

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“She’s an intellectual giant and she inspires confidence in all she does. She’s tenacious and hard-working, she gains the confidence of the client and she’s a very good communicator.” – Chambers & Partners (Professional Negligence)

“Siân is an excellent advocate. Very clear and persuasive. Her advice is always excellent gets to the nub of the issue. She provides practical solutions to complex issues.” – Legal 500, 2024 (Professional Negligence)

“Siân is one of my go-to barristers. She has a very good manner with the clients and her client service is excellent.” “She has a very technical mind and great attention to detail.” “Siân has provided advice and support in a variety of cases. She delivers clear advice in a straightforward manner. Much in demand.” – Chambers & Partners (Professional Negligence: Technology & Construction)

Profile

Siân specialises in commercial cases, technology & construction litigation, arbitration and adjudication both as Counsel and Arbitrator. A significant proportion of her practice comprises complex, multi-party construction cases, of all types, often involving professional negligence claims, insolvency, insurance coverage issues and contribution claims. Siân is recognised as a leading silk by the legal directories in construction, property damage, professional negligence and professional discipline. Siân also has a specialist practice in regulatory & drug product testing and animal feed supply claims, both stemming from her previous career and qualification as a veterinary surgeon (Cambridge).

Siân is a qualified Technology & Construction Bar (TECBAR) adjudicator for more than 15 years and a Fellow of the Chartered Institute of Arbitrators (CI Arb), via the International Arbitration Advanced Fellowship programme (2020) and continues to grow her practice as an arbitrator, alongside counsel appointments.

Siân was called to the bar (England and Wales) in 1997 and took silk in 2019. She is based in London at Four New Square - London's premier set for Professional Negligence. Her career has encompassed disputes across the globe and have included the Middle East and Ireland.

Qualifications & Memberships

M.A. Vet M.B. Emmanuel College, Cambridge University
Diploma in Law, City University, London
BTC, Inns of Court School of Law, London
Fellow of Chartered Institute of Arbitrators
Accredited Adjudicator, Technology & Construction Bar Association (TECBAR)

Member of Society of Construction Law (SCL); TECBAR; Professional Negligence Bar Association (PNBA); Commercial Bar Association (COMBAR); BarMENA; International Bar Association (IBA); London Court of International Arbitration (LCIA); International Chamber of Commerce (ICC)

Positions Held

Co-Chair of the Bar Sub-Committee for Equal Representation in Arbitration (ERA) Pledge, 2024 to date.

Member of the Ethical Conduct Body of the Society of Antiquities, Feb 2021 to date.

Mentor, Bridging the Bar - 2020 to date.

Former member of Disciplinary Panel for the Council of the Inns of Court.

What the Directories say

Siân Mirchandani KC enjoys a fantastic reputation and is *"recognised for her superb professional negligence practice."* Clients say her detailed legal and procedural knowledge *"inspires trust and confidence"* and she is *"quickly able to master the technical details of large-scale construction projects"* and *"exceptionally bright. She is a joy to work with."*

Siân is highly recommended by peers as *"a really impressive silk who is in complete control of the material"*. Clients say: *"Siân is ferociously bright. She is unerringly logical, and nobody can defend a claim with more robust defiance and grit. Her manner and approach inspire confidence, trust and complete reassurance. She was born to be a high flying barrister."* Her *"ability to maintain the confidence and trust of the court"* is further applauded.

Renowned as an *"intellectual giant"*, and *"unerringly logical"*, *"a stellar advocate"* and *"excellent in cross-examination"* the legal directories note that *"she inspires confidence in all she does. She is tenacious and hard-working, she gains the confidence of the client and she's a very good communicator."* *"Always very well-prepared and completely on top of the facts"*, clients value her ability to handle high value, complex multi-party claims and group litigation involving difficult, detailed quantum issues. She has a particular interest in disputes involving IT, technical and scientific elements where her scientific background gives her a considerable advantage.

Siân is very familiar with cases involving use of electronic databases and e-documents, rather than conventional paper documents, and has wide experience of using e-bundles. Qualified as a TECBAR accredited adjudicator, she is also a Fellow of the Chartered Institute of Arbitrators.

Commercial Dispute Resolution

Examples of past and ongoing work as Counsel or arbitrator in arbitration proceedings include:

- Sole Arbitrator in a London seat, LCIA arbitration relating to lending which included claims of alleged duress and undue influence by an allegedly sanctioned individual, including pursuit of freezing orders over assets
- QC Clause ad hoc arbitrator of an apportionment dispute between two professional defendants following settlement of the Claimant's action against them.
- Appointed by agreement for ad hoc arbitration between two separate arms of the same multi-national insurance company as to the meaning and operation of design and operator error exclusions following damage of a food waste digester due to process 'run away' leading to over pressurisation damage.
- Abu Dhabi seat, ADCCAC arbitration of claim against Dubai based professional over alleged failures of design and specification of the ground floor slab in a luxury multi-block apartment building development
- Advising on emergency arbitration proceedings between employer and contractor over bond enforcement following termination of construction contract for a fertiliser plant in Russia.
- Acted on arbitrations between insurer and insured, over whether the scope of cover in a policy year included combustible cladding claims
- Advising Counsel retained to draft submissions and appear at oral hearing(s) in domestic arbitrations concerning Government advertisement for IT contract(s)
- Advising Counsel for paper arbitrations between insurance companies as to liability for claim(s)
- Defending a UK software developer and two companies against claims of alleged overcharging, fraudulent misrepresentation and deceit, procuring or inducing a breach of contract and conspiracy to injure by unlawful means.
- Claims arising out of UK and EU securitisation transactions known as 'commercial mortgage backed securities' (CMBS) against major firms of valuers following their valuation of commercial properties packaged as 'tax efficient' investments in Germany, Denmark and the UK: *K/S Lincoln et al v CBRE Richard Ellis - hotels*; *Capita Alternative Fund Services & Matrix Securities v Drivers Jonas* - factory outlet centre; *Titan Europe 2006-3 Plc v Colliers International UK Plc* - a large multi-use warehouse and department store in Germany; *Whitetower 2006-3 Plc v Colliers International UK Plc* - a group of commercial buildings in London; *LRC Holdings v BNP Paribas* - a group of four substantial office buildings near the Tower of London.
- A claim for damage to business following disruption of telecommunications' cables.
- Advising on claim for alleged breach of contract and negligence in conduct of laboratory testing as part of a pharmaceutical product licence application; pursuit of lost opportunity to obtain pharmaceutical product license; loss of market lead.
- Defending farm food supplier in claim for alleged contamination of animal feed leading to herd deaths and loss of profit.
- Defending farm nutrition adviser in claim for allegedly negligent advice about feeding to a pedigree closed herd.
- A claim for recovery of payments made to a Dutch company for waste recycling plant, following the Dutch company's insolvency.
- A claim against US events lighting company for recovery of fees due to a consultant engaged to assist in acquiring contracts for the Olympic Games.
- A fraud claim against property development company arising out of avoidance of sale on contracts for apartments, Manchester, UK.
- Advised Scottish Power plc in respect of injunctive proceedings brought by new occupier.

Adjudications

Considerable experience with adjudications including:

- Adjudicating upon a contractual dispute following withdrawal of work from a sub-contractor
- Adjudicating upon jurisdiction and costs issues relating to commercial building sub-contract dispute, with allegations of fraud
- Defending adjudication regarding a lack of fire resistance for a steel framed care home
- Pursuing multiple adjudications against light steel frame designing sub-contractor following complaints of noise transmission in a multi-unit apartment development by a large developer
- Defending project manager against employer's claims (delay & expense) arising out of adjudication decisions concerning the refurbishment of educational and performing arts premises
- Pursuing a claim arising out of defects in a major UK dual carriageway, following entire replacement, and an earlier adjudication decision on collateral but relevant matters
- Defending civil engineers facing claim for failure to detect a live drain across a housing estate construction site in Northern Ireland.
- Claims brought by M&E main contractor against sub-contractors and consulting engineers.
- Acting for large civil engineering contractor against subcontractor concerning final account following 300 variation claims arising from engineering project of installation of a flue gas desalination plant at a power station.
- Defended architect in claim concerning design and project management of extension to Grade II listed building.
- Defended a claim by a developer against the employer's agent for calculation errors in certificates
- Delay claim and claims for expense and loss of profit arising from alleged loss of contracts for construction and refurbishment of tertiary education buildings.
- Claims brought by liquidator following contractor's insolvency.
- Multiple connected disputes referred to single adjudicator.
- Passing claims down chains of adjudications following total destruction of a bespoke wooden building on South Coast by fire
- Claims brought by steelwork contractors against consulting engineer/designers for underscale design in a supermarket building.
- Claim by interior fitting out sub-contractor against contractor based overseas.

Insolvency context

- Advising insurers of insolvent main contractor on joinder to the construction dispute to pursue an active defence whilst reserving insurers' defences under the insurance policy.
- Advising insurers of architect on pursuit of Part 20 contribution proceedings against sub-contractor via assignment of cause of action from contractor (in liquidation).
- Advising international building contractor on pursuit of claims under the Third Party (Rights Against Insurers) Act 1930, against a concrete subcontractor (for defective slipform design, delay and expense) following sub-contractor's insolvency (Landmark building in City of London).
- Acting for insurers facing claim under Third Party (Rights Against Insurers) Act 1930 following explosion and fire at steel fabrication plant.
- Advising and acting for insurers seeking to join action brought against insured following insolvency.

- Advising and acting for excess layer insurers in defending claim under Third Party (Rights Against Insurers) Act 1930, arising from construction of a supermarket.

Specialist & unusual buildings

- Defending claim brought against architect following water damage to a large scale timber building and assembly unit (comprising LDL and CLT component panels).
- Defending claim brought against employer's agent by employer/landlord following delay and termination by tenant of construction of a space engine testing site.
- Led strike out of claim against approved inspector by developer & purchaser of refurbished coach house (after *Herons Court v Heronslea*).
- Defending project manager against employer's claims (delay & expense) arising out of refurbishment of educational and performing arts premises in Liverpool, UK.
- Defending architect in multi-party dispute following catastrophic collapse of granite table in school playground, London.
- Advising insurers on a claim due to knotweed contamination of a construction site in Wales by a ground clearance contractor.
- Employer's claim against planning and design architect for failure to advise adequately on budget for a 'Grand Design' type conversion of a dis-used water tower, England.
- Employer's claim against design architect following delays and budget overrun on UK premier league football training facility.
- Acting for a waste recycling company in a claim concerning recovery of payments made to a Dutch company for construction of a waste recycling plant following its insolvency.
- Advising Japanese plant engineering company in respect of claims proposed against the project manager and contractors for an engineering project based in Eire.
- Employer's claim against contractor and architect for negligent design and construction of a swimming pool complex (arbitration and adjudication), UK.
- A claim by a farmer against a local authority landlord concerning the negligent farm design by a farm designer engaged by the local authority, UK.
- Acting for design and build contractor (and insurer) in a claim concerning deficient installation of cow cubicles resulting in injury, lameness and loss of production, UK.
- Defending developer's claim against architect arising from window design for high-end beachside property, UK.
- Acting for sub-contractor (M&E) in defence of claim for indemnity arising out of alleged flue fire in a completely wooden residential building, South Coast, UK.

Construction & Engineering

Examples of work as Counsel in court and arbitration proceedings include:

Cladding, fire safety, fire, flood nuisance, subsidence

- Defending roofing contractor following total fire destruction of a sheltered housing development.
- Advising pension fund owner of a mixed residential/commercial and private/social housing tower block development in Central London on recovery options arising out of the discovery of cladding, fire safety & M&E defects.

- Advising leasehold tower block management companies in relation to obligations to pursue third party claims under Government Building Safety Fund grants following discovery of cladding & fire safety defects.
- Advising employer's agent & insurers facing claims brought by social housing associations concerning cladding, render & fire safety defects.
- Defending architect in cladding detachment claim brought by contractor, arising out of landmark refurbishment project, City of London.
- Sole leading counsel in 'Premier Inn' cladding & fire safety litigation (claims relating to 4 hotels) for architects (*Premier Inn v McAleer & Rushe and Others*).
- Sole leading counsel in 'New Capital Quay' cladding & fire safety litigation (claims brought by 81 leaseholders against developer & contractor) (*Elaine Naylor & Ors v (1) Galliard Homes Ltd (2) Roamquest Ltd (3) Galliard Construction Ltd*).
- Advising (another) hotel chain in relation to its liability as developer following discovery of cladding & fire safety defects.
- Advising leasehold tower block management companies in relation to claims options against developers/contractors following discovery of cladding & fire safety defects.
- Acting for social housing associates concerning a claim under portfolio warranty insurance arising out of cladding and fire safety defects.
- Advising local authority on liability following discovery of defects in external cladding (Expanded Polystyrene System, EPS) installation to private owners' properties.
- Advising insurers on routes of recovery following failure to install fire stopping and cavity barriers in a newly refurbished aparthotel development.
- Advising insurers on routes for recovery following failure of cavity barriers to contain fire in newly built and refurbished building.
- Advising insurers on investigations and routes for recovery following catastrophic gas boiler explosion in block of flats in Kensington.
- Advising insurers on claims arising from spread of fire following pipework soldering by metalwork sub-contractor.
- Advising and pursuing claims by insurer under Contractors' All Works policy following fire during refurbishment of a nightclub.
- Advising insurers on routes of recovery following fire in fast food restaurant.
- Advising insurers on routes of recovery following fire in wooden building housing a restaurant.
- Advising and pursuing claims following Buncefield explosion.
- Acting for designing mechanical engineer defending a claim by M&E contractor following fire in back up power system installed during commercial property refurbishment.
- Advising insurers on claims following explosion of a food waste digester.
- Numerous subrogated tree root subsidence claims brought by household contents' insurers, including Tree Preservation Orders, planning permission application and appeal from decision.
- Numerous subrogated claims by residential household insurers against contractors following poor installation of sanitary ware leading to leak claims.
- Claim by residential householder regarding adjoining construction of housing estate where re-profiling led to water run-off and inundation of adjoining houses.

Commercial construction

- Defending geotechnical engineer following claim by developer arising out of land remediation costs.
- Advising residential developer group companies on Building Liability Order risk.

- Defending claim brought against employer's agent by employer/landlord following delay and termination by tenant of construction of a space engine testing site.
- Advising contractor and insurers in respect of proposed action against project manager and building services engineer where apartments in tower blocks overheat.
- Advising road building contractor on pursuit of claims against designer, under indemnity clauses following adjudication of employer's claim against contractor.
- Advising employer on early termination of long term maintenance contracts.
- Defending contractor's claim against specialist screed flooring sub-contractor relating to design responsibility issues for floor installed in a care home.
- Defending Employer's claim against contractor for design defects relating to glass façade and M&E installation at a tertiary education college.
- Contractor's claim against sub-contractor installing flooring to a building constructed for the London Olympics: NEC3 contract, issue over whether the adjudication clause was effective.
- Claims arising from detachment of cladding panels from university buildings where installation design had been amended on site.
- Contractor's claims against employer for non-payment and repudiation following internal offices fit out contract.
- Contractors' claims against employers in large scale construction and re-furbishment contracts concerning government department and educational buildings.
- Contractor's claims against project manager following discovery of defects in demountable buildings in various schools.
- Acting for housebuilder in respect of a group action pursued by homeowners arising from defective piling on a large housing estate.
- Employer's claims for early termination of multi-year NEC3 Term Service Contracts.
- Employer's claim against project manager and main contractor in construction of process plant including design, management and delay issues.
- Employer's claim against designer, project manager and contractor for negligent design and construction of a commercial showroom.
- Employer's claim against specialist contractor for excessive noise resulting from plant installation for a swimming pool complex.
- Developer's consequential claims against a series of architects for planning breaches in construction of new care home.
- Developer's claims against consulting engineers arising out of the heating installation for a multi-unit residential development.
- Defending warranty and other claims brought against architect - designer of a multi-use commercial City centre development.
- Defending counterclaim against architect brought by housing development company alleging oversized properties were designed.

Residential construction

Considerable experience of residential construction disputes advising and acting for employers, architects, contractors and sub-contractors involving:

- Advising residential owner of Guernsey property following insurance claim work resulting in total failure of damp proofing
- Failures to advise on obtaining guarantees and certificates on a recently refurbished building.
- Failures to comply with design brief or planning breaches resulting in enforcement action.
- Overrun on costs.

- Disciplinary actions following complaints.
- Disputes arising in construction of new replacement building following fire destruction of original listed building

Publications

Chapter author: Simpson on Professional Liability (looseleaf): Valuers & Surveyors.

SCL Paper: *Duty of care in contractual chains: have we reached a consensus?*, September 2022 co-authored with Seohyung Kim

SCL Paper: *Contribution claims: sharing the pain after IMI v Delta*, April 2018 co-authored with Ben Patten KC.

Thought Leaders 4 Fire Magazine: *Fortification for damages in freezing injunctions: restoration of the status quo?* (Two articles commenting on the decision of Moulder J, Claimants listed in Schedule 1 v Spence [2021] EWHC 925 (Comm), and Court of Appeal decision, [2022] EWCA Civ 500, May 2022, co-authored with Hannah Daley).