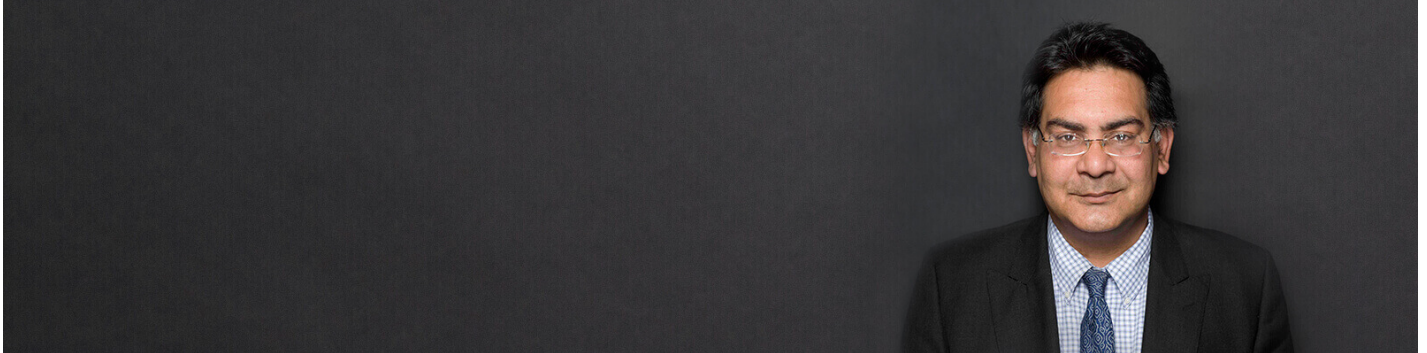


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Arshad Ghaffar

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Arshad is a commercial dispute resolution lawyer. His experience encompasses the full spectrum of the business cycle. Arshad's focus is international, but he also has English commercial dispute resolution experience, and is a member of the Commercial Court User's Committee.

His main areas of expertise are commercial and international arbitration, litigation and mediation; European Union; shipping and aviation, and corporate. His cases often involve the interplay between the interpretation of complex commercial contracts and their technical underpinnings, in particular in the context of large infrastructure projects. He has considerable experience of international commercial arbitration at both institutional and ad hoc levels, and has conducted arbitrations under most of the most frequently used institutional rules, including those of the ICC and the LCIA. He is also familiar with the Uncitral Rules.

Arshad has very strong personal and professional links with law firms and practices in South Asia and the Middle East, including Saudi Arabia, the UAE and the Sultanate of Oman, and travels regularly to these jurisdictions. He is registered on Part II of the Register of Practitioners for the DIFC courts (with full rights of audience there).

Arshad's international practice is diverse. It has ranged from advising on anti-corruption legislation

internationally to questions concerning sanctions against individuals in Zimbabwe. He has been instructed by lawyers in Singapore, Hong Kong, Malaysia, Oman and the UAE and has a niche Southern and East African Asian client base, where his fluency in Urdu and Hindi and his previous visits to Africa are valuable assets.

Arshad is also often involved in transactional work, both on an advisory and drafting basis, and is a qualified mediator. He likes to work closely with his solicitors and clients, recognising not only the strict legal aspects of a case but also ancillary commercial and strategic objectives.

Arshad continues to be instructed in shipping arbitrations. He recently acted for charterers in a Hong Kong arbitration regarding liability for damage to cargo caused by inadequate lashing under the Gencon 94. Arshad frequently acts for both shipowners and charterers in charterparty disputes. In the past he has acted in ship-building and ship repair arbitrations, both for the yard and the purchaser.

Arbitration

Arbitration, both domestic and international, forms a major part of Arshad's practice. The bulk of Arshad's work however has an international dimension, either involving foreign clients or legal or arbitral proceedings in other jurisdictions. Arshad has been or is involved in arbitrations taking place in New York, Malaysia, Hong Kong, Oman, the UAE, Qatar, India and Indonesia. Arshad has in addition some experience of investment treaty arbitration having been retained in respect of proceedings before ICSID in respect of a claim under the UK-Kenya BIT and having advised under the Energy Charter Treaty. Arshad is currently advising a Pakistani investor in respect of a claim against Saudi Arabia under the OIC Investment Protection Treaty.

Arshad has particular expertise in the energy sector, and has acted in various disputes concerning power plants in Oman, including as to their construction and as to their operation and maintenance. He has also advised in respect of claims arising under numerous Power Purchase Agreements. Arshad was also counsel in the landmark case of *Egan & Eggert v Efa & Eava*, in which he was instructed to challenge the jurisdiction of the DIFC Court to enforce a New York Convention Award which had no nexus whatsoever with the DIFC.

In the recent past, Arshad has acted for the successful Claimants in:

- a \$50 million ad hoc arbitration in Oman concerning a sewage treatment network (*Galfar v Haya*; <https://www.y-oman.com/2018/02/court-orders-haya-water-pay-ro-23-million-galfar/>)
- a \$10 million LCIA arbitration concerning the distribution of travel goods (details confidential)
- an ICC arbitration regarding an aborted trade in Medium Term Notes (details confidential).
- a Hong Kong arbitration regarding liability for damage to cargo caused by inadequate lashing under the Gencon 94

Currently, amongst others, Arshad is retained as counsel in an ad hoc arbitration regarding the management of a hotel in Duqqum, Oman and in two arbitrations concerning respectively the design and construction and the operation and maintenance of a Sea Water Reverse Osmosis Desalination Plant in Oman.

Arshad has also recently been engaged as counsel in i) an LCIA arbitration for a partly government owned client regarding wire manufacturing machinery and ii) an ad hoc charterparty arbitration involving failure to pay the purchase price of 2 vessels chartered on hire-purchase terms (seat London). Arshad also acted as counsel for a major international company in an arbitration concerning the construction of a sewage treatment plant. Arshad was instructed by Curtis, Mallet-Prevost, Colt & Mosle in this matter.

On the domestic front, Arshad was counsel in an arbitration involving a regional police force following their termination of a contract with vehicle recovery agents. Arshad was also junior counsel in the first case to reach the House of Lords (and sole counsel in the lower courts) on the interpretation of the Arbitration Act 1996: *Inco Europe v First Choice Distribution* [2000] 1 WLR 586; [1998] 1 WLR 270.

Additionally Arshad has appeared in the High Court on applications under the 1996 Act, including for example, in *The Pamphilos* [2002] EWHC 2292. Arshad is frequently instructed in respect of the enforcement of arbitration awards and acted for Cyrex Nigeria Barge Ltd in successfully enforcing and executing an arbitration award of over \$12m against the Federal Republic of Nigeria. Most recently he was instructed to resist enforcement of a \$2 billion award in the DIFC Court on behalf of the Kurdistan Regional Government of Iraq (*Pearl Petroleum Company Limited & Others v The Kurdistan Regional Government of Iraq* [2017] DIFC ARB 003).

Since 2012 Arshad has increasingly been sitting as an arbitrator following three nominations in respect of arbitrations in the Indian energy sector concerning the supply of power machines. Subsequently he was nominated in an ICC arbitration seated in Dubai regarding a hotel management contract and in December 2014 was nominated in a \$50m ICC arbitration with its seat in London but subject to Emirati Law. In August 2015 he was nominated in an LCIA arbitration regarding a distribution agreement. In the last year Arshad has been appointed as a party nominated arbitrator in ICC arbitrations 22609/FZ and 22318/PTA and proposed as a party appointed arbitrator in an AIAC arbitration concerning a 3G mobile telecommunications network; as the Chairman of a DIAC Panel in an arbitration regarding a golf course in Dubai and as the sole arbitrator in a dispute regarding the laying of fibre-optic cable in Oman.

Arshad is on the CEDR Panel of Neutrals and as such frequently sits as sole arbitrator in London in respect of disputes arising under the ABTA arbitration scheme. He is also on the Ofgem Panel in respect of disputes involving National Grid Electricity Transmission as well as on the RECC Panel as regards renewable energy disputes. Further, he sits as an adjudicator under the WATRS scheme. Arshad also continues to be involved in various shipping arbitrations under LMAA rules, in one of which, relating to the hire of various tug boats, he is retained by a foreign government. In the past Arshad has acted in ship-building and ship repair arbitrations, both for the yard and the purchaser.

Additionally, Arshad is on the panel of arbitrators of the World Intellectual Property Organisation (WIPO); the Hong Kong International Arbitration Centre (HKIAC); the Asian International Arbitration Centre (AIAC); the Cairo Regional Centre for International Commercial Arbitration (CRCICA); the Dubai International Arbitration Centre (DIAC); the Istanbul Arbitration Centre (ISTAC); The Kigali International Arbitration Centre (KIAC); The Lagos Court of Arbitration (LCA); the Centre for International Commercial and Investment Arbitration (CIICA); the Indian Council of Arbitration (ICA); the Nani Pakhiwala Arbitration Centre (NPAC) and the IMC International Arbitration Centre (IIAC). Arshad has also been placed, by the Attorney General of Pakistan, on the panel of international lawyers to be used by the Government of Pakistan in international arbitrations maintained by the Federal Law Ministry and is the founding member of the Pakistan Branch of the International Law Association. He is also a life member of the Indian Council of Arbitration (ICA) and a member of ICCA, LCIA and the ICC. Arshad is a member of the ICC Commission for arbitration and ADR and of its Task Force on the Arbitration of Climate Change Related Disputes. He is also an Ambassador to the ICC Commission on Belt and Road Disputes. Very recently, Arshad has been elected as the Chairman of the Steering Committee formed to set up a Branch of the Chartered Institute of Arbitrators in Oman.

Arshad frequently lectures on and publishes articles on various aspects of arbitration law. He is a regular speaker at the XXIV Annual Dubai Conference. Most recently he has spoken at the third annual CIICA Conference held in Lahore, Pakistan with the support of UNCITRAL on the resolution of disputes arising under the China Pakistan Economic Corridor (CPEC). In 2017 he also spoke on CPEC disputes at a conference organized by the UMT School of Law and Policy in Lahore as well as on arbitration law in Pakistan at a conference organized by the Sheikh Ahmed Hassan School of Law at the Lahore University of Management Sciences which was featured in the GAR Article "Winds of Change in Pakistan." In November 2016 he spoke on the Omani Arbitration Law at the ICC Young Arbitrators' Forum on Revitalising Arbitration in the Middle East, which took place in Muscat, Oman. Arshad has also spoken at various law firms on escalation clauses and the decision in the case of Emirates Trading Agency v Prime Mineral Exports [2014] EWHC 2104 (Comm) and has published a case note on the decision in Habas Sinai v VSC Steel Co [2013] EWHC 4071 (Comm) in Arbitration, November 2014, Vol.80, No.4 p.463.

Arshad is also an accredited CEDR mediator and has appeared as counsel in successful mediations. He was invited to speak at the IBA Mediation Committee Conference in Rio De Janeiro scheduled for June 2016 on ADR and Sports Law.

Aviation

Arshad is consistently recognised as a leading aviation junior by both Legal 500 and Chambers & Partners. He has particular expertise in issues of ownership, leasing and financing. He has lectured on the Capetown Convention to specialist aviation solicitors and has been involved in a number of aircraft financing and leasing disputes. He was asked to be a speaker for the IBA Aviation Law Sub-Committee

at the Annual IBA Conference in Madrid 2009 on security and repossession rights and has most recently spoken at the Aviation Committee's session on legal and commercial issues relating to drones at the IBA Annual Conference in Washington DC, 2016.

He has advised on injunctions over aircraft in support of non-payments of lease rentals; has been retained in a major case for an airline against a premiere engine manufacturer, raising significant and novel issues about duty of care and aviation safety policy; and has assisted in drafting and advising on various other aviation related transactions, including an \$80m purchase of helicopters by the Royal Oman Police. He has also given advice on the pension scheme of an airline. He is frequently instructed in cases involving air charters and seat sale agreements. Other experience includes various Fatal Accident Act claims involving aircraft crashes; disputes over brokers' commissions; advice to a major rail freight operator on emergency timetables following the Hatfield disaster as well as on track access agreements; and a large number of CMR and carriage by road disputes.

Some of Arshad's case references in this field are:

- Al Kharafi Aviation 200 Ltd v Liza Transport International [on-going]
- PAFCO v National Air Services [on-going]
- London 28 v Eimskip
- London 28 v Air Atlanta
- Celtic Capital v Air Tanzania
- Emerald Airways v Rolls-Royce Plc and ors [2006]
- XL v New Horizons [2007]
- Excel v GM Tours [2002]
- Aviation accidents: AAIB Bulletins 11/2006, 4/2004, 1/2003 and 1/2001
- Indian Airlines v GIA [2003 All England Official Transcripts];
- Case C-64/99 Pace Airline Services v Aerotrans.

Commercial Litigation

In the last several years Arshad has been instructed in several matters of note, the details of many of which are confidential. Amongst others, these have included a multi-million dollar dispute regarding long-term cargo haul arrangements of a petroleum development company; advising on a \$3 billion public procurement contract; publishing agreements; merchandising rights; music concert promotion; distribution agreements; asset and share sale agreements; collective investment schemes; ownership of a Top Level (Country Code) Internet Domain; software development and licensing agreements; the use of nominees in sham transactions; trade mark infringement and passing off claims involving a global luxury brand; ownership of shares in mining companies; the granting of anti-suit injunctions and resisting the enforcement of a New York "judgment by confession" both in the Commercial Court in England and in the DIFC Courts.

Arshad has also been engaged in drafting transactional documents for the supply and maintenance of a 3G mobile communications network and for the development of an Integrated Tourism Complex in Oman, as well as drafting standard terms and conditions for recovery agents.

Arshad's experience further covers commodities disputes; financing disputes; letters of credit cases; civil fraud; conflict of laws; and agency cases, in particular commercial agency claims for compensation or indemnity.

Some of Arshad's cases in these various areas are:

- Midtown Acquisitions LP v Essar Global Fund Limited [2017] EWHC 519 (Comm)
- Barclays Bank PLC (2) Credit Suisse Loan Funding L.L.C. (3) Midtown Acquisitions L.P. (4) Special Situations Investing Group Inc. v Essar Global Fund Limited [2016] DIFC CFI 036
- Advised Oakley Sunglasses Re European Commission Block Exemption Regulations
- Davenport v House of Dees plc (commercial agency)
- Advised regarding concessions for stalls selling merchandise at Formula 1 races
- Tom Stevenson v Dorling Kindersley (publishing agreement)
- Advised a slush drink manufacturer regarding abuse of dominant position by Slush Puppie
- AMG Global Nominees (Private) Ltd v SMM Holdings Ltd [2008] EWHC 221 (Ch) (13 February 2008) and [2008] EWCA Civ 1262 (Nov 2008) (share ownership)
- Godfrey v Torpy [2007] EWHC 919 (Ch) (fraud; sham transactions)
- Sharma v Sood [2006] EWCA Civ 1480 (concert promotion; procedural rights at trial)
- Express Newspapers v Animated Expressions [2006] (merchandising rights in "Rupert the Bear")
- Wiheshi v Tayeb [2005] (dispute re a CC TLD)
- Ark v Event Vision [2004] EWHC 691 (event management contract)
- Flynn v Wheatcroft, The Irish Times, 21 January 2004, p.1 (sale of fake Nazi memorabilia)
- Bosman v LKW Walter [2002] EWCA Civ 850 (warehouse security)
- United Arab Shipping v Galleon [2000] EWHC 202 (Comm): (service out of the jurisdiction; permanent anti-suit injunction).
- Clark (Inspector of Taxes) v Perks [2000] 1 All ER 1 (rights of appeal)
- Prolaw v Adams [1998] 1 WLR 1379 (civil procedure)

Company

Arshad's company and partnership law profile continues to grow. Amongst others, he has acted in partnership disputes involving accountants and solicitors and in particular in relation to LLPs.

On the company law front, in late 2008 Arshad successfully concluded litigation in the Court of Appeal which had been on-going for 3 years between his client and a Government of Zimbabwe nominee

company involving issues of financial assistance and disputed title to bearer share warrants, commenced as an application under section 359 of the Companies Act 1985:

- AMG Global Nominees (Private) Ltd v SMM Holdings Ltd [2008] EWHC 221 (Ch) (13 February 2008) and [2008] EWCA Civ 1262 (Nov 2008).

Arshad also appeared for the successful Claimant in:

- Corporate Development Partners LLC v E-Relationship Marketing Ltd [2007] EWHC 436 (Ch) (09 March 2007)

Also involving questions of financial assistance, and has experience of section 459 / 994 petitions. In addition, since 2005 Arshad has been retained by and acted in a dispute concerning a large UK Mosque organized as a company limited by guarantee, in which issues of membership, mismanagement, financial transparency and directors' duties all arose. The matter was initially settled through mediation and then subsequently gave rise to further litigation: *Hussain and others v Wycombe Islamic Mission Mosque Trust* [2011] EWHC 971 (Ch)

Construction & Projects

Arshad has considerable experience of construction disputes. His expertise ranges from power plants to general construction contracts. He has particular experience of operating in the Middle East.

Currently Arshad is acting as counsel for the Omani Public Authority for Electricity and Water (PAEW) in disputes arising out of an EPC contract and associated O&M contract in respect of the construction of a reverse osmosis water filtration plant. Arshad is also retained as counsel for an ICC arbitration concerning the construction of an office tower in Business Bay, Dubai.

Much of his work involves Arshad acting as counsel in an arbitration and such matters are highly confidential. However, if you would like further information about Arshad's experience, please contact **[Daniel Wilson](mailto:daniel.wilson@xxiv.co.uk)** on 020 7691 2424 or daniel.wilson@xxiv.co.uk.

Arshad's recent cases have included:

- US\$70m dispute concerning a power plant in the Middle East.
- Multi-million \$ dispute concerning a malfunctioning gas turbine.
- Dispute concerning the termination of an extremely valuable maintenance contract.
- Arbitration concerning payments due under a construction contract.

- Arbitration concerning liability to obtain an exemption from the IMSBC Code
 - DIAC arbitration concerning the construction of a major residential tower at Culture Village in Dubai
 - Dispute concerning the supply of bitumen and polymer modified bitumen for use in the construction of an airport.
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Energy, Oil & Gas

Arshad's expertise in the area of energy, oil & gas continues to grow. He has acted in arbitrations concerning the construction and operation and maintenance of power stations in Muscat, Oman. He has sat as an arbitrator in the energy sector in India. He has frequently advised on the provisions of Power Purchase Agreements (PPAs), including technical matters as well as pure legal issues such as the correct interpretation of a force majeure clause.

Mediation

Arshad is an accredited mediator and has appeared as counsel in successful mediations. He is the author of various articles on mediation including "The Rise of the Fudge" which appeared in the Lawyer magazine on 24 July 2006 (<http://www.thelawyer.com/rise-of-the-fudge/121134.article>). He is also the author of the chapter on "BATNA and WATNA" in the IBA E-Book on Mediation Techniques.

Recommendations

Arshad is recommended in Legal 500 2015 for his aviation practice, with clients praising his '**vast experience in this area**'. He is also recommended for international arbitration and is described as '**a highly effective barrister with a strong analytical mind and astute advocacy**'. He is further recommended for Commercial Litigation in the UAE where he is described as "*Dynamic, determined, open-minded and focused.*"

Academic history

- Westminster School
 - LLB Hons (Exon); LLM (i) (Cantab)
 - Harmsworth Entrance Exhibition, Middle Temple
 - "Stage" scholarship at EU from Bar Council
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Publications

- Contributor to Practitioner's Handbook of EC Law
 - Various articles and reviews: The Lawyer; the International & Comparative Law Quarterly; the European Young Bar Association; Compinet Country Guides; Contributor of chapter on BATNA and WATNA to IBA E-Book on Mediation Techniques
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Professional memberships

- Licensed to practice in the Courts of the Punjab, Pakistan by the Punjab Bar Council (2016)
 - Commercial Bar Association (COMBAR) and Chancery Bar Association
 - Chartered Institute of Arbitrators (FCIArb); LCIA;
 - Associate Member DIAC (Dubai International Arbitration Centre)
 - Bar of the DIFC (Dubai International Financial Centre)
 - Royal Aeronautical Society (MRAeS)
 - Solicitors' European Group (SEG) and Bar European Group (BEG) and European Circuit
 - British Institute of International and Comparative Law (BIICL)
 - International Bar Association (IBA)
 - Society for Advanced Legal Studies (SALS)
 - Bar Human Rights Committee (BHRC)
-

Appointments

- [Ambassador for the Commission of the ICC Court of Arbitration on the Belt and Road initiative](#)
 - Chairman of the Steering Committee – CIArb (Oman Branch)
 - ICC Task Force on Arbitration of Climate Change Related Disputes
 - Vice President of the Pakistan Branch of the International Law Association (ILA)
 - Public access accredited
-

Business details

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News

[Arshad Ghaffar featured in GAR article “Pakistan Centre Marks Anniversary”](#)

[DIFC Court addresses State Immunity & Riyadh Convention](#)

[Arshad Ghaffar featured in GAR article “Winds of change in Pakistan”](#)

Events

[XXIV Annual Dubai Conference 2017](#)

[XXIV Sixth Annual Dubai Conference 2016](#)
