



Mek Mesfin



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Mek practises in commercial dispute resolution, with particular emphasis on insurance & reinsurance, professional indemnity, construction, energy & infrastructure, arbitration, property damage, sale of goods, product liability, insolvency and jurisdictional/conflict of law disputes.

Mek regularly appears as sole counsel in the High Court and County Courts and has appeared led in the Court of Appeal. He is instructed in disputes which are litigated, arbitrated, adjudicated, mediated, as well as those resolved through other fora.

Before coming to the Bar, Mek studied Philosophy, Politics and Economics at Corpus Christi College, Oxford and then completed his GDL and BPTC at City Law School, London.

During his early years of practice, Mek appeared in Court on a daily basis and cut his teeth in front of a variety of tribunals. He still frequently appears in Court (on approximately a weekly basis) in trials, costs/case management conferences and procedural applications.

Mek is a TECBAR and CPA accredited Adjudicator and is regularly appointed to determine a variety of disputes.

Mek is a contributing author of (1) Emden's Construction Law and (2) the online Lexis legal database. He is also frequently asked to review textbooks in his areas of expertise (recent reviews include *Construction Insolvency* 6th Ed. by Richard Davis and *Construction Professional Indemnity Insurance* by Paul Reed QC).

In conjunction with his practice in chambers, Mek has also completed a number of secondments in the litigation departments of prominent City / International law firms in the past 3 years. This has given him a strong understanding of the different commercial issues faced by clients and both sides of the legal profession.

Mek regularly gives seminars in his areas of expertise. In recent years he has given seminars, amongst others, on the following topics: liquidated damages, the Disclosure Pilot, Fire claims, Seeking and Resisting the Enforcement of Adjudicator's awards; the Professional Negligence Adjudication Scheme; Getting the Best out of Counsel; Strategy in Professional Negligence and Damages.



Commercial Dispute Resolution

Mek is regularly instructed to advise on and appear in Court in commercial disputes and has experience of a wide range of commercial areas including, sale of goods, supply of services, agency, bailment, landlord & tenant, jurisdiction, conflict of laws and insolvency and restructuring.

Some recent examples of his instructions include:

Selected Cases

- Advising on potential grounds for resisting payment of a regulatory fine
- NHS Trust v Maintenance Contractor [2020 – ongoing]: Mek is instructed in a £multi-million dispute relating to cleaning of a large London hospital; issues of contractual interpretation, restitution and complex quantum.
- Melville Dunbar Associates v Carter [2020]: Mek was instructed on appeal before HHJ Lewis in relation to a previously undecided point of interpretation of the CPR on the summary assessment of costs.
- Covid-19: Mek is advising on contractual issues and generally in relation to the Covid-19 pandemic. In particular, matters he has and continues to advise on include the performance of obligations, frustration, force majeure under a standard form contract, repudiatory breach of contract and termination, as well as advising on issues of strategy and reacting to non-binding government guidance.
- Care Home v (1) Biomass Boiler Manufacturer and (2) Installer [2018 – 2019]: Mek is instructed as sole counsel advising a care home in a multi-million pound dispute against both (1) a supplier and (2) installer / maintenance contractor of boilers and peripheral equipment, for breach of contract and/or negligence. The case involved significant issues of contractual interpretation, exclusion clauses, fraudulent misrepresentation and was set against the backdrop of a government backed renewable energy scheme. The case has recently settled favourably for Mek's client.
- Printing Company v Manufacturer (1) Supplier (2) [2018 – ongoing]: Mek is instructed as sole counsel on a large claim for breach of contract/negligence in relation to defective paper which caused significant property damage and economic loss. Issues include exclusion/limitation clauses; technical evidence and jurisdictional and choice of law issues.
- Breach of contract [2019 – ongoing]: Mek is advising on a significant claim for breach of contract in relation to the supply of equipment to an airport. The case raises issues of causation and the reasonableness of relying on expert evidence.
- Freeholder Public Body v Contractor (1) and Leaseholder (2) [2019 – ongoing]: Mek is advising a freeholder as to alleged damage to a roof. The issue, which is pre-action, raises significant issues of the interpretation of the obligations pursuant to the lease, the building contract and warranties.
- PFI/PPP arrangements: Mek has experience from a number of matters of the complex web of contractual arrangements and contractual provisions often found under long term PFI/PPP agreements. His experience extends to supply, leasing, operating, maintain provisions for the provision of a range of projects / long-term services including hospitals, prisons, power plants and medical services.
- Graglia (1) Graglia (2) v Cumberland House (1) Cuttle Construction (2) [2018 – ongoing; London TCC]: Mek is instructed as sole counsel (the two other parties are represented by a QC and a senior junior respectively) in this matter for a construction company facing allegations of breach of contract

and/or negligence that is said to have caused flooding to a property in Knightsbridge. The case involves significant issues of joint names insurance, and the consequences of a failure to obtain the same, pursuant to a JCT contract; the interpretation of provisions in a lease and their interaction with building works and technical issues relating to flooding. Mek is instructed to conduct the 7-day trial set down in the London TCC for January 2021.

- Medical Equipment Supplier v NHS Public Body [2018 – 2019; Expert Determination by senior commercial QC]: Mek was instructed as sole counsel in a c.£650,000 termination dispute about a contract for the provision of primary care services. The matter was resolved through expert determination and involved issues of the validity of purported contractual termination, good faith clauses, exclusion clauses and remoteness, as well as technical issues relating to the fulfilment of obligations under the contract. The claims against Mek's client, and the £650,000 claim against them, were dismissed in their entirety. Mek continues to advise.
- Screeney v HCCI [2017 – ongoing; Commercial Court]: Mek is instructed as sole counsel in a c.£600k case relating to a guarantee / bond under a building contract progressing through the Commercial Court.
- Rollins v Aston Martin (Edinburgh) [2018]: Mek was instructed by the Defendant throughout this claim for breach of contract and negligence. All of the key issues, the scope of duty, breach, causation and loss, were hotly contested, concluding in a 2-day Multi-Track in the Birmingham TCC, before HHJ Murdoch, in December 2018, in which Mek appeared and was successful in defeating the claim.
- Individual v Individual [2018]: Instructed as sole counsel on a multi-day trial relating to a failed business venture; involving allegations of breach of contract / fiduciary duty and conversion.
- Individual v Individual [2017]: Settling a Particulars of Claim for a claim relating to the theft of a cheque following the distribution of a residuary estate; included consideration of conversion, restitution and unjust enrichment.
- Allegedly defective nitrogen generator [2017]: Advising and settling Particulars of Claim for a claim in contract / negligence for the supply and installation of an allegedly defective nitrogen generator fitted within a laser cutting machine. Mek's client achieved a favourable settlement shortly after service of his Particulars of Claim.
- Individual v Manufacturer [2018]: Advising on and settling Particulars of Claim against both a supplier and manufacturer of a defective heating system; involved issues of breach of contract, Sale of Goods Act 1979 and Consumer Protection Act 1987. The matter settled on favourable terms for Mek's client.
- Individual v Local Authority [2017]: Successfully representing a local authority in a claim brought for alleged negligence / breach of statutory duty by failing to maintain security around local authority properties. The Court accepted Mek's submissions on causation / novus actus (a criminal act which broke the chain of causation) and dismissed the claim.
- Individual v Foxtons [2017]: Successfully defending a national estate agent at the trial of a claim that it had acted in breach of contract; Mek was successful on all points, namely, establishing that there was no contract, even if there was there was no breach of it, and even if there was a breach the losses alleged to have been suffered were not, in law, recoverable.
- Advising and drafting a Defence for an IT company on claims brought against it for alleged breaches of a supply and maintenance contract. Issues included contractual and common law termination, exclusion/limitation clauses, admissibility of evidence and entire agreement clauses.
- Successfully appeared on behalf of a commercial landlord defending a claim by a tenant alleging various breaches of a lease over a number of years.
- Advising on whether defects in the quality of aircrafts supplied to a national carrier permitted common law or contractual termination and on the effect of the agreements limitation / exclusion

clauses.

- Successfully represented a garage against a claim made by a taxi driver regarding an allegedly defective service of a premium vehicle. Successful on both of the key issues, namely, breach and causation.
- Represented an asbestos removal company in a claim made against them following the removal of asbestos ceilings from a domestic property; the award of quantum was reduced by a factor of 10 from the value of the original claim.
- Advising on the recovery of various losses that flowed from termination of a partnering agreement following the insolvency of one of the parties.
- Advising a government department on issues of limitation and whether the Isle of Man or England was the correct jurisdiction in which to bring proceedings.
- Advising a purchaser on whether a shipyard was in repudiatory breach of an Option Agreement and Shipbuilding Contract for failing to provide a Refund Guarantee. Issues included collateral contracts, entire agreement clauses, repudiatory breach, common law / contractual termination and frustration.
- CPA Terms: Advised on disputes relating to the Construction Plant Hire Association (CPA) terms, including issues of incorporation, exclusion / limitation clauses, vicarious liability and burdens of proof.
- Credit Hire: Mek has appeared in several credit hire disputes in the County Court and has experience of all the main issues including need, period, rate, impecuniosity and intervention offers. He recently advised on the prospects of successfully defending an appeal on a novel question of impecuniosity and credit hire.
- Mek conducted the first two days of a trial in behalf of an insurer relating to significant damage caused to a Highway; concerning no loss arguments and detailed quantum. The matter settled at the conclusion of Mek's cross examination on favourable terms for his client.

Construction & Engineering

Mek has a wide range of experience of construction disputes and is familiar with the main contract forms including JCT, NEC, FIDIC, IChemE, LOGIC and RIBA forms.

Covid-19: Mek is advising on contractual issues and generally in relation to the Covid-19 pandemic. In particular, matters he has and continues to advise on include the performance of obligations, frustration, force majeure under a standard form contract, repudiatory breach of contract and termination, as well as advising on issues of strategy and reacting to non-binding government guidance.

Adjudication

Mek has experience of all aspects of statutory and contractual adjudication from advising prior to initiating adjudication to the enforcement of adjudicators' awards.

Mek has also acted as an Adjudicator and he is on the TECBAR and Construction Plant Hire Association Panels of Adjudicators.

Selected Cases

Litigation

- NHS Trust v Utilities contractor [2020 – ongoing]: Advising on a claim against utilities provider in relation to it causing significant delays and costs caused to a £multi-million refurbishment of a large London hospital.
- Contractor v Swimming pool Sub-Contractor [2020 – ongoing]: Mek is advising and drafting pleadings in proceedings relating to a contribution proceedings for defective pools at a prestigious hotel.
- The Purchasers of Ballard Hall Chase v Mandale Construction Limited [Manchester TCC; HHJ Eyre / HHJ Stephen Davies]: Mek was instructed as sole counsel for two defendants, a developer and contractor, in relation to a claim brought by 9 claimants for alleged defects in a residential project. The issues range from contractual interpretation of leases and building contracts, the application of the DPA 1972, and many technical issues in relation to defects. Mek is instructed to appear as sole counsel (the other two parties are represented by senior juniors) in a 9-day trial in September 2020.
- [Gatwick Propco Limited v McAleer & Rushe Limited; London TCC; CCMC in June 2020]: Mek is instructed (led by Ivor Collett) on this multi-million-pound, multi-party matter relating to defective cladding at a Hilton Hotel at Gatwick Airport. The case raises significant issues of causation, expert evidence and Approved Document B.
- Meddings v Aedis [2018 – ongoing; Newcastle TCC]: Mek is defending an Approved Inspector in a large multi-party claim worth c.£300,000+. The matter has had 3 procedural hearings before HHJ Klein and HHJ Davis-White.
- Broom v Fluid [2018 – 2019]: Mek is instructed (led by Ben Quiney QC) Ben is acting for engineers in a multi-million pound claim arising from a private development that appeared on the “Grand Designs” programme and is alleged to require significant remedial works. The claim involves difficult questions of scope of duty, technical evidence and quantification arise, along with the unique feature of the building having its own television programme about it.
- Thornley (1) and MacGill (2) v Assent Building Control Limited & Ors [2018]: Mek was instructed to defend an Approved Inspector in a large multi-party claim worth £250,000. After a contested hearing in the Bristol TCC before HHJ Russen QC, Mek’s client was successful in its application to have the claim against it struck out and obtained its costs of the entire action on an indemnity basis.
- Individual v Supplier (1) and Manufacturer (2): Mek represents a Claimant in a £300,000+ case arising out of a large residential fire; the case involves detailed expert evidence from multiple disciplines.
- International Contractor v National Architecture Firm: Advising an international contractor on several potential claims to be brought against various members of a professional team who worked on three multi-million pound projects resulting from widespread defects claims; raising complex issues of causation and proof in the context of a Biggin v Permanite claim against multiple defendants (ongoing).
- Heritage Building and Conservation (1) and William Anelay (2) v The Art House [London TCC] – Mek advising on and representing, as sole counsel, an employer in a matter relating to whether retention sums purported to have become due to a contractor were validly assigned to a third party following the contractor’s insolvency and termination of the building contract. Mek was concurrently instructed in both litigation and adjudication on the matter; he advised on pursuing a strike out/summary judgment application which was successful.

- Advising on and settling Particulars of Claim for an employer following the termination of a £150,000+ contract; issues relating to orally agreed contractual terms and termination.
- Contractor v Private Individuals (TCC) (2016-2018): Mek was increased at pre-action stage and throughout proceedings for a contractor against an employer in relation to the design and construction of a high-end residential new build; issues included matters relating to contract formation, contractual terms and expert quantity surveyor evidence. Settled shortly before it was due to be heard for 5 days by the TCC in early 2018.
- Advising a contractor on whether multiple parties intimating claims against it have valid causes of action; includes matters relating to the existence and extent of a contractor's tortious duty of care and the existence and extent of collateral contracts.
- Advising on and drafting a Defence and Counterclaim relating to the supply of allegedly defective ductwork required for a Hospital; included consideration of contractual terms following a "battle of the forms", the implication of terms and expert evidence.
- Settling a Defence and advising on an application for summary judgment against a claim by an interior designer for allegedly unpaid fees.
- Defending a claim for extensions of time and variations due to unforeseen ground conditions in the construction of an underwater piling system.
- Advising a contractor regarding a claim it was facing and the prospects of bringing an additional claim; involved issues including the cheque rule and its interaction with total/partial failure of consideration, assignment and contractual standard terms purporting to exclude negligence.
- Successfully defended a plumber sub-contractor at a trial of a claim for allegedly defective work; the Court accepted Mek's informal strike out / summary judgment application and dismissed the claim on the basis that there was no assumption of no responsibility/duty of care in relation to pure economic loss was owed.
- Advising a contractor on whether its allegedly defective work amounted to negligence or breach of contract / its duty under the Defective Premises Act 1972; required consideration of expert quantity surveyor evidence and contractual terms.
- Advising on the binding effect of various collateral warranties.
- Advising on and drafting Particulars of Claim in a dispute over defects in a render system installed on a residential apartment development.
- Drafting a Defence and Counterclaim to a claim for payment under a final account in a Target Cost contract.
- Advising on limitation, breach of contract / duty and settlement parameters in a potential claim arising of a domestic development project.
- Advising on whether the provisions of a Target Cost contract could be retrospectively operated after the end of the project.
- Advising on obtaining injunctive relief in a Party Wall matter in order to prohibit further construction and mandate the taking of steps to ensure the property remained structurally sound.

Adjudication Enforcement

Mek is frequently instructed prior to and following adjudication proceedings, whether to provide advice on merits or strategy, and to pursue or resist the enforcement of Adjudicators' decisions. He also sits as an Adjudicator and is on the TECBAR and CPA nominating Panels. Some examples of his recent instructions in contested applications on enforcing Adjudicator's decisions in the High Court (TCC) include:

- ICCT Ltd v Sylvein Pinto [2019] EWHC 2134 (TCC) [Waksman J; London TCC]: Mek was successful in

enforcing an adjudicator's decision; this case raised a plethora of issues relating to natural justice and jurisdiction, the most important of which was how a party/parties may provide an adjudicator with 'ad hoc' jurisdiction in the context of the residential occupier carve out at s.106 of the Construction Act.

- Protostar v 203 Willesden Lane LLP [2019] HT-2019-000084 [London TCC; Alexander Nissen QC]: Mek successfully obtained the enforcement of an adjudicator's decision in the sum of c.£250,000 and indemnity costs.
- Tolent Construction Ltd v Benchmark Leisure Limited [2018] (Leeds TCC; HHJ Raeside QC): Mek appeared as sole counsel in the High Court, before HHJ Raeside QC, successfully obtaining summary judgment for the enforcement of a c.£200k Adjudicator's decision. The Court considered whether the dispute arose from a separate agreement or a variation to the original contract.
- Willmott Partnership Homes Ltd v Bethel Retirement Villages-Herne Bay Court Ltd [2017] 4 WLUK 219 (London TCC; Fraser J) – Mek advised on and appeared as sole counsel in the High Court (TCC), before Fraser J, successfully obtaining summary judgment for the enforcement of an Adjudicator's decision worth c.£750,000. Mek had also been instructed in the underlying adjudication.
- Aifos Properties Ltd v GHM Construction Ltd [2017; London TCC; Sir Antony Edwards-Stuart] – Mek appeared as sole counsel in the High Court (TCC), before Sir Antony Edwards-Stuart, successfully obtaining summary judgment for the enforcement of an Adjudicator's award along with interest at 8% and full costs; involved issues of jurisdiction, natural justice and allegations of fraud and other impropriety.
- Johnson v Euro Property Services (Surrey) Limited [HT-2016-000198] (London TCC) – Mek appeared as sole counsel in the High Court (TCC) before Mr Justice Fraser successfully obtaining summary judgment for the enforcement of an Adjudicator's decision as well obtaining interest at 8% and costs on the indemnity basis.

Arbitration

- Consultancy v UAE Government [2020 – ongoing]: Assisting in a \$multi-billion dispute defending a multi-disciplinary consultancy JV in relation to UAE airport project.
- [Main Contractor v Sub-Contractor 2015 – ongoing]: Mek was instructed in an ad hoc international arbitration concerning the construction of a coal-fired power station in South Africa.
- Main Contractor v Sub-Contractor [2016 – ongoing]: Mek is instructed in a \$150m ICC Arbitration relating to the construction of a rail system (Qatari Law; ICC)
- Main Contractor v M&E Contractor [2018 – ongoing]: Mek is instructed in a c. \$200m ICC Arbitration between a Main Contractor and a MEP contractor (Qatari Law; ICC)
- Main Contractor v M&E Contractor [2018 – ongoing]: Mek is instructed in a c. \$500m DIAC Arbitration between an M&E Contractor and a Main Contractor (Qatari Law; DIAC)
- M&E Sub-Contractor v Main Contractor (2017): Mek was instructed as sole counsel for a sub-contractor in relation to a multi-million pound International Arbitration arising out of M&E works at an alcohol plant. The case settled on favourable terms for Mek's client, days before a 3-day evidentiary hearing (Law: English; Seat: Milan).
- Advising on the likelihood of obtaining specific performance during the final stages of a long-term contract; involved issues of jurisdiction or whether the arbitral tribunal or the Courts of the lex fori was the correct forum for the application.
- Advising on whether an employer was bound by the valuations of variations which his architect had agreed with the contractor; involved issues of agency in the context of a JCT Minor Works contract.
- Advising a contractor in an ICC arbitration on obtaining security for costs in a dispute about the

refurbishment of a jack-up drilling unit in the Caribbean.

- Advising a party in an ICC arbitration on a proposed claim for breach of a Joint Venture Agreement; involved consideration of contract formation, condition precedents, implied terms, good faith and loss of a chance.

Adjudication

- Significant adjudication relating to matters of practical completion on a c.£8m residential project.
- Adjudication relating to notifications (conditions precedent) and alleged delay under NEC3 contract.
- Contractor v West End Musical Show: Mek was instructed in relation to a c. £300,000 adjudication on behalf of a prestigious West End Musical in relation to the performance of a contractor pursuant to a Pre-Construction Agreement.
- Contractor v NHS Trust (2018 – ongoing) – Mek is instructed as sole counsel in a c.£3m final account adjudication relating to the refurbishment of a hospital wing. His client achieved a very favourable outcome. The first adjudication resulted in a very significant payment to Mek’s client following a “true valuation” adjudication following an interim application. Mek has continued to advise whilst the project is closed out and continues to advise in relation to an ongoing dispute regarding retention.
- Contractor v Architect [2017 – ongoing]: Mek was instructed as sole counsel in relation to a c. £3m adjudication regarding defective fire compartmentation.
- M&E Consultant v Contractor (2018): Mek is advising an M&E consultant with respect to seeking retention sums and defending an intimated counterclaim for alleged defects on a £1.2m project.
- Represented the responding party in a £850,000+ adjudication regarding conditions precedent, notice provisions, electronic service and valuation.
- Advising a contractor on the most suitable method of pursuing a particular party in a near-insolvency situation; Mek is currently instructed in the adjudication in this £250,000+ dispute.
- International Contractor v Subcontractor [2017] – Instructed on behalf of an international contractor to draft submissions in an Adjudication relating to a £10m+ project; the dispute relates to whether £1m+ of liquidated damages were validly levied or whether the provisions were inoperable and/or penal.
- International Contractor v M&E Consultant (2017) – Mek was instructed as sole counsel to defend an international contractor against a c. £3m claim brought against it by an M&E consultant for alleged misrepresentations.
- Settling a Notice and Referral on behalf of a contractor in an Adjudication relating to (i) failed payments following interim payment applications (ii) losses suffered by employer caused delay and (iii) recovering the costs of adjudication.
- Advising on grounds for resisting the enforcement of adjudicators’ awards.
- Drafting a Response and Rejoinder in a multi-million pound claim against an architect and contractor on a substantial domestic construction project.
- Drafting Particulars of Claim and skeleton arguments for the enforcement of adjudicators’ decisions; addressing issues including jurisdiction, dispute crystallisation, validity of the reference to adjudication, validity of adjudicator appointment, timetabling, waiver and natural justice.
- Advising a parent company guarantor on its liability to indemnify its subsidiary in respect of an adjudicator’s decision made against the latter.

Insurance & Reinsurance

Mek has a wide range of experience in insurance disputes, covering a wide range of industries and sectors.

Selected Cases

- Cladding Claims / Building Insurance: Mek is instructed on several £multi-million policy and coverage matters in relation to defective cladding and other fire safety matters. Issues include defect/damage, the need for immediate remedial action / risk to health & safety and matters of the measure of loss.
- Dalamd v Butterworth Spengler [2018] EWHC 2558 (Comm) – Mek (led by Daniel Shapiro) defended Butterworth Spengler against a claim for insurance broking negligence arising out of property damage, business interruption and CAR policies. This is a significant case on damages for loss of a chance, particularly in the context of insurance brokers.
- Hill Residential v Berryrange Limited [2019 – ongoing; London TCC; (4-day Trial December 2020): Mek is instructed as sole counsel in a claim relating to piling works at a prestige development in London. The case raises issues of duties to warn and the interpretation of the joint insurance provisions obtained by one of the parties and the extent of its cover.
- Coverage/Policy issues: Mek has significant experience of the gamut of policy/coverage issues. He has recently completed secondment at a City Law Firm in its Insurance/Property Damage team, where he dealt with a range of multi-million pound disputes raising a range of policy coverage and liability issues.
- Instructed by insurers to draft a Defence for a global supermarket chain in support of an application to set aside judgment in default obtained against it. Upon receiving Mek's Defence the Claimant conceded the application, the judgment in default was set aside, and the Claimant subsequently applied to amend its Particulars of Claim to completely alter its case. Mek has advised on resisting the Claimant's application to amend and on making a concurrent strike-out / summary judgment application. He is instructed to appear at the hearing of those applications in February 2017.
- Advising on and settling Particulars of Claim in a subrogated claim against the worlds second largest steel producing company regarding breach of a warranty it had provided for the manufacture and supply of galvanised steel panels for a warehouse roof; included consideration of notification provisions and expert engineering evidence.
- Advising on and settling Particulars of Claim in a subrogated claim regarding significant damage to a large listed 19th century property arising from a road traffic accident.
- Recently successfully appeared for an insurer defending a claim for property damage.
- Frequently appears in Court on behalf of insurers and insureds in relation to coverage and underlying liability disputes across areas including property damage and personal injury.
- Advising on a coverage dispute between an employers' liability and a public liability policy in relation to a fatal accident at a school.
- Advising a Lloyd's syndicate on whether it was – and if so to what extent – contractually liable to indemnify the employee of an insured for costs incurred in defending a criminal prosecution brought against him.
- Advising on the applicability of the Road Traffic Act 1988, its effect on contractual insurance and the statutory and European regimes in place for motor insurance.
- Advising an insurer on issues of causation, liability and whether it could overcome a Mark Rowlands v Berni Inns defence in order to bring a subrogated claim against a tenant of its insured following a

fire at a warehouse.

- Advising a Lloyd's syndicate on equitable and contractual set-off and limitation in relation to historic coverage for property damage and theft.
- Advising an insurer on the applicability of a deliberate / illegal act clause in a coverage dispute.
- Advising a school on a coverage dispute relating to its vicarious liability in matters of historic sexual abuse.
- Advising and drafting a Defence on behalf of an insurer against a claim brought for flood damage to a domestic property; involved issues of claims co-operation, fraud, bankruptcy and warranties.
- Advising on and settling Particulars of Claim for a leisure centre against a local authority for an indemnity and/or contribution.
- Mek conducted the first two days of a trial in behalf of an insurer relating to significant damage caused to a Highway; concerning no loss arguments and detailed quantum. The matter settled at the conclusion of Mek's cross examination on favourable terms for his client.

Professional Liability

Mek has a wide range of experience of professional negligence, including matters involving construction professionals (including engineers, contractors, architects, approved inspectors, sound acoustic engineers), legal professionals (solicitors and barristers), investment funds, SIPP providers, insurance brokers, Lloyds syndicates, auctioneers and auction houses, surveyors and a wide range of consultants. He has a wide range of experience of disputes relating to claims/counterclaims for professional fees. His Professional Liability works is often tied to instructions relating to professional indemnity insurance and related coverage / policy matters.

Selected Cases

- Mr Woodgett v Solicitors (solicitors/conveyancers) [2020 – ongoing]: Allegedly negligent conveyancing relating amongst other things to an overage clause.
- Mr Mahmood v Solicitors (solicitors) [2020 – ongoing]: Allegedly negligent conduct of underlying personal injury litigation.
- McAvoy v Blue Sky Design (structural designer) [2019 – ongoing]: Mek is instructed as sole counsel (against a QC) in a claim relating to defects alleging to design life (issues pertaining to *Blackpool Borough Council v VolkerFitzpatrick Limited & Ors*). CCMC listed in Manchester TCC in March 2021.
- Mortgage brokers: Mek is instructed on a number of claims alleging negligence in relation to interest only mortgages.
- McQuin v Pickett (interior designer) [2020 – ongoing]: Mek is instructed to defend an interior designer in relation to wide ranging allegations of project mismanagement on a high end residential project.
- Policy Excess v Dynamo (insurance brokers) [2020 – ongoing]: Mek is defending an insurance broker in relation to alleged mis-selling and failures to comply with verification processes.
- Niblock v Hoskin t/a PMN (solicitors) [2019 – ongoing]: Allegedly negligent conduct of litigation by solicitors met by a defence that the underlying claim was fraudulent and/or illegal; issues relating to *Stoffel v Grondona* [2020] UKSC 42.
- McBratney v Crane (financial advisor) [2020 – ongoing]: Mek is instructed in relation to a claim against a financial advisor; significant issues include scope of duty, causation and the SAAMCO cap. Listed for a 1 day summary judgment hearing.

- Kennedys v GAL (specialist contractor) [2020 – ongoing]: Mek is instructed in claim for breach of contract for the supply of allegedly defective glass.
- Individual v Structural Engineer [2020 – ongoing]: Mek is instructed in relation to a claim for allegedly defective design of slab foundations with significant issues of causation and limitation.
- Clarke Willmott v Morrissey Construction [2019 – ongoing]: Mek is instructed as sole counsel representing in relation to this professional negligence action in relation to the allegedly negligent conduct by solicitors of an underlying construction dispute.
- Taylor v Pardoes Solicitors [2018 – ongoing; Exeter High Court]: Mek is instructed in this case concerning allegedly negligent conduct by solicitors of a judicial review action. The trial is listed for 2 days in the Exeter High Court in April 2020.
- Freeholder v Insurer [2018 – ongoing]: Mek is instructed (as junior) on behalf of the freeholder of a building in claims worth c.£5m against its insurer and members of the construction professional team in relation to defective cladding and compartmentation issues.
- Major Solicitors' Firm [2018 – ongoing]: Mek is instructed as sole counsel defending a solicitors' firm against an allegation of professional negligence with respect to information provided during a residential property conveyancing transaction.
- Thornley (1) and MacGill (2) v Assent Building Control Limited & Ors (2018): Mek was instructed to defend an Approved Inspector in a large multi-party claim worth £250,000. After a contested hearing in the Bristol TCC before HHJ Russen QC, Mek's client was successful in its application to have the claim against it struck out and obtained its costs of the entire action on an indemnity basis.
- Dalamd v Butterworth Spengler [2018] EWHC 2558 (Comm) – Mek (led by Daniel Shapiro) defended Butterworth Spengler against a claim for insurance broking negligence arising out of property damage, business interruption and CAR policies. This is a significant case on damages for loss of a chance, particularly in the context of insurance brokers.
- Meddings v Aedis (2018 – ongoing): Mek is defending an Approved Inspector in a large multi-party claim worth c.£300,00.
- Contractor v Sound Acoustic Surveyor [2018 – ongoing]: Mek is instructed in a novel claim against a Sound Acoustic Engineer for negligent pre-completion surveying at a prestigious development in West London.
- Broom v Fluid [2018]: Mek is instructed (led by Ben Quiney QC) Ben is acting for engineers in a multi-million pound claim arising from a private development that appeared on the "Grand Designs" programme and is alleged to require significant remedial works. The claim involves difficult questions of scope of duty, technical evidence and quantification arise, along with the unique feature of the building having its own television programme about it.
- Maguire v Fine Art Auction House [2016 – 2019]: Mek was instructed from pleadings onwards to represent the Defendant Fine Art Auction House against a claim for alleged breach of contract and negligence on the basis of an alleged failure to provide accurate pre-auction estimates and an allegation of allowing items to be sold at an undervaluation. The claim against his client was dismissed. The Claimant appealed and the appeal, at which Mek appeared, was also dismissed.
- Insurer v Insurer [2018]: Mek is instructed on behalf of an insurer defending a claim from another insurer regarding which insurers' policy covered the insured (a solicitor firm). The case relates to an important term of the Solicitors Minimum Terms.
- Government Body v Geotechnical Engineer [2017] – Drafting a Defence and Counterclaim to a claim raised by a government body alleging that a geotechnical engineer failed to appreciate and incorporate into its design ground conditions that were reasonably foreseeable.
- Private individuals v Architectural technologist [2017]: Drafting a Defence for an architectural technologist against a claim brought by subsequent purchasers of a property for breach of a tortious duty alleged to have been owed on the basis of a certificate issued by the architectural technologist

to the original purchasers.

- Individual v Solicitors' Firm [2016 – 2017]: Defending a solicitors' firm against an allegation of professional negligence with respect to probate litigation. The case settled shortly before trial which had been listed for 2 days.
- Individual v Solicitors' Firm [2017]: Bringing a claim against a solicitors' firm for negligent handling of immigration applications. The case settled shortly before trial which had been listed for 3 days.
- Individual v Cavity Wall Insulation Installer [2017 – ongoing]: Mek is instructed on multiple cases relating to the defective installation of Cavity
- Advising on a surveyor's standard of care in conducting valuations.
- Drafting a Defence on behalf of an architects' firm against a claim made by a school alleging defective design and a failure to inspect.
- Advising on the likelihood of successfully relying on an exclusion clause to defend a claim alleging professional negligence against engineering consultants relating to historic asbestos removal.
- Settled a Defence in a claim against a surveyor for allegedly negligent structural calculations; involved issues of continuing duties and repudiatory breach of contract.

Property Damage

Mek has extensive experience of Property Damage and Product Liability matters, including issues relating to insurance policy coverage and subrogated claims. His extensive Construction and Professional Liability practices mean he is comfortable considering expert evidence on technical matters. Examples of his current and recent work load include:

Selected Cases

- Mek has recently completed a secondment at a City Law Firm in its Insurance/Property Damage team, and is dealing with a range of multi-million pound disputes raising a range of policy coverage and liability issues.
- Advising and drafting on proceedings against both a manufacturer and supplier in relation to a large fire in a central London premises.
- Advising and drafting on proceedings relating to damage caused to Network Rail property by a vehicle; detailed issues of quantum under TOCs.
- Advising on and drafting pleadings on a significant fire claim.
- Advising on an ongoing subrogated claim relating to a significant oil spill (c. £300k)
- Advising on the merits of claims against a statutory undertaker under the Water Industry Act 1991 and at common law.
- Advising on a claim against a statutory undertaker raising issues of negligence, nuisance, limitation and the interplay between common law and statutory duties.
- Advising on claims relating to the CPA 1987.
- Drafting a Defence in a claim for serious personal injury caused by the failure of a bicycle.
- Settling a Defence for a local authority relating to allegations of subsidence from tree roots.
- Settling a Defence in relation to property damage to a classic car.



Qualifications

- Bar Professional Training Course, City Law School (2013 – 2014)
- Graduate Diploma in Law, City Law School (2012 – 2013)
- BA (Hons), Corpus Christi College, University of Oxford (2009 – 2012)

Memberships

- COMBAR
- TECBAR
- SCL
- PIBA
- PNBA
- BILA
- TECBAR Adjudicator
- Member of Panel of Adjudicators for the Construction Plant Hire Association.