

## William Frain-Bell

**Nationality:** British

**Languages:** English and French



William Frain-Bell is a Chartered Arbitrator with extensive experience in corporate and commercial international arbitration.

His expertise includes high value, complex construction, shipping, property and investor state disputes. His particular focus is on construction related disputes in the Middle East and he has a good working knowledge of the UAE Civil Code. He is also the Convenor of the Faculty of Advocates' Dispute Resolution Service (FDRS) which is one of Scotland's arbitrator appointing bodies.

He is a recognised and accredited CEDR Mediator and accepts mediation appointments regularly.

William is a keen rally navigator, sailor, golfer and skier. He has sailed across the Atlantic Ocean and keeps a Folkboat in Crinan, Argyll. He holds a Motorsport UK international cross-country rally licence and in 2019 was second in class in the Africa Eco Race from France to Dakar in Senegal. He is also a member of the Faculty of Advocates Yacht Club.

## Sector Expertise

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- Construction, Engineering & Infrastructure
- Property
- Investor State Disputes

## Construction, Engineering & Infrastructure

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William has significant experience in these areas. From 2010-2014, he was one of the most frequently instructed counsel in the Dubai World Tribunal (DWT) set up within the Dubai International Financial Centre Courts (DIFCC) following the insolvency of Dubai World and its subsidiaries in the wake of the 2008 global economic crash. He has represented parties in disputes including unfair termination, variation and delay, sub-standard construction and sub-contractor disputes. In 2017, William spent 4 months in Mumbai advising one of India's largest infrastructure companies in an investor-state claim brought against the Republic of Mauritius.

## Property

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William has significant experience in disputes arising out of Sale and Purchase Agreements, particularly those subject to the UAE Civil Code.

## Investor State Disputes

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Part of the international legal team in a claim brought by a US energy company against Cambodia relating to the delivery of power to the capital Phnom Penh. Junior counsel in an investor-state claim brought by a Singaporean shipping company against Mauritius in a dispute relating to the supply of oil to the country. Junior counsel in a claim brought by an Indian infrastructure company against Mauritius in relation to the construction of a major residential development in the capital city.

## Commercial Dispute Resolution

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Recognised as a leading commercial junior by the Legal 500, William has over 20 years' experience in advising parties in commercial disputes throughout the UK and globally.

## Experience

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### Arbitration – as Arbitrator

- Appointed as Respondent's nominated arbitrator on the 3 arbitrator Tribunal in an ICC US\$60m insurance dispute arbitration involving parties in Bermuda, London and Hong Kong.
- Appointed as sole arbitrator in DIFC-LCIA construction dispute relating to a delivery failure of a Dubai tower block.
- Appointed Chairman of panel of 3 arbitrators in a DIAC arbitration regarding payment dispute in relation to the hiring and usage of construction plant hire machinery.
- Appointed as sole arbitrator by the Scottish Branch Panel in an arbitration involving a family jewellery business (dispute settled soon after appointment) under the Scottish Arbitration Rules.
- Appointed as sole arbitrator in a dispute regarding the sale of concrete by a Swiss company to a Cameroon company. Subject to the Arbitration Act 1996.
- Appointed as sole arbitrator in a dispute regarding a shipping demurrage dispute. Subject to the 3 of 4 Arbitration Act 1996.

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**Arbitra London**  
100 St Pauls Churchyard  
London  
EC4M 8BU  
info@arbitra.co.uk

**Arbitra Washington DC**  
Midtown Center  
1100 15th Street NW  
Suite 420  
Washington DC, 20005

**Call:** +44 (0)20 7936 7070  
**Email:** info@arbitra.co.uk

### As Counsel Arbitration

- Junior Counsel in US\$150m investor-state dispute (India and Mauritius) under the UNCITRAL Rules.
- Junior Counsel in US\$200m shipping dispute (Contract of Affreightment) under the rules of the SIAC.
- Counsel for the claimant in AED200m non-payment/EOT application dispute in the DIAC.
- Counsel for the claimant in US\$2m breach of contract claim relating to the sale and distribution of mobile phones in Hong Kong under the rules of the LCIA.
- Advised claimant in respect of a proposed ICSID claim (denial of justice) as a result of failures in the legal system of the Slovak Republic.
- Acted for the claimant in a property development dispute under the Scottish Arbitration Rules.
- Acted for the claimant in a dispute involving the construction of a farm building under the Scottish Arbitration Rules.
- ICSID Arbitration - Cambodia Power Company v The Kingdom of Cambodia [ICSID Case No. ARB/09/18] Junior counsel for the claimant in a US\$250m power supply dispute.
- DIAC Arbitration - Counsel for the successful claimants as sole counsel in an AED250m unfair termination arbitration relating to the construction of a twin-tower block in Dubai.
- DIAC Arbitration - Seconded deputy to law firm (Pinsent Masons) international arbitration partner in an AED60m arbitration involving the quality of the construction of the largest structure of its kind in the world.
- DIAC Arbitration - Counsel acting for the successful purchaser claimant in respect of an AED8m dispute with a master developer relating to the construction of a villa development in Dubai.
- DIAC Arbitration - Counsel for the successful developer claimant in respect of proceedings with a value of AED12.5m concerning the sale of properties of land in Dubai. Thereafter acted for the claimant in UK High Court enforcement proceedings.
- DIAC Arbitration - Counsel for the claimants in an AED15m dispute against a developer in respect of breach of contractual obligations leading to contract termination.

### Notable cases

#### Supreme Court/Privy Council:

*Multi-Link Leisure Developments Ltd v North Lanarkshire Council* [2010] UKSC 47 - Junior Counsel in an appeal regarding the interpretation of an option to purchase clause in a lease of land intended to be used as a golf course. The court held that the local authority landlord was entitled to have regard to the "hope value" of the golf course when assessing its full market value. Due to the fact that planning development meant that possible purchasers of the golf course would include developers interested in acquiring the land for housing development, the potential market value was considerably increased.

*Peerthum v The Independent Commission Against Corruption and the Commissioner of Police of*

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*Mauritius* [2014] UKPC42 - Counsel for the Commissioner of Police in appeal from the Supreme Court of Mauritius relating to challenges regarding the Constitutional powers of the respondents in Mauritius in relation to the arrest of public officials for alleged criminal offences.

**Court of Session/High Court:**

*Khaled Zahid v Duthus Group Investments Ltd and HRH Prince Turki Bin Mugrin Al Saud* [CA112/16] - Junior Counsel for the pursuer in an ongoing commercial court action for repayment of the US\$1m deposit paid in anticipation of the purchase of the Middle East office of global architectural design practice RMJM. *The Scottish Ministers v Ronnie Decker and others* - Junior Counsel (to the Dean of Faculty) in ongoing petition for recovery of assets brought by the Scottish Ministers against a former employee of a company identified as being a major VAT carousel money laundering operation. Successfully argued before the Inner House for the case to be restored to the rolls following summary decree finding by the Lord Ordinary. *R (on the application of RA) v the Director of Public Prosecutions* [2017] 2 Costs L.R. 323 - Counsel for the Claimant in an application for judicial review following the failure by the DPP to make a charging decision against him in relation to an alleged tax avoidance vendor finance scheme in the pharmaceutical industry. The delay prevented the Claimant's business from being floated on the stock market. Following the application, no charges were brought and the Claimant recovered his costs from the DPP. *Simon Butler v British Association of Snowsports* - Junior Counsel in a judicial review petition raised by a UK national ski-instructor in France, denied official recognition as such by his Scottish based professional body, BASI. The case involved multiple references to EU law and the employment rights of citizens of one member state in another.

**Scottish Land Court:**

*Messrs Gray & Co (Muirfield) v The Scottish Ministers* [SLC/204/04] - Counsel for the Applicant in an action seeking to overturn a decision by the Scottish Ministers to reduce the Applicant's SAPS payments, as a result of erroneous information being submitted by him. The court found in favour of the Applicant on the basis that whilst he was expected to state the correct animal figures, it was nevertheless possible to see a reasonable explanation for the error in the valuation figure in this case.

**Upper Tribunal (Tax and Chancery Chamber):**

*Stewart Ford and Mark Owen v The Financial Conduct Authority* [FS/2014/005] Advised the former CEO of Keydata Investment Services Ltd, Stewart Ford in relation to his appeal to the Upper Tribunal, following the imposition of the largest ever fine by the FCA on an individual (£75m), following the collapse of a leading UK investment product distributor. *Merlin Scientific LLP v HMRC* [2015] UK FTT Junior Counsel in a VAT appeal before the Upper Tribunal determining the relationship between home office use with hotel facilities and corporate entertainment. The FTT found that there had been no free supplies of business entertainment by the taxpayer.

**International courts and tribunals:****Cayman Islands Grand Court**

*R v Wm. McKeeva Bush OBE, Grand Court Cayman Islands (23/2013)* - Junior Counsel (with Geoffrey Cox QC) in the successful defence of the former Premier (Prime Minister) of the Cayman Islands on 11 counts of misconduct in public office. *Kurt Scott v Caribbean Utility Co Ltd* - Counsel for a US national claimant in a multi-million personal injury claim, following an explosion at work that left the claimant with life changing disabilities, including severe burns and psychiatric illness. Worked with medical experts in the US and UK. Case settled prior to trial.

**Dubai World Tribunal**

*Greenfield Trading C v FZC v Nakheel PJSC (DWT/0038/2011)* - Junior Counsel for the successful claimant in claim for economic loss following the defendant's employee's negligent misrepresentation in relation to the suitability of land in Dubai for a resort hotel complex. Believed to be the first decision of its kind under the UAE Civil Code.

*Diamond Developers v Nakheel & Jumeirah Village LLC (DWT/0019/2010)* - Counsel for the successful claimant in landmark first full trial held before the Dubai World Tribunal. Ruling required Nakheel to finalise agreement to credit in excess of US\$8m in down payments on two islands in The World Development to seven plots of land in Jumeirah Village.

*The World LLC v Kleindienst Properties Limited (DWT/0031/2011)* - Counsel for the defendant in the defence of contractual dispute with claim value in excess of US\$200m and counterclaim of value in excess of US\$60m.

*The World LLC v Penguin Marine Boat Services (DWT/0008/2011)* - Counsel for the defendant in defence of claim relating to payment of license fees in respect of The World Development and counterclaim in excess of AED80m for breach of warranties. Proceedings are ongoing.

*David John Nicholson v Nakheel PJSC (DWT/0015/2011)* - Counsel for the successful claimant (the former General Counsel of Nakheel) in an employment dispute involving his former employer.

*Chris O'Donnell v Nakheel PJSC (DWT/0035/2011)* - Counsel for the claimant (the former CEO of the world's one-time largest property developer) in an employment dispute (claim value in excess of US\$3.5m) involving his former employer.

*Shokat Mohammed Dalal v The World LLC and Nakheel PJSC (DWT/0023/2010)* - Counsel for the claimant in a dispute between a high net worth individual and the master developer of a development of man-made islands.

## Academic & Professional Qualifications

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### Academic

- Called to the Bar of England & Wales (Middle Temple), 2000
- Called to the Bar in Scotland, 1999
- Qualified as a solicitor with Tods Murray WS, Scotland, 1998
- LLB at Aberdeen University, Scotland
- MA at St Andrews University, Scotland

### Professional

- Junior to Office of the Advocate General (Home Office) 2016-2020
- Convenor of Faculty of Advocates Dispute Resolution Service (FDRS)
- Chartered Arbitrator
- Visiting Lecturer/Tutor in International Arbitration - Aberdeen University
- Panel Member of the CIArb President's list of approved arbitrators (Scottish branch)
- Accredited Mediator (CEDR)
- Governor of Loretto School 2016-2021
- Diploma in Blockchain Strategy from the Said Business School, University of Oxford

## Professional Associations & Recognitions

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- Fellow of the Chartered Institute of Arbitrators (FCIArb)
- PG Dip. International Commercial Arbitration - QML
- Probationary Member of the Central Association of Agricultural Valuers (CAAV)
- Member of Thomas More Chambers, London
- Member of Terra Firma Chambers, Edinburgh
- Member of the Faculty of Advocates Council

## Publications, Articles & Thought Leadership

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William Frain-Bell has acted as counsel in a broad range of disputes before courts and tribunals throughout the UK and abroad. He is also a Chartered Arbitrator and accredited CEDR Mediator. He is ranked Tier 1 for

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Commercial Litigation in the latest edition of the **Legal 500 (2019)** which describes him as *"Excellent in court; a joy to work with."* In addition William was, *"Highly regarded for his expertise in rural property and agricultural disputes"* (**Chambers UK, 2014**), *"The impressive William Frain-Bell of Terra Firma Chambers excels in the farming and rural property realm. He also has a great deal of experience in international arbitrations". "He is outstanding."* (**Chambers UK, 2013**).

In 2021 William was published in the Journal of Enforcement of Arbitration Awards writing about Qatar, *"Enforcement's 'Coming Home' – Remember Qatar? Pre-World Cup Optimism for the Recognition and Enforcement of Arbitral Awards"*.