



Robert Stokell



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Robert Stokell specialises in substantial construction and engineering disputes, insurance-related advice and litigation, product liability, professional negligence and property damage. He is well placed to advise where a case raises issues in more than one of these areas. He appears regularly in the High Court (particularly the TCC) and the County Court and has acted in the Court of Appeal, in adjudication, arbitration, mediation and settlement meetings. Robert is the Treasurer of the Technology and Construction Bar Association (TECBAR) and he is a TECBAR accredited adjudicator.

Robert also speaks at talks and seminars. Previous topics have included:

- Going for Broke(rs) or The Liability of Insurance Brokers
- The Terminator: Frustration, Termination for Breach & Termination pursuant to Contract
- Professional Negligence in Construction Disputes – PNLA Annual Conference 2016 (Bristol) and PNLA Conference (London) 2016
- The Insurance Act 2015 – Crown Office Chambers Roadshow and In House Lawyers’ Forum 2016 – with Richard Lynagh QC
- Remoteness of Damage: The Achilleas – with Andrew Rigney QC
- Joint Names Insurance: Tyco – with Roger ter Haar QC

Construction & Engineering

Robert specialises in substantial construction and engineering disputes dealing with (for example) defects, delay and disruption, final accounts and liquidated damages. He appears regularly in the TCC and has acted in the Court of Appeal, and in adjudication, arbitration and mediation.

Selected Cases

- *Calonne Construction Ltd v Dawnus Southern Ltd* [2018] EWHC 1634 (TCC); [2019] EWCA Civ 754; [2019] T.C.L.R. 6; [2019] **Costs L.R. 309**: Acting successfully for a building contractor in the TCC in a claim arising out of a residential building project. The employer’s claim for flooding to the basement, due to alleged defects, was dismissed on the ground that an insurance claim had already been made

and paid out on a different basis. The employer was given permission to appeal in relation to two points on a Part 36 offer, regarding the inclusion of a proposed counterclaim, and a term as to interest. The Court of Appeal dismissed the appeal.

- *Skymist Holdings Ltd v Grandlane Developments Ltd* [2019] EWHC 659 (Comm): Opposing an application for pre-action disclosure in relation to prospective proceedings in the Commercial Court, where related proceedings were already on foot in the TCC.
- (Cardiff TCC 2019): Successfully contesting jurisdiction on the basis that, on a proper construction, the contract contained an arbitration agreement.
- *Haberdashers' Aske's Federation Trust Ltd v Lakehouse Contracts Ltd* [2018] EWHC 558 (TCC); [2018] B.L.R. 511; [2018] Lloyd's Rep. I.R. 382; [2018] C.I.L.L. 4121: Acting for contractors (with Andrew Bartlett QC) in a £5m claim arising out of a fire. Issues included joint insurance and the construction of a project insurance policy.
- *Structure Consulting v Maroush Food Production* (TCC 2017): Acting for Maroush, the defendant in an enforcement claim and the claimant in a Part 8 claim for declarations mainly relating to whether or not the parties had agreed a JCT contract, and whether a pay less notice was valid.
- *Goldsworthy v Harrison* [2016] EWHC 1589 (TCC) – Defeating an application for summary judgment to enforce an adjudicator's decision, on the basis that the Court was not satisfied that the parties had agreed that the JCT Minor Works terms were to apply.
- *Harrison v Shepherd Homes Ltd* [2014] EWHC 2786 (TCC) – Costs in a multi-party construction dispute.
- *Harrison v Shepherd Homes Ltd* [2012] EWCA Civ 904 – Acting successfully for the homeowners (with Andrew Bartlett QC) in the Court of Appeal on an appeal in relation to quantum.
- *Harrison & Ors v Shepherd Homes* [2011] EWHC 1811 (TCC); 27 Const LJ 709 – Acting successfully for the homeowners (with Andrew Bartlett QC and Crispin Winsor) in the TCC in claims against a major house builder relating to piled foundations, defects and nuisance in a housing development.
- *Thameside Construction Co Ltd v Arthenella Ltd* [2011] EWHC 2695 (TCC) – Establishing that the claim had been settled in the run-up to Trial by an oral agreement between the principals.
- *PMP Electrical Services Ltd v Henley Homes (East) LLP* [2011] EWHC 599 (TCC) – Defeating a claim in misrepresentation/ deceit in respect of a cabling contract, dealing with an application for security for costs, and obtaining an order for payment of costs by a non-party.
- Acting for a major engineering company in adjudications relating to an energy project. Issues included the construction of a contract (based on a FIDIC form), jurisdiction, claims for defects in intumescent paint, and the construction of a settlement agreement.
- Drafting answers to questions, and a Response, on behalf of a structural engineer in an adjudication arising out of an NEC3 Professional Services Contract. The Adjudicator rejected the claim that the engineer had failed to use reasonable care in respect of ground investigations and the design of piles.
- Drafting a Response and a Rejoinder in an adjudication relating to a housing development constructed (under JCT DB 2011) using pre-fabricated pods. Issues included claims for defects, with reference to expert architectural, engineering and fire safety evidence.
- Adjudication Response in a claim concerning alleged Compensation Events arising out of an infrastructure contract incorporating parts of the NEC3 Engineering and Construction Contract Option A.
- Advising a company which provided services as a contract administrator, lead consultant and building surveyor in respect of a large residential refurbishment project, in a claim relating to an alleged breach of planning permission.
- Advising the provider of social housing in a claim against a developer pursuant to the DPA in respect of defective boilers and flues.

- Acting for an engineer in an adjudication relating to the design of more than 2,000 precast concrete elements.
- Advising whether an engineer owed a duty of care in tort in respect of the adequacy of its design to a tendering contractor.
- Advising on suspension of performance, LADs and provisional sums under a JCT Design and Build Contract 2011.
- Acting for an M&E contractor against the supplier/ commissioner of an air-cooled water chiller, in relation to water damage.
- Acting for a contractor in a case concerning a retaining wall and alleged damage to a warehouse and drainage, and dealing with contribution claims against the engineer and the designer/ builder of the retaining wall.
- Acting for the owner of commercial premises in a claim against a contractor for loss caused by damage to asbestos panels during roof works.
- Acting for an occupier of commercial premises in a claim against an M&E maintenance contractor in relation to damage caused by a fuel oil leak.
- Acting for a residential owner in a claim for defects against a major house builder based on the NHBC Buildmark Policy.
- Acting for the owners of a substantial London property with a defective basement and a leaking roof, in a case against the architect, structural engineer and building contractor.
- Acting for the owner of a lorry park with surface and drainage defects claiming damages from the structural engineer and contractor.
- Acting for a contractor responsible for the construction of a basement and the installation of a damp proof membrane.
- Acting for an engineering and earthworks contractor facing a claim for alleged vibration damage. Acting for the contractor in a £1.2m final account claim pursuant to a JCT 1998 Contract (Private with Approximate Quantities).
- Defeating claims for additional scaffolding hire costs and for damages for loss of scaffolding from site.
- Defeating a £1.9m adjudication claim against a building surveyor in respect of alleged loss following major design changes.

Insurance & Reinsurance

Robert's experience includes coverage disputes, non-disclosure, misrepresentation, late / non-notification, and fraudulent claims.

Selected Cases

- *Haberdashers' Aske's Federation Trust Ltd v Lakehouse Contracts Ltd* [2018] EWHC 558 (TCC); [2018] B.L.R. 511; [2018] Lloyd's Rep. I.R. 382; [2018] C.I.L.L. 4121: acting for contractors (with Andrew Bartlett QC) in a £10m claim arising out of a fire at a school. Issues included joint insurance and the construction of project insurance policies.
- Advising the insurers of a building services subcontractor alleged to be liable for an escape of water whether it had the benefit of a project insurance policy.
- *Harrison v Shepherd Homes Limited* [2010] EWHC 1398 (TCC) – Acting for the home owners (with Andrew Bartlett QC) in a hearing against the NHBC concerning section 3 of the Buildmark Policy and

the Unfair Terms in Consumer Contracts Regulations 1999.

- Acting for PL insurers (with Roger ter Haar QC) in an arbitration before Gavin Kealey QC dealing with coverage, rectification and estoppel, in a claim by a major housebuilder for fire damage.
- Acting for insurers (with Andrew Rigney QC) in an action arising out of a house building policy, with issues relating to coverage, waiver and estoppel.
- Advising the landlord of a large London property on notification and coverage in respect of claims under a PL policy relating to numerous water leaks.
- Advising insurers on declinature based on fraud in a claim for fire damage to the premises of a vehicle maintenance business.
- Advising EL insurers in relation to the identity of the policyholder.
- Advising PL insurers on misrepresentation, non-disclosure and breach of warranty in a claim for damage to a yacht.

Product Liability and Commercial

Robert has acted in a wide range of product liability and commercial disputes dealing with issues including sale of goods, supply of services, personal injuries, insolvency, conversion, bailment, breach of directors' duties, and agency agreements.

Selected Cases

- Acting for a supplier of bicycles defending a claim based on an alleged defect in a bicycle frame.
- Acting for a transport company claiming against a lorry repairer for accident damage caused by the defective repair of a lorry's air brakes.
- Acting in an LCIA Arbitration (IBA Rules) (before Dominic Spenser Underhill) in a case arising out of the carriage of goods by road, dealing with issues relating to the formation of the contract, the letter of credit and repudiation.
- Acting for a major engineer in an arbitration (under the Electricity Industry Arbitration Association rules) relating to the installation and operation of commercial electricity meters.
- Acting for the operator of retail premises in a product liability claim against the manufacturer and the supplier of a commercial refrigerator.
- Acting for a major lorry manufacturer in a product liability case concerning fire damage allegedly caused by a component in a lorry engine.
- Acting for a major lorry manufacturer defending a claim for personal injury allegedly caused by defects in a steering mechanism.
- Acting for a stairlift installer in a product liability claim against the manufacturer.
- Advising the installer of defective diesel generators in respect of a 2.5m claim by way of ICC arbitration against the genset manufacturer.
- Advising a bicycle supplier on a claim against its former solicitors for failing to advise adequately on the effect of the 'longstop' under the Consumer Protection Act 1987.

Professional Liability

Claims for and against professionals, including engineers, valuers and surveyors, solicitors and barristers.

Selected Cases

- Drafting answers to questions, and a Response, on behalf of a structural engineer in an adjudication arising out of an NEC3 Professional Services Contract. The Adjudicator rejected the claim that the engineer had failed to use reasonable care in respect of ground investigations and the design of piles.
- Acting for the surveyor in a claim arising out a rent review.
- Advising on the construction of a settlement agreement, and the expiry of limitation, in a claim for underinsurance due to allegedly negligent advice by a surveyor.
- Acting for a building control surveyor in relation to the issue of certificates for a building converted into residential apartments.
- Acting for an engineer in an adjudication relating to the design of more than 2,000 precast concrete elements.
- Advising on a claim against solicitors for paying out client money, in reliance on an email, to a bank account set up by a fraudster.
- Acting for consulting civil and structural engineers in a claim for alleged defects and water damage in a car park.
- Acting for the owner of a lorry park with surface and drainage defects claiming damages from the structural engineer and contractor.
- Advising a bicycle supplier on a claim against its former solicitors for failing to advise adequately on limitation, and on a claim for contribution from a supplier in the Far East.
- Advising homeowners on a claim against a surveyor relating to subsidence.
- Defeating a claim in an adjudication seeking £1.9m from a building surveyor in respect of alleged loss following major design changes.
- Representing surveyors / valuers in a case brought by a lender against several solicitors and valuers concerning £8m of claims for alleged negligent / fraudulent valuation of numerous residential properties.

Property Damage

Robert acts in claims concerning a wide range of damage to property, including damage by fire, water, oil and tree roots.

Selected Cases

- Advising and acting in a mediation for the supplier of a commercial drinks chiller alleged to have caused a fire due to an electrical fault.
 - Advising on the incorporation and effect of exclusion/ limitation clauses in a contract for security services following loss and damage caused by theft.
 - Acting for a local authority in respect of flooding and water damage allegedly due to a defective drainage pipe.
 - Acting for a local authority in a tree roots claim, defending principally on the basis that the damage was not reasonably foreseeable. The claimants discontinued just before trial.
 - Acting for an M&E contractor against the supplier/ commissioner of an air-cooled water chiller, in relation to water damage.
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- Acting for an occupier of commercial premises in a claim against an M&E maintenance contractor in respect of damage to the premises and neighbouring premises caused by a fuel oil leak.
- Acting for a welder in a claim relating to fire damage.
- Acting in a claim for fire damage to straddle carriers.
- Acting (with Michael Curtis QC) for the installer of a woodburner and flue in a warehouse damaged by fire.
- Acting for the operator of retail premises in a fire claim against the manufacturer and the supplier of a commercial refrigerator.
- Acting for consulting civil and structural engineers in a claim for alleged defects and water damage in a car park.
- Acting for a contractor responsible for the construction of a basement and the installation of a damp proof membrane, in a claim for water damage.
- Acting for an engineering and earthworks contractor facing a claim for alleged vibration damage to a house.
- Acting for insurers of an archive building against the contractor who installed a sprinkler system which failed, causing water damage.
- Acting for a residential owner/ insurer in a tree roots claim.
- Advising insurers on a claim relating to fire damage against the manufacturer of a washing machine, and the electricity company.
- Defeating a claim for fire damage to commercial premises alleged to have been caused by the spontaneous ignition of linseed oil.
- *County Motor Works (Chelmsford) Ltd v PBFW Ltd* [2014] EWHC 3392 (QB) – Defeating a claim for fire damage to commercial premises alleged to have been caused by the spontaneous ignition of linseed oil.
- *Siddiqui v Hillingdon Borough Council* [2003] EWHC 726; 89 Con LR 13 – Acting for the homeowner / insurers in respect of property damage allegedly due to tree roots.

Qualifications

- Eastham Scholarship, Lincoln's Inn
- Sir Thomas More Bursary, Lincoln's Inn
- Hardwicke Entrance Award, Lincoln's Inn
- Boulter Exhibition (Law), Christ Church, Oxford University
- MA (Hons), Christ Church, Oxford University

Memberships

- Technology & Construction Bar Association
- Society of Construction Law
- Commercial Bar Association
- Professional Negligence Bar Association