

# The 2011 Construction Law Master Class

## 22nd June, Central London

Chaired by John Wright, Head of Construction at Bird & Bird



### 9.30 Jonathan Acton-Davis QC & Chantal-Aimee Doerries QC Chairman of Technology and Construction Bar Association Atkin Chambers

Controlling Litigation Costs

1 Controlling litigation costs

- Using your judge to control costs.
- Can you limit pre-action protocol?
- Disclosure.
- Approach to experts.

2 Natural Justice in Adjudication

- When does the adjudicator overstep the mark?
- What is natural justice in the context of adjudication.

3 Adjudication Case Law Update

- Recent cases you need to know about.

### 10.30 David Friedman QC

#### 4 Pump Court

Too much and too little – some different aspects of disclosure

- Too much – the accidental disclosure of without prejudice documents
- Read them or pick up the phone?
- Can the reader and his firm be debarred from acting?
- Too little – silence in settlement negotiations
- Can the settlement agreement be set aside for non-disclosure?
- Was there fraud?

11.15 Morning Break

### 11.35 Jeremy Nicholson QC

#### 4 Pump Court

Duties Of Care In Negligence - An Update

- How it all started
- Physical damage at base level
- Rise and fall of economic loss
- Duty types: physical damage; mis-statement; concurrent duty
- Duties for contractors: Linklaters v. McAlpine [2010] EWHC 2931; Robinson v. P.E.Jones (Contractors) [2011] EWCA Civ 9
- Duties for professionals: Co-Operative Group v. John Allen [2010] EWHC 2300; Dhamija v. Sunningdale [2010] EWHC 2196
- Why does it matter?
- Where next?

### 12.20 Michael Curtis QC

#### Crown Office Chambers

Commercial Property Damage Claims

- Robinson v Jones: the contractor's duty of care
- Siemens v Supershield: causation and remoteness where damage is caused by a contractor / subcontractor
- CPP v Nuway: the correct measure of loss to compensate property owners for damage caused by a contractor / subcontractor"

13.10 Lunch

### 14.00 Kim Franklin

#### Crown Office Chambers

Hot Issues in Professional Liability

1 Scope of duty

- Quantity Surveyors – Dhamija v Sunningdale Joiners Ltd [2010]
- Technical Auditors – Liberty v Campagna [2011]

2 Causation

- Loss of profits – Aldgate Construction v Unibar [2010]
- Breaking the chain – Siemens Building Technologies v Supershield [2010]

3 Particularisation

- Strike out – Pantelli Associates v Corporate City Developments [2010]
- Amendment – Mason v Mills & Reeve [2011]

### 14.45 Jonathan Hosie, Partner

#### Mayer Brown International LLP

Liquidated damages and caps on liability - uses in domestic and international contracts

- Liquidated damages in construction and engineering contracts for delays and plant performance deficiencies
- Compare JCT, NEC, MF/1 and FIDIC approaches to the issue
- How are liquidated damages dealt with in common law/civil law jurisdictions?
- How are liability caps addressed in common law/civil law jurisdictions
- How effective are "exclusive remedy" provisions?

15.30 Afternoon Break

### 15.50 Dr David Mosey, Partner

#### Trowers & Hamblins

Procurement Law & Standard Form Contracts

- Cut the red tape: using procurement law to your advantage
- Clever EU procedures: how can you cut through the bidders' PR machine and formulaic answers?
- Robust evaluation: what are risks of challenge for breach and how do you minimise them?
- Getting the timing right: When does EU law let you appoint a contractor and for what purpose?
- Securing contractor added value: does NEC provide systems to support early contractor procurement?

### 16.30 Stuart Kennedy

#### 3 Paper Buildings

Defective work - Rights and obligations under Building Contracts

- Defects arising before completion
- The Defects Liability Period - what is it?
- Employer's rights to employ a third party
- The Contractor's liabilities
- Practical Completion and the Final Certificate under JCT Contracts
- The Employer's duty to mitigate losses

17.15 Close



**AtkinChambers**Barristers

Registration Hotline

0844 225 3033

www.sgcl.co.uk - simon.gore@sgcl.co.uk

6 SPA CPD Points

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BUILDING  
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# Construction Law Master Class Registration Form

## 22nd June, London

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Send your form back to:

Simon Gore Consulting Ltd, 8 Upper Street, Oakley, Suffolk, IP21 4AX

Alternatively register online at [www.sgcl.co.uk](http://www.sgcl.co.uk)

Call 0844 225 3033, Email [simon.gore@sgcl.co.uk](mailto:simon.gore@sgcl.co.uk)

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