



NEWSLETTER

NOVEMBER 2008

Programme of Events

Unless marked otherwise, the following meetings are free to members and guests.

Location maps are now always available on the website.

All are welcome but for those meetings where the organiser's telephone or email is given, it would be helpful if you could please let them know of your intention to attend.

- Tuesday,
4 November "A designer's duty - a time for review"
Speaker: Alexander Nissen QC
Chairman: Nerys Jefford QC
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Friday,
7 November *Joint CIOB/SCL conference*
"Living in interesting times"
Speakers: Tony Bingham, Professor David Greenwood,
School of the Built Environment, Northumbria University
and Steven Walker, Atkin Chambers
Chairman: Barry Milton
Venue: The Newcastle Falcons Rugby Ground, Newcastle
Organiser: Simon.Lewis@dickinson-dees.com 8.30am – 1.00pm
Please note that, unfortunately, this event has had to be cancelled.
- Thursday,
13 November "Proof of delay claims: London Underground v Citylink"
Speaker: Nerys Jefford QC
Chairman: Nichola Vine
Venue: Pinsents, 3 Colmore Circus, Birmingham B4 5.45 for 6.00pm
Organiser: selvaratnam@mail.com
- Monday,
17 November "Claims: Onerous Pre-Conditions in the Irish Public Works Contract"
Speaker: Patricia Hill BL of Kings Inns, Dublin
Chairman: John Lyden
Venue: Rochestown Park Hotel, Rochestown Road
Douglas, Cork 6.30pm
Organiser: johnlyden@eircom.net
- Thursday
20 November *Second Junior SCL Christmas Lecture*
Speaker: John Riches
Venue: The White Swan, Farringdon Road, London EC4A 6.00pm
Organiser: rbailey@fenwickelliott.co.uk
There is no charge for attendance but places are limited to 120 and will be allocated on a first come, first served basis. Please note: Although the Christmas Lecture is open to all, preference will be given to Junior SCL members.

- Thursday
27 November “Effective management and rational decisions. Can they be achieved in a 28 day Adjudication?”
Speaker: Peter Aeberli
Chairman: Simona Williamson
Venue: McGrigors, 70 Wellington Street, Glasgow G2 5.45 pm for 6.00 pm
Organiser: Lindy.Patterson@dundas-wilson.com
- Tuesday,
2 December *Joint SCL/Tecbar meeting*
“Construing Construction Contracts: Principles, Policies and Practice 10 years after ICS v West Bromwich”
Speaker: Nicholas Baatz QC
Chairman: Mr Justice Coulson
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Tuesday,
27 January “Delay & Disruption: Global Claims, Concurrency and Apportionment”
Speaker: Hamish Lal
Chairman: Andrew McCuish
Venue: Lect. Theatre 118, Northern Terrace, Civic Quarter, Leeds LS1 6.15pm
Organiser: jhawkswell@thkp.co.uk
- Tuesday,
3 February (Speaker and talk title tba)
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Thursday,
12 February Speaker: Tony Bingham (talk title tba)
Chairman: Janey Milligan
Venue: Dundas & Wilson CS LLP, 20 Castle Terrace, Edinburgh EH1 5.45 pm for 6.00 pm
Organiser: Lindy.Patterson@dundas-wilson.com
- Friday,
13 February Lunch at the Brewery
Speaker: Gavin Esler, 12.30pm
See separate item below and attached booking form

London Speaker Programme

Feedback and suggestions for speakers and topics continue to be gratefully received by the organising committee: njefford@keatingchambers.com PMcKinley@trowers.com and julian.bailey@cms-cmck.com

The International Construction Law Conference 2008

The Society of Construction Law’s International Conference was held in London between 5th and 7th October 2008 and what an occasion it was. This was the largest event of its kind ever organised by the SCL and attracted nearly 300 delegates from 23 countries around the world. They were there to listen to 48 speakers and chairmen presenting some outstanding papers.

The conference kicked off on the Sunday afternoon with three sessions organised by the American College of Construction Lawyers. Topics covered included project delivery systems, securing payment and performance as well as international dispute resolution. This was a fascinating insight into how the Americans deliver and manage projects around the world.

Sunday evening saw over 200 people attend a cocktail party on the top walkway at Tower Bridge. The numbers indicate that this was not only a treat for our international visitors but a great venue for all our delegates and their guests.

The conference began in earnest on the Monday morning and was opened by Sir Anthony May with Tomas Kennedy Grant QC from New Zealand chairing the first day. The opening session focused on new contractual relationships with an excellent opening, as always, from Phillip Capper on the trends in new contractual forms which somehow managed to include his favourite I-pod tracks by Frank Sinatra, John Lennon and Jethro Tull! This was followed by Chris Dering giving an enlightening insight into the challenges faced by contractors when entering emerging markets and dealing with the different jurisdictions. The first session was completed by Peter Caldwell with a review of the new World Bank Contract which seems to be having a growing influence, particularly in the emerging markets.

The second session was on BIM (Building Information Modelling). This is the high tech end of the industry where virtual reality modelling is used in conjunction with databases to provide a single source of information on all aspects of projects, not only through construction but throughout the full life cycle of a project. This was a fascinating session and I am sure we will all hear a lot more about BIM in the years to come.

The third session of the day was chaired by His Honour Humphrey LLOYD QC and covered delay. Jeremy Winter presented a well researched analysis of dominant cause and its relevance to concurrent delay. John Tieder looked at methods of analysis and how they are viewed by the US legal system. Dave Barry concluded with a review of the problems faced with reliance on technology and a well rehearsed analysis of the flaws in utilising Time Impact Analysis for retrospective delay analysis.

The final session of day two concentrated on major projects from around the world including a review by Robert Jones of how Alliancing contracts have been successful in New Zealand, a round-up of the major projects in Dubai by Peter Shaw and a review of the San Francisco Oakland Bay Bridge project by Robert Smith.

Chairman's thanks on the International Conference

Since the spring of 2007 a team of people have been working very hard in organizing, planning and managing the second International Society of Construction Law Conference. Keith Kirkwood was "tasked" with planning the conference and he has worked extremely hard and professionally on this from the beginning, ably assisted by our Conference Administrator Frances Whitehead.

Nicholas Gould (Chairman May 2006 – May 2007) started things off by identifying some of the speakers for the international Conference. Nerys Jefford QC (Chairman May 2007 – May 2008) not only carried on with assembling the speakers and sorting out the topics but also "managed" the team (admirably well) during her time as chairman, ably assisted by Helena Brown who spent a considerable amount of time on the speaker programme.

In the summer of 2007 it was decided to form a steering group to manage the planning etc and this consisted of Keith, Nerys, Ronan Champion (the then Treasurer, now Vice Chairman) and myself. An organising committee was also founded consisting of twelve people who were tasked with various matters including such things as delegate packs, designing and the wording for the brochures etc etc. The list is endless but our thanks go to them, they know who they are. Edward Peters (webmaster) continues to provide our IT support and Jackie Morris, very capably looks after our general administration needs as well as reminding me of what I should be doing. Robin O'Neil provided IT support before and during the conference and photography on the day. Finally, grateful thanks to Liz Stephens. Liz was appointed our Event Manager in June 2008 and has since then guided, persuaded and frightened us into working together to make an enjoyable and successful conference. My thanks to you all, those who know me will be tired of hearing my mantra that it was a "team effort". Thanks also to our sponsors for, without their help and support, the Conference would not have been possible.

Barry Milton
Chairman

The President's Medal

The fifth President's Reception was held at Ironmongers' Hall, London on Tuesday, 7th October following on from the International Conference.

The President and Council have, every two years, the difficult but enjoyable task of choosing someone from the 'industry' who has contributed significantly to the world of Construction Law. This year the President presented the medal to John Sims and, judging by the reaction of the audience, a well merited choice.

Some of our younger members may not remember John (now semi-retired and living in Suffolk) but I remember in the 70s reading his articles in Building magazine on the JCT contract. John's background is one of a quantity surveyor, but many of us remember him as a leading light at the Chartered Institute of Arbitrators and indeed I have given evidence in front of him sitting as an arbitrator. He is a founder member of SCL and through the world of construction law he has made many friends. Congratulations John, a worthy recipient of the medal!

Barry Milton
Chairman

SCL Hudson Prize 2008 – increased prize money!

Entries are now invited for the 2008 Competition from all entrants with an interest in construction law and an idea which they wish to share. The length of essay is a maximum of 5,000 words and the judging panel places emphasis upon originality of thought and approach.

Eligible subjects can be drawn from any part of construction law widely defined, including (but not restricted to) construction and engineering contracts, contract administration, claims, arbitration and dispute resolution, construction litigation, the law of torts, company law, property law, taxation (although this must be related to construction) and any other aspect of law or procedure relevant to the construction industry. **First prize has been increased to £2,000 and the second prize has been increased to £1,000.** Entrants can also be highly commended or commended. All who are awarded prizes or commendations receive a year's free membership of the Society.

Past winners have included members of almost all the disciplines relating to construction law including barristers, solicitors (including a trainee) quantity surveyors, engineers, academics, architects, and several hybrids qualified in more than one discipline.

Further details of the competition, the closing date for which is Friday, 2nd January 2009, can be obtained from the website. Any queries can be referred to me via Jackie Morris in the first instance at admin@scl.org.uk
Good luck to all entrants.

Anthony Lavers
Chair of the Judging Panel

Lunch at the Brewery

Members and their guests are invited to the Society's annual lunch at The Brewery, Chiswell Street on Friday, 13 February 2009. We are delighted to announce that the speaker at the event will be Gavin Esler: writer, broadcaster and presenter of BBC's Newsnight. The ticket price is £70 and the King George III room has been booked for post dinner drinks.

Please note that only paid up members can make bookings and that all places will be allocated on a first paid, first served basis. Block bookings by firms will be limited to 2 tables each (tables can seat 10 people). The booking form is enclosed with this newsletter and bookings can also be made on the website.

Junior SCL

Booking preference for any of the organised Junior events is always given to those who are registered as Junior Members. If you are new to the world of construction law, then you can register as a junior member, which is easy to do, as follows:

Log onto the SCL website www.scl.org.uk using your username and password (if you have forgotten what they are, Admin can help). Click on 'Members' and then click the 'Junior members' link on the left. You will find an explanation of Junior Membership, and a simple form to register. You do not need to enter your name/details – these are already recognised by the website after you logged in; you only need to confirm your eligibility by stating that you are junior in your area of expertise.

How to register on the website as a member

In order to get members' access to the website you must register online as a member. Registration is easy.

Go to the website homepage www.scl.org.uk click Member Registration (listed below the Member Login box on the right hand side of the homepage) and enter your details and a username and password of your own choosing. Your membership number is also asked for (if you don't know it, then admin can tell you).

Thereafter, you can simply log onto the website using your username and password. When you log in you will see a navigation link to 'Members' which is where you can update your contact details, email subscriptions and data protection information – and where you can choose to have the newsletter emailed to you instead of (or as well as) receiving it by post. This is where you can also search for information about other SCL members who have agreed for their data to be accessible to other members on the website – the total of those who have given permission is now nearly 1,000 members.

Fourth International Conference on Forensic Engineering

The 4th International Conference on Forensic Engineering entitled "From failure to understanding" will be held at the Institution of Civil Engineers, London from 2nd to 4 December 2008. For more details please visit www.forensicengineering2008.com

New Members

Finally, we are delighted to welcome the 69 new members who joined the Society in October:

Robert Barratt, Stockton on Tees	David Blunt QC, London
Adrian Booth, Milan, Italy	Sean Brannigan, London
Richard Brookes, Nottingham	Kristian Chorlton, Dubai, UAE
Alan Courtney, Paradise Point, Australia	Thomas Crangle, London
James Cross QC, London	Robert Crossingham, London
Tony Crowley, Griston, Norfolk	Stephanie Cura, Leatherhead
John Daly, Exeter	Coriander Davies, Bristol
Mark De Freitas, London	Jim Delkousis, Dubai, UAE
John Dudley, London	Keith Farndale, York
Ryan Fordham, London	Claire Hepworth, London
Gemma Houghton, London	Ian Hunter, London
Martin Hunter, London	Triada Kalymnios, London
Emily Keim, London	Christopher Kirby-Turner, Greenhithe, Kent
Jonathan Kittow, Bristol	Robert Lamb, Gainesville, USA
Samantha Landsberry, London	Matthew Lavy, London
Mark Lawrence, London	Elizabeth Liddiard, Oxford
Richard J Long, Littleton, USA	Jonathan Marks QC, London
Peter Massey, London	Duncan McCall QC, London
George T McLaughlin, Folsom, USA	Gary Philip Miles, Seoul, South Korea
Tim Mitchell, Cheltenham	Sandeep Naik Vaigankar, Dubai, UAE
Tony Norris, Cardiff	Richard Osborne, London
Elsbeth Owens, London	Fiona O'Neill, Dublin, Ireland
Marco Padovan, Milano, Italy	Sarah Palmer, London
Melanie Parker, Birmingham	Sarah Pengelly, Edinburgh
Benjamin Pilling, London	James Rogers, London
Frederic Samelian, Las Vegas, USA	Tim Sharp, Perth, Australia
Sarah Strange, London	Marc Sukkar, Byblos, Lebanon
Michael Taylor, London	Andrew Tobin, London,
Paul Tobin, Sydney, Australia	Alexander Underwood, London
Trevor van Aurich, West Perth, Australia	Kate Vaughan-Neil, London
Panayiotis Voulgaris, Nicosia, Cyprus	Elizabeth Wade, Blackburn
Richard Waller, Wallsend	Kate Wansbrough-Jones, London
Douglas Ward, London	Peter Wharton, Luton
Andrew White, Newport, Shropshire	George Woods, London
Alexander Wright, London	