



NEWSLETTER : August 2019

Programme

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

Location maps are now available on the website.

To register for an event, please go to the SCL website (www.scl.org.uk) (under the tab “Participate” – “Meeting and events”) and where online booking is not available please contact the organiser directly.

London

Tuesday,
6 August “SCL Networking Event”
Venue: The Yacht London, Temple Pier, Victoria Embankment,
London WC2R 2PN 5.00pm

Please note: Cost £18 incl VAT per person. Numbers are limited and tickets will be sold on a first paid, first served basis.

Tuesday,
3 September “Murphy’s law: what rights do purchasers of new build properties really have against Building Control, warranty providers and others?”
Speakers: Jonathan Selby QC and Sam Townend
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: london@scl.org.uk

(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Thursday,
19 September “The Society of Construction Law London Conference”
Speakers: Lord Justice Coulson, Dr. Franco Mastrandrea, HKA, David Barry, Blackrock Expert Services; Shy Jackson, Pinsent Masons; Christopher Miers, Probyn Miers; Mark Wheeler, Diales; Hannah Wennell, Morgan Sindall; Richard Wilmot-Smith QC, 39 Essex Chambers, Karen Gough, 39 Essex Chambers, Ellis Baker, White & Case; John Hughes D’aeth, Bryan Cave Leighton Paisner; Alistair McLean, Brodies; Victoria Peckett, CMS, Sir Rupert Jackson, 4 New Square Gwyn Owen, Chartered Arbitrator, Alexander Nissen QC, Keating Chambers Garry Borland QC, Axiom Advocates, Katie Powell, Atkin Chambers Fiona Sinclair QC, 4 Pump Court Robert Stevenson, BLM, Paul Battrick, Diales, Craig Arnott, Managing Director Burford Capital; Nicholas Bacon QC, 4 New Square; Robert Hanna, Augusta Ventures Limited; Yasmin Mohammad, Head of International Arbitration Vannin Capital, Mrs Justice Cockerill DBE. Closing comments by Jonathan Cope, SCL Chair.
Chair: Hamish Lal, Akin Gump Strauss Hauer & Feld
Venue: IET, 2 Savoy Pl, London WC2R 0BL Registration 8.30am

Please note: Cost £195 including VAT and tickets will be sold on a first paid, first served basis.

Tuesday
1 October “Due Process and Issues Which Prey on The Minds of Arbitrators and Clients Alike”
Speaker: Richard Wilmot-Smith QC, 39 Essex Chambers
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: london@scl.org.uk

(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Tuesday,
12 November "Going Underground: contracts for underground works"
Speaker(s): Charles Nairac, White & Case and
Michael Curtis QC, Crown Office Chambers
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: london@scl.org.uk

(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Tuesday
3 December "Stopping the clock – Liquidated Damages after Triple Point"
Joint SCL/TECBAR event
Speaker: Neil Hext QC
Chair: Mr Justice Pepperall
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: london@scl.org.uk

(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Birmingham

Tuesday,
17 September "Current issues in construction law: What comprises a condition precedent? Triple Point: LDs after termination"
Speakers: Simon Hargreaves QC and James Frampton – Keating Chambers
Chairman: Michael O'Shea
Venue: Eversheds Sutherland, 115 Colmore Row,
Birmingham B3 3AL 5.30 for 6.00pm
Organiser: ian.yule@shoosmiths.co.uk

For further enquiries please contact Grace.Sparkes@shoosmiths.co.uk

Cardiff

Wednesday,
18 September "When insolvency trumps rough justice: injunctions and stays of execution of adjudication proceedings"
Speakers: David Sears QC and Crispin Winsor, Crown Office Chambers
Chair: Sean Gibbs/Rachel Gwilliam
Venue: Blake Morgan, One Central Square,
Cardiff CF10 1FS 5.30 for 6.00pm
Organisers: rachel.gwilliam@blakemorgan.co.uk &
sean.gibbs@hanscombintercontinental.co.uk

Cheltenham

Wednesday,
18 September "Design Liability & Professional Negligence – Contractors and Consultants perspectives"
Speaker: Sian Mirchandani QC, 4 New Square
Chairs: Sean Gibbs/Anna Wood
Venue: Queens Hotel, The Promenade,
Cheltenham GL50 1NN 5.30 for 6.00pm
Organisers: sean.gibbs@hanscombintercontinental.co.uk

Eastern

Monday,
7 October "Professional Advice and Administration in Construction Projects: Scope of Duty and Scope of Responsibility"
Speakers: Patrick Clarke and Marc Lixenberg, Atkin Chambers
Venue: Mills & Reeve LLP, Botanic House, 100 Hills Road
Cambridge CB2 1PH 6.00pm
Organisers: alison.garrett@mills-reeve.com, colinjones@hewitsons.com or
alistair.cull@drivertrett.com

Ireland

- Thursday,
26 September “Public works contract users: ADR strategies and tactics”
Speaker: James O'Donoghue
Chair: Arran Dowling-Hussey
Venue: RIAI, 8 Merrion Square, Dublin 2, D02 YE68 6.00pm
Organiser: adhussey@lawlibrary.ie
- Thursday,
24 October “Making and Defending Claims for Time and Money”
Speakers: Dermot Flanagan S.C, Denise Kennedy, John Lyden, Terry McLoughlin and John Trainor SC,
Chair: Hamish Lal
Venue: Ronan Daly Jermyn, Aengus House, Dock St, Galway, H91 R2C4 5.30pm
Organiser: adhussey@lawlibrary.ie
- Friday,
29 November “SCL Lunch in Dublin”
Speaker: Marion Smith QC
Venue: Guinness Storehouse, The Arrol Suite, St James's Gate, Dublin 8 12 noon for 1.00pm
Organiser: adhussey@lawlibrary.ie

Please note: cost 125 EUR inclusive of Irish VAT. Block bookings by firms will be limited to 2 tables each. All places will be allocated on a first paid, first served basis.

Leeds

- Friday,
6 September “The SCL Lunch in Leeds”
Speaker: Sir Rupert Jackson
Venue: Leeds Marriott Hotel, 4 Trevelyan Square, Boar Lane, Leeds LS1 6ET 12.15 for 1.00pm
Organiser: jhawkswell@hklegal.co.uk

Please note: Cost £75 per person incl VAT. Block bookings by firms will be limited to 2 tables each. All places will be allocated on a first paid, first served basis.

Manchester

- Thursday,
19 September “Liquidated Damages after Triple Point v PTT”
Speaker: Neil Hext QC, 4 New Square
Chair: Fraser Askham and Lucy Osborne
Venue: Friends' Meeting House, Room G4, 6 Mount Street, Manchester M3 5NS 5.30 for 6.00pm
Organisers: fraser.askham@cms-cmno.com & LOsborne@ridge.co.uk
- Thursday,
3 October “Gosvenor London Ltd v Aygun Aluminium Ltd : staying judgments enforcing adjudicators' decisions where there is a real risk of dissipation”
Speakers: Dr Tim Sampson and David Sawtell, Lamb Chambers
Chair: Fraser Askham and Lucy Osborne
Venue: Friends' Meeting House, Room F11, 6 Mount Street, Manchester M3 5NS 5.30 for 6.00pm
Organisers: fraser.askham@cms-cmno.com & LOsborne@ridge.co.uk

Scotland

Friday,
1 November “The SCL Lunch in Scotland”
Venue: The Supper Club, 29 Royal Exchange Square,
Glasgow G1 3AJ 12 for 12.30pm
Organisers: louise.shiels@brodies.com & andrew.groom@brodies.com

South West

Tuesday,
17 September “Future of Adjudication”
Speaker: Matt Molloy, MCMS
Chair: Oliver Williams
Venue: Trowers & Hamlins LLP, The Senate, Southernhay Gardens,
Exeter EX1 1UG 5.45pm
Organisers: tris.tucker@footanstey.com & owilliams@trowers.com

Tuesday,
24 September “Adjudication of construction professional negligence claims”
Speaker: Ebony Alleyne, Hardwicke Chambers
Chair: Jonathan Spencer
Venue: Bristol Hotel, George White Room, Prince Street,
Bristol BS1 4QF 5.15 for 6.00pm
Organiser: Jonathan.Spencer@simmons-simmons.com

Friday,
11 October “The SCL Lunch in Bristol”
Speaker: Paul ‘Mungo’ Mungeam (Bear Grylls’ Cameraman)
Venue: Bristol Marriott Royal Hotel, College Green,
Bristol BS1 5TA 12 for 1.00pm
Organiser: Jonathan.Spencer@simmons-simmons.com

Please note: this event is now FULLY BOOKED. If you wish to be placed on a reserve list please email frances.whitehead@scl.org.uk

Surrey/Sussex

Tuesday,
15 October “Practical Completion and Liquidated Damages: interesting developments in the Court of Appeal”
Speaker: Claire Packman, 4 Pump Court
Chair: Mark Clinton, Irwin Mitchell Solicitors
Venue: Irwin Mitchell Solicitors, Belmont House, Station Way,
Crawley RH10 1JA 5.30 for 6.00pm
Organiser: Andrew.Keeley@crsblaw.com

We are keen to receive suggestions for speakers and topics both for the London and the Regional programmes. If you have any suggestions please send your ideas to: Keith Kirkwood (keithkirkwood@benningtongreen.co.uk); Ronan Champion (rchampion@championpearce.com); Jonathan Cope (jonathan.cope@mcms.co.uk) or Hamish Lal (hlal@akingump.com)

From the Chair

Dear SCL Members

In this month's newsletter we remember Jane Lemon QC of Keating Chambers who, as many of you will already be aware, tragically died suddenly from a brain haemorrhage at the end of April 2019. Attached is Jane's obituary, and my thanks go to all of those at Keating who had an input in preparing it. It is clear that Jane was much loved and is sorely missed by all those who knew her; our President, Lord Justice Coulson, fittingly summed this up when he said "*Jane was an extraordinarily warm and empathetic person, with no side or hidden agenda. Sadly, I think she is irreplaceable*".

Also attached to the newsletter is a flyer for an article competition being run by TECBAR and TeCSA in memory of Jane, "*The Jane Lemon QC Competition*". It is a one-off competition to write a short article in her honour, and will be judged by Mr Justice Fraser. I would encourage all of you who are eligible to consider submitting an article.

On a lighter note, I've had a busy month as Chair, including having the pleasure of attending the TECBAR Dinner at Lincoln's Inn to represent the Society. My congratulations go to Rachel Ansell QC on becoming the new Chair of TECBAR, and to the outgoing Chair, Alexander Nissen QC, on an outstanding two years at the helm.

Although many of you will now be on your summer holidays, this has not dampened demand for our networking event at The Yacht London on 6th August; there are still some tickets remaining, and booking details can be found earlier in the newsletter. I look forward to seeing many of you there, and please do by all means speak to me or any other member of Council at the event if there are any suggestions for future Society events that you would like to see on the programme.

The Society has a variety of events in September to suit every taste, with talks in Birmingham, Bristol, Cardiff, Cheltenham, Dublin, Exeter, London and Manchester, not to mention the SCL Autumn Conference on 19th September in London. The conference will be opened by Lord Justice Coulson, and the final lecture will be by Mrs Justice Cockerill DBE; the filling to this 'judge sandwich' is an outstanding line-up of other speakers, and I would urge you to consider booking as soon as possible.

Before the conference we have the SCL Lunch in Leeds on 6th September, where our former President, Sir Rupert Jackson, will be sharing some anecdotes about his long and illustrious career. Although the Leeds lunch is proving as popular as ever, there are still some tickets available. Other regional lunches coming up in the autumn include:

- The SCL Lunch in Bristol on 11th October 2019, although this is now sold out;
- The SCL Lunch in Scotland on 1st November 2019;
- The SCL Lunch in Ireland on 29th November 2019.

Looking ahead to 2020, the 9th International Society of Construction Law Conference will be held in Auckland, New Zealand, from 4th to 6th November 2020, and I'm very pleased to say that the conference website is now live: www.constructionlaw2020.com. I hope that as many of our members as possible will be there representing the UK SCL.

Finally, may I wish you all a restful summer, and I look forward to seeing many of you at The Yacht London or at one of our many events in September.

Jonathan Cope – Chair
jonathan.cope@mcms.co.uk

SCL Hudson Prize Competition 2019

Entries are now invited for the 2019 Competition from all entrants with an interest in construction law and an idea which they wish to share. The judging panel places emphasis on originality of thought and approach. The length of essay is a maximum of 5000 words. (While footnoting or other methods of referencing sources does not count towards this total and is encouraged, some recent entrants appear to have tried to avoid the word limit by loading footnotes with matters of substance, sometimes running to several paragraphs, in a disproportionate and inappropriate way. This is almost always counter-productive).

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, adjudication and dispute resolution, construction litigation, the law of torts, company law, property law, procurement, professional negligence, taxation (although this must be related to construction) and any other aspect of law or procedure relevant to the construction industry. **First prize is £2,500 and Second prize is £1,250.** Entrants can also be Highly Commended or Commended. The award of prizes or commendations, or the decision not to award them, is in the absolute discretion of the Society through its judging panel. All who are awarded prizes or commendations receive a year's free membership of the Society. The Society may decide, at its discretion, to publish the successful papers, in hard copy and/or electronic format.

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

Further information and entry details can be found on the website www.scl.org.uk or obtained from Jill Ward admin@scl.org.uk. The closing date for essay submission is Friday 3rd January 2020. Any queries can be referred to the panel via Jill Ward in the first instance.

SCL Astra

Two important qualities are required to succeed in the construction legal market (apart from avoiding hard hat hair):

1. Knowledge / an understanding of the wonderful world of construction law
2. A wide and varied network of contacts to assist in generating business and satisfying client demands

With that in mind, SCL Astra (formerly Junior SCL) was established to provide tailored opportunities to develop these qualities for SCL members who fall within one of the following categories:

- Up to 10 years post-qualification experience
- Recently moved or returned to the construction legal industry
- Young at heart

We organise a range of activities for our members, including seminars, social events, site visits and our bi-annual international conference. Previous conferences have taken place in Paris, Madrid and Dubai; the next is planned for mid-2020. We adopt the mantra that there are no stupid questions and foster an environment of learning and development. We also maintain strong links with RICS Matrics and CIOB Novus which permits the sharing of insights into various aspects of the construction industry. There is no additional cost to be part of SCL Astra – once you are an SCL member and meet one of the above criteria; we welcome you to our ranks!

If you are interested in registering as an Astra member, please sign up on the Astra page of the SCL website (note that you need to opt-in to receive communications regarding Astra events). Otherwise, watch out for upcoming Astra events in the SCL newsletter, on the website or SCL Astra Twitter handle (@SCLAstra).

Finally, if you are interested in being part of the Astra committee in your region, we would love to hear from you. Please email swilliams@keatingchambers.com; Rebecca.shorter@whitecase.com or ladams@atkinchambers.com.

FRANCES PATERSON SCHOLARSHIPS

<https://www.scl.org.uk/resources/news/frances-paterson-scholarships>

SCL awards for Ph.D candidates in Construction Law

As a tribute to her distinguished contribution to construction law, and to the work of SCL, the Society has decided to offer a scholarship bearing Frances Paterson's name. The purpose of the scholarship is to support doctoral research in the field of construction law at a UK university.

1. The Scholarship is intended to assist with the payment of university fees for the duration of a Doctorate and has therefore been set at 50% of the annual course fee, up to a maximum of £2,500 per year (£1,250 for a part-time candidate).
2. Applicants must be registered for a Doctorate, or for a Master's leading to transfer to a Doctorate, at a university in Great Britain or Northern Ireland, undertaking research in construction law, within the broad definition given in the SCL Hudson Prize guidance.
3. The intention is that the award will be renewed annually, based on confirmation of satisfactory progress being provided by the holder's supervisor. Subject to this, it is intended that the award will be for 3 years for a full-time candidate and for 4 years for a part-time candidate.
4. No extension of the duration of the award is envisaged. An application for an extension would only be considered if the candidate's supervisor could demonstrate exceptional circumstances which the University Liaison and Grants Sub-Committee regarded as justifying an extension.
5. Applications for award (and renewal of an existing award) must be made at least eight working weeks before the start of the term of the year of the award.
6. Applications must be on the pro-forma available on the SCL web-site, or from the SCL Administrators, Jill Ward and Frances Whitehead. Applications must be accompanied by a reference from the university supervisor, or prospective supervisor of the candidate as to: a) the academic record and quality of the candidate; b) the value of the research, including prospects for publication; and c) the prospects of completion within 3 years (full-time) and 4 years (part-time).
7. All decisions on awards, and renewal of awards, will be at the absolute discretion of SCL Council, on the recommendation of the University Liaison and Grants Sub-Committee. An independent academic reviewer may be used in the initial award process. The Society cannot enter into communication with applicants regarding the merits of decisions on applications and/or renewals.
8. On successful completion of the Doctorate, the holder of the award may be invited to make a presentation to a meeting of SCL and will be required to provide a written summary of the results within the format of a SCL paper.

To mark the launch of the scholarships, the Society proposes to offer TWO full-time awards (or part-time equivalents) for doctorates commencing in 2019. In future years, ONE further full-time award (or part-time equivalents) is intended, subject to suitable applications being received.

9th International Society of Construction Law Conference 2020 4-6 November 2020

SCL (New Zealand) welcomes the opportunity to host the 9th International Society of Construction Law Conference in Auckland New Zealand.

The conference website is now live: www.constructionlaw2020.com.

SCL Astra London breakfast seminar host venues

SCL Astra's London breakfast seminar series is made possible by kind participation of members and their organisations. If your organisation would be interested in hosting SCL Astra for a breakfast seminar, or for more details of what hosting entails, please contact:-
swilliams@keatingchambers.com, rebecca.shorter@whitecase.com and ladams@atkinchambers.com for further details.

Papers Summary

Payment in the Construction Industry – where are we now? (D220) by **Rudi Klein**, is now available online. The paper was presented to the Society of Construction Law at meetings in Cambridge on 15th October 2018 and Edinburgh on 29th November 2018. The paper examines payment practices in the UK construction industry, following the collapse of Carillion in 2018, and the various initiatives that have attempted to resolve the issues over the years. It looks at how an effective framework for payment security should be established with certainties of timing, amount, enforcement and recovery and goes on to consider how continuing payment problems in the industry could be addressed. The author offers suggestions including: reform of the adjudication provisions; changes to the payment notices regime, the public contracts regulations and reporting requirements; the mandating of project bank accounts; and the protection of retentions.

Social Media, E-mail and Keeping You Informed

In addition to keeping up to date via email, the newsletter and the website, the SCL has a presence on Twitter and LinkedIn where you can find information, news and events:

LinkedIn group 'Society of Construction Law UK'

Twitter name '@SCL_UK' SCL Astra Twitter handle (@SCLAstra)

We always welcome feedback and comments, including via tweets and postings on how we can improve the service the SCL provides to its members. Contact details for all Council members can be found on the SCL's website. We would also take this opportunity to remind all members to update their online details and preferences to ensure you only receive the information you want from the SCL.

New Members

Finally, we are pleased to welcome the new members who recently joined the Society:

Paul Bastuba, Newport
Mariia Bulycheva, Russia
Reiss Duthie, Northampton
Steve Garrard, Australia
David Kenna, Chertsey
Kathleen McGrath, Aberdeenshire
Eddie Murphy, Ireland
Ashley Pickin, UAE
Peter Solomon, London
HeeChai Tan, Malaysia
Antonia Underhill, Netherlands
Charlie Woodley, London

Hedi Ben Fraj, UAE
Ben Couldrey, Sheffield
Sean Ellison, London
Melanie Grimmitt, Leeds
David King, London
Richard Moody, London
Shane O'Connor, Ireland
Gregory Rowntree, Thirsk
Mark Sunley, Crawley
Lauren Tillott, London
Panayiotis Voulgaris, Cyprus
Simon Yates, Cardiff

Lahoucine Bouhouch, France
Conaill Doherty, London
Emily Frindall, Wallingford
Laura Hannan, London
Murdo Macaskill, Isle of Lewis
Arnab Mukherjee, Wokingham
Alexcia Ossei-Williams, London
Andrew Singer, Manchester
Shahid Basha Syed, India
Hilary Tse, London
Paul Whittle, Slough