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Jonathan Lee KC

Call: **1993** Silk: **2015**

"He is very thorough and a very hard worker. He brings a thoughtful and cerebral approach to cases."
Chambers UK, 2016



Clerk Details

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Practice Overview

Jonathan Lee KC has a thriving domestic and international practice as a barrister at the Technology and Construction Bar. His professional background and qualifications in electrical and electronic engineering enable him to bring commercial and technical understanding to his practice at the Bar. Clients appreciate his ability to grasp the complex technical aspects of their cases and to relate effectively to expert and lay witnesses.

Jonathan's practice covers both advocacy and advisory work. He acts for clients in litigation, domestic and international arbitrations, adjudications and mediations. Jonathan specialises in commercial and contractual disputes relating to engineering projects, often where resolution depends upon detailed engineering analysis. He has particular experience of information technology, electrical engineering and energy disputes whether acting for employers, engineers, contractors or sub-contractors. He has been instructed by both public sector and private sector clients, including: central and local government departments, commercial project funders, employers, contractors and associated professionals.

Jonathan regularly accepts appointments as an arbitrator, adjudicator and mediator particularly in construction, engineering and IT disputes.

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Practice Areas

Construction, Engineering & Energy Cases

Jonathan Lee KC has considerable experience of disputes arising from construction and engineering projects. These include claims brought by or against contractors and members of professional design teams. The claims often concern defective design and / or construction or negligent supervision of work. They often concern delay and require familiarity with project programming techniques and delay analysis.

Buildings

- New school / academy building – disputes concerning valuation, variations and delay.
- Development of a hospital pursuant to a PFI contract – disputes concerning programming of construction operations and the performance of technical plant and sterilisation equipment in the hospital.
- Remedial work at a superstore following subsidence and ground improvement schemes.
- A new data-centre for a bank – disputes over defective works, termination and proportionality of remedial schemes particularly in respect of cladding and roofing defects.
- The construction of new world class scientific laboratories under the PFI – disputes concerning the performance laboratories that required close temperature control and sound insulation.
- A major shopping centre in Poland – disputes concerning the quality of work and delays in progress.
- A pharmaceutical factory – disputes concerning liability for losses caused by damage to drainage facilities.
- Warehouse floor and foundations – disputes concerning defects of design and construction in concrete, liabilities for remedial work, liquidated damages and consequential damages.
- Hotel refurbishments – contractual disputes concerning delays to completion of the project and associated liabilities, disputes over variations and rights to payment for direct and indirect costs – claims concerning liabilities for removal of asbestos containing materials.

Sporting Venues

- Football stadium – liability of engineers for movement, under dynamic loading of stands, design of remedial solutions and consequential losses.
- Rugby stadium – liability for quality of turf and for the design and operation of a system allowing the pitch to be removed and replaced in a modular fashion.
- Velodrome – claims in respect of latent defects appearing years after completion with difficulties caused by intervening ground movements.
- Leisure Centre – liability of designers of a system of water flume after injury to a member of the public.

Railways

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- Mainline railway upgrading works – disputes between main contractor and sub-contractor over payment, progress and termination.
- Underground railway operation and maintenance contracts. Rights and liabilities under a PPP contract and claims concerning legacy engineering defects and costs of remedial work.
- Upgrading and extending the London Underground network – final account claims including liabilities for variation quantification disruption and delay costs.

Ships

- Ship refurbishment contracts – disputes over liabilities for consequences of contamination of thruster oils and in relation the specification and payment for refurbishment of mechanical and electrical services.
- River ferries – disputes concerning the design of propellers and the interaction between the design of the hull and the propellers.
- Cruise liner docking facilities – disputes concerning the quality and timing of designs prepared by engineering consultants and the consequences for the main contractor.

Industrial Plant

- Gold mining / production facilities – rights and liabilities of project managers and engineers for the construction of facilities for the production of gold following open cast extraction of ore.
- Tower crane – liabilities of insurers for disruption to construction site following the collapse of a tower crane.
- Aircraft engine test cell facilities disputes over the specification and performance of a new testing facility together with associated commercial disputes.

Oil & Gas

- Commercial disputes arising from a contract for the design, supply and off-shore installation of sub-sea equipment and risers running to a floating production storage and off-loading (FPSO) facility.
- Acting for main contractor in an arbitration concerning dispute over the construction of an oil and gas production facility and processing plant in Kazakhstan.
- Acting for a client in respect of valuation disputes in relation to the welding of skids for the offshore oil industry.
- Acting for the main contractor appointed for the refurbishment of an off-shore rig on issues concerning liabilities for down time and failure of electro mechanical plant.
- Acting for a contractor responsible for the construction of a gas pipeline in relation to disputes over sums recoverable after termination of the contract and disputes over the correct forum for dispute resolution.
- Acting for a contractor in a sub-contract dispute concerning the quality of steel pipes supplied for the construction of pipeline facilities at an oil off-loading terminal.

Power & Green Energy Systems

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- Advising clients in relation to the construction of a contract between partner organisations for the development of a tidal energy generation project.
- Acting for the sub-contractors appointed for the construction of on-shore wind farms in respect of disputes concerning the proper construction of the sub-contract and liability for delays caused by late and defective design work.
- Acting for a major electrical engineering contractor in relation to the payment claims and counterclaims arising from an EPC contract for a multi-turbine power and desalination plants in the Middle East where there were both disputes with the employer and disputes between joint venture partners.
- Acting for a main contractor responsible for the construction of a coal fired power generation stations in relation to questions of liability for defects after expiry of the defect liability period.
- Acting for the owner of a new gas fired power station in a dispute concerning the efficiency of operating gas turbine generators.
- Acting for engineering contractor in respect of liabilities and indemnities for damage following the collapse of a canal bank during directional drilling to form cable ducts for the installation of HV transmission cables.

Water

- River flood defences – disputes concerning the liabilities of engineers and contractors for instabilities in flood defences, the causes of flood defence failures and the scope and cost of necessary remedial works.
- Reservoirs – liabilities of occupiers and undertakers under the Reservoirs Act 1975.

Mechanical & Electrical Systems

Before being called to the bar Jonathan Lee KC was involved as an engineer in the specification and delivery of electrical, electronic and communication systems for technical and construction project in the television and broadcasting sector. As a barrister he has broad experience of the commercial disputes arising from such works.

- Acting for clients involved in cabling disputes such as a contract dispute concerning the quality of manufacturing processes of fibre optic cables that were used in sub-sea communications
  networks and the quality of materials used to manufacture electrical ducts.
- Acting for a bank in relation to a contractual dispute with the designers and the contractors responsible for the engineering and installation of automated switch-over power facilities for the provision of backup generator power.
- Acting for property developers in relation to the provision of electrical supplies to its site and the location of sub-stations within its site boundaries.
- Acting for mechanical and electrical sub-contractors whose works have been delayed and disrupted by employers' design changes and the slow progress of other trades. Examples include: contractual disputes over responsibilities for co-ordination of technical trades, programming and quantification losses arising during the construction of multi-story office facilities in Canary Wharf, London; and acting to protect an M&E sub-contractor and secure payment for its installation work in a new build factory in the food industry when the main contractor was seeking to avoid payment and pass on its employer's claims

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for lost production.

- Acting for utility companies and civil engineering companies in relation to damage to electrical cables buried in streets caused by clashes between cables and other equipment; issue including rights and responsibilities for work performed in the street under the New Roads and Street Works Act 1991 and contract disputes.
- Acting for property developers in relation to the diversion of existing electrical power lines crossing their site and moving existing telecommunications equipment.
- Acting for parties in respect of contractual disputes with engineers and contractors arising from failed electrical equipment such as chillers, termination panels, and circuit breakers.
- Acting for sub-contractors in relation to commercial disputes concerning delays to and valuation of cabling works on the London Underground network.
- Acting for a sub-contractor responsible for the design and construction of all electrical, mechanical and communication systems required during the refurbishment of traffic tunnels. Issues concerned late design development, ambiguity of specifications, whether designs were defective or whether the employer was responsible for scope creep, the causes of delays during procurement, development, and testing of technical facilities and the quality of installation work.
- Acting for a subcontractor in relation to disputes concerning the design of power distribution system for a retail shopping outlet.
- Acting for both employers and contractors in dispute concerning defective electrical busbars feeding business critical electrical systems.

IT & Technology

Jonathan has familiarity with computer software development and he himself has experience of programming in five languages. He also has experience specifying, developing, procuring and implementing communication systems. As a barrister he has experience of numerous information technology and communication cases, including:

- Acting for a central government department over several years in relation to a number of contractual disputes concerning the development and delivery of IT systems and services for the department’s internal administration and external communications. Issues ranged from EU procurement obligations, defective software, delays and programming, integration of third party software, acceptance testing and rights in respect of damages, service credits and termination.
- Acting for a local government authority in a dispute concerning the quality of a contractor’s performance on a project for the development of software and the implementation of new systems for revenue collection. Issues included the parties’ rights and obligations in respect of the integration of new systems with legacy systems and data.
- Acting for a national chain of restaurants in relation to the development of its computer network and business losses sustained by reason of IT system communication failures.
- Acting for a security company in relation to failures during the implementation of a new nationwide IT system for automated personnel resource monitoring and recording.

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- Acting for a City based bank in relation to a dispute concerning delays in delivery of dealing room facilities.
- Acting for a company in dispute over due diligence inspections and representations in relation to the quality of microwave radio systems for mobile telephone networks.
- Acting for a telecommunications company in relation allocation of contractual risk under an interconnect agreement for losses caused by fraudulent network use.
- Acting for the supplier of an automated steel slitting machine sued in respect of alleged losses of productivity due either to defective programmable logic controllers or the purchaser's own failures of operation and maintenance.
- Acting for the purchaser of CNC (computer numerically controlled) milling machines for use in the automotive industries in a dispute concerning software defects, attempted remedial solutions, rejection and termination options.

Bonds, Guarantees & Collateral Warranties

Jonathan Lee KC also accepts instructions in relation to claims relating to the financial bonds and guarantees that are often associated with engineering and construction cases. Typical instructions concern disputes over the proper construction of such financial instruments, the ability of bondsmen to avoid payment following a demand and the ability of contractors to prevent payment by its guarantor making payment or seeking to avoid liability for a consequential claim on a cross-guarantee.

Appointments as Arbitrator & Adjudicator

Arbitral Appointments: Jonathan Lee KC regularly accepts appointments as an international arbitrator and previous appointments have been in relation to:

- An ICC arbitration concerning generators for a hydroelectric facility;
- An international arbitration under the LCIA arbitration rules concerning a dispute arising from a contract for the development of computer software;
- An international trade contract arbitration about the supply and performance of telecommunication equipment;
- An arbitration concerning development of holiday properties in the Mediterranean;
- An arbitration under the UNCITRAL arbitration rules concerning disputes arising from contracts for the sale of power generation units;
- An arbitration concerning a commercial business park development;
- An international trade dispute under the UNCITRAL arbitration rules concerning IT systems and software development.

Appointments as Adjudicator: As an adjudicator Jonathan Lee KC's previous appointments include disputes concerning:

- The boundary between design and construction obligations for work carried out under contracts in the nuclear power sector and rights to payment for work carried out;
- The rights and obligations of the parties in relation to termination of civil engineering work in the water industry;

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- Delay to, and liability for damage to, a development of semi-prefabricated domestic residential units and contractual rights arising from contract termination;
- Liability and valuation disputes arising from the laying of, and damage to, power cables;
- A dispute arising from a contract for the upgrading of railway infrastructure;
- A dispute concerning the refurbishment of noise testing facilities;
- A dispute concerning pipework infrastructure at an oil refinery;
- A dispute concerning PFI waste disposal contracts.

Reported Cases

- Accolade Wines v Volkerfitzpatrick (2) Volkervessels (3) Goodman (4) Keller (5) Twintec (6) GJ3&4
- Willmott Dixon Housing Ltd v Newlon Housing Trust EWHC 798 (TCC); [2013] B.L.R. 325; 147 Con. L.R. 194; [2013] 2 E.G.L.R. 23; [2013] C.I.L.L. 3364
- National Museums and Galleries on Merseyside v AEW Architects and Designers Limited Costs / Interest: [2014] 1 Costs L.O. 39; [2013] EWHC 3025 (TCC) Substantive Judgement: [2013] EWHC 2403 (TCC) (01 July 2013)
- Lazari v London & Newcastle (Camden) Ltd EWHC 97 (TCC); [2013] C.P. Rep. 26; [2013] B.L.R. 313; (2013) 163 N.L.J. 169
- Fitzpatrick Contractors Ltd v Tyco Fire and Integrated Solutions (UK) Ltd EWHC 274, [2009] All ER (D) 70 (Mar), [2009] BLR 144
- PT Building Services Ltd v ROK Build Ltd EWHC 3434
- Gwelhayl Ltd v Midas Construction Ltd EWHC 2316, 123 Con. L.R. 91
- Fitzpatrick Contractors Ltd v Tyco Fire and Integrated Solutions (UK) Ltd EWHC 1301, [2008] All ER (D) 218, 119 ConLR 155
- Fitzpatrick Contractors Ltd v Tyco Fire and Integrated Solutions (UK) Ltd EWHC 1301, [2008] All ER (D) 218, 119 ConLR 155
- Jordan & Anor v Geason (No. 2) EWHC 2270
- Yorkshire Electricity Distribution plc v Telewest ltd [Court of Appeal] EWCA Civ 1418; [2006] All E.R. (D) 369 (Oct)
- Gerling General Insurance Co. & others v Canary Wharf Group plc All ER (D) 356 (Oct), [2006] 1 Lloyd's Rep 68
- Hatmet Ltd v Herbert (t/a LMS Lift Consultants) EWHC 3529 (TCC), 115 Con LR 95
- Gerling General Insurance Co v Canary Wharf Group EWHC 2234 LAWTEL Commercial Court
- J Sainsbury Plc & Anor v WSP Consulting Engineers Plc EWHC 2610
- CIB Properties Ltd v Birse Construction BLR 173 TCC

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- IDE Contracting Ltd v RG Carter Cambridge Ltd 102 Con LR 102 TCC
- IDE Contracting Ltd v RG Carter Cambridge Ltd All ER (D) 224, [2004] BLR 172
- Oakley v Airclear Environment Ltd CILL 1824
- Discain Project Services Ltd v Opecprime Developments Ltd All ER (D) 123
- DSND Subsea Ltd v Petroleum Geo-Services ASA All ER (D) 1101, [2000] BLR 530
- VHE Construction plc v RBSTB Trust Co Ltd BLR 187
- Graham v British Gas plc All ER (D) 1076
- Palmers Ltd v ABB Power Construction Ltd BLR 426
- Birse Construction Ltd v Co-operative Wholesale Society Ltd 84 BLR 58

Other information

Education & Professional Career

- Recorder, 2009
- TECBAR Accredited Adjudicator
- Trained Mediator, 2005
- Keating Chambers, 1995
- Pupillage, Keating Chambers, 1994-95
- Called to the Bar (Gray's Inn), 1993
- Bar finals classification, "Outstanding", 1993
- Diploma in Law, City University, 1992
- Engineer, Planning and Installation Department, BBC 1988-91
- BEng in Electronic Engineering, University of Sheffield, 1988

Additional Information

Jonathan Lee is married with three children. He is a Fellow of the Royal Society for the encouragement of Arts, Manufactures & Commerce

Memberships

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- Institution of Engineering and Technology
- Technology and Construction Bar Association
- The Society of Computers and Law
- The LCIA and Chartered Institute of Arbitrators
- Standing Conference of Mediation Advocates

Recommendations

Jonathan Lee QC, who took silk in 2015, is "highly sought-after" for disputes relating to engineering projects due to his "strong technical background". Both his advisory and advocacy skills are described as "top-notch".

Construction, Who's Who Legal 2016

"He is very thorough and a very hard worker." "He brings a thoughtful and cerebral approach to cases."

Construction, Chambers UK, 2016

"Measured, effective, reliable and trustworthy."

Construction, Chambers Global, 2016