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Harry Smith

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Areas of practice

- Construction & Engineering
- Energy & Natural Resources
- Infrastructure & Utilities
- International Arbitration
- Professional Negligence
- Adjudication
- Insurance
- Bonds & Guarantees

Clerks' Details

Will Shrubsall

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Practice overview

Harry is ranked by the Legal 500 as 'Rising Star': "His written advice is stellar, matched by his skills in court. Would not hesitate to put Harry's intellect against any other more senior member of the Bar." He specialises in construction, engineering, infrastructure, energy and professional negligence disputes.

The reported cases to Harry's name include Aqua Leisure International Ltd v Benchmark Leisure Ltd [2021] BLR 150; Croudace Homes Ltd v PRB Wiring Solutions Ltd [2020] EWHC 2139 (TCC); Synergy Gas Services v Northern Gas Heating Ltd [2019] 1 BLR 132; and JonJohnstone Construction Ltd v Eagle Building Services Ltd [2017] EWHC 2225 (TCC).

Other highlights of Harry's practice include his instruction by Lendlease in Northumbria Healthcare NHS Foundation Trust v Lendlease Construction (Europe) Ltd & Others – one of The Lawyer's Top 20 Cases of 2022 – and his appearance as junior counsel for the successful respondent in the Court of Appeal in Herons Court v NHBC Building Control Services Ltd [2019] EWCA Civ 1423.

In addition to his work as a trial advocate, Harry has extensive experience of contested adjudication enforcement hearings including cases with an insolvency angle.

Harry has experience of all major standard forms including the JCT, NEC and FIDIC, and is a contributor to the current editions of Keating on Construction Contracts and the loose-leaf Keating on JCT Contracts.

Recent Work

Construction & Engineering

Harry is ranked by the Legal 500 as 'Rising Star': Harry Smith specialises in construction and energy disputes. He is recognised by the Legal 500 as a 'Rising Star': "His written advice is stellar, matched by his skills in court. Would not hesitate to put Harry's intellect against any other more senior member of the Bar." He specialises in construction, engineering, infrastructure, energy and professional negligence disputes.

Reported examples of Harry's appearances for successful parties in the High CourtThe reported cases to Harry's name include Aqua Leisure International Ltd v Benchmark Leisure Ltd [2021] BLR 150; Croudace Homes Ltd v PRB Wiring Solutions Ltd [2020] EWHC 2139 (TCC); Synergy Gas Services v Northern Gas Heating Ltd [2019] 1 BLR 132; and JonJohnstone Construction Ltd v Eagle Building Services Ltd [2017] EWHC 2225 (TCC).

Other recent highlights of Harry's practice include his instruction by Lendlease in Northumbria Healthcare NHS Foundation Trust v Lendlease Construction (Europe) Ltd & Others - one of The Lawyer's Top 20 Cases of 2022 - and his appearance as junior counsel for the successful respondent in the Court of Appeal in Herons Court v NHBC Building Control Services Ltd [2019] EWCA Civ 1423.

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appearance as junior counsel for the successful respondent in the Court of Appeal in Herons Court v NHBC Building Control Services Ltd [2019] EWCA Civ 1423, and his work as junior counsel in international arbitrations concerning, variously, projects in Qatar, Dubai, Bahrain, Saudi Arabia, South Africa and Kazakhstan.

Harry has experience of all major standard forms including the JCT, NEC and FIDIC, and is a contributor to the current editions of Keating on Construction Contracts and the loose-leaf Keating on JCT Contracts. He is also a contributor to the current edition of Keating on Construction Contracts. He publishes articles and gives talks on all aspects of construction law.

“His written advice is stellar, matched by his skills in court. Would not hesitate to put Harry's intellect against any other more senior member of the Bar.”

Rising Star Construction, Legal 500 UK Bar 2021

Energy & Natural Resources

- A multi-million dollar dispute concerning an oil field in Kazakhstan.
- A international arbitration in Geneva concerning a natural gas processing plant in Qatar.
- An international arbitration concerning a power plant in South Africa.
- An adjudication concerning a project to upgrade a National Grid site (led by Alexander Nissen QC).

Infrastructure & Utilities

- A High Court (TCC) claim for £95m concerning a substantial busway infrastructure project in Cambridge.
- Acting for the Welsh Government in an adjudication concerning the construction of a new road.

- A multi-million euro claim in the High Court (TCC) concerning the design of a waste processing facility in Essex.
- An arbitration concerning a micro-tunnelling project in Bahrain.
- A dispute concerning a new underground metro system in Saudi Arabia.
- An adjudication concerning a chemicals manufacturing facility.

International Arbitration

- A dispute concerning the construction of the Burj Khalifa (the tallest building in the world) in Dubai.
- An arbitration concerning delays and disruption to the construction of a skyscraper in Dubai.
- An arbitration concerning a micro-tunnelling project in Bahrain.
- A international arbitration in Geneva concerning a natural gas processing plant in Qatar.
- An international arbitration concerning a power plant in South Africa.
- A dispute concerning a new underground metro system in Saudi Arabia.

Professional Negligence

- A multi-million pound claim concerning negligent project management and planning advice involving allegations of fraud and secret commissions. Harry also acted in an associated appeal in the High Court (Chancery Division) concerning payment of the project managers fees.
- A multi-million pound claim against engineers and materials suppliers in the High Court (TCC) concerning the design and construction of an inter-tidal mudflat at Cooling Marshes on the south bank of the River Thames.
- A £40m professional negligence claim in the Commercial Court concerning advice given to an insurer.
- A professional negligence claim against an engineering firm in the High Court (TCC) concerning cracks and water ingress to an underground car park.
- A professional negligence claim in the High Court (TCC) against an Approved Inspector concerning fire safety issues in a development.
- A professional negligence claim against a firm of architects in the High Court (TCC) in connection with the collapse of a hotel balcony and associated personal injuries.
- A professional negligence claim in the High Court (TCC) against a firm of architects concerning a project to refurbish and redevelop a convent.
- A claim in the High Court (TCC) concerning the negligent design and construction of foundations to a luxury home.
- A multi-million professional negligence claim against a company director for losses arising from the alleged mismanagement of a construction project.

“He has developed specialist knowledge in this field and is able to work to extremely tight timescales.”

Rising Star Construction, Legal 500 UK Bar 2022

Adjudication

Harry has extensive experience of adjudication from referral to enforcement and is a natural choice for contested adjudication enforcement hearings. Examples of his caseload include:

- Aqua Leisure International Ltd v Benchmark Leisure Ltd [2021] BLR 150. Harry appeared for the successful claimant in a case about whether an adjudicator's decision had ceased to become binding pursuant to s.108(3) of the HGCRA as a result of the parties having entered into an agreement "subject to contract".
- Buckingham v Luton Airport (2021), unreported. Harry appeared for the successful claimant in a contested adjudication enforcement hearing in which the defendant argued, unsuccessfully, that it was entitled to have the dispute finally determined via Part 8 declarations.
- Croudace Homes Ltd v PRB Wiring Solutions Ltd [2020] EWHC 2139 (TCC). Harry appeared for the successful claimant in a contested adjudication enforcement hearing concerning liability for the adjudicator's fees.
- Putensen Properties Ltd v Fry (2020), unreported. An adjudication enforcement hearing. Harry appeared for the successful defendant, the judge accepting Harry's submission that the defendant had a real prospect of establishing at trial that the dispute to which it related arose under three separate contracts.
- Synergy Gas Services v Northern Gas Heating Ltd [2019] 1 BLR. The defendant resisted enforcement of an adjudicator's decision on grounds of alleged breaches of natural justice. Harry appeared for the successful claimant.
- JonJohnstone Construction Ltd v Eagle Building Services Ltd [2017] EWHC 2225 (TCC). An adjudication enforcement hearing. The defendant resisted enforcement of an adjudicator's decision on the grounds that the decision was made in excess of jurisdiction. Harry appeared for the successful claimant.
- Advice regarding the prospects of an insolvent company in a CVA successfully enforcing an adjudicator's decision.
- Advice regarding the prospects of an insolvent company in administration successfully enforcing an adjudicator's decision.
- A multi-million pound adjudication concerning a project to upgrade a National Grid site (led by Alexander Nissen QC).
- Acting for the Welsh Government in an adjudication concerning the construction of a new road.
- A multi-million pound adjudication concerning liability for leaks to a warehouse.
- An adjudication concerning the Grade I-listed residence of billionaire Mohammed Al-Fayed.
- An adjudication concerning a chemicals manufacturing facility.
- An adjudication concerning a defective lighting controls system at Oxford Brookes university.

Insurance

- A claim in the High Court (TCC) against the National House-Building Council concerning fire safety issues in two blocks of flats.
- A claim in the London Circuit Commercial Court against the National House-Building Council concerning water ingress to the basements of adjoining houses.
- A claim against the National-House Building Council in the High Court (TCC) concerning fire safety and other construction issues in a block of flats.
- Counsel for an insurer in a multi-million pound claim concerning fire safety issues in a housing development.
- Advised an insurer as to the potential impact of various statutory requirements on the scope of risks covered by the wording of its insurance policy.
- Advised a building contractor facing a substantial claim from an insurer as to how best to mount a challenge to the insurer's standard terms of business.
- Represented an insurer in domestic arbitration proceedings concerning a claim for an indemnity in respect of defective work.

Bonds & Guarantees

- Advised in a dispute concerning the enforcement of a performance bond in circumstances of the contractor's insolvency.
- Drafted Particulars of Claim seeking enforcement of a performance bond as security against a building contractor's impending insolvency.
- Advised on the enforceability of bonds in the context of a large waste management construction project.
- Advice on the validity of a purported withdrawal of bonds.

Reported Cases

Aqua Leisure International Ltd v Benchmark Leisure Ltd [2020] EWHC 3511 (TCC)

Croudace Homes Ltd v PRB Wiring Solutions Ltd [2020] EWHC 2139 (TCC)

The Lessees and Management Company of Herons Court v NHBC Building Control Services Ltd [2019]

EWCA Civ 1423

Synergy Gas Services v Northern Gas Heating Ltd [2019] 1 BLR 132

JonJohnstone Construction Ltd v Eagle Building Services Ltd [2017] EWHC 2225 (TCC)

Heron's Court v NHBC Building Control Services Ltd [2018] EWHC 3309 (TCC)

Education & Professional Career

Law LLB, University of Warwick (First Class)	2009 – 2013
City University, Bar Professional Training Course	2013 – 2014
Called to the Bar, Inner Temple	2014
Pupil, Keating Chambers	2014 – 2015
Tenant, Keating Chambers	2011

Awards & Scholarships

Worshipful Company of Arbitrators

Arbitration Weekend 2015, Best Individual Advocate

City University

Evan Ashfield Memorial Prize (highest mark in the Free Representation Unit module)

Inner Temple

Major Scholarship

Publications, Seminar & Papers

Books

- Keating on JCT Contracts, loose-leaf.
- Keating on Construction Contracts, 11th Edition.

Articles

- 'A critical look at Broseley London v Prime Asset', May 2020
- 'The Terminator's Dilemma', Practical Law, February 2020

- 'Burning a Bridge', Practical Law, May 2019
- 'Groving Pains', KC Legal Update, January 2019 (co-authored with Matthew Finn).
- 'Don't wind me up', Practical Law, June 2018.
- 'An erosion of the Fiona Trust "one-stop shop" presumption?', Practical Law, Feb 2018.
- 'Employer couldn't recover overpayments made to contractor'. Practical Law, Feb 2017.
- 'Concurrent delay - the "Saga" continues', Practical Law, Aug 2016.
- 'Estoppel by convention: a shield or a sword?', Practical Law, Oct 2015.

Additional Information

Harry is a keen pianist and has a particular interest in improvisation techniques. When he is not improvising, he enjoys playing everything from Beethoven to Fats Waller. He is currently working on Chopin's Aeolian Harp étude.