

- Thursday,
20 November *Second Junior SCL Christmas Lecture*
Speaker: John Riches
Venue: The White Swan, Farringdon Road, London EC4A
Organiser: rbailey@fenwickelliott.co.uk
- Thursday,
27 November “Effective management and rational decisions. Can they be achieved
in 28 day Adjudication?”
Speaker: Peter Aeberli
Chairman: Simona Williamson
Venue: McGrigors LLP, Pacific House,
70 Wellington Street, Glasgow, G2 5.45pm for 6.00pm
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
Organiser: lhawkswell@thkp.co.uk
- Tuesday,
27 January “Delay & Disruption: Global Claims, Concurrency and Apportionment”
Speaker: Hamish Lal
Chairman: Andrew McCuish
Venue: Lecture Theatre 118, The Northern Terrace, Civic Quarter,
Leeds LS1 6.15pm
Organiser: lhawkswell@thkp.co.uk
- Thursday,
12 February Speaker: Tony Bingham (talk title tba)
Venue: Dundas & Wilson CS LLP, 20 Castle Terrace, Edinburgh, EH1
Chairman: Janey Milligan 5.45pm for 6.00pm
Organiser: lindy.patterson@dundas-wilson.com

London Speaker Programme

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

International Construction Law Conference and President’s Reception

Reports on the Society’s International Conference held at the Grange Hotel on 5th to 7th October and the Society’s President’s Reception held at Ironmongers’ Hall on the evening of 7th October will appear in the next SCL newsletter.

Sir Anthony May

The Society is delighted to announce that its President Sir Anthony May has been appointed President of the Queen’s Bench Division of the High Court of Justice with effect from 1 October 2008 and congratulates Sir Anthony on his appointment. Full details can be seen at www.number10.gov.uk/Page16744

The European Society of Construction Law

The European Society of Construction Law (ESCL) is a pan-European organisation bringing together the Societies of Construction Law of some twenty European countries. Its 2008 President, Panos Verveniotis (Greece) and Secretary (Professor Monika Chao-Duivis (Netherlands)) attended the International Society of Construction Law Conference, held in London by the UK SCL.

The ESCL Annual Conference is hosted each year by the Society's current President. The 2008 Conference was held in Athens, courtesy of the Hellenic Society of Construction Law and its President, Panos Verveniotis, 25-28 September. The theme of the Conference was "Construction and the Protection of the Environment". The opening address was given by former Prime Minister of Greece, Ioannis Grivas, and presentations were given by speakers from nine countries including Austria, the Czech Republic, Denmark, the Netherlands, the Slovak Republic, Spain and Switzerland. UK presentations were given by former Chairman John Redmond and former Chairman Professor Anthony Lavers, as well as by member Timothy Reynolds.

On the Saturday, the ESCL Council meeting was held with Chairmen representing twelve European Societies. The UK SCL was represented by Chairman Barry Milton, His Honour Humphrey Lloyd and Professor Anthony Lavers. A lunch was held afterwards at the Royal Yacht Club of Greece in Piraeus. The 2009 ESCL President will be Jens Jordahn of Denmark, to whom the UK Society extends its congratulations. The next ESCL conference will be held in Denmark from 27th to 29th August 2009.

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.** 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

Junior SCL Christmas Lecture

This years Christmas Lecture will be given by Mr John L Riches of Henry Cooper Consultants on 20th November. John has over 30 years experience in Quantity Surveying a small fraction of which he will no doubt introduce the Junior members to on the evening. John is a very experienced adjudicator, arbitrator and mediator. He is also the co-author with Chris Dancaster of *Construction Adjudication – A Practical Guide*. The venue is now being found for the lecture and will be in a central London location. A flyer will be sent out by e-mail shortly to all registered Junior members for what will no doubt be a very good talk to be followed by drinks in a friendly and relaxed environment. There is no charge for this event and therefore places are likely to go very quickly.

Please note: 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.

PAPERS

Enclosed with this newsletter is a copy of *Catching Water in a Net: The Elusive Concept of 'A Reasonable Settlement'*, a paper by Judge Peter Coulson QC, presented to a joint TECBAR/SCL meeting in October 2007. When in a construction context party A, midway in a contractual chain, settles a claim brought against him by party B, then seeks to pass that liability on to party C, in what circumstances is the fact and amount of the A-B settlement relevant (or decisive) to the issue of C's possible liability to A? Judge Coulson considers the caselaw origins of what is usually called the rule in *Biggin v Permanite*, the case itself and the considerable body of later authority building upon it, including his own judgment in *Hunt v ASME* from 2007. (Paper number 149).

On the website is the substantial paper by Nicholas Gould presented at the "Updating the Construction Act" seminar at King's College on 11th September, *Payment under the Construction Act: Current Case Law*. The paper focuses on the issues that have arisen in respect of the payment provisions of sections 109 to 113 of the Construction Act, in the context of the proposed amendments to the Act. It includes a thorough review of the case law. (Paper number D94)

Judge Anthony Thornton's paper presented in London in February, *Compound Interest and Financing Claims: The Sempra Metals Revolution* is being printed and will be sent to members shortly. When in English law can a money claim also include a claim for compound interest for the delay in payment or for the financing costs of actions for which another party is legally responsible? Judge Thornton's paper discusses the general implications of the House of Lords' decision in the *Sempra Metals* case from 2007, which overturns well-established case law to open the door to claims for compound interest in a range of new categories of case. Although the case itself was in part a restitutionary claim, Judge Thornton goes on to explain its dramatic implications for many types of construction claim ('a contractual El Dorado'); he also reminds readers of the existing statutory provisions permitting (sometimes even requiring) the addition of interest to claims, including the under-used Late Payment of Commercial Debts (Interest) Act 1998. (Paper number 150)

Anti-Corruption Workshop

The UK Anti-Corruption Forum will hold a one day Anti-Corruption Workshop in London on 17th October 2008 entitled “Corporate Anti-Corruption Actions”.

The Workshop will be divided into four consecutive sessions:

1. Gifts, hospitality and facilitation payments
2. Due diligence
3. Internal monitoring and whistle blowing
4. Crisis management

Each session will commence with a panel discussion on the topic, led by senior and experienced industry representatives. The topic will then be thrown open for floor discussion. The purpose of the Workshop will be to exchange ideas on how best to deal at corporate level with some of the key challenges in this area.

The Workshop will be held under the Chatham House Rule to enable free exchange of ideas and experiences.

See www.anticorruptionforum.org.uk/acf/about/ for programme and registration form. The Workshop is open to non-members of the Forum. Bookings are on a first to reply basis, so please register as soon as possible if you require places.

Consultation on the European Commission's Proposed Construction Products Regulation

CLG (Communities and Local Government) have published a consultation and draft impact assessment on the EU Commission’s proposal to replace the current Construction Products Directive. As the proposed new Construction Products Regulation will apply directly into UK law, the CLG is consulting on these proposals with the aim of developing a UK negotiating line.

The EU Commission is concerned that the current process of CE marking is slow and costly. The aim of the new proposals is to simplify the system and improve the credibility of CE marking. The question of “sustainability” of construction products from design through to demolition stages is one of the issues highlighted in ANNEX I of the new EU proposals.

If you wish to participate in this consultation you will find a link on the CIC website at:
<http://www.cic.org.uk/activities/consult.shtml>

Alternatively the direct link to the CLG website is:
<http://www.communities.gov.uk/planningandbuilding/publications/consultations/>

The Commission’s proposals can be downloaded on:
http://ec.europa.eu/enterprise/construction/index_en.htm

Consultation responses should be sent to : consultations@cic.org.uk by 20 October 2008.

Use of the Maughan library

The Construction Law library that used to be housed at the Old Watch House at King's College, London has now been merged with the Maughan library in Chancery Lane. Any SCL member who wishes to use the Maughan library should complete the application form which is available on the SCL website. For further details about the Maughan library please contact Sue Hart susan.hart@kcl.ac.uk

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.

New Members

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

Christos Fellas, Engomi, Cyprus
Ajith Fernando, Dubai, UAE
Pardip Ghosh, New Delhi, India
Phillip Greenham, Melbourne, Australia
John Gurr, Melbourne, Australia
Kennedy Hippolyte, London
Robert Hubbard, Yorkshire
Sanjaya Ranaweera, Abu Dhabi, UAE
Steven Stein, Chicago, USA
Murugesu Sathiyaseelan, Sathwa, UAE
Yasser Soliman, Dubai, UAE
Paul Spice, Dammam, Saudi Arabia
Simon Elliott, Yuzhno-Sakhalinsk, Russian Federation