

# Peter Oliver

Call 2002



Peter Oliver has considerable experience as an advocate in the Court of Appeal and High Courts conducting trials and interlocutory applications with particular experience in the TCC.

He is ranked tier 4 for insurance, and tier 6 for professional negligence by Legal 500. Peter is described in the directories as *“easily the most personable barrister I have ever worked with. He is responsive, user-friendly and is adept at getting to the nub of tricky issues”* and *“a go-to barrister for professional negligence work. He is always responsive and builds a good relationship with the team that he is working with, including the client.”*

Peter is noted for his outstanding advocacy and courtroom skill and has a reputation as a formidable and versatile advocate particularly in cross-examination. His work involves advising and drafting in relation to all areas of his practice. His wide-ranging experience of disputes and dispute resolution extends to arbitration (including under the ICC, LCIA, CIMAR and Sports Resolutions rules), adjudication and mediation.

Peter also has wide ranging experience in advising on and conducting applications for interim relief including freezing injunctions (including world-wide freezing injunctions), restraining presentation/advertisement of winding up petitions, specific and pre-action disclosure and security for costs.

Peter has particular experience and expertise in:

- Construction
- Insurance
- Property Damage
- Commercial
- Product Liability
- Injunctive Relief
- Professional Negligence
- Insolvency

Peter is qualified to undertake Public Access work.

# Construction & Engineering

Peter is instructed in numerous construction disputes and acts for employers, contractors and sub-contractors. He has experience of litigation, arbitration, adjudication and mediation in this field. He is frequently instructed in cases involving highly technical material. He is also regularly instructed in relation to adjudication enforcement's in the TCC. Peter has particular recent experience of cladding disputes and in particular whether the design and/or installation of the insulation, cavity barriers and cladding is compliant with the Building Regulations. Peter is regularly instructed on behalf of architects, main contractors and fire engineers and has particular experience and expertise in of all of the relevant sections of the Building Regulations and Approved Documents together with the routes to compliance. Peter also has recent expertise of disputes arising out of the design and construction of alternative energy plants including solar and wind farms, biodigester systems and ground source heating installations.

## Featured Construction & Engineering cases

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Acting for the main contractor in a large multi-party claim in the TCC concerning the design and installation of the insulation, cavity barriers and cladding on four blocks of student accommodation. The dispute concerned consideration of whether the design and installation was compliant with the Building Regulations and the scope and extend of the proposed remedial scheme.

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Acted for an architect in respect of a very high value multi-party dispute in the TCC in a claim concerning the design and installation of Kingspan insulation and cladding panels. The case not only concerned whether the insulation and cladding were compliant with the Building Regulations but also the proposed remedial works and causation.

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Acting for an main contractor in a dispute concerning the design and installation of the insulation, cavity barriers, and cladding to a residential block of apartments. An adjudication has recently concluded and litigation is shortly to be commenced which will include a claim against the fire engineer.

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Acting for re-insurers in a large claim arising out of a significant explosion in a chemical plant in the Kingdom of Saudi Arabia. The case concerned not only the detailed process engineering design of the blowdown and pressure relief systems but also the safety engineering and hazard analysis including HAZOP, LOPA, SIL and SIS studies.

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Acting for the developer of a new power plant in a claim concerning the design, supply and installation of a number of reciprocating gas generators. The case involved consideration of complex expert evidence on the reasons why the generators failed to generate the predicted output (in megawatts) of electricity.

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Instructed by the main contractor in a case concerning the design and installation of a ground source heating system installed at a college. The case concerned the thermal performance of the heating system.

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Acting for a developer in a major residential housing development. One of the main issues in the dispute was whether the liquidated damages clause in the contract was enforceable. The case also considered general damages for delay in the alternative to the contractual liquidated damages rate.

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Instructed by the civil and structure engineer in a case concerning the construction of a bio digester system on a large farm. The case concerned the structural integrity of beet pulp clamp.

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Acting for the employer in a multi-party dispute in relation to the excavation of an earth bank and construction of a retaining wall. The retaining wall failed which caused land slippage and damage to adjacent properties. The case involved consideration of the design and build of the retaining wall and whether the land bank was a party structure within the meaning of the Party Wall Act 1996.

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Instructed by the employer in relation a case concerning the design and installation of a ground source heating system as a zoo. The case concerned the reasons the borehole had become fouled with biological material.

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Instructed by the employer in a claim against the principal contractor and project manager engaged to undertake renovation works to a significant listed property in Knightsbridge. The Claimant sought damages for failure to obtain listed building consent, defective workmanship and failure to adequately supervise the works.

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Acted for a groundwork contractor in a claim for unpaid fees in relation to the construction of a football pitch. The Defendant sought to set off the costs of rectification of the alleged defects. A central feature of the case was the adequacy of the drainage and privity of contract with an independent drainage contractor. This issue was determined as a preliminary issue in the Claimant's favour.

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Acting for a contractor in an arbitration arising out of the construction of a care home. The case involved consideration of whether an interim application was capable of amounting to an Interim Payment Notice under the contract, whether a Pay Less Notice had been validly served, and a claim for an extension of time and relief from LADs.

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Instructed by an NHS trust in a claim against the main contractor and various sub-contractors in relation to latent damage to an underground power cable during the construction an extension to a hospital. One of the main considerations was the limitation period.

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Instructed by an NHS trust in a claim concerning the construction of a new pathology laboratory. The case not only concerned defects and delays but also contract formation.

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Acting for a housing association in a claim against the electrical and fire safety contractor concerning electrical installation condition reports (EICRs) and fire risk assessments (FRAs).

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Instructed by an employer in a £4.5m refurbishment of a significant country house in a claim against the main contractor in respect of defective and incomplete works. One of the main issues which was determined as a preliminary issue was the meaning of an "appropriate deduction" within the meaning of clause 2.30 of the JCT Intermediate Building Contract 2005.

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Instructed by the Defendant HVAC contractor in a claim in connection with a dispute about the design and thermal performance of a complex commercial heating system.

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Instructed in a complex dispute arising out of the construction of a block of flats. The main issues were whether the certificate of practical completion had been procured by fraud, whether various contractual terms were penalty clauses and whether a compromise agreement was procured by economic duress.

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Instructed by the Claimant freehold owner of a commercial property in a claim for breach of contract/negligence in relation to the installation of window assemblies resulting in deterioration and failure due to moisture ingress.

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Instructed by the main contractor to advise in an adjudication arising out of an umbrella contract for the painting and maintenance of regional gas installations. The dispute involved consideration of whether the umbrella contract and works were "construction operations" within the meaning of s.105 HGCRA and whether the payment provisions complied with the requirement of the HGCRA.

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Instructed by the responding party to resist enforcement of an adjudicator's award on the grounds that the adjudicator's award was based on a claim which was not contained in and was wholly inconsistent with the Adjudication Notice.

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Instructed by the employer in a claim against the main contractor pursuant to a contract for the demolition and rebuilding of a property. The main issue was the conclusiveness of the final certificate.

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Instructed by the main contractor in a defects claim arising out of the multi-million pound conversion of a large Georgian country house in Gloucestershire from office accommodation to a significant family home.

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Instructed in a claim under a collateral warranty under which significant damages were claimed by a tenant resulting from the failure of a concrete slab being capable of carrying the loads specified in a lease in a large printing works.

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Instructed by the responding party to resist an adjudicator's award. The main issue was whether the adjudicator had jurisdiction to make an award of restitution and whether the dispute arose under the contract.

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Instructed by a costs management consultant in an adjudication to recover unpaid professional fees. One of the main issues was whether the parties had concluded a construction contract.

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## Insurance & Reinsurance

Peter has knowledge of a wide range of insurance issues and is regularly instructed by insurers to represent their interests in a variety of cases including fire claims, flooding claims, permanent health policies, misrepresentation, non-disclosure and coverage issues. Peter's medical background gives him a unique understanding of complex medical evidence which is often at the centre of claims under permanent health and income protection policies.

Peter also regularly advises and represents insurers in relation to fraudulent claims. He is often involved from an early stage in complex and organised frauds many of which involve collaboration between insurers and result in criminal investigations. Peter has particular experience of fraudulent property damage claims involving arson. He also has experience of committal proceedings following a finding of fraud in civil proceedings.

### Featured Insurance & Reinsurance cases

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Instructed by an insurer to advise on coverage under a CAR policy in a claim arising from a flood during the construction of an apartment block built adjacent to a river which burst its banks.

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Advising insurers on double insurance and equitable contribution where two policies may respond to a claim for property damage caused by a significant fire.

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Instructed to advise on the effect of a "Controlling Interest" endorsement in a Professional Indemnity Policy.

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Instructed on an important case which considered the meaning of accidental bodily injury and exclusions for wilful or malicious acts under a liability policy. The case considered important questions of culpability in negligence of those who were of unsound mind and lack mental capacity.

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Instructed by an insurer in a claim arising out of a major fire at a candle factory. The claim was repudiated due to the insured's non-compliance with electrical inspection and no unattended trade process endorsements. A central feature was whether the insurer had waived the insured's breach of warranty.

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Instructed by the insurer of a Housing Association who engaged contractors to repair the roof of a domestic property resulting in a fire causing significant damage. Peter was successful in having the claim struck out on the basis of the unchallenged expert evidence and the Claimant's own evidence which led to the inevitable conclusion that the fire was deliberately started by the Claimant tenant.

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Instructed by an insurer in respect of a claim under a Group Income Protection Policy. The case involved coverage issues and analysis of complex medical evidence from six experts in various medical fields.

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Instructed to advise whether an insurer was entitled to recover its outlay within English jurisdiction from a compromise agreement entered into by the assured in a foreign jurisdiction in which subrogated recovery was unlawful.

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Instructed by an insurer in a claim under an income protection policy. The case involved coverage issues and complex medical neurological evidence.

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Instructed by an insurer in a claim against a surgeon for recovery of fees fraudulently claimed for clinical procedures.

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Instructed by the insurer of a large haulage company in a claim arising out of the theft of a load of specially coated steel whilst in transit. In issue was which party bore the insurance risk at the time of the theft.

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Acted for a professional rugby player concerning a claim under an income protection policy. The case concerned the meaning of an “injury” which was not a defined term in the policy.

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## Property Damage

Peter has particular experience of property damage cases arising from fires, floods and explosions. He is frequently instructed by major insurers in subrogated recovery actions.

### Featured Property Damage cases

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Acting for an insurer in a subrogated recovery claim arising out of a flood at a newly constructed hotel which had only just opened. The flood was caused by the failure of a push-fit UPVC joint in the cold water supply in one of the upper floors leading to extensive water damage to the floors below. Once liability had been admitted the main focus of the case was on recovery of the business interruption paid out by the insurer.

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Acting for re-insurers in a large subrogated recovery claim arising out of a significant explosion in a chemical plant in the Kingdom of Saudi Arabia. The case concerned not only the detailed process engineering design of the blowdown and pressure relief systems but also the safety engineering and hazard analysis including HAZOP, LOPA, SIL and SIS studies.

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Acting as a junior in a large and complex subrogated claim arising out of the explosion at the Buncefield Oil Storage Terminal. The case involved significant property damage and business interruption claims.

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Acting as a junior in subrogated recovery action in a fire claim arising out of the installation of a lighting system. The fire spread between adjacent buildings and one of the main issues was whether there was appropriate fire stopping in the roof space between the properties.

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Acting for an insurer in a subrogated recovery claim arising out of a major fire in a large restaurant which spread from the kitchen through the duct work destroying the entire building. The case involved claims for business interruption, loss of profits and consequential losses. One of the main issues was causation and whether the fire would have been contained had it not been for the negligent failure to properly clean and maintain the duct work.

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Acting for an insurer in a subrogated recovery claim arising out of a flood at a newly constructed hotel which had only just opened. Once liability had been admitted the main focus of the case was on recovery of the business interruption

paid out by the insurer.

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Acting for an insurer in a subrogated recovery claim arising out of a major fire in a large block of flats. The fire was started by arson but the fire spread due to the lack of fire stopping.

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Acting for a supplier of commercial vehicles in a case arising out of a vehicle fire which caused significant fire damage to the M4 Brynglas Tunnel. The case involved complex issues of causation and cross-border litigation with the German brake manufacturer.

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Acting for an insurer in a subrogated recovery claim arising out of a major fire in a large complex of industrial units and warehouses. The case involved a detailed analysis of whether the person responsible for starting the fire was acting within the course of his employment.

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Acting for an insurer in a subrogated recovery action arising out of a fire which was caused by a defect in an imported television. The claim involved consideration of the Consumer Protection Act 1987.

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Acting for an insurer in a subrogated recovery claim arising out of a significant escape of water on an upper floor of a large complex of apartments and commercial properties causing water to cascade through the complex causing significant property damage and business interruption.

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Acting for an insurer in a subrogated recovery claim arising out of a subterranean escape of oil affecting a number of properties. The case involved consideration of the Third Party (Rights Against Insurers) Act 1930 and section 363 of the Insolvency Act 1986.

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Acting for an insurer in a subrogated recovery claim arising out of a flood which caused significant damage to a large country house. The flood was caused by the negligence of a sub-contractor who over-tightened a securing nut.

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Acting for an insurer in a subrogated recovery claim arising out of a fire damaging an industrial unit which spread from a bonfire which was lit on an adjacent land. The case required detailed analysis of the law concerning the escape of fire.

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Acting for an insurer in a subrogated recovery claim for damage to a large fleet of vehicles which were damaged by paint when a crane was spray painted on an adjacent property.

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Acting for an insurer in a claim arising from a fire which was started by a child causing significant damage to the insured and neighbouring properties. One of the main issues was whether the child's actions were "deliberate or wilful" within the meaning of the policy.

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## Commercial Litigation

Peter acts and advises in a wide range of contractual and commercial claims, including claims on guarantees, banking disputes, financial services, sale of goods, and international carriage of goods (CMR Convention claims). A number of his recent cases have arisen from disputes in the world of professional sport. He is regularly instructed by commercial finance houses and particularly in claims involving invoice discounting and factoring. Cases often involve strategies for successful asset recovery.

### Featured Commercial Litigation cases

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Acted for the players of a high profile national rugby squad in a dispute under the Sports Resolution Arbitration Rules concerning the construction of the players' centralised contracts while on international duty.

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Acted for the Claimant in a claim involving the promotional rights to the World Championship Darts Tour.

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Instructed by Derby County Football Club in a dispute involving the publishing and distribution of the match day programmes.

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Acted for a professional rugby player concerning a claim under an income protection policy. The case concerned the meaning of an "injury" which was not defined in the policy.

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Advised a high profile professional sportsman and celebrity in relation to an insurer's right to recover its outlay within English jurisdiction from a compromise agreement entered into by the assured in a foreign jurisdiction in which subrogated recovery was unlawful.

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Instructed by a major publishing house and book retailer in a £2m claim in the Chancery Division relating to the sale of a division of the Defendant's educational book business. The case also involved an interim injunction preventing the disposal of stock subject to a charge.

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Instructed by a high street bank in a £1½m claim in which the court had to consider complex and novel claims in restitution, breach of fiduciary duty, exemplary & aggravated damages, breach of confidence and fraud.

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Acting for a member of the London Stock Exchange in a claim in the Chancery Division in relation to the sale of shares and the entitlement to the distribution of settlement funds held in a nominee account.

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Acted for the Claimant in a claim arising out of forex spread betting transactions. The case required detailed consideration of sections of the Financial Services and Markets Act 2000 (FSMA) and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO).

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Instructed by the Claimant in a claim for rescission of a franchise agreement based upon the franchisor's misrepresentation of the client base and performance of existing franchisees.

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Acted for a large media organisation in a claim in the High Court regarding the breach of terms for the delivery of goods purchased through a home shopping television channel.

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Instructed in a dispute concerning the distribution rights to imported cod roe. The issue of whether the contract was properly concluded and if so whether the breach was repudiatory was determined as a preliminary issue.

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Instructed by a mortgage and life brokerage in a claim for unpaid commission fees owed pursuant to an agency agreement for policies placed and written by major life companies.

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Instructed by one of a number of defendants in a claim under the CMR Convention regarding the theft of a large consignment of imported bananas.

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## Injunctive Relief

Peter is regularly instructed in cases requiring various forms of injunctive relief.

## Featured Injunctive Relief cases

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Freezing Injunctions (including worldwide freezing injunctions): Examples include acting for an offshore trust which successfully obtained a freezing injunction in circumstances where there was a dispute as to the entitlement of funds transferred in error. Acting for a company domiciled in China in respect of a worldwide freezing injunction.

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Norwich Pharmacal / Non Party Disclosure Order: Examples include acting for the administrator of a trust which successfully obtained a Norwich Pharmacal order requiring a bank to disclose the identity and account details of one of its account holders.

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Injunction restraining the removal of rolling stock. Peter successfully applied to dismiss an interim injunction which prevented the removal and disposal of various items of rail rolling stock.

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Injunction restraining presentation/advertisement of a petition. Peter has experience of cases involving the restraint of presentation/advertisement of winding up petitions.

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## Product Liability

Peter is instructed in cases involving defective products often under the Consumer Protection Act.

## Featured Product Liability cases

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Instructed in a large value claim concerning the manufacture and supply of valves which were integrated into petrol tanks of BMW cars and which resulted in a major product recall.

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Instructed by an insurer in claim involving a serious fire resulting in a fatality and significant property damage which was allegedly caused by a defect in an oxygen concentrator supplied to a patient discharged from hospital.

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Instructed in a case involving the manufacture of pharmaceuticals which were contaminated with nickel during the manufacturing process.

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Acting for the Claimant in a claim against the manufacturer and supplier of chicken feed which produced abnormal calcium levels in a large commercial flock of chickens resulting in a significant reduction in egg production.

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Instructed by an insurer in a claim arising out of a fire which was caused by a defect in a television.

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Instructed by an insurer in a claim arising out of a fire which was caused by a manufacturing defect in a tractor.

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Instructed by an insurer in a claim arising out of a fire which was caused by a manufacturing defect in a bailing machine.

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## Professional Negligence

Peter regularly advises and acts in professional negligence cases across the main professions, particularly those involving architects and designers, structural and geotechnical engineers, planners, surveyors, solicitors, accountants,

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insurance brokers and IFAs. He has represented clients at professional disciplinary panels in front of professional bodies.

## Featured Professional Negligence cases

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Instructed as junior counsel in a claim concerning the design and construction of a tall mixed use development in Leeds – effect of building on wind environment – microclimate studies and wind engineering – acting for the architects in defending multi-million pound claims for damages for professional negligence in respect of the alleged failure to design for wind mitigation measures.

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Acted for a major international architects' practice in a claim arising out of the design of a complex and innovative space heating and hot water system installed in a new student village.

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Acting for the purchaser in a claim against a surveyor concerning the surveyor's failure to identify that important retaining structures were failing. The case concerned complex geotechnical expert evidence on the appropriate remedial scheme.

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Instructed as junior counsel by the claimant museum against architects in respect of the design and construction of the Museum of Liverpool. The case concerned design defects and the operation of termination clauses in the architect's appointment.

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Instructed as junior counsel in a claim against geotechnical engineers in respect of the reclamation of a former open cast mine which suffered with unidentified inundation collapse settlement.

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Acted for the Claimant in a negligence claim against a surveyor who failed to identify major faults when surveying a high value prestige property. The case considered the scope of the surveyor's duty and the diminution in value of the property.

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Acted for the employer in a claim against structural and geotechnical engineers in respect of the design of a retaining wall which was constructed on ground prone to landslip. The case involved complex geotechnical evidence and causation of the failure of the retaining structure.

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Acted for a main contractor in a claim arising out of the collapse of the ceiling in a cinema complex. The case concerned whether the main contractor or design consultant held the contractual obligation to check a variation to the design of a bulkhead.

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Acted for the Claimant in a claim against fund managers arising from the negligent management of funds held in a forex mortgage account.

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Acted for an insurance broker in a claim concerning the placement of risk and the alleged failure to bring a hot works warranty to the attention of the assured.

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Acted for an insured in a claim against an insurance broker concerning a failure to properly notify circumstances which may give rise to a claim under a Professional Indemnity Policy.

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Acted for the Financial Services Compensation Scheme in relation to a claim to recover compensation paid to a spouse left without the benefit of her husband's death in service cover which was lost when her husband was negligently advised by an Independent Financial Advisor to transfer out of an occupational pension scheme.

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Acted for the Financial Services Compensation Scheme in relation to a claim to recover compensation paid to the claimant who lost the benefit of Guaranteed Annuity Rates as a result of the advice of an Independent Financial Advisor.

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Instructed by the Administrator in a claim against an Independent Financial Advisor in respect of the inheritance tax implications of the transfer of shares and purchase of bonds.

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Acted for the Claimant in a claim against an Independent Financial Advisor in a claim arising out of advice relating to life and endowment policies purchased in conjunction with a portfolio of buy to let investment properties.

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Instructed in a claim for professional negligence against a firm of solicitors relating to the conveyance of a jointly owned property.

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Acted for a barrister in a professional negligence action arising out of counsel's advice and conduct of litigation.

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Acted for the Defendant nurse in a medical negligence claim arising out of the administration of a travel vaccine.

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## Insolvency

Peter regularly advises and is instructed in many aspects of insolvency and personal bankruptcy.

### Featured Insolvency cases

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A case in the Chancery Division representing a Lloyd's syndicate in an action relating to the distribution of funds pursuant to the receivership of an insurance administrator.

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Representing an appellant in the Chancery Division in an appeal of a Registrar's decision setting aside a transaction at undervalue.

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A case in the TCC arising out of the enforcement of an adjudicator's decision whereby the court considered the relationship between r6.5(4)(a) of the Insolvency Rules 1986 and RSC Order 45.11 and Order 47.1.

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A case in the Chancery Division representing an insolvency practitioner in a professional negligence claim brought by creditors arising out of the administration of a company.

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A case involving the proximity of a cross-claim to a debt specified on a statutory demand.

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A decision on whether time ran for the purposes of limitation during the period a company was in dissolution.

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A case involving the assignment of a debt to a debtor of an insolvent company post liquidation for the purposes of set-off.

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Winding up petitions.

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## Appointments

- TECBAR Adjudicator
- Qualified as a doctor (1998)

## Publications

- Contributing editor to *LawBriefUpdate* on Commercial & Insolvency law.

## Memberships

- TECBAR Member

## Education

- MB BS (London)
- Dip Law (City)

## Recommendations

*‘Peter is easily the most personable barrister I have ever worked with. He is responsive, user-friendly and is adept at getting to the nub of tricky issues.’*

*‘Peter is a go-to barrister for professional negligence work. He is always responsive and builds a good relationship with the team that he is working with, including the client.’*