

Robert Scrivener

Call 2013



Robert's work covers the whole range of commercial disputes, but he has a particular focus on shipping / shipbuilding, energy and construction

Robert has been ranked in both the Legal 500 and Chambers & Partners. Comments include:

"He puts in a huge amount of time and effort, is a real team player and really gets stuck into the technical detail."

"Robert is very thorough, detail-oriented and has a fast response time."

"Robert is a star in the making. He has an encyclopedic knowledge of English law and is profoundly diligent. He approaches issues intelligently, is a good strategist, and is an excellent problem solver providing sound, practical views and advice. His written work is clear, precise and well-crafted."

"Robert's work ethic and attention to detail are exemplary. In cross-examination, his knowledge of the issues and evidence is a formidable challenge for any witness."

Robert has particular experience working for clients in the Asia Pacific region. He is ranked in both the "shipping" and "construction, energy and infrastructure" categories of the Legal 500 Asia Pacific, where it has been said that "Robert has an incredible ability to get to grips with the detail of a complex construction case. He is brilliant at matters of strategy, and is always thinking two or three steps ahead".

Most of Robert's caseload concerns high-value arbitrations, both as sole counsel and as part of a team. In court, he has particular experience of cases in the Commercial Court, TCC and Supreme Court.

Shipping & Shipbuilding

A substantial part of Robert's practice concerns shipping and shipbuilding, often overlapping with his construction and energy practice.

Robert has been involved in a number of very high value shipbuilding arbitrations, for both yards and buyers. He is

uniquely well-placed to handle these and the challenges they pose given his experience of both “pure” shipping and construction disputes. The disputes are frequently technical in nature and Robert has a great deal of experience cross-examining experts on such matters.

On the shipping side, Robert has considerable experience of disputes arising out of charterparties and bills of lading. These have included termination disputes, as well as claims for non-payment, loss of cargo and claims for non-payment. He also deals with unsafe port disputes, demurrage claims and damage to vessels.

Featured Shipping & Shipbuilding cases

Acting for the successful yard in a USD 150 million arbitration concerning the termination of a shipbuilding contract for a drillship.

Acted for the successful yard in proceedings concerning the construction of platform supply vessels, resolved by way of HKIAC proceedings and governed by Hong Kong law.

Acting for the yard in the Supreme Court appeal in Shanghai Shipyard v Reignwood International Investment (Group) Company Ltd [2021] EWCA Civ 1147. The Court of Appeal decision is the leading case on the distinction between demand and “see to it” guarantees in a shipbuilding context.

Instructed for the buyers in two arbitrations concerning the design and construction of harsh environment semi-sub drillrigs. The total combined claims were said to be worth in excess of SGD 918 million. There were a very wide range of issues, including delay, compliance with Norwegian regulatory standards, project management, and the operation of an insolvency termination clause.

Acted in a Singapore law governed arbitration about whether computer equipment for use on a saturation diving vessel was DP3 compliant.

Instructed for the successful owners in the first case to be heard before the English Courts concerning the BIMCO Supplytime 2017 charterparty (The “Atlantic Tonjer” [2019] EWHC 1213 (Comm)).

Instructed for a major Asian shipyard in a high value arbitration about the repair and renovation of a floating dry dock.

Acting for the successful owners in a dispute concerning a voyage charter for a specialist heavy lift vessel. Issues included frustration due to COVID, liens and suspension of operations for non-payment. Reported at (2021) 1087 LMLN 2.

Advising on whether Haiti is an “unsafe port”.

Advising on various issues concerning the conversion of a highly complex J-lay vessel.

Making an application for an emergency injunction under s.44 of the Arbitration Act in a series of charterparty / bill of lading disputes following the failure of a vessel’s main engine whilst at sea.

Instructed in a dispute about the sale of iron ore. The case concerned the applicability of the contractual force majeure provisions in light of changes to PRC environmental legislation.

Acted in arbitration proceedings concerning the delivery of new-build vessels from a Korean shipyard.

Advised on claims to be brought by way of ICC arbitration on damage sustained by a vessel during dry dock.

Advised on the recovery of SCOPIC costs under an LOF.

Advised on the service of High Court proceedings under the Service Regulation and Hague Convention in the context of a cargo claim.

Energy

Robert frequently acts in high value, complex energy disputes, typically resolved by way of arbitration. These often overlap with his shipping / shipbuilding and construction expertise.

Robert's experience covers the oil and gas sectors as well as wind and solar projects.

Featured Energy cases

Acted as part of a legal team on a +USD 500 million LCIA arbitration between an oil company and a well-known European oil major.

Acted for the successful Chinese entity in a +USD 500 million LCIA dispute about the development of Kazakh oilfields.

Acted in an LCIA arbitration concerning the alleged mismanagement of a floating and production unit (FPU) off the West coast of Africa.

Acted for a Chinese SOE in an arbitration concerning the alleged misuse of confidential information relating to petrochemical technology used in the construction of a plant.

Acted for a Korean contractor in an LCIA arbitration about alleged delays and defects in the construction of oil / gas processing equipment.

A dispute concerning the loss of drilling equipment in a North Sea oil / gas project.

Acted for the successful shipyard in proceedings concerning the construction of platform supply vessels, resolved by way of HKIAC proceedings and governed by Hong Kong law.

Advising a Chinese SOE on multiple disputes arising from a solar project in the Middle East.

Acting for the successful yard in a USD 150 million arbitration concerning the termination of a shipbuilding contract for a drillship.

Acting for the yard in the Supreme Court appeal in Shanghai Shipyard v Reignwood International Investment (Group) Company Ltd [2021] EWCA Civ 1147. The Court of Appeal decision is the leading case on the distinction between demand and "see to it" guarantees in a shipbuilding context.

Instructed for the buyers in two arbitrations concerning the design and construction of harsh environment semi-sub drillrigs. The claims were said to be worth in excess of SGD 918 million. There were a very wide range of issues, including delay, compliance with Norwegian regulatory standards, project management, and the operation of an insolvency termination clause.

As sole counsel in a Hong Kong arbitration, governed by PRC law, concerning the sale of petrochemical equipment.

Drafted pleadings in a high value offshore energy arbitration under UNCITRAL rules. The case concerned the

construction of an oil platform and associated facilities off the West coast of Africa.

Acted in a Singapore law governed arbitration about whether computer equipment for use on a saturation diving vessel was DP3 compliant

Advising a well-known energy company on claims for alleged secret commissions made against them by energy consumers.

Construction & Engineering

Robert is regularly instructed in high value construction and engineering disputes involving litigation, arbitration and adjudication. The majority of his construction practice is international and resolved by way of arbitration. He has particular experience of major infrastructure projects and projects for unique and specialised buildings. Robert frequently works closely with expert witnesses and is not afraid to delve into the technical detail with them.

Featured Construction & Engineering cases

Acting for the main contractor in a high value Paris seated ICC arbitration about the construction of a major European road. Issues included termination, payment disputes and delay related claims.

Instructed for the buyers in two arbitrations concerning the design and construction of harsh environment semi-sub drillrigs. The claims were said to be worth in excess of SGD 918 million. There were a very wide range of issues, including delay, compliance with Norwegian regulatory standards, project management, and the operation of an insolvency termination clause.

Acting for the successful yard in a USD 150 million arbitration concerning the termination of a shipbuilding contract for a drillship.

Acting for the successful contractor in final account adjudications about the construction of pharmaceutical laboratories and offices. Issues included delay, variations and allegedly defective designs.

Acting for the main contractor in a negligence action against an architect for improper administration of a contract for the construction of an energetic materials facility.

Acted for a contractor in +USD 500 million confidential ad hoc dispute resolution proceedings concerning the construction of infrastructure in a major city in the Middle East.

Acted for the successful contractor in a final account dispute on a contract worth over £20 million (Imperial Chemical Industries Ltd. v Merit Merrell Technology Ltd. [2018] EWHC 1577 (TCC)).

Advised on the delay and LAD provisions for a substantial residential development in central London.

Acted for the main building contractor in a multi-million pound final account adjudication arising out of the construction of a landmark London building.

Acted as sole counsel for the successful contractor in M. Davenport Builders Ltd. v Greer [2019] EWHC 318 (TCC), a case

which raised a novel point of English law on payment obligations under construction contracts.

Acted for the main contractor in a dispute about the compliance of an airport hotel's cladding with the Building Regulations.

Enforcement of adjudication decisions.

Fire claims, in particular relating to electrical equipment.

General commercial disputes & arbitration

As well as being instructed to appear in arbitrations he is also often engaged to advise on points of arbitration practice and procedure. He has previously been seconded to the International Arbitration department of a leading City firm.

Featured General commercial disputes & arbitration cases

Appeared in LCIA proceedings concerning alleged misrepresentations and breaches of contract in connection with a USD 20 million lending agreement and collateral guarantee.

Disputes relating to coverage and subrogation waiver clauses in insurance policies.

Advising on an application to stay litigation under the Arbitration Act 1996.

Acted as sole counsel in Commercial Court proceedings about the accounting of marketing revenues between two parties to a partnering agreement.

Applications for security for costs in the context of arbitration proceedings.

Advised a major telecommunications provider on the prospect of obtaining an emergency interim injunction in the context of a contract termination dispute.

Instructed in an arbitration under LCIA rules following a fire at a PFI building.

Acting as part of the legal team in a ss.67 and 68 Arbitration Act challenge arising out of a partial final award in LCIA proceedings where a 9 figure sum was in issue.

Advised on the applicable law of an arbitration agreement, as well as the res judicata and issue estoppel implications of foreign court judgments on a London seated arbitration.

Advised on the application of the Cross Border Insolvency Regulations to a London arbitration following the commencement of Korean insolvency proceedings.

Instructed in a dispute concerning the enforcement of international arbitration awards and the application of s.103 of the Arbitration Act, as well as the grant of a freezing injunction.

Professional Negligence

Robert has experience of a wide range of professional negligence actions. These have included claims against construction professionals such as architects and engineers. He has also acted in disputes concerning lawyers, accountants, surveyors and valuers. He acted for the successful appellants in the Supreme Court in what is now the leading case on the causation of loss in valuers' negligence actions (*Tiuta International Ltd. v De Villiers* [2017] UKSC 77).

Featured Professional Negligence cases

Acting for the employer in a negligence action against an architect for improper administration of a contract for the construction of an energetic materials facility.

A claim against auditors for failing to detect fraud.

Claims against solicitors for failing to correctly advise on the termination provisions of partnership agreements.

A claim against accountants for allegedly improper and negligent advice.

A claim against a legal professional alleged to have taken significant sums of money from the claimant.

Acting in threatened proceedings against an insurance broker involving allegations of fraud and secret commissions. The case raised various issues about a broker's right to deduct brokerage and also the obligations of fiduciaries in respect of commissions.

A claim against structural engineers for providing allegedly negligent advice and calculations.

Appointments

- TECBAR accredited adjudicator

Education

- MA (Honours) Law: First Class (Fitzwilliam College, Cambridge). During his time at Cambridge, Robert was awarded prizes for coming top of his year in each of the contract law, tort law and land law examinations.
- BPTC, BPP Law School: Outstanding (Robert was awarded the Baron Dr Ver Heyden de Lancey prize for gaining the highest mark of any Middle Temple student in his year at BPP Law School)