

## SIMON ARNOLD

Year of call: 2017

Qualifications: Law with Economics

Clerked by: Luke Heywood Harry Young

**AREAS OF EXPERTISE:**

Arbitration Banking & Finance Commercial Litigation  
Procurement Professional Negligence Technology &  
Construction



### Profile

With over 22 years of experience, the first 17 year of which was spent as a solicitor and latterly as a partner in a global law firm, Simon brings considerable legal, practical and commercial awareness to the matters on which he is instructed. His experience spans all aspects of commercial litigation with a focus on and experience in construction and engineering disputes, professional negligence claims (for both claimants and defendants), banking and finance disputes and insurance coverage matters.

Simon has appellate experience, including written advocacy in the Court of Appeal and written and oral advocacy at lower appellate level.

His recent experience includes:

- Advising an Italian manufacturer of specialist start/stop car batteries on a claim brought by a global car manufacturer. Claim value €100m+.
- Several instructions to enforce or resist enforcement of adjudicators' award in the High Court.
- Instructed (unled) by a major law firm on many high value, multi-party solicitor negligence claims: Total quantum circa £7m.
- Instructed (unled) by a City law firm to enforce guarantees given under a bilateral secured receivable finance facility agreement against overseas domiciled guarantors.
- Instructed by a building contractor to resist an employer's application for a freezing order. Injunction refused and costs awarded in favour of the contractor.
- Instructed on an international sale and supply of goods dispute.

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### Areas of Expertise

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#### Arbitration

Simon has experience of both ad hoc and institutional arbitrations in a range of commercial disputes, including professional negligence claims and insurance coverage disputes. Simon also has experience of challenging the enforceability of an arbitrator's award under the provisions of the Arbitration Act 1996. His arbitral experience includes:

- Defending a project manager in arbitral proceedings brought by an Academy School
- Acting for an insurer in an arbitral dispute concerning scope of cover for a national firm of solicitors and whether those solicitors were a 'successor practice' for the purposes of a claim brought against a previously acquired practice.

#### Banking & Finance

Simon's experience includes LIBOR manipulation claims, defending claims brought by a forex derivatives trader against a garment importer and claims to enforce guarantees given under a bilateral secured receivable finance facility. Simon's banking and finance experience includes:

- Successfully opposing a security for costs application brought by RBS (led: Michael McLaren QC, Fountain Court Chambers) for circa £20m within the context of a LIBOR manipulation claim against the bank with a value of circa £650m.
- Instructed to defend significant claims brought by a forex derivatives trader against a northern based garment importer (led: Adam Tolley QC, Fountain Court).
- Represented, unled, a firm of solicitors in a claim against Royal Bank of Scotland in respect of its Global Restructuring Group and settled the Particulars of Claim.
- Experience of disputes under ISDA agreements.

## Commercial Litigation

Simon has significant experience of general commercial litigation matters, having acted for individuals and corporate entities in contractual, tortious and partnership disputes for a broad range of businesses both regionally and nationally. Simon's experience spans: disputes regarding supply and distribution agreements / funding agreements / partnership expulsions and disputes concerning the quality and merchantability of specialist equipment.

Simon's experience includes obtaining and opposing freezing injunctions, applying for and defending security for costs applications, with an emphasis on high value claims and experience of all aspects of interim applications. Simon also has experience of conflict of laws, including the application of the Rome 2 regulations.

## Procurement

Simon has experience advising on the delivery and on-going performance of, in particular, large scale construction projects, including dispute avoidance and resolution in a range of tribunals. His experience includes advising a local authority on a large mixed use development, including procurement advice and negotiations with the main contractor and lead tenants, regarding issues which emerged during the construction process.

In addition, he has advised a utility provider on a range of public law matters, including the interpretation of various enabling acts of parliament and statutory instruments as to:

- The level and basis of charges which statutory undertakers may charge and recover for apparatus diversion works; and
- The correct interpretation of the 'deeming provisions' of the New Roads and Street Works Act 1991.

## Professional Negligence

Simon has many years' experience of both bringing and defending claims against a wide range of professional disciplines including architects, engineers, surveyors and solicitors. His experience covers:

- Defending professional negligence claims against ground works contractors, piling contractors, civil engineering contractors, architects and design and build contractors.
- Claims against architects, project managers and design and build contractors.
- Drafting Particulars of Claim alleging negligence against several solicitors' firms in respect of advice given to Far East based purchasers of leasehold projects on a number of developments in Liverpool and Manchester. Matters currently on-going in the Chancery Division at Manchester District Registry.
- Acting for a number of homeowners and occupiers on a prestigious development alleging both design and workmanship defects against a national homebuilder in their respective properties.
- Successfully defending and settling at mediation a claim brought against a structural engineer in respect of alleged design defects in an Academy School roof.

## Technology & Construction

Simon has a number of years experience advising professionals and their insurers in connection with professional negligence claims often involving multiple parties across a number of jurisdictions. In particular Simon has dealt with claims involving architects, quantity surveyors / project managers engineers (civil / structural / geotechnical) main contractors, sub contractors and design and build contractors on claim values ranging from £50,000 to £100m.

As well as acting for insurers and construction professionals Simon has acted for employers, main contractors and sub-contractors in payment disputes (both interim and final), variation and defects claims, extension of time and loss and expense claims

He has significant experience of the Technology and Constructions Courts (Leeds / Manchester / Bristol and London) and is well versed in adjudication and arbitration and has conducted many mediations over the years both in a Claimant and Defendant capacity. Simon is familiar with the industry standard form contracts: JCT / FIDIC / RIBA / ACE / ICE / NEC etc.

Examples of the types of claims he has conducted include:

- claims against architect, design and build contractor and employer's agent concerning the negligent design and inadequate installation of fire compartmentation in approximately 60 apartments in a mixed use development. Claim arose out of a subsequent fire which resulted in extensive damage to the entire building. Acted for the 60 or so Claimant apartment owners and their building insurer
- acted in a number of adjudications for both referring and responding parties on a wide range of claims notably, interim and final account disputes / extension of time and loss and expense claims / professional negligence claims acting both for and against the construction

- professional
- claims involving geotechnical matters such as the presence of permafrost causing damage to foundations / inadequate geotechnical site investigations causing damage to the substructure and superstructure / claims against architects concerning inadequate design and/or alleged over certification of interim payment certificate
- Acted for a number of claimant purchasers of high value properties in a claim against a national homebuilder. Claim settled following close of pleadings at mediation.
- Instructed on several occasions to either seek enforcement or resist enforcement of various adjudicator awards.

## Memberships

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Professional Negligence Bar Association

TECBAR

North Eastern Circuit Commercial Bar Association

Lincoln's Inn

Direct Access Accredited

## Qualifications

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1995 University of Lancaster Law with Economics (2:1)

1996 College of Law Legal Practice Course (Commendation)

1998 Partner at DAC Beachcroft 2010 - 2016

## Recommendations

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"He tailors his approach to the particular circumstances. He has good commercial awareness and is a diligent and conscientious lawyer state clients" [Chambers and Partners]

"Simon Arnold handles disputes for a wide range of clients and their insurers and provides advice which is always in depth and cuts to the key issues of the case." [Legal 500]

"...recommended for construction disputes on a national and international basis" [Legal 500]

"Dispute resolution specialist Simon Arnold is recognised for an impressive practice that often includes complex multiparty claims. Arnold is particularly noted for his defence of architects and engineers." [Chambers and Partners]

"Simon Arnold is recommended for construction related matters" [Legal 500]

[note: quotes apply to previous practice as a solicitor]