



Seb Oram

Year of Call: 2007

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Overview

Seb Oram is a Commercial and Construction Law barrister. He is recommended counsel in Who's Who Legal 2023, Chambers UK 2023 and Legal 500 2023.

Seb advises parties on resolving commercial disputes, particularly for clients in the construction and property sectors. He represents them in the Courts of England and Wales, and in international arbitrations. He is a member of the organising committee of the UK chapter of the Spanish and Latin American Arbitration Society (*el Club Español e Iberoamericano del Arbitraje*).

Typical areas in which he receives instructions include:

Construction

- International Arbitration (particularly with Spanish-speaking elements)
- Professional negligence (including architects, designers, engineers, M&E and project managers)
- Bringing and defending construction claims
- Dangerous structures and defective premises
- Payment and final account claims
- Adjudications and their enforcement
- Advice and disputes under the all common-form contract suites (e.g., JCT, NEC IMechE, RIBA, FIDIC)

Commercial

- Professional negligence (including lawyers, insurance brokers, finance professionals, and directors' duties)
- Insolvency (personal and corporate)
- Insurance disputes
- Company and partnership disputes
- Breach of trust and tracing claims
- Sale of goods and financing agreements
- Commercial disputes and joint ventures
- Arbitration.

Property and Estates

- Disputes about land (including contracts for sale, new-build developments, land registration and unregistered land)
- Mortgages and receivership
- Landlord and tenant (particularly commercial leases and renewals; and private sector residential tenancies).

After reading law at Trinity Hall, Cambridge, Seb completed an LL.M. (by research) at the University of Bristol, investigating the impact of European Community law on the investment practices of institutional investors.

Outside of Law, Seb is a trustee of 'Community, Housing and Therapy', a charity providing housing, support and therapeutic care for those experiencing long-term mental health difficulties. He is also a trustee of 'Compass Learning Partnership', an educational trust that runs two schools in Brent, for children and young people with complex needs and disabilities.

Publications and lectures

- Journal of Professional Negligence: book reviews of Patten QC and Saunders, Professional Negligence in Construction (2nd ed) (Vol. 36, No. 1, 2020); and of Flenley QC and Leech QC, The Law of Solicitors' Liabilities (4th ed.) (Vol. 37, No. 3, 2021)
- Former contributing author to the Royal Institute of Chartered Surveyors' ISurv platform (chapters on "Regulated Public Procurement in the UK", and on the 2011 amendments to the JCT Intermediate contracts).
- "Extensions of Time and Damages for Delay - Recent Developments" Paper D148 presented to the Society of Construction Law (October 2012)
- "Professional negligence liability for the gratuitous performance of services". Paper delivered to the Annual Conference of the Professional Negligence Lawyers Association (November 2016).
- "Forfeiture of fiduciary remuneration following breach of duty: from contract to conscience" [2010] Lloyd's Maritime and Commercial Law Quarterly 95.

Recommendations

Seb is an experienced barrister focusing on professional negligence claims against construction professionals, among others. He has experience litigating in the Court of Appeal as well as the TCC.

Strengths: "His drafting style is fabulous: very elegant and user-friendly."

Chambers UK 2024/Professional Negligence: Technology & Construction/London Bar

Strengths: "Sebastian's written advocacy is excellent, focusing on the key issues and avoiding bad points."

"Sebastian Oram is so bright and incredible."

Chambers UK 2023/Professional Negligence: Technology & Construction/London Bar

Strengths: "He always understands the underlying technicalities of the issue and he knows the right questions to ask. He's not just concerned with the specific task but with the progression of the matter." "He has a level of experience and judgement that far exceeds his years of call. Responsive, persuasive, calm and measured. An absolute pleasure to deal with."

Recent work: Acted in a claim against the designers and installers of stonework cladding on a shopping centre, for remedial works and consequential losses.

Chambers UK 2022/Professional Negligence: Technology & Construction/London Bar

Strengths: "Considered, robust, articulate, technically sound and has a great ability to absorb complex facts and cut to the heart of the issue."

Recent work: Acted in a claim against structural engineers for economic losses resulting from negligent advice about the adequacy of foundations for the vertical extension of a commercial building.

Chambers UK 2021/Professional Negligence: Technology & Construction/London Bar

Strengths: "He is good at explaining things in a calm, methodical and well thought out way. He listens to instruction and his overall demeanour is very confident." "Considered, robust, articulate, technically sound, and has a great ability to absorb complex facts and cut to the heart of the issue."

Recent work: Acted in a claim against structural engineers for economic losses resulting from negligent advice on the adequacy of foundations for the vertical extension of a commercial building.

Chambers UK 2020/Professional Negligence: Technology & Construction/London Bar

"He very quickly inspires confidence in the client and is a measured but very effective negotiator."

Recent work: Acted before the Court of Appeal in a claim arising out of the design, tendering and supervision of the structural relandscaping of a terraced garden, and considering whether a professional could be held liable for services provided gratuitously.

Chambers UK 2019/Professional Negligence: Technology & Construction/London Bar

Strengths: "You can bombard him with information and he sees straight through everything that needs to be swept aside. He gets to the crux of the issue. He is also a very effective communicator."

Chambers UK 2018/Professional Negligence: Technology & Construction/London Bar

'Clever, thorough, to the point, very good with clients, excellent in court with good presentational skills and persuasive approach, and very good at cross-examination.'

Legal 500 2024/Professional negligence/Leading Juniors/London Bar

A highly intelligent and articulate barrister who provides superb, insightful advice. A persuasive advocate who is also measured and calm.

Legal 500 2023/Professional negligence/Leading Juniors/London Bar

'A highly intelligent and articulate barrister who provides superb, insightful advice. A persuasive advocate who is also measured and calm.'

Legal 500 2022/Professional negligence/Leading Juniors/London Bar

'He has a great ability to absorb complex facts and cut to the heart of the issue. He is methodical and, in terms of bang for your buck, you get a much bigger bang with Seb than you would with other barristers of a similar year of call.'

Legal 500 2021/Professional Negligence/Leading Juniors /London

'Excellent on construction-related claims.'

Legal 500 2020/Professional Negligence/Leading juniors/London

'Incredibly detailed, solid and hardworking.'

Legal 500 2018/19/Professional Negligence/Leading juniors/London

Academic qualifications

- MA (Hons.) Law, Trinity Hall, Cambridge
- LL.M., University of Bristol

Professional qualifications & appointments

- Called 2007; Lincoln's Inn

Professional bodies

- Association of Business Recovery Professionals ("R3")
Chancery Bar Association
Society of Construction Law
Spanish and Latin American Arbitration Society (el Club Español e Iberoamericano del Arbitraje) – UK organising committee member.
Technology & Construction Bar Association (TECBAR)

Expertise

Construction and engineering

Seb Oram regularly advises and acts in relation to construction disputes, and routinely deals with disputes arising under the common-form contract suites (such as JCT, NEC IMechE, RIBA and FIDIC). A large part of his practice concerns professional negligence in the construction and engineering context.

In each of his practice areas he represents parties in arbitration, and in the Business and Property Courts of England and Wales. He is a fluent Spanish speaker and will act, in particular, for clients in international arbitration, in disputes involving a Spanish-speaking element under all major institutional rules.

He also acts in adjudications under the 1996 Act and in the enforcement of adjudicator awards.

He is a member of the Society of Construction Law, the Technology and Construction Bar Association and a member of UK organising committee of the Spanish and Latin American Arbitration Society.

Recent cases

- ICC arbitration of a termination dispute and multi-million Euro claim for consequential losses, relating to a bioenergy power plant (ICC arbitration, ongoing).
- Damages claim under an international engineering contract for the manufacture, supply and delivery of railway stock (2022).
- Sub-contractor's multi-million US dollar claim for delay and disruption damages, on a regional infrastructure project to upgrade the electricity distribution network of the Bangalore metropolitan area, India (TCC, 2019-2021).
- Payment and defects claim under a framework contract for telecommunications network installations in the north of England (TCC, 2022).
- Professional negligence claim against mechanical systems designers, relating to the adequacy of a sub-floor heating system for a listed building (TCC, 2022).
- Professional negligence claim against structural engineers, relating to the design of a cladding frame for a major, regional shopping centre (TCC, ongoing).

Noteworthy and recent cases (Technology / Construction)

- **Readie Construction Ltd v Geo Quarries Ltd [2021] EWHC 3030, [2022] T.C.L.R. 1 (QBD)**
The availability of claims for the price of defective goods, under the Sale of Goods Act 1979, s.49, and the effect of 'no set-off' clauses.
- **Deluxe Property Holdings Ltd v SCL Construction Ltd [2020] EWHC 3354 (TCC)**
Claims for proprietary relief in respect of VAT mistakenly overpaid to a contractor under a construction contract.
- **Lejonvarn v Burgess (No.2) [2020] EWCA Civ 114, [2020] 4 All ER 461, [2020] 4 WLR 43, [2020] BLR 187, [2020] Costs LR 45 (CA)**
Professional negligence claim against architect; costs orders.
- **Burgess v. Lejonvarn [2017] EWCA Civ 254, 171 ConLR 118 (CA); [2018] 181 ConLR 204 (TCC)**
Professional negligence claim against architect; assumption of responsibility in tort for design and project management services provided gratuitously.
- **Ziggurat (Claremont Place) LLP v HCC International Insurance Co plc [2017] EWHC 3286 (TCC), (2017) 176 ConLR 161 (TCC)**
Explored the wording of the industry-standard contractor's bond, and the insurer's liability under it on the contractor's insolvency.
- **Seeney v. Gleeson Developments Ltd [2015] EWHC 3244 (TCC), [2015] All ER (D) 143 (Nov)**

Residential homebuyers' claim against national housebuilder, arising out of design and construction defects in a new-build home.

- **West 3 Mechanical Contractors Ltd v Mizen Design Build Ltd [2014] All ER (D) 40 (TCC)**
Defence of contractor's claim for payment, centring on defective installation of gas installation pipework.
- **Hunt and Ors v. Optima (Cambridge) Ltd and Anor [2013] EWHC 681 (TCC), (2013) 148 ConLR 27 (TCC)**
Defects and tenants' repair claim arising out of the development of 26 new-build properties.
- **JGD Construction Ltd v. Mills [2013] EWHC 572 (Ch), [2013] BPIR 811**
Appeal considering the extent to which the court has a discretion to make a final third party debt order, notwithstanding the fact that the judgment debtor has entered formal insolvency proceedings.

Commercial

Seb is the Head of 3PB Commercial Group. His Commercial practice focuses on professional negligence, insolvency and business entities (Company Law, LLPs and joint ventures). A significant proportion of the matters in which he acts raise questions of conflicts between international jurisdictions.

In the field of professional negligence, his experience in the Commercial sphere extends to claims against lawyers, insurance brokers, finance professionals, and company directors. He is frequently instructed in claims arising from the misconduct of litigation. He also prosecutes and defends claims for breach of directors' duties, including derivative claims under the Companies Act 2006.

In each of his practice areas he represents parties in arbitration, the High Court and the County Court.

Recent cases

- Advising the seller under an international share sale contract, in a dispute relating to title and payment for a multi-million dollar holding in a Dubai company (ongoing)
- Acting for the issuer of a €250 million issue of secured exchangeable bonds, in a default claim brought by the Security Trustee (2022; Commercial Court)
- Claim for contractual commission by the distributor of financial products, against the arranger and promoter of a \$50m programme of Senior Loan Notes and mini-bonds (2021; Commercial List)
- Defending an assigned liquidator's claim against a director, alleging breaches of fiduciary duty arising out of the implementation of a remuneration trust tax scheme (2021)
- Buyer's claim against manufacturer, for breach of warranties of quality and description of bulk consumer goods sold under a contract for international sale (2019; Commercial Court)
- Professional negligence claims against financial (tax) advisors, arising from 'film scheme' income tax mitigation advice (2018; Queen's Bench)

Recent cases (Commercial):

- **Readie Construction Ltd v Geo Quarries Ltd [2021] EWHC 3030, [2022] T.C.L.R. 1 (QBD)**
The availability of claims for the price of defective goods, under the Sale of Goods Act 1979, s.49, and the effect of 'no set-off' clauses.
- **ADL Advanced Contractors Ltd v Patel [2021] EWHC 2200 (Comm)**
The effect of a release of one joint guarantor, on the liability of the other guarantor.
- **Deluxe Property Holdings Ltd v SCL Construction Ltd [2020] EWHC 3354 (TCC)**
Claims for proprietary relief and in unjust enrichment, in respect of mistakenly overpaid VAT
- **Davy v. Pickering [2017] EWCA Civ 30; [2017] 2 BCLC 260, The Times, 2017, 8 March**

The discretion to make directions under s.1032 of the Companies Act 2006, including provision back-dating the deemed date of presentation of a winding up petition.

- **Dawson v. Bell [2016] EWCA Civ 96; [2016] 2 BCLC 59**
Damages for economic duress / tort of intimidation, arising out of the execution of a shareholders' agreement.
- **Green (as liquidator of Al Fayhaa Mass Media Limited) v. El-Tai [2015] BPIR 24 (Ch)**
Liquidator's preference claim considering director's duty of fairness between creditors, in repaying loans.
- **Threlfall v. ECD Insight Ltd [2013] IRLR 185 (QB)**
Breach of solicitation covenant in director's employment contract, and in a share buy-out agreement.
- **JGD Construction Ltd v. Mills [2013] EWHC 572 (Ch), [2013] BPIR 811**
Appeal considering the extent to which the court has a discretion to make a final third party debt order, notwithstanding the fact that the judgment debtor has entered formal insolvency proceedings.
- **Stupples v. Stupples & Co (High Wycombe) Ltd [2012] EWHC 1226 (Ch); [2013] 1 BCLC 729**
Defence of claim for agent's fees, based on agent's conflict of interest.
- **Asiansky Television Plc & Anor v Khazada & Ors [2011] EWHC 2831 (QB)**
Professional negligence claim in relation to the conduct of litigation.
- **Imageview Management Ltd v. Jack [2009] EWCA Civ 63; [2009] 2 All ER 666; [2009] 1 Lloyd's Rep 436; [2009] 1 BCLC 724; [2009] Bus LR 1034; The Times, 24 March 2009**
Extent of a fiduciary's disentitlement to remuneration following breach of duty.

Property and Estates

Seb Oram's Property and Estates practice focuses on disputes about title, conveyancing and finance (mortgage/receivership). A substantial part of his practice relates to disputes about property ownership, and defects in land registration. In the landlord and tenant context he is regularly instructed in disrepair claims, particularly those involving expert, technical evidence.

He is a member of the Chancery Bar Association.

Seb has considerable experience of advocacy in the Property Chamber of the First Tier Tribunal, the High Court and County Courts, and has been instructed in the Court of Appeal.

Recent cases

- Land registry rectification claim relating to charity land
- Disrepair claims brought by multiple tenants of a residential block, against their landlord
- Claims to a beneficial interest between joint (co-habiting) owners of properties
- Joint venture disputes arising from commercial agreements to purchase/develop land

Recent cases – Property and Estates, Chancery:

- **Dawson v Bell [2016] EWCA Civ 96; [2016] 2 BCLC 59**
Damages for economic duress / tort of intimidation, arising out of the execution of a shareholders' agreement.
- **Hunt and Ors v. Optima (Cambridge) Ltd and Anor [2013] EWHC 681 (TCC), (2013) 148 ConLR 27**
Defects and tenants' repair claim arising out of the development of 26 new-build properties.
- **Courtenay Gate Lawns Ltd v. Lee [2012] UKUT 125 (Lands Chamber)**
Resisting application to discharge restrictive covenants in a long lease, raising a point of principle as to the effect of a landlord's conduct in granting subsequent leases in different form.

Articles

Construction law: The CDM Regulations 2015 and novated designer appointments – an update for Lexis Nexis by Seb Oram of 3PB Barristers.

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On the anniversary of the CDM Regulations 2015 coming into force, Seb Oram presents a LexisNexis webinar on their effect and on the practical issues that they raise for the Construction and Engineering sectors.

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The CDM Regulations 2015: changes and impact – an update by 3PB's construction law barrister, Seb Oram.

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Articles

3PB's specialist commercial and construction barrister Seb Oram has analysed the Supreme Court case Triple Point Technology Inc v PTT Public Co Ltd [2021] UKSC 29.

This case is significant for those who draft commercial contracts (particularly construction and technology contracts) in which parties include provisions to quantify damages in advance, or to cap their liabilities. It is also significant for commercial litigators, since it explains when and how such clauses will be enforceable in the event of termination.

This analysis was first published by LexisPSL® on 22 July 2021.

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SDI Retail Services Ltd v The Rangers Football Club Ltd [2021] EWCA Civ 790

3PB's specialist commercial and construction barrister Seb Oram (pictured here) has analysed the Court of Appeal case of *SDI Retail Services Ltd v The Rangers Football Club Ltd* for Lexis Nexis.

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Westfields Homes Ltd and another v Keay Homes (Windrush) Ltd [2020] EWHC 3368 (Ch)

Seb Oram has reviewed the case of *Westfields Homes Ltd v Keay Homes (Windrush)*. The case involved a potential breach of commercial, land-development contract and serves as a must-read for all commercial lawyers and litigators alike.

This article was first published by Lexis®PSL on 22/03/2021

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Commercial update: fiduciary duties between shareholders of a quasi-partnership company

Do shareholders in a family or quasi-partnership company, owe each other fiduciary duties?

Seb Oram analyses the recent decision of the Chancery Division in *De Sena v. Notaro [2020] EWHC 1031 (Ch)* for LexisPSL's Case Analysis Expert Panel. This article was first published by Lexis®PSL on 11/05/2020.

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Access to accounting information under Share Purchase Agreements. Seb Oram analyses, for LexisPSL, the recent decision in *Zedra Trust Company (Jersey) Ltd v. The Hut Group Ltd [2019] EWHC 2191 (Comm)*, in which the Commercial Court considered what rights one party to a Share Purchase Agreement has against the other, to access information about the company after completion of the sale. This article was first published by Lexis®PSL on 28 August 2019.

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Commercial update: Commercial negotiations and draft contracts – the formation of a binding contract

When one party pulls out of commercial negotiations before a contract is signed, how does the Court determine if a contract has been formed? Seb Oram analyses the Commercial Court's recent decision in *Rotam Agrochemical Co Ltd v. GAT Microencapsulation GmbH* [2018] EWHC 2765 (Comm).

Seb is a Commercial Law barrister specialising in professional negligence and the construction sector.

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Unfair Terms: What has changed recently?

UCTA 1997: dealing on another's standard terms

Changes to unfair terms in consumer contracts

To read Seb Oram's analysis, please click on the link below.

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3PB's commercial law barrister Seb Oram authors 'After Schrems, how lawful is cloud storage?'. An analysis of Case C-362/14 *Schrems v. Data Protection Commissioner*.

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Commercial update: Professional negligence – Seb Oram revisits conveyancers' scope of duty. The Supreme Court has recently heard a challenge to the SAAMCO 'scope of duty' principle, in the context of a professional negligence claim against conveyancers. Seb Oram analyses the recent, landmark decision in *BPE Solicitors v. Hughes-Holland* [2017] UKSC 21 (SC) that considers how the scope of duty principle applies.

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