



ARBITRATION
ADJUDICATION
MEDIATION
EXPERT DETERMINATION
DRB

Sir Robert Akenhead

Silk: 1989

PRACTICE

In continuous practice from 1973 to 2007 as a specialist construction law barrister, Sir Robert Akenhead had an extensive UK and international workload, both in court and in arbitration. His work covered a wide-ranging field of different types of construction; buildings, power stations, dams, tunnels, roads, bridges, oil and gas installations, harbours, pipelines, dredging, reclamation, mining operations, mechanical and electrical works, airports, shipbuilding and computer technology. He acted for employers, developers, governments, local/administrative authorities, contractors, sub-contractors, all types of construction-related professionals (e.g. architects, engineers, quantity surveyors and project managers) and funding institutions.

Within this specialist field, he acted in numerous different types of case involving disputes as to defects, final accounts, measurement, delay and disruption claims, professional negligence, bonds and guarantees, contractual and statutory interpretation and the like.

His international practice took him to most parts of the world (Africa, Middle East, Asia, Australia, USA, Caribbean, Europe). He was involved extensively in arbitrations and disputes relating to projects inter alia in China, India, Pakistan, Hong Kong, Singapore, Fiji, Egypt, Algeria, Ghana, Kenya, Iran, Yemen, Bahrain, Dubai, Oman, Trinidad, Bahamas, Dutch Antilles, Malaysia, Indonesia, Brunei, Philippines, Russia and Poland.

He also had and has an extensive practice as arbitrator, adjudicator and conciliator. He was and is involved in Dispute Adjudication/Review Boards. He is an editor of the Building Law Reports.

Over his 8 years as a High Court Judge, he dealt with all types of construction, engineering and technology case, including appeals from and challenges to arbitral awards.

Since retirement as a judge, he has acted as arbitrator, adjudicator, expert and mediator in disputes around the world, including Singapore, Australia, Central America, Europe, Hong Kong, the West Indies, the Middle East and the UK.

COUNSEL ARBITRAL APPOINTMENTS

Examples of arbitrations (Counsel involvement):

- 1985-88 - Arbitration (in London) - acted for contractors being claimed against by USA Company for \$30m for alleged defects in oil transshipment facility marine jetty. After c40 days of hearing the USA company effectively withdrew.
- 1987-89 - Arbitration (in London) - acted for a Saudi Arabian building materials factory claiming cUS\$20m from an American company which counterclaimed cUS\$30m. ICC arbitration - Saudi Arabian law applicable. Two substantive hearings.
- 1988-90 - Arbitration (in Paris) - acted for British contractors who claimed £15m from an Egyptian financial institution. ICC Arbitration. Following c5 weeks of substantive hearings, contractors recovered c£8m plus in two awards. Dispute related to 30 storey office building in Cairo. English law applicable.
- 1992 - Arbitration (in Singapore) - acted for Dutch/Singaporean J.V. who were effectively proceeded against by a government authority for abandoning a dredging/reclamation project. After 7 weeks of hearings, the case was compromised favourably. Singapore law applicable;
- 1989 - 1993 - Arbitration (in Paris) - acted for Italian contractors claiming substantial sums against a Middle East government agency relating to the construction of an embassy building in a North African country. Four substantive hearings have established liability in favour of the contractors. UNCITRAL Rules applicable. Algerian law applicable;
- 1992 - 1994 - Arbitration (in London) - acted for German contractors claiming c£50m from an African government who counterclaim c£75m. The dispute related to some 80 miles of road construction. Substantive hearings in December 1993;
- 1996 - 2000 - acted as Counsel for Italian J.V. on repudiation claim relating to a dam contract in Kenya - three substantive hearings in Paris. Kenyan law. Clients recovered c\$6m;
- 1999 - 2000 - acted as Counsel in UNCITRAL arbitration in Trinidad - disputed related to \$300m oil refinery refurbishment;
- 1999 – 2001 - acted as Counsel on a US\$ 350m river training World Bank funded project- appeared on two DRB hearings in Bangladesh;
- 1998 – 2001 - acted as Counsel on oil platform dispute (Sharjah) with hearings in London;
- 1998 - 2000 - acted as Counsel directly retained by Indonesian clients - claim by Dutch contractors on dredging/reclamation project. Two hearings in Java. Counterclaim for defects;
- 1999 - Advised international contractors on power station projects in China;
- 2001 - 2002 - Acted as Counsel on oil operators dispute (India) - hearings in London;
- 2001 - Acted as Counsel on earthworks dispute on Chep Lap Kok airport, Hong Kong. Arbitration hearings in Hong Kong;
- 2001- Acted as Counsel for government agency on hydro-electric/dam project in China (\$300m claims);
- 2002- 2003 - Acted as Counsel for government agency on a water and tunnelling project in China (\$400m claims);

- 2001- 2004 - Acted as Counsel on a power station dispute for Indian owners and operators. ICC arbitration in London. Claims for delays, non-performance and defects cUS\$120m;
- 2002 - 2004 - Acting as Counsel on a major arbitration in Hong Kong in relation to short bored piles;
- 2002 - Acted as Counsel on disputes relating to a power station in the Philippines;
- 2002 - Retained as Counsel in an ICC arbitration relating to a major mining collapse in India. Hearing in London;
- 2002 – 2003 – Retained as Counsel in Hong Kong arbitration relating to a building services dispute on Hong Kong Airport;
- 2003-2004 - Retained as Counsel in relation to a major power station project in Indonesia;
- 2004-2006 – Acted as Counsel on land reclamation misrepresentation claim in Hong Kong.

ARBITRATOR, ADJUDICATOR AND MEDIATOR APPOINTMENTS

Sir Robert has sat as arbitrator in cases over the following disputes (amongst others):

- Disputes relating to delay and defects on multi-storey housing blocks. (Gibraltar) - Chairman of ICC Tribunal.
- Disputes relating to final account claims on a nuclear power station related construction project. (UK) - Adjudicator.
- Disputes relating to a power station- delays and loss. (Indonesia) - Adjudicator.
- Disputes relating to marine harbour works. (Oman) - ICC arbitration.
- Disputes relating to power station –delays and damages- English arbitration.
- Mining Related disputes - English arbitration.
- West African Hydro-Electric Scheme – Mediator.
- Underground Railway disputes – Mediator/Conciliator.
- North Sea Operations dispute – Adjudicator.
- Hydropower Project (Pakistan)- Dispute Review Board Chairman.
- Fire Insurance dispute (Tanzania) - Chairman of arbitrators.
- Flood Relief Scheme dispute (UK) – Conciliator.
- Motorway renovation dispute (UK) – Arbitrator.
- Motorway delay loss and expense disputes (UK) – Arbitrator.
- Power station disputes (Philippines) - Arbitrator
- Oil processing and refinery dispute (Kazakhstan) –defects – one of three arbitrators LCIA arbitration
- Oil pipeline dispute (Turkey) -delay – ICC arbitration

- Naval base reconstruction – UK arbitration
- Steelworks (Egypt) – variations and delay– ICC arbitration
- Motorway term maintenance (UK)– expert determination
- Magnesium plant (Jordan) –termination and delay – ICC arbitration
- UK Motorway term contract – expert determination
- Insurance dispute UK – sole arbitrator – LCIA arbitration
- Mining infrastructure (crushing plant/railway line/locomotive and wagons and marine facility) disputes – final account – delays – defects - Pacific Rim – chairman SIAC arbitration
- Gas pipelines arbitration Pacific Rim – delays, variations and defects – SIAC arbitration, party nominated arbitrator
- Airport arbitration Middle East– ICC - party nominated arbitrator
- Process plant arbitration – delays and termination - Middle East – sole arbitrator
- DAB container terminal Central America – chairman
- DAB container terminal Eastern Europe – party nominated member
- Oil handling disputes arbitration – accounting disputes – Australia – party nominated member
- Tram provision contract disputes - UK – sole Arbitrator
- Oil and gas land installations – Northern Territory, Australia -SIAC Arbitration
- Caspian Sea Oil platform support services – LCIA Arbitration – party nominated arbitrator – variations and delays
- DAB Middle Eastern airport disputes – sole member
- Mediator – Far Eastern airport disputes
- Mediator – Middle East dam disputes
- Arbitration – Chairman – Australia – power supply issues
- Arbitration – ICC – Chairman – Power station construction – Iraq
- Arbitration – ICC – Sole arbitrator – Polysilicon production plant dispute – Middle East

JUDICIAL APPOINTMENTS

Sir Robert has over 200 reported cases between October 2007 to August 2015 (see TCC cases on www.bailii.org) examples include:

- **Penwith District Council v VP Developments Ltd** [2007] EWHC 2544 (TCC) (02 November 2007) – application for permission to appeal against an arbitrator’s award – dismissed on grounds that what was appealed against was on analysis factual findings;
- **AXA Insurance UK Plc v Cunningham Lindsey United Kingdom** [2007] EWHC 3023 (TCC) (18 December 2007) – loss adjusters’ professional negligence claim – negligence established – causation and quantum issues;

- **Cantillon Ltd v Urvasco Ltd** [2008] EWHC 282 (TCC) (27 February 2008) – adjudication – natural justice and jurisdictional challenges – severance of enforceable parts of decision;
- **Braes of Doune Wind Farm (Scotland) Ltd v Alfred McAlpine Business Services Ltd** [2008] EWHC 426 (TCC) (13 March 2008) – leave to appeal from arbitral decision – dismissed as not obviously wrong;
- **Makers UK Ltd v London Borough of Camden** [2008] EWHC 1836 (TCC) (25 July 2008) – adjudication challenge to jurisdiction – allegations that adjudicator improperly appointed and bias dismissed;
- **CJP Builders Ltd v William Verry Ltd** [2008] EWHC 2025 (TCC) (15 August 2008) – adjudication – decision not enforced as adjudicator failed to have regard to defence (submitted 5 hours late);
- **Fosse Motor Engineers Ltd & Ors v Conde Nast and National Magazine Distributors Ltd & Anor** [2008] EWHC 2037 (TCC) (20 August 2008) – fire negligence case – causation not established;
- **Corby Group Litigation, Re** [2009] EWHC 1944 (TCC) (29 July 2009) – negligent reclamation of contaminated steel site – birth defects caused – 9 week trial and 400 page judgment;
- **Camillin Denny Architects Ltd v Adelaide Jones & Co Ltd** [2009] EWHC 2110 (TCC) (11 August 2009) – adjudication – decision challenged on jurisdictional grounds (contract not between named parties) and bias – decision enforced and challenges rejected;
- **Ericsson AB v Eads Defence and Security Systems Ltd.** [2009] EWHC 2598 (TCC) (22 October 2009) – defence contract – injunctions/declarations sought to prevent/permit termination;
- **European Dynamics SA v HM Treasury** [2009] EWHC 3419 (TCC) (23 December 2009) – public procurement – injunction to restrain employer from entering into framework agreement discharged;
- **Linklaters Business Services v McAlpine Ltd & Ors** [2010] EWHC 2931 (TCC) (23 November 2010) – negligence and breach of contract claims for leaks caused by negligently applied insulation;
- **Network Rail Infrastructure Ltd v Conarken Group Ltd** [2010] EWHC 1852 (TCC) (21 July 2010) – claims for consequential loss caused by negligent drivers’ damage to NR property permitted – loss payable by NR to train operators under track access agreements – upheld in Court of Appeal;
- **Schwebel v Wolf Schwebel** [2010] EWHC 3280 (TCC) (16 December 2010) – applications for permission to appeal arbitral award from Beth Din and to set aside for serious irregularity refused;
- **Walter Llewellyn & Sons Ltd & Anor v Excel Brickwork Ltd** [2010] EWHC 3415 (TCC) (22 December 2010) – application for stay of court proceedings under S. 9 of the Arbitration Act 1996 – refused on grounds no arbitration clause in contract as found;
- **London Borough of Southwark v IBM UK Ltd** [2011] EWHC 549 (TCC) (17 March 2011) – claim relating to technology agreement – technology said to be defective – claim dismissed;
- **Simon Carves Ltd v Ensus UK Ltd** [2011] EWHC 657 (TCC) (23 March 2011) – performance bond – injunction to restrain call on bond continued;
- **Carillion JM Ltd v Phi Group Ltd** [2011] EWHC 1379 (TCC) (15 June 2011) – negligence claim relating to collapsed slope on railway line;
- **Reliant Building Contractors Ltd v BRB (Residuary) Ltd** [2011] EWHC 1439 (TCC) (08 June 2011) – application for permission to appeal against arbitrator’s award – land transfer agreement – application dismissed;

- **Community Gateway Association Ltd v Beha Williams Norman Ltd** [2011] EWHC 2311 (TCC) (12 September 2011) – local authority land transfer agreement – alleged negligence – claim dismissed mainly on causation grounds;
- **Herbosh-Kiere Marine Contractors Ltd v Dover Harbour Board** [2012] EWHC 84 (TCC) (26 January 2012) – adjudication enforcement – decision not enforced on grounds of breach of natural justice and lack of jurisdiction;
- **Walter Lilly & Company Ltd v Mackay & Anor** [2012] EWHC 1773 (TCC) (11 July 2012) – delay disruption and defects claim – standard from of building contract – lengthy trial – contractor’s claim allowed;
- **ADS Aerospace Ltd v EMS Global Tracking Ltd** [2012] EWHC 2310 (TCC) (03 August 2012) – satellite tracking devices – contract claims dismissed after trial;
- **Genesis Housing Association Ltd v Liberty Syndicate Management Ltd** [2012] EWHC 3105 (TCC) (08 November 2012) – insurance policy disputes – basis of contract clauses;
- **Cleightonhills v Bembridge Marine Ltd & Ors** [2012] EWHC 3449 (TCC) (05 December 2012) – third party proceedings after serious personal injuries – trial;
- **Cleveland Bridge UK Ltd v Severfield . Rowen Structures Ltd** [2012] EWHC 3652 (TCC) (21 December 2012) – Shard steelwork contract – issues about delays – trial;
- **TSG Building Services Plc v South Anglia Housing Ltd** [2013] EWHC 1151 (TCC) (08 May 2013) – adjudicator’s decision – Part 8 proceedings about extent of implication of good faith;
- **Igloo Regeneration (General Partner) Ltd & Ors v Powell Williams Partnership** [2013] EWHC 1718 (TCC) (24 June 2013) – trial – professional negligence relating to structural survey – claim dismissed;
- **National Museums and Galleries on Merseyside (Trustees of) v AEW Architects and Designers Ltd** [2013] EWHC 2403 (TCC) (01 July 2013) – trial – professional negligence and third party proceedings;
- **Wales And West Utilities Ltd v PPS Pipeline Systems GmbH** [2014] EWHC 54 (TCC) (23 January 2014) – pipe laying contract – interpretation issues;
- **Savash v CIS General Insurance Ltd** [2014] EWHC 375 (TCC) (20 February 2014) – insurance claims – fraud issues – trial;
- **Obrascon Huarte Lain SA v Her Majesty’s Attorney General for Gibraltar** [2014] EWHC 1028 (TCC) (16 April 2014) – Gibraltar airport tunnel contract – delay/termination issues – trial – upheld in Court of Appeal;
- **The Bodo Community & Ors v The Shell Petroleum Development Company of Nigeria Ltd** [2014] EWHC 1973 (TCC) (20 June 2014) – Niger Delta oil spills – 15,000 claimants in nuisance and similar – preliminary issues on Nigerian law;
- **NP Aerospace Ltd v Ministry of Defence** [2014] EWHC 2741 (TCC) (01 August 2014) – public procurement – issues relating to lifting of statutory suspension on employer placing contract;
- **Weatherford Global Products Ltd v Hydropath Holdings Ltd & Ors** [2014] EWHC 2725 (TCC) (01 August 2014) – oilfield products – issues between parties as to breach of warranty, breach of directors’ duties and confidential information – trial;

- **The Secretary of State for the Home Department v Raytheon Systems Ltd** [2014] EWHC 4375 (TCC) (19 December 2014) – application to set aside award on serious irregularity grounds – arbitrators not addressing key issues;
 - **Mears Ltd v Shoreline Housing Partnership Ltd** [2015] EWHC 1396 (TCC) (20 May 2015) – trial – estoppel issues;
 - **Henia Investments Inc v Beck Interiors Ltd** [2015] EWHC 2433 (TCC) (14 August 2015) – Part 8 proceedings – standard form – issues about interim payment regime.
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LEGAL TEXTS

- Editor (Joint), *Building law Reports* 1999 – Date
 - *Site Investigation and the Law* (1984 Thomas Telford) with J Cottington.
 - *Technology and Construction Court Practice and Procedure* (2006 OUP) with Michael Davis
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QUALIFICATIONS, AWARDS AND APPOINTMENTS

1972	Called to the Bar of England and Wales
1989	Appointed Queens Counsel
1991–2007	Recorder and Deputy Construction Court Judge
1997	Bencher Inner Temple
2007-2015	High Court Judge (Queens Bench Division allocated to the TCC)
2010-2013	Judge in Charge of the TCC FCIArb
2016-2019	Appointed to the KLRCA Panel of Arbitrators

RECENT RECOMMENDATIONS

"He has a remarkable capacity to pick up a case quickly."

International Arbitration: Arbitrators, Chambers and Partners UK Bar 2020

Sir Robert is recommended as a mediator in The Legal 500 2020