

Jon Lang Mediation

Construction and Engineering - mediation examples

a multi-party dispute arising out of the construction of a port, the dispute primarily concerning allegations of negligent bathymetric surveying and piling;

a dispute arising out of the refurbishment of, and extension to a major London department store;

a dispute between a construction company and a museum arising out of the construction of a new wing;

a multi-party dispute arising out of the collapse of a road;

a three-party dispute between a developer, an insured architect and uninsured contractor concerning construction works at a number of properties, with the sharing of responsibility between architect (as designer and contract administrator) and contractor being in issue, as well as mitigation in relation to a proposed remedial scheme, the discussion focusing on whether the true cause of loss was workmanship or design related, certain RIBA contract conditions and the feasibility or otherwise of the proposed remedial scheme;

a construction dispute following a “smash and grab” adjudication, enforceability of the award given jurisdictional (and other) challenges concerning the correct parties to the construction contract and the availability of a stay under *Wimbledon v Vago* principles, and the general affect of the award on subsequent litigation;

a dispute between the inventor/designer of automated prosthetic limbs and a manufacturer;

a construction dispute between a contract administrator and an employer under a major construction project, the core issue being the alleged failure of the contract administrator to issue a Payment Certificate or Pay Less Notice in response to an interim payment application by the contractor resulting in a successful ‘smash and grab’ adjudication, and thereafter alleged failures in strategy concerning the launching of a true value adjudication in response to the ‘smash and grab’ adjudication decision (the contractor entering into insolvency shortly after receiving payment);

a dispute concerning the development of certain components used in the manufacture of F1 engines;

a claim involving Payment and Pay Less Notices under the Construction Act;

a dispute arising out of an agreement made pursuant to section 106 of the Town and Country Planning Act 1990;

a multi-party action brought by purchasers of a luxury home against structural engineers, architects and developers, claiming negligence and breach of duty under the Defective Premises Act 1972 in relation to a number of alleged severe construction defects;

claims under the Water Industry Act 1991 arising out of damage to/diversion of a water main during the course of a major construction project;

a multi-party dispute concerning the foundations of a major structure with negligence alleged by and against numerous parties including geotechnical, soil and environmental engineers;

a dispute concerning certain safety critical components of a passenger aircraft;

a dispute arising out of the design and construction of a boat;

a dispute concerning the cause of a fatal aircraft accident;

a dispute arising out of the construction of a car park prone to flooding;

a dispute arising out of a sub-subcontract for the design and manufacture of a roof deck, with the mediation taking place following two adjudications but just prior to the commencement of high court proceedings;

a dispute between an electronics company and an auditorium/exhibition centre concerning the design, supply and installation of an audio-visual system;

numerous product development disputes in the electronics, communications and auto sectors;

various 'production line' disputes involving mechanical failure leading to contamination and factory shut-downs, for instance, at a food-processing plant;

various claims by house purchasers against major house builders concerning alleged defects in construction;

a dispute arising out of the construction of a harbour involving allegations of negligent design, misinterpretation of geological data concerning strength of strata, misinterpretation of borehole logs, the mediation raising a number of issues around wave modelling analysis, appropriate 'fill' for pre-cast concrete slabs given wind and wave strength etc;

a dispute concerning a new storm drainage system installed as part of a major road re-design which had received technical approval under the Highways Act but which was alleged to be deficient, the case concerning the extent to which the system had been constructed to accommodate various technical requirements, e.g. a 1 in x years storm, allowance for climate change etc, and the cause of post-works flooding which caused damage to a number of properties and alleged long-term reduction in value;

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