

OUR PEOPLE

Douglas James

CALL 2015



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Douglas has a broad international commercial practice with a particular focus on commercial litigation, international arbitration, construction, insurance, professional liability and property damage.

Douglas prides himself on rolling his sleeves up quickly (as sole counsel or one of a team), providing clear and practical advice, and delivering forceful advocacy.

Douglas is an accredited mediator and trained adjudicator.

Recent highlights of Douglas's practice include:

- Acting for the respondent employer in a c. \$70m ICC arbitration on a delayed combined-cycle power plant project in the Caribbean (bespoke turnkey EPC contract, London seat, English law) (led by Mark Chennells KC).
- Acting for an eastern European state entity in a c. \$66m ICC arbitration on a delayed infrastructure project (FIDIC; led by Roger Stewart KC and Richard Liddell KC).
- Acting in a subrogated recovery following an alleged over-delivery of domestic fuel oil: Pilgrims Management Company Ltd v Birlm Ltd [2023] EWHC 508 (TCC).
- Acting for a Russian businessman in a c. £18m dispute about the ownership of a collection of fine art and jewellery (led by Rupert D'Cruz KC).
- Acting for the manufacturer of gas pipeline insulation in an ICC arbitration concerning the Sangachal terminal near Baku, Azerbaijan (bespoke contract, London seat, mixed English and Azerbaijani law, final hearing December 2023).
- Acting for the claimant Ukrainian construction plant manufacturer in a c. £1.8m LCIA arbitration where the respondent Dutch buyer claims force majeure following the outbreak of war (bespoke contract, London seat, English law).

Expertise

Construction, Energy & Natural Resources

Douglas acts in all forms of construction dispute resolution, including adjudications and claims against construction professionals. He has wide experience of many standard contracts, including JCT, NEC, FIDIC, and IChemE forms.

Douglas has completed secondments to various major City firms. He is a contributing editor to *Emden's Construction Law*: he wrote the chapters on misrepresentation, estoppel and frustration. Douglas is a co-editor of the Adjudication Society's newsletter and on the Society's London sub-committee. He has presented to the SCL on delay analysis.

Douglas is a member of the SCL and TECBAR.

Selected Cases

Douglas's current and recent instructions include:

- Acting for the respondent employer in a c. \$70m ICC arbitration on a delayed combined-cycle power plant project in the Caribbean (led by Mark Chennells KC).
- Acting for an eastern European state entity in a c. \$66m ICC arbitration on a delayed infrastructure project (FIDIC; led by Roger Stewart KC and Richard Liddell KC).
- Part of a large team of counsel acting for the engineer in a c. \$5bn ad-hoc arbitration about the design of a hub airport in the Middle East.
- Acting for the contractor (in liquidation) in Part 8 proceedings to overturn an adjudicator's final account decision: **ML Hart Builders Ltd (in liquidation) v Swiss Cottage Properties Ltd [2021] EWHC 3420 (TCC)** and **[2022] EWHC 1465 (TCC)**.
- Acting (until settlement) for the main contractor in a cladding case in Manchester; the claim progressed to trial to consider the insolvent sub-contractor's liability and the reasonableness of the settlement: **LDC (Portfolio One) Ltd v George Downing Construction Ltd and European Sheeting Ltd [2022] EWHC 3356 (TCC)** (led by Isabel Hitching KC).
- Successfully enforcing two adjudication decisions (totally £900k) against defences of breaches of natural justice and applications to stay enforcement
- Acting in a subrogated recovery following an alleged over-delivery of domestic fuel oil: **Pilgrims Management Company Ltd v Birlem Ltd [2023] EWHC 508 (TCC)**.
- Acting for the main contractor in a c. £20m multi-party claim concerning subsidence at a Midlands warehouse (led by Andrew Rigney KC).
- Acting for an engineer in a claim about a fatal crane collapse (led by Richard Liddell KC).
- Acting for the D&B supplier of modular office units for the HS2 project in a c. £9.6m delay and damages dispute (NEC3, including a claim under a CAR policy; led by Richard Liddell KC).
- Acting for the hard services facilities management company in TCC proceedings about fire safety defects in a PFI development (settled shortly before trial; led by Crispin Winser KC).
- Acting for a D&B contractor in a c. £2.5m design and delay adjudication about a major civil engineering project in Bristol harbour (NEC3).
- Acting for the main contractor in a £2.6m adjudication about an allegedly defective warehouse sprinkler system (led by Charles Pimlott).
- Acting for a PFI hard-services contractor in a c. £900k adjudication for withheld payments.
- Acting for the parent company in a £2.1m claim on a parent company guarantee for delayed and defective M&E works.
- Advising the lessors of biogas boilers on a £1.7m claim against their lessees for breaches in respect of Renewable Heat Incentive payments.
- Acting for a sub-subcontractor in a €900k payment dispute in respect of the supply and testing of HV cables for the Hinkley Point C nuclear power project.
- Advising main contractors about delay on a water treatment plant project in Surrey (IChemE Burgundy).
- Acting for the employer in a £350k claim under the Third Party (Rights Against Insurers) Act 2010.
- Advising on the enforceability of an adjudicator's decision following insolvency – the matter was later litigated in **Bresco Electrical Services Ltd (in liquidation) v Michael J Lonsdale (Electrical) Ltd [2020] UKSC 25**.
- Acting for the employer in 2 c. £250k interim and final account adjudications (led by the late David Sears KC).
- Various TCC adjudication enforcement proceedings (including before O'Farrell and Pepperall JJ). Decisions have ranged from five to seven figures, and proceedings have considered the gamut of defences on jurisdiction, breach of natural justice and applications for stays of execution.

International Arbitration

Douglas has a growing international practice, acting for construction and other commercial entities in arbitrations under various institutional and ad-hoc rules.

Selected Cases

Current and recent arbitrations include:

- Acting (led by Mark Chennells KC) for the respondent employer in a c. \$70m ICC arbitration on a delayed combined-cycle power plant project in the Caribbean (bespoke turnkey EPC contract, London seat, English law).
- Acting (led by Roger Stewart KC and Richard Liddell KC and now as sole counsel) in a c. \$66m ICC arbitration on a delayed eastern European road infrastructure project (FIDIC, Paris seat, Ukrainian law).
- Part of a large team of counsel acting for the Engineer in a c. \$5bn ad-hoc arbitration about the design of a Middle East hub airport.
- Acting for the manufacturer of gas pipeline insulation in an ICC arbitration concerning the Sangachal terminal near Baku, Azerbaijan (bespoke contract, London seat, mixed English and Azerbaijani law).
- Acting for the claimant Ukrainian construction plant manufacturer in a c. £1.8m LCIA arbitration where the respondent Dutch buyer claims force majeure following the outbreak of war (bespoke contract, London seat, English law).
- Acting for a French electrical components supplier in a c. €900k LCIA arbitration concerning the Hinkley Point C nuclear power plant project (bespoke contract, London seat, English law).
- Acting for a sports marketing firm in a €900k LCIA arbitration for anticipatory breach and repudiation against a Russian pharmaceutical company (bespoke contract, London seat, mixed English and Russian law).

Commercial

Douglas's practice covers commercial litigation, arbitration and mediation across various sectors and jurisdictions. His work involves contractual disputes and equitable claims of all shapes and sizes, including: breach of warranty claims; disputes about the sale of goods and supply of services; claims on bonds, guarantees and indemnities; shareholder, director, JV and partnership disputes; claims against agents and bailees; and claims with allegations of fraud, dishonesty and misfeasance. Many of his cases turn on questions of jurisdiction and conflict of laws, unjust enrichment, fiduciary duties, insolvency and conversion. Douglas has advised and acted in all manner of interlocutory applications for interim relief, including for interim and *quia timet* injunctive relief, security for costs, freezing orders, and pre-action and specific disclosure.

Douglas's recent instructions include:

- *Re Golubovich*: claim for possession of c. £18m of fine art and jewellery (led by Rupert D'Cruz KC) involving English trust and Russian matrimonial law, and various allegations of fraud; following anti-suit injunction hearing, succeeded in defending a jurisdiction and forum challenge by the Part 20 Defendant: [2021] EWHC 2099 (Ch), upheld on appeal [2022] EWHC 1605 (Ch).
- *1st Equity v HBOS*: £8m claim against a high-street bank concerning alleged breaches of long-term agency licensing agreements, including implied terms of good faith (assisting Jason Evans-Tovey).
- *Willmott Dixon Interiors Ltd v Holmes (UK) Ltd*: £2.1m adjudication on a disputed parent company guarantee.
- *Re Snoek*: insolvency proceedings against the guarantor of various loan facilities granted to South African commodities merchants.
- Acting for a local authority in a £800k claim under a long-term healthcare services contract.
- Advising an insurance broking software developer on a £2.5m anti-competition and termination claim, including for *quia timet* injunctive relief, against its licensee.
- Acting for a contractor in a c. 800k claim on a disputed performance bond.
- Acting for a tax advisor in a £750k wrongful termination claim against a tax consultancy.
- Acting for a sports advertising agency in a €900k LCIA arbitration for anticipatory breach and repudiation against a Russian pharmaceutical company (bespoke contract, London seat, mixed English and Russian law).
- Acting for the respondent seller of oil pipeline equipment in an ICC arbitration concerning the Sangachal oil and gas terminal near Baku, Azerbaijan (bespoke contract, London seat, mixed English and Azerbaijani governing law).
- Acting for the English machine manufacturer in a c. £600k VIAC arbitration brought by its Polish buyer (bespoke contract, Vienna seat, CISG terms).
- Acting for the claimant Ukrainian machinery manufacturer in a c. £1.8m LCIA arbitration where the respondent Dutch buyer claims force majeure following the outbreak of war (bespoke contract, London seat, English law).
- Acting for a French electrical components supplier in a c. €900k LCIA arbitration concerning the Hinkley Point C nuclear power plant project.

- Advising on title and conversion in a chain of sales of agricultural machinery.
- Advising purchasers on claims (including in fraud) against various entities following a collapsed property investment.

Professional Liability

Douglas's professional liability practice covers claims against professionals of all kinds, including solicitors, architects and designers, engineers, surveyors, financial advisors and brokers.

Selected Cases

Architects and engineers:

- Advising architects in a c. £16.5m claim about allegedly inadequate tender design and contract management on a private hospital development project (led by Ben Quiney KC).
- Acting for a structural engineer in 5 joined claims following a fatal crane collapse (led by Richard Liddell KC).
- Acting for main contractors in a £2.6m architects' negligence claim about inadequate EWI design (Manchester TCC, ongoing).
- Acting for a developer in a £2.9m claim against its MEP contractor for defective tertiary heating system designs.
- Advising a D&B contractor in a £1.7m claim against its architect for negligent preparatory and temporary works designs.
- Advising contractors on £400k losses allegedly sustained from negligent inspection.

Solicitors:

- Acting for solicitors in a c. £700k claim about alleged misadvising on employment redundancy terms that excluded personal injury claims.
- Acting for solicitors in a c. £600k lost injury claim.
- Acting for solicitors in a c. £300k claim about leasehold extensions – the claim raised important principles about the timing and calculation of loss.
- *Kennedy v Hewitts Solicitors*: acting for solicitors in proceedings (ChD in Leeds, HHJ Raeside QC sitting as a DHCJ) about alleged misadvising on planning matters during a building development.
- Acting for solicitors in a c. £250k claim about the purchase of a property with flawed title.

Auditors, brokers and financial advisors:

- Acting for an auditor in a £3.2m claim by a charity for alleged negligent tax advice (led by Daniel Shapiro KC).
- Acting for an IFA in proceedings about the settling of a trust.
- Advising brokers on the trust implications of a mistaken insurance payment.

Security and logistics:

- Acting for a regional commercial car dealer in a £100k claim for faulty servicing against its security maintenance company (KC opponent).
- Acting for a security maintenance company in a £300k claim by a warehousing company following thefts from its premises.
- Acting in a subrogated recovery following an alleged over-delivery of domestic fuel oil: *Pilgrims Management Company Ltd v Birlem Ltd* [2023] EWHC 508 (TCC).

Property Damage

Douglas acts for major insurers in claims involving damage by subsidence, fire/smoke, water, trees and environmental waste. He is regularly instructed in claims involving professional services providers, utilities companies and local authorities.

Selected Cases

Recent work includes:

- A £1.6m fire claim against main contractors for faulty chimney flue installation (Birmingham TCC; settled on favourable terms at mediation).
- Assisting on **2 entertain v Sony DADC Europe Ltd [2020] EWHC 972 (TCC)**, a £6.5m claim arising out of arson at a warehouse during the 2011 London riots (led by Ben Quiney KC).
- Acting for a commercial landlord in a contribution claim against its managing agent for persistent damp and water ingress following a c. £600k payout to its lessee for business interruption (led by Julian Field).
- Acting for a university in £450k recovery proceedings following a fire caused by a defective chiller unit (Birmingham TCC).
- Acting for the property owner in a c. £100k claim for damages done to prestige flooring by a cleaning contractor (KC opponent).
- Acting for a main contractor claiming for the faulty installation of a chilled water system in a £2m office refurbishment project.
- Acting for a local authority in a claim for alleged nuisance following extensive landscaping works to public parkland.

Insurance

Douglas acts regularly in insurance disputes (for insurers, insureds and intermediaries) on matters relating to all kinds of policies – particularly those relating to his other practice areas – including professional indemnity (PI), contractors all risks (CAR); property damage; public, products and employers' liability and business interruption (BI).

Selected Cases

His recent instructions include:

- Assisting defendant CAR insurers in **Sky v Riverstone Managing Agency [2023] EWHC 1207 (Comm)**.
- Acting for the D&B supplier of modular office space for the HS2 project in a c. £9.6m delay and damages dispute (including a claim under a CAR policy) (led by Richard Liddell KC).
- Acting for policyholders in a c. £600k dispute on a new-home indemnity policy.
- Assisting on a £7m claim (whilst on secondment) on a latent defects insurance policy.
- Advising on public liability coverage in respect of Scottish proceedings arising out of the 2014 Glasgow bin lorry accident.
- Advising on the *Berni Inns* defence in a £200k claim for damage caused by the negligence of a licensee.
- Advising on a £100k claim for BI losses for damage to advertisement hoardings.

Education

Douglas read History at UCL and came top of his year. He went on to write a PhD in Medical History. After turning to law, Douglas gained a Distinction in the GDL and was graded Outstanding in Bar finals; he had Hardwicke, Eastham, Lord Bowen and Lord Denning scholarships from Lincoln's Inn.

Memberships

- The SCL
 - TECBAR
 - COMBAR
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