

RICHARD SWAN

EUR ING CENG FICE MSC FCIARB MEWI



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SKILLS

Expert witness – Quantum

Procurement

Claims

Litigation

Arbitration

Adjudication

Mediation

PROFILE

Richard is a Chartered Civil Engineer and Chartered Arbitrator with military operations, resident engineer and project director experience in the construction, engineering and defence industries, built on a 20 year career as a Royal Engineer Officer. His last job in the Ministry of Defence was as an Engineering Equipment Procurement Director. He now specialises in the provision of commercial management, construction contracts and claims analysis, disputes avoidance and resolution, and expert witness services, majoring in delay/disruption and evaluation of quantum, mediation, adjudication, arbitration and support to DAB/DRBs and litigation.

His experience is in an international arena, in particular the Gulf States, Balkans, Germany, United States, African continent, Far East and UK. He is a Practising Expert Witness, a past Chairman of the Academy of Experts and a recent Board Member of the Expert Witness Institute. He has given oral expert evidence in both litigation and arbitration proceedings, including expert witness conferencing (“hot-tubbing”).

An experienced MSc-level tutor with both Cranfield University and the Chartered Institute of Arbitrators, he has provided training seminars and workshops to clients in construction contracts (in particular NEC and JCT forms of contract) and dispute resolution, as well as being guest speaker at solicitor and other construction-related events.

As illustrated below, the scope of his international expert witness and dispute resolution experience ranges from shipbuilding, oil & gas and other energy related projects (on/offshore) through to building, civil engineering, transport and other infrastructure projects.

ACADEMIC

– MSc

MEMBERSHIPS

- European Engineer [Eur Ing]
- Chartered Engineer [CEng]
- Fellow of the Institution of Civil Engineers [FICE]
- Fellow of the Chartered Institute of Arbitrators [FCIARB]
- Member of the Expert Witness Institute [MEWI]
- Chartered Arbitrator

EXPERT WITNESS APPOINTMENTS

BUILDINGS

- New Build Church, East London, UK - Provision of expert opinion in 2 conjoined disputes in litigation (TCC) in relation to quantum value of consequential losses following building collapse, assessment of reasonableness of rebuild programme and subsequent rebuild costs. Dispute value £6.2M. Disputes settled following issue of reports and Joint Statements.
- Hospital M&E Works, West Cumberland, UK – Provision of expert opinion in relation to quantum for electrical works. Dispute value £650k. Dispute settled.
- Multi-storey Apartment Renovation, UK - provision of pre-action expert witness opinion to insurers of structural engineer relating to a PI claim of negligent design, changes, delay and disruption, associated quantum and other direct costs and third party claims (NEC 2 contract). Dispute value £12M. Dispute mediated.
- 22-storey Residential Tower Block, UK – provision of pre-action delay and quantum expert witness opinion to insurers of structural engineer relating to alleged negligence in design and late provision of information (NEC 2 contract). Dispute value £4M. Dispute mediated.
- Hotel Development, London - provision of pre-action delay, disruption and quantum opinion relating to the provision of 290 bathroom pods for a multi-storey, 5-star hotel. Dispute Value £235k. Dispute settled.
- Children's Hospital, London - analysis of Contractor's entitlement to extension of time due to discovery of asbestos and termination of a cladding sub-contractor's contract. Dispute value £340k.
- Government New Accommodation Project, UK - Quantum Expert in litigation. Assessment of engineering solutions, delay and disruption costs associated with the provision of non-compliant concrete foundations (MOD Contract). Dispute value £14M. Dispute settled following exchange of reports.
- Private Residence, Channel Islands - Quantum review of additional and replacement works for the renovation and extension of a private residence, rental property and shop arising from defective works of main contractor. Dispute value £260k.
- Residential Housing and Office Accommodation, UK - Delay Expert Witness in Adjudication. Assessment of extension of time caused by defective design and construction by previous contractors who subsequently became insolvent (NEC 2 contract). Dispute Value £400k.

TRANSPORT (ROAD, RAIL, AIRPORT)

- Airports, Botswana – Quantum Expert Advisor in pre-DAB proceedings. Scope of advice included termination issues, entitlement to EOT and likely quantum in respect to build of airport infrastructure.
- Airports, Mozambique - Quantum Expert in ICC Arbitration. Valuation of contract work, variations and loss and expense following termination of airport pavement contractor. Oral evidence given in expert witness conferencing proceedings. Dispute value €18M.
- Multiple Roads Projects, Oman - provision of quantum and delay expert witness opinion in ICC Arbitration, in support of lead expert. Assessment of cost escalation and delays to construction. Dispute value US\$150M. Dispute settled following exchange of reports.
- Upgrade of London Underground Station and Associated Site Re-development - Quantum Expert (non-contentious) in respect of a claim for loss and expense associated with disruption of the works. Dispute value £17M. Dispute settled following exchange of reports.

EXPERT WITNESS APPOINTMENTS CTD.

SHIPBUILDING AND MARINE

- Super-Yacht – Delay expert in TCC litigation. Appointed on behalf of a major international law firm in a professional negligence case in relation to delay, liquidated damages and intellectual property. Delay dispute value €9M. Dispute settled in mediation following issue of expert reports.
- Nuclear Submarine Berthing Jetty, UK – Quantum Expert in relation to new build of nuclear submarine jetty under MPTC contract. Opinion as to valuation, Earned Value Analysis and whether costs were reasonably and properly incurred. Dispute value circa £45M. Dispute settled in mediation following issue of expert reports.
- Shipbuilding Dispute, Holland – Delay and Quantum expert in relation to refit of saturation diving support vessel. Dispute value €6.2M. Dispute settled at expert advisory stage.
- Shipbuilding Dispute, China - Delay Expert in LMAA Arbitration. 2 separate cases: Opinion as to entitlement to Extension of Time following rescission of building contract relating to the design and construction of three Oil/Chemical Tankers. Dispute value US\$68M.
- Shipbuilding Dispute, Abu Dhabi – Delay Expert in litigation (Commercial Court) – Adyard Abu Dhabi v SDS Marine Services (2011). Assessment of entitlement to Extension of Time following rescission of building contract relating to two 50m Offshore Supply Vessels. Dispute value US\$30M.
- Super-Yacht – Delay Expert providing pre-action advice on programme and project management in response to alleged management deficiencies and cost overrun.
- Dive Support Vessel, South Korea - provision of expert services to Employer (non-contentious) relating to construction scheduling prior to termination of building contract arising from excessive delays. Contract value US\$180M.
- Semi-Submersible Rig Construction, UK - provision of expert services to Employer (non-contentious) relating to budget escalation, construction programming and programme risk management for the fit-out of a semi-submersible rig in Teeside. Contract value US\$335M.

ENERGY, OIL & GAS AND PROCESS PLANTS

- Gas-fired Combined Cycle Electric Generating Plant, Caribbean – Quantum Expert in ICC Arbitration. Assessment of direct/indirect quantum costs, acceleration and other loss & expense on behalf of a civil engineering works contractor who provided all earthworks, piling, foundations, building design and construction and other site-related activities. Expert evidence provided through expert witness conferencing. Dispute value US\$46M.
- LNG Plant, UK - Project Management Expert in litigation (Employment Tribunal). Expert opinion on project management issues, staff competencies, project planning and risk management during construction of a plant in South Wales. Dispute value £50M.
- Gas Pipeline, Mediterranean - Quantum Expert in litigation (TCC). Assessment of cost escalation (arising from delays) and anticipated costs to complete construction of 28 booster compressors to service a cross-Mediterranean gas pipeline. Dispute value \$10M. Dispute settled following exchange of reports.
- Subsea Production Systems and FPSO, West Africa - commercial position paper on behalf of USA based equipment designer, manufacturer and installer identifying cause and effect arising from changed specifications, late changes and inefficiencies in project management by the Employer. Delay and disruption analysis, evaluation of direct/indirect cost, and loss and expense. Contract Value US\$650M, Dispute value US\$190M. Dispute mediated.

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- Gas De-Bottle-Necking Plant, Saudi Arabia - coordination of a team of four technical experts reporting on adequacy of Invitation to Bid, Cost Estimation, HAZOP activities and adequacy of tender submission for a leading US contractor, including drafting and alignment of separate expert reports. Contract Value US\$133M, Dispute value US\$138M.
- Gas Gathering Project, West Africa - Quantum and Delay Expert in ICC Arbitration on behalf of leading USA contractor. Assessment of quantum and delay of US\$150M design & build project, involving civil engineering, pipeline, equipment, M&E works and procurement problems. Dispute value US\$80M.
- Chemical Reactor and Process Plant, UK - Quantum Expert in litigation (TCC). Validation of project execution plan and cost estimate for the replacement of five chemical reactors due to premature failure following the sale of a process plant. Dispute value US\$4.8M. Dispute settled in mediation following exchange of reports.

OTHER PROJECTS

- Electrical and Communications Pipelines, Qatar - Quantum and Delay Expert in arbitration. Assessment of project management deficiencies, delays and associated quantum on the construction of underground pipelines carrying communications and other electrical infrastructure. Dispute value US\$4.3M. Dispute settled during expert investigations.

ARBITRATION EXPERIENCE (AS ARBITRATOR)

- Company Winding-Up – rationalisation of investment following the winding-up of a company. Hearing-based. Claim value £23k.
- Construction of Bulk-Liquid Storage Facilities - determination of defects in the installation of bulk liquid storage facilities. Documents only. Claim value £410k.
- Breach of Franchise Agreement - determination of liability and quantum relating to repudiation of a franchise agreement by a franchisee. Hearing-based. Claim value £820k; counter-claim value £750k.
- Breach of Purchase Agreement - determination of repudiation of agreement to purchase a yacht. Hearing-based. Claim value £50k.

ADJUDICATION EXPERIENCE

- Residential Apartments, Sports Complex and University Halls of Residence, UK - Representing Responding Party defending a claim for invalid withholding of sums. Prepared a counter-claim for contra-charges for defects and the claimant's failure to complete the works (NEC 2 contract). Claim value £400k. Counter-claim value £1.2M.
- School Refurbishment, Richmond, London - Representing Referring Party in a claim for monies invalidly withheld under a JCT2005 DB contract. Contract value £3.2M, Dispute value £590k.
- Office Re-development Project, London - Representing Responding Party in defence to a £141k claim and prepared a counterclaim for delay and disruption, valued at £150k.
- Fuel Storage Tank Replacement, UK RAF Base - replacement of underground storage tanks with above ground storage tanks on 24 separate sites. Representing Referring Party with a claim for delay, disruption, prolongation and associated entitlement to extension of time and loss and expense. Claim value £750k.
- Numerous other adjudication proceedings

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CLAIM PREPARATION EXPERIENCE INCLUDES

- 220-Room Hotel, Jersey - preparation of an extension of time claim for a main contractor, arising from the late provision of information and numerous variations.
- Luxury Apartments, Jersey - preparation of claim for withheld sums, associated loss and expense and wholesale re-valuation of the works arising from a 21-month delay to completion of render sub-contract. Dispute value £1.3M.
- 6-Storey Reinforced Concrete Industrial Building, UK - claim for loss, expense and quantum arising from delay to completion. Dispute value £1M.
- Temporary Field Accommodation, Kosovo - quantum assessment on delay, disruption and cost escalation claims on a project involving procurement and delivery of deployable accommodation and infrastructure systems. Dispute value £13M.
- Hotel Development, London - preparation of a claim and mediation brief on behalf of a steel sub-contractor for unpaid sums relating to the re-measurement of contract works (IFC 98) and 250 instructed variations. Provision of litigation support in a TCC action. Contract value £6.1M. Dispute value £700k.

CONTRACTUAL AND CONSULTANCY ADVICE INCLUDES

- Mixed Use Retail Development, Nairobi – advising on claims entitlement on delay and quantum matters relating to the build of a mixed use retail development. Dispute settled following issue of advisory reports.
- Network Rail Projects – Dispute Avoidance Consultancy Services to various rail infrastructure projects.
- Crossrail, London - provision of contract bid advice on provision of demolition services under NEC3 contract Option A/C/E.
- Thames Tideway Tunnels, London - provision of contract bid advice on provision of construction services under a bespoke contract.
- City Centre Shopping Centre and Car Park, UK - provision of contract advice on a bespoke demolition contract and establishment of extension of time and associated loss and expense. Contract value £5.9M.
- Development of Two Public Houses into Residential Apartments, London - provision of contract advice relating to determination of a contractor trading in administration. Contract value £2.6M.
- Luxury Housing Development, Dartmouth Marina - provision of NEC 2 Option E contract advice and assessment of strengths and weakness relating to over 500 Early Warning Notices and 340 Compensation Events. Contract value £12M, Dispute value £1.2M.
- Residential Flats and Primary Care Facility, London - provision of NEC 2 Option C contract advice and the drafting of an entitlement document relating to unpaid sums and extensions of time. Contract value £10.4M, Dispute value £680k.
- Channel Tunnel Rail Link, UK - provision of advice to Defending party on contractual rights and obligations with regards to a claim for failure of a tunnel boring machine and associated loss and expense. Advised on potential insurance losses of up to £1.5M.
- Kelly Airforce Base Construction Programme, San Antonio, Texas - Deputy Resident Engineer for the base construction programme, with significant exposure to the US Department of Defence construction partnering procedures.- Programme value US\$43M.
- Temporary Field Accommodation, Kosovo - MOD Contracts Adviser for facilities maintenance and service provision on 13 sites in the Balkans. Construction and service provision contract value £123M.

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PROJECT MANAGEMENT AND ENGINEERING EXPERIENCE

- Bridging for the 90s, Germany - Project Manager on the trial phase of procurement for a new bridging system. Project value £200M.
- Medical Training Facility, San Antonio, Texas - Structural and Civils Design Engineer on the project. Project value US\$8M.
- Aircraft Control Tower, Fort Hood, Texas - Structural and Civils Design Engineer on the project. Project value US\$2.2M.
- Air Logistics Centre HQ Refurbishment, San Antonio, Texas - Client's Representative and Projects / Contracts Manager. Conciliation facilitator for in excess of 100 contractual claims prior to formal dispute resolution procedures. Project value US\$13.8M.
- Logistics Computer Centre, San Antonio, Texas - Project Quality Assurance Representative for foundations and sub-structure construction. Contract value US\$2.3M.
- Environmental Soils Remediation, Kelly Airforce Base, Texas - Contracts Manager and Quality Assurance Representative. Project value US\$1.8M.
- Red Horse Maintenance Facility, San Antonio, Texas - Construction Project Manager. Project value US\$800k.
- Water Purification Units (200 Man Units) - Project Director, completing bid preparation, contract negotiation and project planning. Project value £1.8M.
- Australian Defence Force Deployable Water Systems - Projects Director for bid preparation and contracts analysis prior to tender award. Project value Aus\$42M.
- Engineering Infrastructure Procurement for UK Government - Requirements Director and Project Manager for a 10-year equipment programme budget of £600M. Procurement projects included deployable infrastructure systems, water supply, power generators and on- and offshore fuel delivery systems.

LOGISTICS EXPERIENCE

- Logistics Director, Balkans - provision of all engineering logistics equipment and construction material for construction regeneration projects in the Balkans. International procurement, local purchasing, multi-disciplinary contract negotiations for equipment provision, and engineer workshop management

CONTRACTS AND TRAINING SEMINARS

- Engineering and Construction Contract (NEC2 and NEC3)
- NEC / JCT98 / PPC2000 Comparison
- MF/1 Form of Contract
- Other Seminars - guest speaker to a law firm on "Procurement, Partnering and Project Management in Large Scale Construction Projects".
- Dispute Resolution Seminars - provision of training seminars and workshops covering litigation, arbitration, adjudication, ADR and expert witness.
- MSc Level Senior Lecturer - three years lecturing experience in civil engineering and construction management, majoring in ground and foundations engineering.
- Approved Chartered Institute of Arbitrators Tutor

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ADDITIONAL

WRITTEN PAPERS

- Management of User Trials of Deployable Bridging Solutions - 1992
- Tilt-Up Concrete Construction - 1994
- Asbestos Abatement - Practice and Project Management - 1994
- Partnering - the cure to the construction industry's ills, or yet another management approach to go wrong? 1997
- The Powers and Duties of the Arbitrator under the 1996 Arbitration Act - 2002

TESTIMONIALS

"...logically organised and well-expressed", "...impressed with how you kept your bearings in the multi-layered arguments and your effective response", "...delivery was thoughtful, clear and decisive."

- Counsel, [Quadrant Chambers](#)

"Richard produced a thorough and intelligent analysis of the Claim identifying many inconsistencies which laid the foundation for an effective cross examination of his opposite number. He was also impressive in Cross Examination and during Witness Conferencing."

- Solicitor, [Pinsent Masons LLP](#)