

ARCHITECTURE

Continuing with our focus on the work of Architectural expert witnesses, *Lawyer Monthly* benefits from an exclusive article by Christopher Miers, Managing Director and founder of Probyn Miers, international architect experts.

Current issues for instructing solicitors

Working with large document populations is a regular challenge. The widespread use of construction project extranets, the extensive documentation common on complex construction projects, and the requirements for electronic disclosure, all lead to challenges in the analysis of project data. Probyn Miers has built up experience of working with all types of documentation and data, and making use of material in whatever format it is available. The key is to be able to draw upon extensive experience in building design, contract administration and forensic research which enables Probyn Miers to focus on the material most likely to provide results in a cost effective way. Probyn Miers also has its own purpose written software used for co-ordination and analysis of documentary evidence, which was developed after experiencing the challenge of document intensive cases.

Cooperation between experts: effective cooperation between experts has the potential to save time and costs. As experienced experts, Probyn Miers considers they are often in the best position to advise clients where material can sensibly be shared, where and when it is appropriate to work jointly with other parties' experts – such as in respect of materials testing and opening up – and where they should be distinguishing work between privileged and non-privileged reports [see for example *Axa Seguros SA v Allianz Insurance* [2011] EWHC 268 Comm]. Failure to cooperate when necessary is likely to attract criticism - see *Mr Justice Coulson in Trebor Bassett Holdings Ltd & Anor v ADT Fire and Security Plc* [2011] EWHC 1936 (TCC).

Christopher Miers



Christopher Miers, Managing Director, founded the company in 1998 and Probyn Miers has since undertaken over 800 dispute resolution appointments for a wide range of clients including Insurers, Contractors, Central and Local Government, Trusts, Private individuals, Developers, Architects, and their legal representatives.

Christopher and his colleagues are regularly instructed as experts in construction cases concerning professional negligence, defects in design and construction, fire damage and investigations, disputes over the achievement of practical completion, extensions of time and

entitlement to payment, and a very wide range of building defects matters.

Christopher has undertaken recent dispute resolution appointments in Barbados, Dubai, Grand Cayman, Ireland, Oman, Sudan, Ukraine and throughout the United Kingdom, as well as providing training to professionals across the world from China to Zambia. This has included giving expert evidence to international ICC Tribunals as Tribunal expert and party appointed expert, providing expert evidence to other court and arbitral tribunals, and acting in 'third party neutral' roles such as a member of a dispute board or panel of experts, mediator, arbitrator or adjudicator.

Cost estimating: forecasting the required services and time needed will always be challenging in construction disputes at early stages. The Probyn Miers track record on over 800 disputes enables them to forecast likely time and cost requirements with great experience of the way a construction dispute is likely to develop. Experts may find themselves criticised if they fail to conduct their work in a proportionate or cost effective manner – see for example *McGlinn v Waltham Contractors* [2007] EWHC 149 (TCC). Commercial awareness is important.

Probyn Miers has an outstanding reputation for its unique team of Expert Architects undertaking a wide range of specialist Forensic Architect's services in Dispute Avoidance and Dispute Resolution, Expert Witness, Adjudication, Arbitration, Dispute Board, Mediation, Building Defects Investigation and Litigation support, as well as providing a full range of Architect's design services and a Project Rescue consultancy. **LM**

We have found Probyn Miers to be a highly responsive and customer focused organisation, offering a range of forensic technical services. They bring a unique blend of technical competence, together with commercial and legal awareness which make them a natural first port of call.

Major contractor

Balanced and Fair. Thorough and well researched reports. Sound judgment. Great insight. A pleasure to work with Queen's Counsel

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