



# Construction Insurance Masterclass - Advanced

DELIVERED BY ALAN TICKNER – FCII, FIRM

APRIL 2025

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# Introduction/housekeeping

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Welcome and thank you!

60-minute webinar format – Polls, Chat, Q&A

## **Alan Tickner – FCII, FIRM**

- Background over 40 years in the Insurance industry primarily in Broking sector
- Now consultant to major construction firm and technical trainer for Nick Thomas & Associates
- C.I.I. mentor



## **Nick Thomas & Associates**

- Up to the minute training solutions addressing the challenges of the modern insurance professional
- Technical insurance; sales, communication and soft skills; customer service; management and leadership; performance, resilience and wellbeing training

# Objectives

At the end of the session delegates will:  
Understand the JCT Design and Build  
2016 Contract

- Co-insurance
- Terminology and Meanings
- Two recent cases of relevance

# Quick summary from the last two webinars

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## Introduction

Insurance Clauses in JCT 2016 Section 6 Injury  
Damage and Insurance

Defects Exclusions & available options namely DE 1 – 5

## Intermediate

Terminology and Meaning e.g., Contract Particulars

Impact on the Policy Wording



# Six Principles of Insurance

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- Insurable Interest
- Indemnity
- Underinsurance
- Contribution
- Subrogation
- Proximate Cause



# JCT Standard Form of Building Contract options

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## 6.7

A New Build- Principal Contractor (Joint Names All Risks)

B New Build- Employer (Joint Names All Risks)

C for alterations or extensions to Existing Structures-

Employer to insure the Existing Structures (and their Contents) for Specified Perils

Employer to insure the Works for Joint Names All Risks

## 6.8

All Risks excluding the cost to repair:-Any loss or damage, as a result of, its own defect in design, plan, specification, material or workmanship.....where such work relied for its support or stability on such work which was defective D.E.2

Co-operative Retail Services Ltd v Taylor Young Partnership 2002

# JCT Standard Form of Building Contract clause 6.9

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## Sub-contractors-Specified Perils cover under Works Insurance Policies

6.9.1 The Contractor under Option A, and the Employer where Option b or C applies shall ensure that the Works Insurance Policy either:

- .1 provides for recognition of each sub-contractor as an insured under the policy, or:
- .2 includes a waiver by the insurers of any right of subrogation which they may have against any such sub-contractor

in respect of loss or damage by the Specified Perils... up to ....the Practical Completion of the Works...

Specified Perils: fire, lightning, explosion, flood, storm, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion but excluding Excepted Risks :

- Radiation
- pressure waves by aircraft at super sonic speeds
- act of Terrorism (outside the Pool Re definition)



# Issues with Coinsurance

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Joint Names \*

Composite

Additional Insured

- Agency Relationship
- Contracts (Rights of Third Parties) Act 1999
- Standing Offer\*\*

\*General Accident Fire and Life Assurance Corp Ltd v Midland Bank Ltd [1940]

\*\* Haberdashers Aske's Federation Trust Ltd v Lakehouse Contracts Ltd. (2008)





# Coinsurance as a defence to a subrogated action

- Joint names insurance\*
- Purpose of the rule
- Insurable Interest
- Extent of cover \*\*
- Limits to the doctrine of “pervasive interest”\*\*\*

\* Petrofina (UK) Ltd v Magnaload Ltd 1984

\*\* Commonwealth Construction Co Ltd v Imperial Oil Ltd (1976)

\*\*\* Deepak Fertilisers and Petrochemical Co [1998]



# R F U v F M Conway & Others (Clark Smith)

- Conway contracted to install ductwork to carry electric cables designed by Clark Smith Partnership
- Negligent installation of ductwork and ensuing damage to the cables
- Option C joint names Project policy (option C)- R.S.A.-With DE3 clause.
- Subrogation?



# Sky and Mace Ltd. V Riverstone Managing Agency

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- Background
- Scope of cover under the policy including D.E.5
- Practical Completion April 2016
- Policy 2014 to July 2017
- First decision in Court
- Court of Appeal's decision



# Period of Insurance UK v US

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## Sky and Mace v Riverstone

*The Insurers shall, subject to the Terms of this Contract of Insurance, indemnify the Insured against physical loss or damage to Property Insured, occurring during the Period of Insurance, from any cause whatsoever*

## Archer Western v Ace

*This Policy, subject to the terms conditions and exclusions stated herein, or endorsed hereto, insures against all risk of direct physical loss or damage to property of every kind and description intended to become a permanent part of, or consumed in, the fabrication, assembly, installation, erection or alteration of the Insured project*

# One other thing...

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## **Additional Cost of Construction**

This section extends to cover the Additional Cost of Construction incurred by the Insured in the event of loss or Damage to the Contract Works for which liability has been admitted

Not exceeding £1,000,000 or 10% whichever is the lesser....

This Section Extension does not include any cost

(e) In respect of any

- additional insurance premiums
- management expenses and/or overheads of any kind whatsoever

# Liability Features

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- Contractual Liability\*
- Indemnity to Principals
- Joint Insured -Cross liabilities
- Pollution
- Pollution Clean Up Costs
- Motor contingent Liability
- Obstructing Mechanically Propelled Vehicles
- Munitions of War
- Health and Safety Costs
- Public Relations Expenses

\*Tesco v Constable & Others [2007] EWHC 2008





# Management Liability

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## 1.2 Corporate Legal Liability the Insurer will pay:

(b) The Company's Professional Costs incurred in:-

- i) Defending a Corporate Claim in connection with an alleged breach by the Company of an express contract or express agreement (written or oral), up to the Breach of Contract sub-limit specified in the Schedule;
- ii) preparing for (including the preparation of any requested written notice or reports), responding to and attending any Corporate Investigation; or
- iii) defending the Company in a criminal prosecution against it (including an HSE Prosecution, or proceedings under the Corporate Manslaughter and Corporate Homicide Act 2007 or Bribery Act 2010).



# Cases referred to:

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Co-operative Retail Services v Taylor Young Partnership (2002)

General Accident Fire and Life Assurance Corp Ltd v Midland Bank Ltd [1940]

Haberdashers Aske's Federation Trust Ltd v Lakehouse Contracts Ltd. (2008)

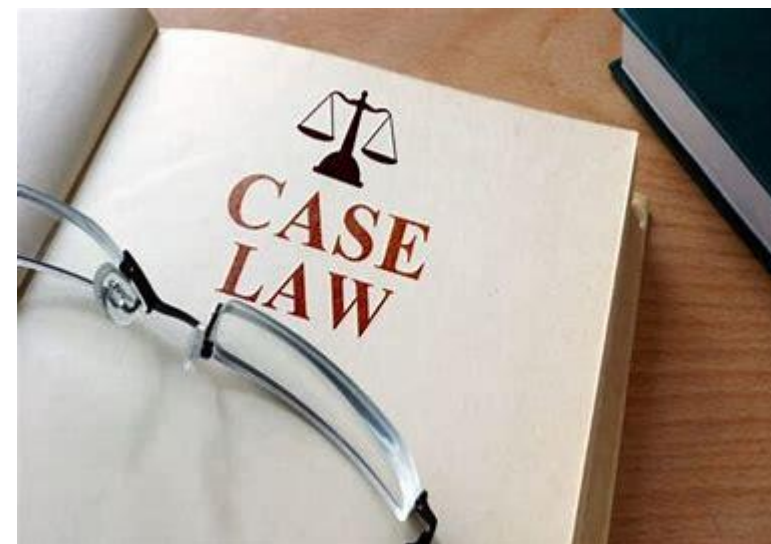
Petrofina (UK) Ltd v Magnaload Ltd 1984

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Deepak Fertilisers and Petrochemical Co [1998]

Knight v Faith (1850)

Tesco v Constable and Others (2008)



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# Thank you! Questions?

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## Contact:

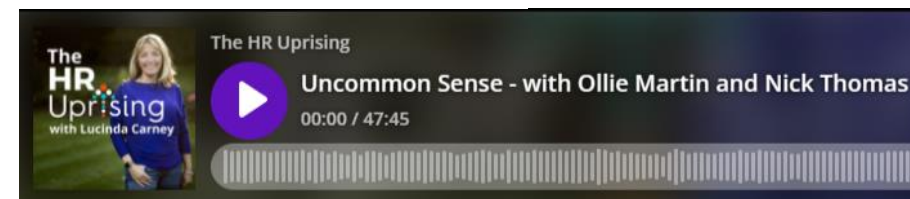
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*'Up to the minute training solutions addressing the challenges of the modern insurance professional'*

The logo for HRUprising, with 'HR' in blue and 'Uprising' in purple, where the 'i' is replaced by a colorful dot-matrix graphic.

[Click here](#) to listen to Nick's latest podcast appearance on 'HR Uprising' talking about workplace performance, resilience and health