



Peter Susman QC

Contents

Commercial	1
Representative Cases	1
Information Technology	3
Representative Cases	3
Finance & Consumer Credit	5
Representative Cases	6
Public Procurement	6
Representative Cases	7
Property	7
Representative Cases	7
Professional Negligence	8
Representative Cases	8
Professional Discipline & Regulation	9
Representative Cases	9
Broadcasting & Telecoms	9
Representative Cases	9
Construction & Engineering	10
Representative Cases	10
Arbitration, Mediation & Early Neutral Evaluation	11
Environment	11
Representative Cases	11
What the directories say	11
Appointments	12
Memberships	13
Education	13
Awards & Recognitions	13



Peter Susman QC

"Peter is *primus inter pares*, in drafting, advice and advocacy. He is a supportive and available QC, quick to respond and a great partner for an instructing solicitor. He deals with the thorniest issues of law or evidence with ease. He is very good with clients." "One of the most experienced people at the Bar." "A very sharp mind."

- Legal 500 2021 & Chambers UK 2021

Call 1966
Silk 1997

Tel: +44 (0)20 7583 9020
Email psusman@hendersonchambers.co.uk

Peter Susman QC is an advocate and adviser with wide experience, who now specialises in contract litigation, particularly concerning complex commercial or high technology areas, including construction and engineering, information technology, the regulation of business and of professionals, and other disputes involving foreign and domestic parties, more than one area of law (he also has a law degree from the University of Chicago Law School, and at one time worked as a corporate lawyer in New York City), complicated issues or facts, or other difficulties.

For more information about the way barristers at Henderson Chambers work, including our terms of engagement, fee transparency statement and our complaints process, please [click here](#). Barristers are regulated by the Bar Standards Board.

Please [click here](#) for a copy of Peter Susman's privacy policy.

Commercial

Peter has extensive experience of advising and acting for businesses, insurers, and individuals in commercial litigation in both the Queen's Bench and Chancery Divisions of the High Court, including interim and final remedies for breach of contract; the interpretation and drafting of commercial contracts, drafting of commercial contracts; the financing of national and international trade; insurance; company law; employment; and other issues arising in relation to commercial transactions and disputes."

Representative Cases

- *J v D Ltd (2021 Arbitration)*
Advising and acting for an overseas mining company disputing claims by former agent.
- *Contract Natural Gas (Marketing) Ltd v Contract Natural Gas Ltd (2021 Business Ch)*
Acting for a commercial agent suing its principal for an account of commissions due pursuant to the

Commercial Agents Regulations 1993

- *Cole v Premiere Care Holdings Ltd [2021] EWHC 1595 (Ch)*
Successfully resisting interim application by a father for Court-ordered takeover of a residential care home business run by his son and daughter-in-law.
- *Proposed agency contract between T Ltd and U Ltd (2020)*
Reviewing on behalf of a proposed sub-agent the terms of a contract for selling a new type of marine fuel
- *Aggreko International Properties Ltd v Sumitomo Mitsui Banking Corporation Europe Ltd (2020 Business QB Comm Ct)*
Acting for and advising the third defendant provider of electricity in Yemen in disputes to do with bank performance guarantees
- *N v C Pharmaceuticals (2019)*
Advising a claimant who alleged contractual appointment as distributor in India of a drug manufactured in England for sufferers from Parkinson's disease
- *AML Global Ltd v ExxonMobil [2018] EWHC 3321 (TCC)*
Successfully arguing for rectification for common mistake of an aviation fuel broker's framework trading agreement so as to confirm the broker's status as buyer's agent not liable for VAT.
- *Re X Ltd (2018)*
Advising a trading company how to continue to pay informants for leads to future business without breaching the Bribery Act 2010.
- *Re O Ltd (2018)*
Advising Japanese parent corporation whether adverse arbitration award in jurisdiction A could be enforced in jurisdiction B against the parent's shareholding in its subsidiary company operating in jurisdiction B.
- *Re C Ltd (2015)*
Advising whether the sale of shares in a company providing medical services within the NHS, for a price including the value of goodwill, is prohibited by the statutory ban on selling the goodwill of an NHS medical practice.
- *Re Z Ltd (2014)*
Advising a company on its options after it discovered fraud by a senior employee.
- *N v M LLP (2014)*
Advising a property developer, gazumped over purchase of a development site, on its prospects of success in suing its solicitors for professional negligence in failing to exchange contracts promptly and before it was gazumped.
- *X LLP v D Ltd (2014)*
Advising the vendor of an industrial site whether its solicitors were professionally negligent in answering

enquiries before contract to the effect that the land was not polluted, rather than to the effect that it was believed not to be polluted but that the purchaser must rely on its own enquiries.

- *Elvanite Full Circle Ltd v AMEC Earth & Environmental (UK) Ltd [2013] 4 AER 765 (TCC)*
Succeeding in argument that opponent was not entitled after judgment to double the amount specified in the applicable Costs Management Order.
- *Proctor & Gamble v Ghost Brand Ltd (2011 Ch)*
Acting on behalf of a defendant seeking to uphold its contractual right to use certain trademarks assigned to it by the administrators of a now defunct company.
- *Trustees of the B Settlement v H Plc (2011 Ch)*
Advising Trustees in relation to a proposed action against investment advisors for negligence in cashing in investments in a particular way, without regard to the loss of the tax advantages of doing it as those investment advisors had originally advised.
- *Faraday Underwriting Ltd v Reliance Scrap Metal Merchants (Parkstone) Ltd (2010 QB)*
Acting for insurers who had paid the legal costs of defending criminal proceedings against the insured following death of a worker in an explosion at a scrap yard, to gain repayment from the insured upon learning that the defence had been dishonestly concocted.

Information Technology

Peter has extensive experience of information technology, data protection, and other high tech areas of dispute. He has recently advised an institution how data protection law is likely to affect it following Brexit. He appeared in his first contested IT case as long ago as 1984 (defending software house against a claim in the QB for damages brought by its motor dealer customer), and for very many years has specialised in and been recommended in the directories for litigation over alleged defects in bespoke and customised software. He advises and represents central and local government, other UK or overseas users, or software houses, in disputes relating to the supply of computer software and related intellectual property and other issues, in the UK and Hong Kong. He innovated the use of the form of order known in some quarters as a 'Susman Order', which avoids some of the expense and difficulty of a search and seizure order by requiring the defendant to lodge with its own solicitor mirror images of all its computer software pending an application for disclosure of this material to the claimant's expert.

He has been ranked in the Legal Directories as a 'Leading Silk in IT', and has been shortlisted for IT Silk of the Year for the Chambers UK Bar Awards.

From 2006 to 2010 he chaired the Bar's IT Panel, which gives advice to the Bar on IT matters and represents the Bar in liaising with government and other professions on IT matters. He has lectured and written on IT and the law (e.g. 'What tends to go wrong in IT contracts'). He is a member of the Society for Computers and Law.

Representative Cases

- *W and others v J Ltd (2021)*
Advising issuers of crypto-tokens defending claims by subscribers in various jurisdictions.
- *X Software Ltd v Y District Council (2019)*
Advising a local authority that its contract with its financial software supplier did not oblige it to pay additional licence fees for alleged ‘extra copies’ of that software produced by the integrated backup system forming part of that software as supplied
- *Re A and B (2019)*
Acting on behalf of British employees working from home in England for an overseas foreign crypto-currency exchange suspected of participation in illegal activities by its local regulator
- *Re IC Ltd (2018)*
Advising promoters of an Initial Coin Offering of cryptotokens whether the ICO risked infringing statutory regulation.
- *Re The V Organisation (2016)*
Advising on data protection in relation to its computerised database of members to take account of the EU Regulation, UK legislation and the effect of Brexit
- *LFF v Persons Unknown (2015 TCC)*
Seeking orders for disclosure of computer systems overseas with the aim of discovering the identity of malicious hackers.
- *Your Response Ltd v Datateam Business Media Ltd [2015] QB 41 (CA)*
Succeeding in argument that a company managing a database of subscribers for a publisher was not entitled to exercise a possessory lien over the contents of the database in the absence of any contractual right to do so – the Court agreed that there is no common law lien over intangibles.
- *Re D Inc (2015)*
Advising a software house whether it was entitled to a further licence fee from a client required by its regulator to set up an offsite disaster recovery resource.
- *Fairstar Heavy Transport NV v Adkins (2014) Bus LR D2, [2013] EWCA Civ 886*
Succeeding in argument that a company was entitled to disclosure from its previous CEO of the content of electronic communications sent or received by the CEO on behalf of the company.
- *Verizon UK Ltd v UT&T Ltd (2013 QB)*
Acting for reseller of SKYPE services which alleged overcharging over a period of years by the provider of internet services.
- *Re NHS Patient records (2012)*
Advising HMG on prospects of recovering damages from the supplier of the failed unified patient record software to one area (“cluster”) of the NHS
- *Z Ltd v Republic of Y (2012 arbitration)*
Acting in an arbitration in the Republic of Y for a software house claiming against the Government of the Republic £6 million additional payment for out of scope functionality added to a successful IT project.

- *Re X Ltd (2011)*
Advising the owner of a television channel on the scope and implications of the statutory requirement that a licence holder be a ‘fit and proper person’.
- *TH Baker & Co Ltd v SDK Jewellers Ltd (2011 TCC)*
Acting for Internet seller of jewellery and watches in obtaining an interim injunction against a rival who in extracting (“scraping”) the client’s price data from its Website in order to undercut those prices was alleged to be causing the client’s Website to crash and the client to lose sales accordingly
- *Re T (2007)*
Acting for a religious group that claimed that its character and activities had been seriously misrepresented in a television documentary.
- *Re I Management Ltd v U Plc (2006)*
Acting for a building owner in its claim that on the proper interpretation of the relevant provisions of the Electronic Communications Code, it was entitled to require a telecommunications company to remove its mobile phone mast from the roof of the building.
- *SAM Business Systems Ltd v Hedley & Co [2002] EWHC 2733 (TCC)*
Acting for software house resisting counterclaim for defective transaction settlement software supplied to firm of stockbrokers – scope of exemption clause.
- *Psychometric Services Ltd v Merant International Ltd [2002] FSR 147 (Ch)*
Acting for software house resisting providing source code for website software in advance of payment.
- *Anglo Group Plc v Winther Browne & Co Ltd (2000) 72 Con LR 118 (TCC)*
Acting for the supplier of distribution software sued by a user for scores of alleged defects in standard software – the Court redefined the duties of an expert in an IT case.
- *The Boots Company Plc v Amdahl (UK) Ltd [2000] All ER (D) 1669, [2000] EWCA 277 (CA)*
Acting for a national retailer suing a supplier for breach of a promise made in the course of tendering for the updating of an electronic point-of-sale system to buy back the system at a discount at the end of the year.

Finance & Consumer Credit

Peter has been active in consumer credit law since the 1970s, when he conducted a series of conferences to inform and warn lending institutions and others on the implications of the Consumer Credit Act 1974 as it was about to come into force.

A few years later he was engaged to draft documentation for second mortgage lenders, and has since extensively advised upon and has been engaged in drafting documentation to meet the changing requirements of the secondary legislation in this field. His article attacking the poor drafting of one round of secondary legislation, entitled “Another Fine Mess” appeared in [2005] NLJ 770 (20 May 2005).

He now advises and acts for institutions whose business is lending, other institutions who arrange or extend

credit, and business and individuals to whom credit has been extended, in relation to failures to comply with legislative requirements, and related and other problems. In particular, he has appeared in a number of county court cases on behalf of a credit hire company, particularly in the important case of *Orley v Viewpoint Housing Association*.

He has been ranked in the Legal Directories as a “Leading Silk in Consumer Credit.”

Representative Cases

- *Four Marketing Ltd v Bradshaw [2016] EWHC 3292 (QB)*
Successfully arguing against a surety’s claim to have been released by an agreement between the creditor and the debtor company to capitalize the debt by replacing it with shares in the company, the successful counter argument being that the surety was not released so long as the agreement was subject to a condition that had not been satisfied.
- *C v C Bank Plc (2015)*
Advising a company on its prospective claim for losses of up to £3 million suffered as a result of the mis-selling by a bank of an interest-rate swap.
- *Re U Ltd (2014)*
Advising whether a financial services product presents regulatory problems where the finance company requires remote access to the details of the customer’s account for the purpose of advancing and recouping loans.
- *M v J Ltd (2014)*
Advising corporate lender on the individual borrower’s contention that repayment of a multi-million pound loan advanced for a residential redevelopment is precluded by failure to comply with the statutory requirements for regulated credit agreements.
- *Re D Pty Ltd (2013)*
Advising an overseas company intending to trade in carbon credits on the risk under English law of its business model being viewed as involving a fraudulent Ponzi scheme, unlawful pyramid selling, unlawful dealing in securities, or unlawful consumer credit transactions.
- *Britannia Car Hire Services Ltd v State Securities Plc (2010 Ch)*
Seeking relief against forfeiture on behalf of an insolvent car hire company whose stock of cars for hire was held on a series of lease-purchase agreement.
- *Orley v Viewpoint Housing Association (2010 Gateshead County Court)*
Successfully arguing that a credit hire transaction could be the subject of recoverable damages following a road accident, because a separate contract and notice of right to cancel did not breach the Contract Cancellation Regulations 2008.

Public Procurement

Peter has both lectured and advised on public procurement law, and has advised, for example, on relation to a

tender competition between 5-a-side football promoters each seeking the right to use an education authority's school pitches.

Representative Cases

- *Re R Local Authority (2015)*
Advising the local authority whether the Public Contracts Regulations 2015, reg 72, permits extension of the operative period of its outsourcing agreement without the need for a fresh public procurement tendering exercise.
- *Lift and Engineering Services Ltd v S Ltd (2011 TCC)*
Acting for the incumbent lift company when its rival was about to be awarded a local authority contract to maintain the lifts in blocks of flats, after apparently concealing previous involvement with failed enterprises and when the tender documents failed to warn of the TUPE implications of a successful bid.
- *Re E (2011)*
Advising a charity which contracted with a local authority to care for drug addicts, but was replaced by another body following a public procurement tendering exercise.

Property

Peter has long and extensive experience in property disputes, particularly those involving the use of freehold or leasehold land and rights of way in a commercial context.

Representative Cases

- *Re F Estates Ltd (2021)*
Advising developers on the validity and scope of insurance cover against claims by neighbours for infringement of rights of light.
- *U v U (2019 Business List Ch)*
Acting for a party who was managing a city centre redevelopment financed by his cousins, in the circumstances that those cousins wished to terminate the project.
- *Williams v WM Ewington & Co Ltd (2019)*
Advising landowner on prospects of appealing against a County Court decision that rights to park on its land included the parking of large commercial vehicles, justifying the grant of an injunction require removal by the landowner of narrow gates that prevented such parking.
- *Hathaway v J. Club Holdings Ltd (2018 County Court)*
Acting for the owner of a silica sand quarry offering a neighbour a substitute right of way in order to continue quarrying in the public interest what is a scarce resource.
- *Camps v Bolland (2017)*
Acting for landowner in arguing that unauthorised and excessive user by a neighbour of a right of way was a good defence to the neighbour's application for an interim injunction to prevent interference with

the right of way pending trial.

- *Re I Ltd v W Ltd (2015)*
Advising residential developer on the implications of the discovery on other land nearby of an unexploded naval shell and empty steel cases.
- *Mayor's Office for Policing and Crime v Cassidy (2014 Ch)*
Acting for the Metropolitan Police Football Club in seeking to establish in court proceedings its right to continue its over 100 year use of its Imber Court ground.
- *B Ltd v J Trustees (2014)*
Advising a commercial tenant whether a contractual right to erect a partition without the landlord's consent covered an extension to an existing mezzanine floor.
- *Odedra v Ball (2013 TCC)*
Acting for householders in suing their neighbours for damages for depreciation in the value of the householders' property following an extensive leak of heating oil from neighbours' land, when all of the considerable physical damage had been remedied by the neighbours' insurers.
- *Re N Farm (2012)*
Advising a prospective residential developer whether the sight lines required by the planning authority could be assured by way of a prescriptive easement.

Professional Negligence

Peter advises and acts (usually but by no means exclusively on behalf of the claimants) in professional negligence claims, including those against accountants, architects, solicitors, surgeons and surveyors.

Representative Cases

- *S Ltd v B Ltd (2018)*
Acting for developer of brownfield site in claim for damages against soil engineers for negligent design of site drainage and road layout.
- *N v M LLP (2014)*
Advising a property developer, gazumped over purchase of a development site, on its prospects of success in suing its solicitors for professional negligence in failing to exchange contracts promptly and before it was gazumped.
- *X LLP v D Ltd (2014)*
Advising the vendor of an industrial site whether its solicitors were professionally negligent in answering enquiries before contract to the effect that the land was not polluted, rather than to the effect that it was believed not to be polluted but that the purchaser must rely on its own enquiries.
- *Elvanite Full Circle Ltd v. AMEC Earth & Environmental (UK) Ltd (2013) 148 Con LR 127, [2013] EWHC*

1191 (TCC)

Acting for a claimant suing its planning consultant for negligent failure to progress its application for planning permission for an industrial redevelopment.

- *Trustees of the B Settlement v H Plc (2011 Ch)*

Advising Trustees in relation to a proposed action against investment advisors for negligence in cashing in investments in a particular way, without regard to the loss of the tax advantages of doing it as those investment advisors had originally advised

Professional Discipline & Regulation

Peter advises and represents both professionals faced with disciplinary or regulatory proceedings, and professional bodies faced with regulatory issues.

From 2006 to 2015 he was Vice-Chairman of the Appeal Committee of the Institute of Chartered Accountants of England & Wales, in which capacity he chaired panels hearing appeals from that body's Disciplinary Committee. He is a former member of the Bar Council's Professional Conduct Committee.

Representative Cases

- *ACCA v X (2015 appeal tribunal)*

Acting for an accountant on his appeal against a disciplinary tribunal finding on the ground that the tribunal wrongly applied the test for dishonesty.

- *Baxendale-Walker v Middleton [2011] All ER (D) 242 (Apr), [2011] EWHC 998 (QB)*

Acting for struck off solicitor in seeking to resist the striking out of his claims against The Law Society and a firm of accountants for conspiracy and against the Solicitors' Disciplinary Tribunal for misfeasance in public office.

- *LSC v Loomba [2012] 2 AER 977 (Admin)*

Acting for solicitors sued to recoup old legal aid payments on account.

Broadcasting & Telecoms

Peter was standing counsel to Ofcom in its start-up period from 2003 to 2005, and has knowledge and insight in the area of broadcasting, telecommunications, and related reputational issues.

Representative Cases

- *Re X Ltd (2011)*

Advising the owner of a television channel on the scope and implications of the statutory requirement that a licence holder be a 'fit and proper person'.

- *Re T (2007)*
Acting for a religious group that claimed that its character and activities had been seriously misrepresented in a television documentary.
- *Re I Management Ltd v U Plc (2006)*
Acting for a building owner in its claim that on the proper interpretation of the relevant provisions of the Electronic Communications Code, it was entitled to require a telecommunications company to remove its mobile phone mast from the roof of the building.

Construction & Engineering

As well as sitting as a Recorder in the Technology and Construction Court to hear construction and engineering disputes (for example, *Tunnel Refineries Ltd v Bryan Donkin Co Ltd and Alstom SA (1998) CILL 1392*), Peter has over 35 years' experience of advising and acting in court and arbitrations for and against builders, engineers, their employers, and the architects, quantity surveyors and other professionals they engage, including advising a number of hoteliers on allegedly defective newly built swimming pools and extensions, and more recently acting for employers suing builders and architects over faults in a newly built large house in North Yorkshire, and acting for an American in a dispute over the multi-million pound restoration she commissioned of a 17th century house in Mayfair. Peter is often asked to advise on problems arising in the course of building or engineering work that are outside the usual allegations of defects and delay.

Representative Cases

- *Summerthorne Estates Ltd v BdR (Civil and Structural Engineering) Ltd (2020 TCC)*
Acting for commercial developer of brownfield site in its claim for damages for increased cost of infrastructure and drainage against soil engineers alleged to have failed to appreciate or design for the fact that the site was largely waterlogged
- *T Estates Ltd v CCC Engineers Ltd (2017)*
Advising developers on a claim for £1 million damages for their consulting engineer's inadequate investigation for and consequent faulty design of site drainage and roadworks.
- *Ltd v Housing and Communities Agency (2015)*
Advising redeveloper what expenditure could be properly offset against the Agency's claim to clawback part of a redevelopment grant.
- *Re B Ltd (2014)*
Advising a company on terms of proposed contracts to provide heating systems using renewable sources of energy that will entitle the other party to Government grants.
- *E Ltd v B Ltd (2013)*
Advising a company that had expended considerable resources in the hope and expectation of participating profitably with another company in a successful tender to a government department for the supply of metering technology, on the prospects of recovering compensation when ultimately excluded from participation.

- *Y Ltd v R Ltd (2010)*

Advising an architect, when the developer by whom he had been engaged required warranties on the quality of his work beyond what he was already obliged to give, how to persuade his professional indemnity insurers to extend cover accordingly.

Arbitration, Mediation & Early Neutral Evaluation

Peter is an experienced arbitrator, mediator and early neutral evaluator, is a Fellow of the Chartered Institute of Arbitrators, and is listed by the Technology and Construction Bar Association (TECBAR) as an approved arbitrator, and by the Society for Computers and Law as an approved adjudicator. Between 1987 and 2016 he sat as a Recorder (deputy judge) in the specialist jurisdiction of the Technology and Construction Court (a division of the High Court in London), and in civil and criminal cases. Between 2006 and 2015 he sat as vice-Chairman of the Appeal Committee of the Institute of Chartered Accountants of England and Wales (chairs panels which hear appeals from the Institute's Disciplinary Committee). His role in ADR is informed by his private practice expertise in commercial, IT and other high tech areas, as illustrated by his appointment to chair an arbitral panel to determine a dispute over responsibility for failure of a project to provide fibre optic broadband.

Environment

Peter has advised on a number of environmental issues, most recently in relation to oxo-biodegradable plastic.

Representative Cases

- *Opinion on Oxo-biodegradable plastic technology (2019)*

Opinion setting out an independent review, in the light of the available scientific evidence, of the effectiveness and utility of Oxo-biodegradable plastic technology in facilitating the speedier final degradation of certain plastics, and thus reducing for the future the scourge of pollution of land and sea by waste plastic.

What the directories say

"Knows the law so well and always gets the right points in the right order." "He is very good on technical stuff and highly computer-literate." "Bright and able."

Chambers UK 2019 & Legal 500 2019

"One of the most experienced people at the Bar." "A very sharp mind."

Chambers UK 2021

"He has a breadth of experience in IT disputes."
Legal 500 2020

"Very able and reliable, and has a lot of industry knowledge."
Chambers UK 2020

"Highly regarded for IT disputes."
Legal 500 2019

"Extremely nice and friendly, and really gets to grips with things."
Chambers UK 2017

"Esteemed silk with a particular specialisation in disputes arising from alleged software defects. He is highly regarded for his work for private developers, customers and major government bodies."
Chambers UK 2017

"Excellent"
Legal 500 2017

"very experienced and very easy to deal with."
Chambers UK 2016

"First rate"
Legal 500 2016

"He's forceful in putting forward his client's interests, and also has the commercial judgement to find a sensible, agreed way forward in a case."
Chambers UK 2015

"very thorough"
Legal 500 2015

Appointments

- Fellow of the Chartered Institute of Arbitrators
- Bencher of Middle Temple; Master of the Library (2013-2019)
- Recorder (1987-2016 Technology and Construction Court, County and Crown Courts)

- Queen's Counsel (1997)
- Vice-Chairman, Appeal Committee of the Institute of Chartered Accountants of England & Wales (2006-2015)
- Chairman of the Bar Council's IT Panel (2006-2010)
- Standing Counsel to Ofcom (2003-2005)
- Honorary Member of the E. Robert Williams American Inn of Court, Jacksonville, Florida, USA
- Honorary Member of the Tampa Bay American Inn of Court, Tampa, Florida, USA

Memberships

- Society for Computers and Law
- Technology and Construction Bar Association
- Professional Negligence Bar Association
- London Common Law Bar Association
- Commercial Bar Association

Education

- University of Chicago Law School (British Commonwealth Fellow and Fulbright Scholar, JD)
- Lincoln College, Oxford (Oldfield Open Law Scholar, BA (Hons) Jurisprudence, MA)
- Dulwich College, London

Awards & Recognitions

