



GREENWAY CHAMBERS

# Persuading a SOPA Adjudicator: What Works and What Doesn't?

Wednesday 18 March 2026

## SESSION SPEAKERS



Lucas Shipway  
Barrister

Robert Sundercombe  
Adjudicator

1. The art of persuasion
2. Contractual construction and complex valuations
3. Natural justice and procedural fairness
4. Jurisdictional boundaries
5. Late, irregular or non-conforming documents
6. Complex set-offs & defences vs “Pay Now, Argue Later”
7. Ethics and the adjudicator’s role
8. Suggestions for reform
9. The takeaway message

Questions



## Robert Sundercombe

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1. Adjudicator since 2003
2. Accredited to practice in Queensland, New South Wales, Victoria, Tasmania, the ACT, South Australia and Western Australia
3. Senior adjudicator on several Authorised Nominating Authorities' panels (such as Adjudicate Today)
4. Electrical engineer with over 40 years' experience in the construction industry, mainly in the area of major contracting and has occupied senior positions including project manager, construction manager, contracts manager and area manager
5. President of the Adjudication Forum, and he has provided advice to several state governments on their security of payment acts.



## The art of persuasion

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1. What is genuinely persuasive (versus technically admissible but practically unhelpful)?
2. What weighs more heavily: a carefully reasoned legal argument or a more commercially intuitive outcome?
3. Do you prefer to receive material in any particular format, layout etc?



## Contractual construction and complex valuations

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1. Legalistic contractual construction or a more impressionistic assessment?
2. How do you approach complex contract mechanisms for determining price?
3. How do you decide what level of forensic precision is “enough” for the purposes of the Act?
4. Does valuation complexity ever make adjudication an unsuitable forum?



## Natural justice and procedural fairness

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1. How far are you prepared to rely on your own reasoning or calculations where a point was not squarely advanced?
2. What about when a point ought to have been raised but wasn't?



## Jurisdictional boundaries

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1. Have you observed an increase in submissions framed as “jurisdictional challenges”?
2. How do you approach filtering tactical jurisdictional arguments from genuine ones?



## Late, irregular or non-conforming documents

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1. How do you approach cases where a payment claim or payment schedule is technically defective but substantively clear?
2. What weight if any do you give to industry practice when determining whether a document constitutes a valid payment claim?



## Set-offs & defences vs “pay now, argue later”

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1. How do you reconcile the “pay now, argue later” philosophy with detailed set-off arguments or other defences?
2. A mini-final hearing?



## Reasons and judicial review

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1. When drafting reasons, are you consciously anticipating potential judicial review?
2. If so, how does that affect your work?



## Ethics and adjudicator's role

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1. Managing repeat appointments involving the same parties or firms
2. Are there situations in which an adjudicator should decline an appointment?



## Reform

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1. What changes — legislative or practical — would most improve the quality and durability of adjudication determinations?
2. Is there anything in the Act you would change to make your task easier?



## The takeaway message

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1. What do you think practitioners most commonly misunderstand about how adjudicators actually decide claims?
2. Any hot tips for claimants or respondents?



Questions?



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