



## Jonathan Chew

Call: 2010

jchew@wilberforce.co.uk

### Clerks' Details

Danny Smillie +44 (0)20 7306 0102  
Andrew Barnes tcj@wilberforce.co.uk  
Billie Poppy

### Qualifications and Appointments

- BCL, Brasenose College, Oxford (Distinction) (2008-9)(Restitution, Conflicts of Laws, Advanced Property and Trusts papers)
- MA (Law), Emmanuel College, Cambridge (2004-8) (University prizes awarded for top mark in year in Land Law and Public International Law (both 2006))
- Maitrise en Droit, mention assez bien, Université Paris II Panthéon-Assas (2006-8)(French equivalent of a Master's degree in law)
- Queen Mother Scholarship (Middle Temple) and Outstanding BVC

## Memberships

- COMBAR
- Chancery Bar Association
- Registered Advocate of the DIFC Courts

## Publications

- "What Price Trespass" [2013] Conveyancer 439
- Contributing editor to the Wilberforce Rules of the DIFC Courts (3rd edition)(2014)

## Practice Overview

Jonathan has a broad practice across chambers' main practice areas. It encompasses, pensions, property (including landlord and tenant), domestic and international commercial work, and trusts. He deals with professional negligence, company and insolvency issues arising out of these core areas.

As sole counsel, Jonathan regularly appears in the High Courts (Chancery Division, Commercial Court, QBD and TCC) as well as the county courts. By way of example, he recently succeeded in a three-day High Court trial in the QBD (*Dany Lions v Bristol Cars* [2014] 2 ALL ER (Comm) 403) and in a summary judgment application in the same case, reported at [2014] 1 Lloyds Rep 281.

### Highlights of Jonathan's recent work:

- One of *The Lawyer's "Top 20 Cases of 2014"*, where he is led by Joanna Smith QC in a dispute relating to a wine factory in the South West. Joanna and Jonathan successfully obtained an interim injunction to restrain an adjudication in that case (*Twintec v Volkerfitzpatrick* [2014] BLR 150.)
- *Phillips v Francis* [2013] 1 WLR 2343. Jonathan acted with Jonathan Seitler QC on the leading case on the meaning of 'works' for landlord and tenant consultation purposes. The case is listed for appeal in 2014.
- Working with Jonathan Evans QC on a claim arising against pensions administrators and solicitors out of failed equalisation of a pension scheme.
- Acting with Jonathan Seitler QC, on a number of related disputes over the restaurant at the top of the Centre Point Tower on Oxford Street. Jonathan and Jonathan successfully resisted an interim injunction: *Century Projects v Almacantar* [2014] EWHC 394 (Ch).
- Jonathan was led by Rupert Reed QC on the Corinth Pipeworks litigation in the DIFC Courts in Dubai, a US \$24m fraud case. Rupert and Jonathan acted for over 18 months settling the case immediately before trial.



---

## Pensions

Jonathan acts for and advises a range of institutional and pensions professional clients. His pensions work includes not only litigation but also advisory work on transactional and regulatory matters. Jonathan's work spans the full range of pensions issues covering both the trusts aspects and regulatory matters including S 75 debts and pensions liberation.

### Jonathan's contentious work includes:

- Acting with Jonathan Evans QC on a failed equalisation claim against scheme administrators and solicitors.
- Acting with Michael Furness QC on a claim to recover a £5m S 75 debt from a former participating employer.
- Providing pensions advice to the Pensions Regulator in respect of a threatened judicial review arising out of the Regulator's powers to prevent pensions liberation.
- Acting for a SIPP trustee of a large family business in a dispute with beneficiaries
- Advising the Pensions Regulator (with James Walmsley and Keith Rowley QC) on a regulatory investigation and potential action arising out of a pre-pack takeover and insolvency of a scheme employer.
- Advising on a potential claim against an IFA in relation to a SIPP.
- Advising trustees on the effectiveness of an attempted equalisation.

### Jonathan's non-contentious work includes:

- Advising a major insurer on how to structure its internal procedures to avoid potential unwitting participation in pension liberation (with Jonathan Evans QC).
- Advising an American scheme employer on scheme amendments and statutory and regulatory best practice in relation to member-nominated trustees.
- Advising the purchaser on an acquisition of a group of employer companies on potential scheme liabilities.

## Professional Liability

Jonathan's principal professional liability work arises out of his property, commercial and pensions work. This involves acting for and against a wide range of professions: accountants, solicitors, construction professionals and trustees. He has also appeared in the Privy Council in a veterinary professional negligence claim (*RCVS v Holmes* [2011] UKPC 48).

### Examples of Jonathan's professional liability work include:

- (*Twintec v Volkerfitzpatrick* [2014] BLR 150.) A construction professional negligence claim which is one of *The Lawyer's "Top 20 Cases of 2014"* where a tenant was claiming over £100m against its landlord, with contribution claims against contractors and sub-contractors. Jonathan was led by Joanna Smith QC in the dispute relating to a wine factory in the South West and successfully obtained an interim injunction in that case restraining adjudication.
- Successfully defending a solicitors' firm in a county court trial arising out of the inheritance tax consequences of a sale of property and distribution of proceeds.
- Acting with Jonathan Evans QC on a failed equalisation claim against pension scheme administrators and solicitors.
- Advising on a potential claim against an IFA in relation to a SIPP.
- Acting against a conveyancing solicitor for failure to advise purchasers of the existence of a right of way burdening the purchased property.



---

## Trusts, Tax, Probate and Estates

Jonathan undertakes a wide range of trusts and estate work, both as sole counsel and as part of a wider team. He has worked on offshore litigation involving both commercial investment trusts and more traditional family trusts, and in relation to jurisdictions such as Gibraltar, the Cayman Islands and the BVI. His work as sole counsel ranges from offshore trusts work to domestic trusts and estates work, such as 1975 Act or TOLATA claims.

### Recent examples of Jonathan's trusts and estates work include:

- Acting as sole counsel advising trustees based in Gibraltar on litigation arising out of potential proprietary claims arising out of the Madoff litigation.
- Successfully defending a solicitors' firm in a two-day trial from claims by beneficiaries of an IHT scheme that the firm had acted negligently in relation to the distribution of proceeds of sale triggering higher tax liabilities.
- Working on multi-million private family trust litigation in the Cayman Islands (reported as *AB Jnr & Or v MB & Ors* [18 December 2012]), with the Withers LLP contentious trusts team.
- Providing chancery advice in relation to the beneficial ownership of a property and shares in an offshore holding company in a high-value divorce in the Family Division (with Andrew Mold).
- Appearing at first instance and on appeal to the High Court in a dispute relating to the beneficial interest of a trustee in bankruptcy to assets in the hands of a post-bankruptcy creditor (the case settled before judgment in the appeal).
- Settling pleadings in and appearing in court on 1975 Act claims.

## Property

Jonathan's recent reported property cases have ranged from skyscrapers in central London to holiday parks in Cornwall. He covers the full range of property work including mortgage, landlord and tenant and conveyancing issues. A substantial element of his work involves advising on potential issues around transactions, such as rights to light, the construction of restrictive covenants (whether freehold or leasehold) and the leasehold enfranchisement process. He has also contributed to the Conveyancer.

### Recent examples of litigation include:

- *Phillips v Francis* [2013] 1 WLR 2343. The leading case on the meaning of 'works' for landlord and tenant service charge consultation arising out of a dispute in a holiday park in Cornwall. Jonathan is instructed on the appeal listed for October 2014 (with Jonathan Seitler QC).
- *Century Projects v Almacantar* [2014] EWHC 394 (Ch) Acting with Jonathan Seitler QC, on a number of related disputes over the restaurant at the top of the Centre Point Tower on Oxford Street. Jonathan and Jonathan successfully resisted an interim injunction.
- Acting as sole counsel in ongoing High Court litigation relating to the existence of a scheme of development in an estate in West London, with judgment expected in autumn 2014.
- Advising on and appearing in several ongoing county court TOLATA claims
- Jonathan recently acted with James Ayliffe QC on a dispute between LLP partners in a property joint venture, relating to secret profits and duties to disclose, successfully settling the case before trial.
- Appearing at a mediation in relation to a dispute relating to the sale and purchase of commercial property and the related business.



---

## Property continued

- *Funding Corp v Lexi Holdings* [2012] Bus LR D33 Assisting Martin Hutchings QC in a case concerning priorities of different lenders to the proceeds of sale of properties purchased by fraudsters.
- Appearing on 1954 Act lease renewal cases

### Jonathan's advisory work has included:

- Advising in relation to rights to light issues on a major proposed development in central London.
- Advising a major UK retail tenant of their service charge liabilities following a change in apportionment by the landlord
- Advising a right to manage company on its position regarding disgruntled former director tenants
- Leasehold enfranchisement – providing advice to both landlords and tenants and drafting notices or counter-notices where appropriate
- Considering the extent of the demise of long leases of residential property where there are proposals to develop the basement or the roof space
- A dispute between parties to a joint venture to develop a polo centre.

## Commercial

Jonathan particularly enjoys commercial work with an added layer of complexity. Often this arises from an international conflicts of laws element, from additional equitable tracing or breach of trust claim, or simply from a badly-drafted contract. He has acted on US \$24m fraud claim in Dubai and as sole counsel in a heavily-contested High Court trial. Jonathan regularly appears in urgent applications and has experience of obtaining and resisting freezing injunction applications.

### Recent highlights of Jonathan's commercial practice include:

- Winning a three-day High Court trial, *Dany Lions v Bristol Cars* [2014] 2 ALL ER (Comm) 403. The claim concerned a failure to repair a classic Bristol car in breach of contract. As sole counsel, Jonathan succeeded at trial on the issue of the unenforceability of reasonable endeavours clause requiring a contracting party to attempt to contract with a third party. Jonathan had earlier obtained summary judgment on issues of frustration and common mistake (reported at [2014] 1 Lloyds Rep 281) and applied Mitchell principles to resist a late amendment ([2014] EWHC 928 (QB).)
- Being led by Rupert Reed QC on the Corinth Pipeworks litigation in the DIFC Courts in Dubai, a US \$24m fraud case relating to the misappropriation of trade finance. Rupert and Jonathan acted for over 18 months settling the case immediately before trial
- *Twintec v Volkerfitzpatrick* [2014] BLR 150 Acting in one of *The Lawyer's* 'Top 20 Cases of 2014', where he is led by Joanna Smith QC in a dispute relating to the construction of a wine factory in the South West. Joanna and Jonathan successfully obtained an interim injunction to restrain an adjudication in that case.
- Acting as sole counsel in a claim against a fraudulent second-hand car dealer from ex parte freezing relief, the return date and pleadings through to judgment.
- Advising a street artist's agent on the extent and nature of his obligations to a gallery to whom the agent had granted exclusive distribution rights.



---

## International Arbitration

Jonathan carries out both written and oral advocacy in relation to arbitrations. Although the details are confidential, the type of work Jonathan has recently been involved in includes:

- Preparing statements of case for arbitrations.
- Appearing on a challenge to an award for procedural irregularity and error of law.
- Settling application notices and claim forms for a challenge to an award.