



Jonathan Chew

Call: 2010

jchew@wilberforce.co.uk

Clerks' Details

+44 (0)20 7306 0102
practicemanagers@wilberforce.co.uk

Qualifications and Appointments

- BCL, Brasenose College, Oxford (Distinction) (2008-9)
- 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

“Analytically very strong and as an advocate he is confident, relaxed and assured.”

Chambers & Partners 2020

Memberships

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

Publications

- [‘Rules of the DIFC Courts’](#) (2018) Wilberforce Chambers, 5th edition (and 4th and 3rd editions)
- [‘Phillips v Francis’](#) (2015)
- ‘What Price Trespass’ (2013) Conveyancer 439

Practice Overview

Jonathan is a property, pensions and commercial chancery barrister. He has a specialist professional negligence practice on matters arising from his core work.

He has been repeatedly recommended in the directories:

“Analytically very strong and as an advocate he is confident, relaxed and assured.” (Chambers and Partners UK Bar 2020)

“An excellent advocate with an engaging way of putting ideas across.” (Chambers and Partners UK Bar 2020)

“A tenacious advocate” (The Legal 500 2020)

“Comprehensive in his approach, an impressive and effective advocate.” (The Legal 500 2019)

“He is excellent at rolling up his sleeves and getting stuck in, he really knows his stuff and he inspires confidence in both solicitors and clients.” (Chambers and Partners UK Bar 2018)

“His opinions and written submissions were excellent” (Chambers and Partners UK Bar 2017)

“He’s very hard-working, bright and a really good team player.” (Chambers and Partners UK Bar 2017)

He has been repeatedly instructed in The Lawyer’s Top 20 cases (2019, 2015 and 2014), and listed in Who’s Who Legal.

Jonathan is as comfortable acting as sole counsel as being led as part of a wider team. He has particular experience of substantial High Court trials. As sole counsel he has appeared in the Court of Appeal, regularly appears in the High Court (Chancery Division, QBD, Comm Court and TCC), and before various tribunals including the FTT, UT or Pensions Regulator DP, often against silks or senior juniors. He is regularly instructed to appear before the DIFC Courts in Dubai, and acts in mediations and arbitrations.

Current ongoing matters include:

- *Re Mitchells & Butlers Pension Plan* (ongoing): a major pensions dispute, led by Michael Tennet QC and Edward Sawyer, on rectification, RPI/CPI, and the validity of amendments.
- Led by Jonathan Seitler QC on a landlord and tenant dispute over a multi-million pound programme of works to a substantial commercial building.



Practice Overview continued

- *Britvic PLC v Britvic Pensions Ltd* [2020] EWHC 118 (Ch): Acting for the Britvic Pension Trustee on a dispute over the meaning and effect of RPI pension increase provisions.
- A multi-million multi-party commercial fraud dispute over the alleged misappropriation of helicopter purchase funds.

Other reported cases include:

- *Canary Wharf v European Medicines Agency* [2019] EWHC 335 (Ch): In the much-publicised "Brexit" case, Jonathan acted with Joanne Wicks QC for the landlord Canary Wharf in arguing that Brexit will not frustrate the EMA's lease. Having succeeded at first instance, the case settled before the appeal was heard in Court of Appeal.
- Acting for Barclays in a DIFC guarantee dispute.
- *Reedbase v Fattal* [2018] 2 P&CR 14: Jonathan appeared as sole counsel in the Court of Appeal for the successful landlord on the first appellate case on a landlord's obligations to consult and a change in proposed works, and the first in the Court of Appeal for over 25 years on the obligation to make good.
- *Tavira Securities v Point Ventures FCZO* [2017] CFI 26: acting as sole counsel against a silk in a jurisdiction challenge in the DIFC in litigation relating to an alleged share transaction.
- *Knapper v Francis* [2017] L&TR 20: appearing as sole counsel before the Upper Tribunal on the operation of on-account demands under the terms of the lease and the 1985 Act consultation regime.
- *Matchmove v Dowding* [2017] 1 WLR 749: led by Jonathan Seitler QC on a leading recent case relating to constructive trusts.

Property

Jonathan's practice spans the range of property work: in substance, from City skyscrapers to Cornwall holiday parks; in type from landlord and tenant through registration and mortgage issues to questions of title and easements; and from tribunals from the Court of Appeal to the FTT. He also has experience of obtaining injunctions against squatters and protestors.

In addition to his litigation work, he often advises on matters which may become contentious, such as the interpretation and applicability of covenants, the scope of easements, or the extent of rights of light.

He often acts for major institutional clients, whether major London estates or substantial tenant companies (such as high-street supermarkets, pub chains, or fast food chains).

He has been recognized in Chambers and Partners, Legal 500 and Who's Who Legal for his property work;

"A tenacious advocate." (Legal 500 2020)

"Very imaginative and very willing to get into the detail and adopt a very user-friendly approach."

"An excellent advocate with an engaging way of putting ideas across."

"Analytically very strong and as an advocate he is confident, relaxed and assured."

(Chambers and Partners 2020)

"Comprehensive in his approach, an impressive and effective advocate" (Legal 500 2019).

Substantial recent matters include:

- Led by Jonathan Seitler QC on a landlord and tenant dispute over a multi-million pound programme of works to a substantial commercial building.
- *Canary Wharf v European Medicines Agency* [2019] EWHC 335 (Ch): In the much-publicised "Brexit" case, Jonathan acted with Joanne Wicks QC for the landlord Canary Wharf in arguing that Brexit will not frustrate the EMA's lease. The case settled before an appeal to the Court of Appeal.



Property continued

- *Quidnet Capital Partners v Colsilverbird & ors*: Jonathan acted for property owners in a multi-million pound dispute with its former asset managers.
- Acting for HS2 Limited in securing possession of a high profile site the subject of substantial environmental protest.

Other reported cases include:

- *Aurora Developments v Delta Holdings* [2018] EWHC 1047 (Ch): Jonathan successfully acted for the victims of a major property investment fraud relating to development land in central London, including a successful finding of fraud on a summary judgment basis.
- *Reedbase v Fattal* [2018] 2 P&CR 14: Jonathan appeared as sole counsel in the Court of Appeal for the successful landlord on the first appellate case on a landlord's obligations to consult and a change in proposed works, and the first in the Court of Appeal for over 25 years on the obligation to make good.
- *Knapper v Francis* [2017] L&TR 20: appearing as sole counsel before the Upper Tribunal on the operation of on-account demands under terms of lease and 1985 Act. This case gave landlords certainty that an on-account demand would not subsequently be rendered unrecoverable by later events.
- *Matchmove v Dowding* [2017] 1 WLR 749: led by Jonathan Seidler QC, on a leading recent case relating to the continuing questions around constructive trusts, informal agreements to sell, and section 2 of the 1989 Act.
- *Wensley v Persons Unknown* [2017] EWHC 872 (Ch): acting for Cuadrilla and associated farmers on injunction proceedings relating to protests against fracking.
- *MASNOL v Cripps Harries Hall* [2016] EWHC 2483 (Ch): led by Jonathan Seidler QC successfully defending two conveyancing solicitors accused of fraud arising out of lending made months before the credit crisis hit.
- *Phillips v Francis* [2015] 1 WLR 741: led by Jonathan Seidler QC for the successful appellant on the leading case on the meaning of 'works' for landlord and tenant consultation purposes under the 1985 Act.

Pensions

Jonathan has acted for and advised a range of institutional and pensions professional clients. His current and recent work reflects relevant pensions issues:

- for occupational schemes: e.g. RPI/CPI switches, rectification, scope of amendment power issues, and regulatory action; and
- for personal schemes/SIPPs: misselling, pensions liberation, and investment duties. He was also instructed in relation to the Master Trust approval process.

As well as Jonathan's forensic High Court trial experience, he is experienced in the procedural aspects of multi-party OPS pensions litigation, such as Beddoe applications, applications for directions under CPR 64, and representation orders.

Jonathan's work spans the full range of pensions issues covering both the trusts aspects and legislative/regulatory claims, such as CNs/FSDs, section 75 debts and pensions liberation. He has been involved in disputes affecting major schemes such as *Nortel and the Sea Containers* 1983 schemes. In addition to litigation, Jonathan also advises work on transactional and regulatory matters.

He has been recognised in Chambers and Partners and Legal 500 for his pensions work:

"A great team player with a considerable appetite for work and eye for detail" (Legal 500)

"He is excellent at rolling up his sleeves and getting stuck in, he really knows his stuff and he inspires confidence in both solicitors and clients." (Chambers & Partners)

As well as acting for and against the Pensions Regulator, Jonathan has acted as clerk to the Pensions Regulator's Determination Panel on various regulatory matters.



Pensions continued

Jonathan's ongoing and recent contentious work includes:

- *Re Mitchells & Butlers Pension Plan*: Acting for the trustee on a dispute relating to the ability of an employer to set pension increase levels, leading to disputes over rectification, RPI/CPI, and the validity of amendments, led by Michael Tennet QC and Edward Sawyer.
- *Britvic PLC v Britvic Pension Trustee* [2020] EWHC 118 (Ch): acting for the Trustee on a construction summons in relation to RPI pension increase rules.
- Acting as clerk to the DP on a contested dispute to appoint an independent trustee to a substantial scheme
- Acting as clerk to the DP on a recent regulatory request arising out of alleged pensions liberation and misselling.

Other historical contentious work has included:

- *Re London Quantum Retirement Benefit Scheme* (Determinations Panel, 8 Feb 2016): Acting as sole counsel (against Jonathan Evans QC and Fenner Moeran QC), for the Original Trustee who had been removed by the Regulator facing allegations of misconduct, breach of trust, and pensions liberation.
- *Pollock v Reed* [2016] Pens LR 129: Led by Robert Ham QC in a High Court trial acting for the employer in a proposed scheme restructuring, raising issues of the interpretation of the Preservation of Benefit Regs, the role of the PPF, and non-consensual member transfers.
- Instructed in relation to the *Nortel* Scheme FSD litigation.
- Acting with Michael Furness QC for the trustee on a claim to recover a £5m section 75 debt from a former participating employer. The claim, raising issues of trustee decision-making and consultation, settled shortly before trial in 2015.
- Advising in relation to various alleged overpayments to members.

Examples of Jonathan's ongoing advisory work includes:

- Advising a successor scheme employer on its liabilities and duties under an existing scheme in the context of a substantial deficit.
- Advising a major product provider on the various rights and duties arising from its obligations under the schemes it offers, including FSMA issues.
- Advising a major insurer on how to structure its internal procedures to avoid potential unwitting participation in pension liberation.
- Advising an employer on a proposed restructuring and covenant issues arising.
- Advising an American scheme employer on scheme amendments and statutory and regulatory best practice in relation to member-nominated trustees.

Commercial

Jonathan has a specialised commercial chancery practice with a particular emphasis on fraud and disputes relating to complex structures, particularly with an international element. This specialism is in addition to contractual interpretation, tortious and restitutionary claims that form part of his commercial work.

He has practical experience of advising and obtaining interim relief (freezing injunctions, *Norwich Pharmacal* and Bankers' Trust orders) and of succeeding in hard-fought multi-week trials as part of a wider counsel team.

Jonathan is regularly instructed in matters relating to Dubai, whether in Dubai, where he appears before the DIFC Courts, or in London on matters arising out of the Middle East.

Current ongoing matters include:

- Acting in a multi-million pound multi-party dispute in relation to the purchase of two helicopters, acting for a co-defendant accused of knowing receipt and the subject of a tracing claim (QBD, ongoing).



Commercial continued

- *Barclays v Kapoor*: Acting as sole counsel in the DIFC Courts for Barclays on a multi-million guarantee claim.
- Acting as sole counsel as part of a team in a multi-million-dollar DIFC-LCIA arbitration defending a claim in relation to alleged breaches of a JV agreement.
- *Canary Wharf v EMA* [2019] EWHC 335 (Ch): led by Joanne Wicks QC acting for the landlord in relation to the much-awaited "Brexit" case, in successfully defeating a claim that Brexit will frustrate a lease.
- Acting on potential breaches of warranty of a share sale agreement.
- Acting for the victims of a major property investment fraud relating to development land in central London, including a successful finding of fraud on a summary judgment basis: *Aurora Developments v Delta Holdings* [2018] EWHC 1047 (Ch).

Other reported cases include:

- *Tavira Securities v Point Ventures FCZO* [2017] CFI 26: acting as sole counsel against a silk in a jurisdiction challenge in the DIFC in litigation relating to an alleged share transaction.
- *Matchmove v Dowding* [2017] 1 WLR 749: led by Jonathan Seitler QC, acting on an appeal relating to constructive trusts.
- *MASNOL v Cripps Harries Hall* [2016] EWHC 2483 (Ch): led by Jonathan Seitler QC, successfully defending two solicitors accused of fraud. After a hard-fought multi-week trial, the individuals involved were wholly exonerated and indemnity costs obtained.
- *Caliendo v Mishcon de Reya* [2016] EWHC 150 (Ch): led by Ian Croxford QC and Clare Stanley QC, successfully defending a firm of solicitors accused of breach of fiduciary duty and negligence arising out of the sale of QPR football club.
- *DAMAC Park Towers Company v Ward* (14 December 2015) CA 006/2015: Acting for the DAMAC Group in the DIFC Court of Appeal on a successful appeal in which the Chief Justice confirmed the contractual validity of property reservation agreements and a commercial approach to the construction of the related credit agreements.
- *Dany Lions v Bristol Cars* [2014] 2 All ER (Comm) 403: a successful High Court trial as sole counsel arguing that a contractual clause was too vague to be binding, alternatively that reasonable endeavours had been used.

International Arbitration

Jonathan has worked on a range of international arbitrations, including under SCC, LCIA and DIFC-LCIA rules. His work has included drafting written submissions as well as advocacy at hearings, and he has experience of interim applications on jurisdictional challenges and applications for bifurcation. He has particular expertise on Middle Eastern arbitrations arising out of his practice in Dubai and the wider regions.

While the details are confidential, recent examples of his work include:

- A DIFC-LCIA arbitration in relation to a multi-million claim in respect of a tech joint venture.
- A jurisdiction challenge in relation to the "group of companies" doctrine.
- A SCC arbitration in relation to a security contract in the Middle East.
- Acting on a dispute in respect of asset management of an international property investment portfolio

Professional Liability

Jonathan's professional negligence practice is ancillary to his core area. He has particular experience with solicitors' negligence claims (both transactional and litigation), as well as acting on claims involving surveyors, accountants, trustees and trust/scheme administrators.



Professional Liability continued

Examples of Jonathan's professional liability work include:

- *Quidnet Capital Partners v Colsilverbird & ors* (2019 ongoing): Jonathan acts for property owners in a multi-million pound dispute with its former asset managers, where substantial allegations of negligence are made against the asset managers.
- Acting on expert determination for a property owner in respect of allegations made against an asset manager.
- *MASNOL v Cripps Harries Hall* [2016] EWHC 2483 (Ch): Led by Jonathan Seidler QC, Jonathan successfully defended two lawyers accused of an £11 million conveyancing fraud arising out of buy-to-let lending in 2007. The individuals involved were fully exonerated of the dishonesty accusations against them.
- *Caliendo v Mishcon de Reya* [2016] EWHC 150 (Ch): One of the Lawyer's "Top 20 Cases of 2015." Jonathan, led by Ian Croxford QC and Clare Stanley QC, successfully acted for the defendant firm in defeating a professional negligence claim brought arising out of the sale of QPR football club to Flavio Briatore and Bernie Ecclestone in 2007.
- Advising on potential claims against scheme administrators for failed equalisation.
- Acting with Joanna Smith QC on a FRC investigation into a major audit firm and certain employees of an AIM-listed company arising out of the business' collapse and restructuring.
- *Twintec v Volkerfitzpatrick* [2014] BLR 150: A construction professional negligence claim which was 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 subcontractors. Jonathan was led by Joanna Smith QC in the dispute relating to a wine warehouse in the South West and successfully obtained an interim injunction in that case restraining adjudication.