

Jonathan King

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Education	Professional Associations
Dr Challoners' Grammar School, Amersham MA (Cantab)	Northern Circuit Northern Circuit Commercial Bar Association Professional Negligence Bar Association Personal Injury Bar Association

Areas of Specialism
Business and Property Law
Property Damage and Insurance Law
Professional Negligence
TOLATA
Civil and Insurance Fraud
Common Law
Personal Injuries

Since joining Deans Court Chambers in 2009, Jonathan has developed a busy practice within the business and property and common law spheres, with particular focus on property damage, property ownership, professional negligence, civil fraud and commercial and insurance related disputes.

Jonathan is regularly instructed to advise on and represent clients in relation to a range of property related matters, including a large number of property damage claims, as well as matters related to the title to and ownership of property and the extent of parties' obligations either as owners, lessees or occupiers of property.

In addition, Jonathan is regularly instructed (on behalf of claimants and defendants) in relation to actual and threatened professional negligence actions, principally involving solicitors and surveyors, but extending to finance professionals (including brokers) and other fields.

A number of cases which Jonathan works on include issues of civil fraud, including allegations of dishonesty in a range of contexts, issues relating to alleged misuse of company funds, and breaches of freezing orders.

In addition, Jonathan undertakes work, as appropriate, within other common law fields touching upon similar issues, including (for example) personal injury claims which involve questions regarding the extent of duties owed by landlords (e.g. under the Defective Premises Act) or which otherwise involved consideration of property law, and claims involving allegations of civil fraud, as well as within high value personal injury claims or those with particular issues of complexity.

Prior to joining Deans Court Chambers, Jonathan worked as a Vice-President in the legal department of US investment bank Goldman Sachs where he was responsible for advising on and implementing the requirements of domestic and international anti-corruption and anti-money laundering legislation.

Notable cases:

Commercial / Civil fraud: *Park v CNH Industrial Capital Europe Ltd* [2021] EWCA Civ 1766

Sole counsel for the successful appellant before the Court of Appeal for the hearing of Mr. Park's appeal concerning whether or not Mr. Park's action to set aside a judgment on grounds that it was procured by fraud was abusive and liable to be struck out.

The Court of Appeal held that the evidence demonstrated, in the clearest terms, that the court was deceived at the time when the judgment in default was entered (in the original proceedings), and that the case that CNH deceived the court into granting judgment by default by making deliberately false statements in their Particulars of Claim is overwhelming. Having regard to the principles set down by the Supreme Court in *Takhar v Gracefield Developments Limited* [2019] UKSC 13, and to the later High Court decision in *Elu v Floorweald Ltd* [2020] EWHC 1222, Mr. Park's claim was not an abuse of process, and ought not to have been struck out.

Commercial: *Price & Ors v Flitcraft Ltd & Ors* [2022] EWHC 3381 (Pat)

Junior counsel (led by Stephen Grime KC) for the trial of the claimants' claims for relief, including damages for patent infringement, involving issues as to *inter alia* the transmission of the ownership of patents following a series of assignments and insolvency events, and the standing of the licensee to bring proceedings for infringement.

Property ownership and civil fraud: *Varia v Varia*, High Court (Business and Property Courts, HHJ Pelling QC)

Represented the successful claimants at a 5 day, 3 party trial of a property dispute before HHJ Pelling QC sitting as a judge of the High Court. The Claimants sought possession of a property which they had purchased in the 1980s, but in which the Claimants' nephew, and his former wife, had lived for almost three decades. The Defendant, by defence pleaded by leading counsel, alleged that the relevant trust deed was a sham, and counterclaimed for *inter alia* an order pursuant to s.423 Insolvency Act 1986 ("IA 86") and a declaration that the Claimants were estopped from asserting ownership, and brought the Claimants' nephew into proceedings as a third party.

Following a trial on all issues involving overseas video link evidence and consideration of expert handwriting evidence, judgment was handed down in favour of the claimants, who obtained relief as claimed together with an order for costs.

Professional negligence: Successful representation, at heavily contested trial (2022), of former client of a well-known solicitor's firm for mishandling of the client's underlying claim.

Property damage: Representation of claimants in successful claim for damages following what was found to be the unlawful burying of asbestos waste on land belonging to one claimant, under a contract said to have been entered by the other claimant.

Professional negligence: Representation of a number of claimants (including a number domiciled overseas) in respect of claims against former solicitors relating to the acquisition of 'off-plan' residential property, including in respect of the resolution (by ADR) of a number of claims, with others ongoing.

Commercial / Property damage: Representation of claimant at interlocutory stages in respect of claim for damages for misrepresentation by vendor, on account of a failure to disclose the existence of alterations made without listed building consent. Matter resolved prior to trial.

Commercial and civil fraud: Representation of three defendants in defence of claim for damages for alleged conversion of missing boilers. Acted as sole counsel for three defendants both at interlocutory stages (including in successfully resisting an application to restrain solicitors and counsel from acting further) and for trial, listed for 7 days but adjourned on first day owing to illness of one party. Matter resolved prior to relisted trial.

Property damage / nuisance: Sole counsel for defendant at trial and thereafter in respect of property damage claim which engaged issues as to the scope and nature of liability in nuisance relating to the obstruction of the public highway. Matter resolved on favourable terms prior to handing down of judgment.

Personal injury: Acted for claimant in respect of claim for serious injury sustained following an accident at work in which significant issues arose as to causation, including an alleged failure to obtain treatment which was said to break the chain of causation. Matter settled for a 7-figure sum (inclusive of costs) prior to trial.

Property ownership: Successful representation of applicant before 4 day Land Registry adjudication over acquisition of title to strip of land

by adverse possession, including issues as to the transmission (or otherwise) of ownership thereafter.

Commercial: Successful representation of Claimant in action for conversion of monies passing through bank account of high street finance firm.

Notable Cases

Park v CNH Industrial Capital Europe Ltd

Practice Area:

Jonathan King recently appeared before the Court of Appeal for the hearing of an appeal concerning whether or not an action to set aside a judgment on grounds that it was procured by fraud was abusive and liable to be struck out.

Following a judgment entered in 2016 upon the striking out of Mr. Park's defence in the original proceedings brought by CNH, Mr. Park issued proceedings in 2018 for the rescission of the judgment on grounds that the judgment had been procured by fraud on the part of CNH. CNH applied to strike out the rescission proceedings on grounds that *inter alia* the relevant facts were said to have been known to Mr. Park at the time of the original judgment, and that the acts alleged by Mr. Park to be fraudulent were not the operative cause of the entry of the original judgment.

At first instance, CNH's application for strike out was refused, however the rescission proceedings were subsequently struck out on CNH's appeal.

Within a unanimous judgment handed down on 24th November 2021 (Park v CNH [2021] EWCA Civ 1766), the Court of Appeal held that the evidence demonstrates, in the clearest terms, that the court was deceived at the time when the judgment in default was entered (in the original proceedings), and that the case that CNH deceived the court into granting judgment by default by making deliberately false statements in their Particulars of Claim is overwhelming. Having regard to the principles set down by the Supreme Court in *Takhar v Gracefield Developments Limited* [2019] UKSC 13, and to the later High Court decision in *Elu v Floorweald Ltd* [2020] EWHC 1222, Mr. Park's claim was not an abuse of process, and ought not to have been struck out.

Jonathan King acted for the successful appellant, Mr. Park, instructed on a direct access basis.

A copy of the judgment can be found at <https://www.bailii.org/ew/cases/EWCA/Civ/2021/1766.html>

Varia v Varia, High Court (Business and Property Courts)

Practice Area: Chancery

Represented the successful claimants at a 5 day, 3 party trial of a property dispute before HHJ Pelling QC sitting as a judge of the High Court. The Claimants sought possession of a property which they had purchased in the 1980s, but in which the Claimants' nephew, and his former wife, had lived for almost three decades. The Defendant, by defence pleaded by leading counsel, alleged that the relevant trust deed was a sham, and counterclaimed for *inter alia* an order pursuant to s.423 Insolvency Act 1986 ("IA 86") and a declaration that the Claimants were estopped from asserting ownership, and brought the Claimants' nephew into proceedings as a third party. Jonathan King had advised on the Claimants' claim, throughout, and had drafted the statements of case. Following a trial on all issues in December 2018 involving overseas video link evidence and consideration of expert handwriting evidence, judgment was handed down in favour of the Claimants, who obtained relief as claimed together with an order for costs.

Practice Area:

Successful representation of applicant before 4 day Land Registry adjudication over acquisition of title to strip of land by adverse possession

Practice Area:

Successful representation of community interest group at 4 day public inquiry into the existence or otherwise of rights of way across a school playing field.

Practice Area:

Successful defence of Multi Track personal injury proceedings centred on the ability, or otherwise, of the Defendant to raise an economic defence, and the interpretation of the PPE Regulations post *Threlfall v Hull City Council*. Claimant refused permission to appeal to Court of Appeal.

Practice Area:

Successful representation of Claimant in action for conversion of monies passing through bank account of high street finance firm.

Practice Area:

Represented Claimant in ToLATA proceedings for transfer of proceeds of sale of property. Matter settled shortly prior to 3 day trial, achieving settlement of full value of interest.

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