

Jonathan Carr

Barrister

Overview

Jonathan practises in Chancery, Contractual and Commercial Disputes, Court of Protection and Mental Health, Credit Hire, Motor Insurance Fraud, and Personal Injury and Clinical Negligence

Areas of Emphasis

Chancery

Including easements, rights of way, boundary disputes, adverse possession, landlord and tenant (residential and commercial).

Contractual and commercial disputes

Consumer and commercial contractual disputes, sale of goods, credit hire, partnership law and shareholder disputes, factoring agreements and disputes surrounding commercial agents.

Court of Protection and Mental Health

Instructed in financial matters (particularly in relation to issues surrounding Enduring Powers of Attorney, Lasting Powers of Attorney and the appointment/removal of Deputies) under The Mental Capacity Act 2005. Instructed in applications brought to displace nearest relatives under The Mental Health Act 1983.

Instructed in applications for writs of habeas corpus following alleged unlawful detention under the Mental Health Act 1983, in particular issues surrounding the alleged failure to consult the Nearest Relative.

Experienced in advising and representing both Applicants and Respondents in applications seeking injunctive relief against mentally incapacitated adults/children.

Care home fees, PCT and Local Authority funding obligations and recoverability of fees.



Year Of Call:

1990

Practice Areas

[Company and Commercial](#)

[Court of Protection and Mental Health](#)

[Credit Hire](#)

[Motor Insurance Fraud](#)

[Personal Injury and Clinical Negligence](#)

[Regulatory](#)

[Trusts and Probate](#)

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Credit Hire

Has a niche practice in matters arising out of credit hire including mitigation and the need, impecuniosity, basic hire rates, credit repair, consumer credit arguments and common law enforceability and more recently issues surrounding the applicability of the Cancellation of Contracts made in a Consumer's Home or Place of Work etc Regulations 2008.

Motor Insurance Fraud

Instructed in cases alleging staged accidents, organised fraud rings, induced "slam on" accidents, fictitious accidents, phantom passenger claims, low velocity impacts, grossly exaggerated injuries out of proportion to the extent of the impact, alleged or suspected malingering.

Advising on committal for contempt of court against dishonest claimants/ witnesses and third party costs orders. Instructed to advise in conference and draft proceedings where fraud is in issue.

Personal Injury and clinical negligence (including dental negligence)

Instructed by both Claimants and Defendants in virtually all types of personal injury work, with particular emphasis on mid to high value claims arising from road traffic accidents, highway claims, occupiers' liability and employers' liability (including industrial disease claims – asbestos exposure, deafness, HAVS, dermatitis and asthma).

More recently specialised in employers' liability, fatal accident claims and those arising out of allegations of motor insurance fraud. Experienced with claims involving injuries of the utmost severity, brain damage, death and dependency.

Instructed in clinical negligence cases including negligent treatment and surgery, failure to investigate, failure to diagnose, misdiagnosis, misreporting of scans, failure to obtain a patient's consent and failure to warn of the risks of surgery / treatment. In addition he is familiar with cases involving failed sterilisations and failure to diagnose cancer as well as Dental Negligence claims.

Interest in the drafting of schedules/ counter-schedules involving Ogden Tables calculations and pension loss.

**Professional
Qualifications**

Durham School

Newcastle University
LLB (Hons)

Memberships

North Eastern Circuit

The Honourable Society
of Middle Temple

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Lectures and seminars

Jonathan has provided lectures/seminars in the following:

- Recovering care home fees
- Calculating pension loss
- Loss of earnings
- Failed sterilisations
- Dental negligence

Additional information:

- Pupil Supervisor

Notable Cases

KD -v- St Mary Magdalene and Holy Jesus Trust (2002) :

Instructed as Junior Counsel on behalf of a 14 year old boy who sustained serious head injuries when he was hit by a falling tree whilst walking through woodland. Issues surrounding duty of care of landowner as an occupier. Claim worth in excess of £1 Million on a full liability basis.

Cassie -v- M.O.D [2002] EWCA Civ 838 :

Instructed as Junior Counsel on behalf of the Claimant at his appeal concerning routes of appeal to the Court of Appeal pursuant to section 54(4) of the Access to Justice Act 1999 following an earlier refusal of the County Court to permit psychological evidence to be adduced at the claimants Trial.

Armstrong -v- J.A Green & Sons (2005) :

Instructed on behalf of the Claimant following his development of a nasopharyngeal carcinoma allegedly caused by exposure to wood dust/ formaldehyde whilst employed by the Defendant. Complex medical issues surrounding medical causation in light of the claimant's relatively young age.

T -v- Clarke (2007) :

Fatal Accident Claim. Instructed on behalf of a 12 year old autistic Claimant following the death of his mother in the road traffic accident. Claimant continued to be cared for by deceased's partner. Subsequently, Deceased's partner felt no longer able to look after the Claimant as a result of the Claimants challenging behaviour. Expert psychological evidence obtained to determine dependancy issue and specifically the likelihood of Claimant being cared for at home if his mother had not been killed.

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M -v- Taylor & MIB (2007) :

Fatal Accident Claim. Instructed on behalf of a child claimant following the death of his mother in a road traffic accident. Issues surrounding the interpretation of the JSB Guidelines 6th edition in valuing the dependency claim.

R -v- Ross (2007) :

Fatal Accident Claim. Instructed on behalf of a 12 year old Claimant following the death of his mother in a road traffic accident.

Zahur -v- Centrica plc (2008) :

Instructed on behalf of the Appellant in an appeal concerning the interpretation of the amended CPR 36 and, in particular, how to deal with the situation where a Defendant wished to withdraw a part 36 offer within the 21 days from the date the offer was made and, within that the same 21 day period, the claimant wished to accept the Defendant's offer. This appeal further raised the issue of what, if any, procedure the court has available to it to consider the competing arguments; specifically does the Appellant/defendant lose the right to apply to withdraw the offer if the offer is "accepted" by the Respondent/Claimant before such an application is made?

F -v- Medical Practice (2008) :

Instructed on behalf of a number of partners in a General Practitioner practice in an application to strike out a claim brought by a former patient for damages following his removal from the list of patients in the practice. Issues concerning what, if any, duty of care, was owed to the patient in such circumstances and the interpretation of the National Health Service (General medical Services Contracts) Regulations 2004. The application was successful and the Claimant's claim was struck out.

Whitehead -v- (1) Teesside Karting Limited & (2) cook (2008) :

Instructed on behalf of the second Defendant to defend a claim brought by the Claimant and First defendant following the Claimant sustaining a serious head injury in a crash whilst both the claimant and second Defendant were Kart racing at the First Defendant's outdoor track. Involved expert engineering evidence surrounding the nature of the collision and whether it was a " Racing incident" or negligent driving. Claim eventually discontinued against the Second Defendant.

McLeod -v- Hanover Housing Association (2008) :

Representing the Claimant successfully at first instance and on appeal following her slipping and falling on ice that covered a pavement leading from her sheltered accommodation to the highway. Consideration of the Occupiers' Liability Act 1957 and the Workplace (Health, safety & welfare) Regulations 1992 in the light of the fact that the pavement was also used by the Defendant's employees. Consideration of the extent of the Defendant's duty to grit including steps to be taken to find suitable manpower to grit.

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W -v- Leith UK LTD (2009) :

Fatal Accident Claim. Instructed on behalf of 2 minor Defendants following their father receiving a fatal electric shock whilst at work. Issues surrounding contributory negligence, duration of dependancy and level of care provided by mother who not a dependent for the purposes of the Fatal Accidents act 1976.

Re W(2010) :

Court of Protection. Successfully representing an Attorney appointed pursuant to an Enduring power of attorney in defending an application made by family members of P to have the EPA revoked and the family members appointed as Deputies.

Re S (2010) :

Court of Protection. Suitability of an Attorney to continue to be Donor's Attorney.

Re J (2011) :

Compensation claim following a miscarriage of justice. Representing J (a patient within the meaning of the Mental capacity Act 2005) in his successful claim for compensation from the Justice Secretary under section 133 of the Criminal justice Act following his wrongful conviction for the murder of his girlfriend which led to his incarceration for 16 years. Issue surrounded not only the calculation of the appropriate award but also the involvement of the Court of protection in approving the final award.

Re SD (2012) :

Revocation of a power of attorney. Acting on behalf of Objectors who wished to challenge the attorneys application to deal with the Donor's substantial assets held in bank accounts in Switzerland. Complex issues surrounding jurisdiction of the Court of Protection, the interplay with the English power of attorney and a further power of attorney that the Donor had executed in Switzerland, the Swiss Bank refusing to recognise the validity of the English power of attorney and the Court of Protection's enforcement powers.

GDC -v- W (2015) :

Acted on behalf of a Dental Technician in proceedings before the Professional Conduct Committee of the General Dental Council relating to undertaking clinical procedures outside the scope of his practise.

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H -v- P (2016) :

“Lottery Rapist”. Acted on behalf of the Claimant who commenced proceedings for damages 22 years after she was raped by the Defendant in 1992. Subsequent to the rape and his conviction for the offence the Defendant won £5 Million on the National Lottery. The Defendant denied the claim for damages, denied raping the Claimant and wished to challenge his conviction for rape (he had asked the Criminal Cases Review Commission to review his conviction) and raised a limitation defence. The case initially proceeded to a limitation hearing where the Judge exercised his discretion in favour of the Claimant under section 33 of the Limitation Act 1980.