



Joshua Brown



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Josh's practice covers the range of Chambers' practice areas, with a particular emphasis on commercial disputes, insurance, professional negligence, property damage and construction.

As well as settling pleadings, advising and other written work, Josh has a busy court practice. He is regularly instructed to appear both at trial and in interim applications and CCMCs. He also regularly acts for clients in negotiations, mediations and other forms of ADR.

Before coming to the Bar, Josh read Philosophy, Politics and Economics at Merton College, Oxford, gaining First Class, before reading for an MPhil in International Relations. He then completed his legal studies at City Law School.

Commercial

Josh is regularly instructed in relation to commercial disputes across Chambers' areas of practice, including sale of goods, services contracts, agency, bailment, debt claims, as well as claims involving breach of fiduciary duty and breach of warranty. Josh's current and recent instructions include:

- Acting for a UK company in a breach of fiduciary duty claim for more than £200m against former directors (led by Roger Ter Haar QC and Jason Evans-Tovey);
- Advised on behalf of clients with respect to a six-figure claim for unpaid fees, involving issues of agency and contract formation;
- Settled a Defence to a claim seeking repayment of monies allegedly made under undue influence and duress;
- Advised on behalf of restaurant owners in respect of a potential claim relating to the termination and delays in reinstatement of their electricity supply;
- Acted for the defendant in a successful preliminary issues trial concerning the identity of the contracting parties in a construction dispute, resulting in the claim being struck out;
- Advised and settled a letter of response in a c.£7 million sale of goods dispute;
- Settling Particulars of Claim seeking the return of high-value jewellery and related declarations following its alleged conversion by a third party;

- Drafted Particulars of Claim on behalf of an executor for the return of monies to the estate, involving issues of breach of trust, undue influence and capacity;
- Acted for debt recovery agents in a successful summary judgment application dismissing a claim for breach of contract and harassment;
- Advised and settled Particulars of Additional Claim alleging breach of warranty, negligent misstatement and breach of contract in proceedings relating to the removal of timber from the claimant's land;
- Advised and settled a Defence and Particulars of Additional Claim in c. £300,000 High Court proceedings involving contractual interpretation of a 'disaster management' agreement and various indemnity provisions;
- Advising on disputes relating to the Construction Plant Hire Association (CPA) terms, including issues of incorporation and exclusion / limitation clauses;
- Advising with respect to a claim for unpaid commission;
- Advising and drafting Particulars of Claim in respect of an allegedly defective car;
- Settling defences to sale of goods and services claims involving issues of contractual interpretation and reliance on various provisions of the Consumer Rights Act 2015;
- Settling a Defence to a claim concerning an alleged defective shower unit;
- Settled a Reply in a contractual dispute raising issues concerning bailment and incorporation of terms;
- Settled a Defence to a claim for alleged unpaid fees involving issues of oral variations and/or collateral agreements;
- Acted for commercial lenders in successfully resisting an application by a debtor to set aside judgment;
- Settled a Defence and advised in respect of a claim for restitution following the sale of an alleged stolen vehicle, pursuant to s.12 of the Sale of Goods Act 1979;
- Acting for clients in enforcement proceedings including applications for charging orders in the High Court.

Construction & Engineering

Josh has a busy construction practice. Josh is familiar with standard form contracts including NEC and JCT. His recent and current instructions in this area include:

- Acting for and advising a County Council in relation to a PFI contract for the construction and ongoing provision of services at a number of project schools. The central issues included the application of benchmarking provisions for the price of certain services and the proper interpretation of those and other provisions in the PFI contract;
- Acting in Kang v Pattar [2021] EWHC 1101 (TCC), a 5-day trial of a construction dispute in the TCC;
- Advised in relation to a c. £2.6 million dispute alleging design defects in an anaerobic digestion plant. Led by Ben Quiney QC;
- Advising and drafting submissions in the context of an expert determination of a c.£600,000 dispute relating to alleged defects in a newly built residential property;
- Acting in a mediation in a c.£500,000 dispute relating to time for completion of works and NEC compensation events;
- Acted for the responding employer in a c.£90,000 true value adjudication;
- Advised on prospects in a breach of contract claim against sub-contractors involving issues of whether the sub-contractors were engaged on a labour-only basis or to provide work and materials,

- and the potential for pursuing claims against employees pursuant to *Lister v Romford Ice*;
- Advised as to prospects of success in a claim relating to defective construction of an extension, involving issues of breach of contract, the Building Regulations and time for completion;
 - Settled Particulars of Claim for damages relating to the installation of a balcony at residential premises;
 - Settling Particulars of Claim in a claim by main contractors against sub-contractors for the cost of rectification works in a roof construction project;
 - Advising and settling Particulars of Claim in relation to damage following the construction and installation of interior doors involving allegations of breach of contract/negligence as well as the Construction (Design and Management) Regulations 2015;
 - Advising on disputes relating to the Construction Plant Hire Association (CPA) terms, including issues of incorporation and exclusion / limitation clauses;
 - Settled a Defence and Additional Claim against sub-contractors in a claim relating to alleged defects in a new build property. The Additional Claim involved issues of breach of contract, the Contracts (Rights of Third Parties) Act 1999, negligence, the Civil Liability (Contribution) Act 1978 and the Defective Premises Act 1972.

Josh is also a contributing editor to *Emden's Construction Law* and co-authored the latest chapter on The National House-Building Council and the NHBC Schemes.

Insurance & Reinsurance

In addition to his general property damage practice, Josh has been instructed on insurance disputes including:

- Advised on behalf of managing agents of a Lloyd's Syndicate with respect to a potential c.£200,000 claim against third party claims handlers;
- Advising in relation to a claim under the Third Parties (Rights against Insurers) Act 2010 including various issues of policy coverage;
- Settling a defence to a contribution and/or indemnity claim involving issues of interpretation of indemnity clauses and s.1(4) of the Civil Liability (Contribution Act) 1978;
- Settling a defence to a claim for economic losses following an alleged collision with a railway bridge made against an insurer under the Third Parties (Rights against Insurers) Act 2010;
- Advising insurer clients as to a potential claim against an uninsured driver pursuant to an indemnity agreement;
- Advising as to the correct interpretation and effect of a contractual obligation to take out joint insurance;
- Advising on jurisdiction under Article 13 of the Brussels Regulation in a contribution claim against an Italian insurer;
- Advising (during pupillage) on whether the benefit of an indemnity policy had successfully been assigned to the prospective claimant.

Professional Liability

Josh has a busy professional negligence practice spanning claims against property surveyors, accountants,

solicitors and construction professionals. His current and recent instructions include:

- Advised and settled a defence on behalf of letting agents to a claim alleging that they had failed to properly vet a tenant with regard to passport checks and other matters;
- Acted for architects in a professional negligence claim relating to the design of an extension to residential property and successfully defended the claim at trial;
- Settled a Defence on behalf of accountants in a professional negligence claim, involving issues of scope of duty, negligence and quantum;
- Advising, settling a defence and a successful application for strike out/summary judgment in a breach of contract and professional negligence claim against property surveyors;
- Advising insurer clients with respect to an electricity failure at commercial premises against multiple defendants;
- Settling a Letter of Response and advising a solicitors' firm with respect to professional negligence allegations concerning multiple dwellings relief from stamp duty on a conveyance;
- Advising and settling defences in claims alleging solicitors' negligence with respect to conveyancing matters, including advice as to rights of way and forfeiture clauses;
- Acting on behalf of a management company resisting an injunction application seeking interim performance of alleged contractual obligations;
- Settled a Reply and Defence to Counterclaim on behalf of property surveyors in a dispute relating to a pre-purchase property survey and unpaid fees;
- Settled a Letter of Response to an intimated negligence claim against solicitors relating to advice concerning the purchase of a leasehold property.

Property

Josh has a general property practice encompassing residential and non-residential property disputes. His recent and current instructions include:

- Advised on behalf of Landlords and Managing Agents with respect to a claim relating to compliance with deposit notification and registration requirements under the Housing Act 2004 as well as alleged breaches of repair covenants;
- Acted in a successful TOLATA application for an order for sale and an equitable account;
- Settled a Defence and advised on behalf of landlords in relation to a claim alleging breach of repair and insuring covenants;
- Settled a Defence and Counterclaim on behalf of tenants for loss of amenity in response to a claim for alleged unpaid rent and dilapidations;
- Settled a Defence to a claim alleging negligent misstatement on the part of managing agents prior to the sale of a leasehold property;
- Acting in the First Tier Property Tribunal on behalf of landlords in a service charge dispute, involving written as well as oral submissions;
- Settling pleadings in housing disrepair claims, both in the context of short and long leases;
- Advising with respect to claims made pursuant to the Defective Premises Act 1972;
- Acting on behalf of a management company resisting an injunction application seeking interim performance of alleged contractual obligations;
- Drafted a Defence on behalf of letting agents to a claim alleging misapplication of rent collection payments;
- Advising as to a claim against commercial landlords relating to loss of power and breach of repair

- covenants at the premises;
- Advised as to prospects in a claim for unlawful eviction from commercial property.

Property Damage

Josh has a busy property damage practice, which cases frequently involve issues of negligence, nuisance, scope of duty, breach of contract, causation and encompass pleadings as well as advice for clients. His current and recent instructions include:

- Settled Particulars of Claim on behalf of property owners against a highway authority for flooding caused by a blocked culvert;
- Settled Particulars of Claim on behalf of a property owner relating to a fire caused by the neighbouring owner's use of a weed burner;
- Settled Particulars of Additional Claim against sub-contractors in a six-figure claim for property damage following alleged negligent shower installation;
- Successfully defended a negligence claim at trial against plumbers relating to an escape of water at residential premises;
- Advising on prospects in a claim against a plumber concerning allegedly negligent installations of shower fittings;
- Settled a Reply in a contribution claim against a sub-contractor relating to flooding damage in a new-build property following allegedly defective plumbing works;
- Advising insurer clients and settling Particulars of Claim with respect to an electricity failure at commercial premises against multiple defendants;
- Settling a defence to a claim against a local authority for subsidence allegedly caused by tree roots;
- Advising as to prospects with respect to a substantial escape of water claim involving issues of sufficiency of warning notices and scope of duty;
- Advised in relation to prospects of success in a claim relating to fire damage from a recycling plant, including issues concerning *Rylands v Fletcher* liability in cases of fire damage;
- Settling defences and advising with respect to six-figure property damage claims related to fire damage;
- Advised as to damages on the diminution in value or reinstatement basis in a substantial property damage claim;
- Advised on behalf of property owners as to obtaining injunctive relief following subsidence damage;
- Settled Particulars of Claim alleging negligence, nuisance and breach of the Defective Premises Act 1972 following an escape of water from adjoining premises;
- Settled a Defence on behalf of building contractors to a claim regarding alleged damage to the neighbouring property by excavation works.

Personal Injury

Josh has a broad personal injury practice. His recent instructions include:

- Successfully defended a public liability claim at trial relating to an accident in a pharmacy;
- Advised a company as to the merits of its defence to an employer's liability claim against it relating to allegedly defective machinery and successfully defended the claim at trial. The case involved



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- (amongst others) the issue of whether the employee had been acting in the course of employment;
- Settled a Defence to a claim under the Defective Premises Act 1972 and successfully defended the claim at trial;
 - Settling a Defence to an Occupiers' Liability claim;
 - Settling a Defence to claims under the Animals' Act 1971;
 - Settling a Defence to a claim concerning an accident at work;
 - Advising on quantum in a substantial general damages claim;
 - Advising on quantum for the purposes of infant approval settlements.

Qualifications

Bar Professional Training Course (2016-2017): City Law School

Graduate Diploma in Law (2015-2016): City Law School

MPhil, Merton College, University of Oxford (2013-2015)

BA (Hons), Merton College, University of Oxford (2010-2013), First Class

Memberships

COMBAR

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