



## Jonathan Hough QC

### Education

St Hugh's College, Oxford University (First Class in Classics); City University  
CPE (Commendation); Inns of Court School of Law (Outstanding)



Tel: +44 20 7822 2079

Email: j.hough@4newsquare.com

Email Clerk: a.dolby@4newsquare.com

Year of Call: 1997

Year of Silk: 2014

## Profile



Jonathan has a civil, commercial and public law practice, with a particular focus on insurance / reinsurance; professional liability; commercial and consumer law; and administrative law. He has considerable experience in each of those fields and has appeared in numerous reported and important cases.

He is recommended as a leading silk by the current editions of the directories (Chambers UK Bar, Legal 500 and Legal Experts) in the four practice areas of (i) insurance / reinsurance; (ii) administrative / public law; (iii) inquiries and injunctions; and (iv) consumer law. Recent comments in the Directories include the following:

*"He is bright and solution-oriented. He has an ability to present arguments in a clear and concise way, both on paper and on his feet, and is a very effective advocate."* (Chambers UK 2015, Insurance)

*"He's very impressive... strengths are thorough presentation, attention to detail and ability to react quickly to changing circumstances."* (Chambers UK 2015, Inquiries)

*"He has an ability to get to the root of issues"; "A steady hand and... incredibly hard working"* (Chambers UK 2015, Consumer Law)

*"Extremely impressive."* (Legal 500 2014, Administrative and Public Law)

*"Very accessible and responsive."* (Legal 500 2014, Insurance and Reinsurance)

*"He is excellent. He provides a clear strategy to meet the client's needs, prepares assiduously for every matter and works incredibly hard..."; "He's thorough, pragmatic and great to work with."* (Chambers UK 2014, Insurance)

*"He is assiduous, covers every angle and looks out for the client's interests at every turn."* (Chambers UK 2014, Inquiries)

*"[A] methodical and persuasive advocate."* (Chambers UK 2014, Consumer Law)

*"Very effective advocate."* (Legal 500 2013, Insurance and Reinsurance)

In the area of insurance law, he acts for a range of major insurers, reinsurers and underwriting agencies in litigation and arbitration. He also has experience in advising on, and drafting, policy wordings, agency agreements, binding authority agreements, etc. He has particular expertise in the following classes of risk: general commercial liability (EL/PL/Products); property; motor; professional indemnity; legal expenses; trade credit; D&O; title insurance; personal accident / disablement; and financial risk.

His professional liability practice covers a range of professions, including lawyers, insurance professionals, surveyors and financial professionals.

He has general experience of commercial dispute resolution. In addition, he has particular expertise in consumer law, consumer credit and financial regulation.

In the field of public and administrative law, he has acted for public and private bodies in judicial review claims. His work includes local government, commercial regulation and professional discipline. He is also well known for his expertise in the law relating to coroners and inquests. As well as appearing in many reported cases in the Administrative Court and Court of Appeal, he has appeared as counsel to the inquiry in various important inquests, including those concerning: the death of Diana, Princess of Wales; the shooting of Jean-Charles de Menezes; the Potters Bar and Grayrigg rail disasters; the explosion on HMS Tireless (nuclear submarine). He is currently one of two leading counsel to the inquiry in the Hillsborough Stadium Disaster inquests, having been appointed by Lord Justice Goldring.

Jonathan is a member of the Professional Negligence Bar Association, the London Common Law and Commercial Bar Association, COMBAR and the Administrative Law Bar Association. He is an editor of the current edition of Jackson & Powell on Professional Liability.

---

## Professional Liability

Jonathan has considerable experience in professional liability claims against a range of different types of professional, including lawyers, financial services professionals, insurance professionals and surveyors. He also has some experience of acting in litigation against construction professionals and in clinical negligence proceedings. Professional indemnity insurance disputes form a significant part of his insurance practice. He is an editor of the current edition of Jackson & Powell on Professional Liability.

## Financial Services Professionals

Jonathan is instructed in relation to disputes concerning various different fields of financial services. He is very familiar with the statutory and regulatory framework established under FSMA 2000 and with a range of types of claim. His recent work in this area includes the following:

- Proceedings against insolvency practitioners for allegedly negligent handling of the administration of a manufacturing business: *Parkinson Engineering Services v Swan and Yeldon* [2010] PNL 17.
- Acting for IFA in extensive and complex claims by wealthy private individual concerning serial errors in execution of trades in unit trusts, investment trusts and equities: *James Hay Pension Trustees Ltd v BFFM*.
- Acting for investment advisers in claims arising from an 'enterprise zone' tax mitigation scheme.
- Acting for investors and IFAs in mis-selling claims (including, by way of example, claims concerning the AIG Premier Access Bond, Currency Exchange Mortgages, Geared Traded Endowment Policies).
- Acting in proceedings against investment fund managers concerning the structuring of a scheme to exploit a commercial development in Birmingham.
- Advising insurers on US claims against venture capitalists: overlap between coverage issues and substantive merits.

## Insurance Brokers & Agents

Jonathan has acted for insurers, policyholders and brokers in disputes over the adequacy of cover provided, advice given on insurance programmes and notifications of claims. His work in this field often overlaps with his general insurance/reinsurance practice.

Recent work in this area includes:

- Representing a Middle Eastern bank in a US\$20M claim arising out of the placing of professional indemnity insurance on a 'claims made' basis and with a restrictive 'retroactive date' exclusion: *Ahli United Bank (UK) Plc v Willis Ltd*.
- Acting for a holder of public liability insurance in litigation against its insurer and brokers. Allegations against the brokers included failure to advise on extent of policy coverage, failure to provide policy wordings and failure to communicate notice of claim to insurers.
- Advising an underwriting agency on professional liability of sub-agents.

## Lawyers

Jonathan has considerable experience in professional liability claims against solicitors and barristers arising in a variety of professional contexts including, for example, lost litigation, conveyancing (including lender claims), commercial drafting. He also regularly advises on lawyers' indemnity insurance, including notifications of circumstances and claims and on policy coverage.

The following is a sample of recent work:

- Acting for a firm in £4M claim concerning allegedly negligent conduct of professional negligence proceedings which arose ultimately from the defective drafting of loan agreements: *Reunion Finance Ltd v Richards Solicitors*.
- Acting for a firm in a dispute with a bank over alleged negligent drafting of consumer agreements: *Conister Bank v Lester Aldridge*. Acting against solicitors and counsel in proceedings concerning their mis-reading of a settlement offer.
- Acting for a QC in proceedings concerning advice given on limitation periods relating to Council Tax Liability Orders: *Ashfield Nominees v Brook et al*.
- Advising solicitors in relation to a substantial lost litigation claim arising from a multi-jurisdictional shipping dispute.
- Acting for solicitors in £2M lost litigation claim arising from a dispute over the division of spoils from a successful property development in East London.
- Acting for solicitors accused of negligently advising that no limitation period applied to an action to enforce a charging order.
- Advising in proceedings concerning allegedly negligent failure to secure option agreements in relation to a property portfolio.
- Acting for a barrister in claims regarding allegedly negligent advice on finance agreements.
- Acting for and against firms in disputes as to their obligations under litigation funding schemes.
- Acting for development companies in £8M claim against their solicitors for alleged negligence in advice and drafting of joint venture agreement.
- Acting for an accident management company in multiple arbitral proceedings against various panel firms of solicitors.
- Acting for a private individual in a seven-figure claim arising out of allegedly mishandled property litigation in France and England: *Whitlock v Vizards Wyeth*.
- Acting for the former President of the Solicitors Disciplinary Tribunal in striking out claims improperly alleging judicial corruption: *Baxendale-Walker v Middleton and ors* [2011] EWHC 998 QB.
- Acting for solicitors in claim concerning construction of residential lease and obligation to advise on arguable meanings of restrictive covenants: *Platform Funding Ltd v Miller Parris Solicitors* [2012] 2 P & CR DG7.

## Surveyors & Valuers

Jonathan has experience of advising and acting in claims against surveyors and valuers concerning domestic and residential property, including property portfolios. His work in this area has included disputes concerning the accuracy of valuations and the reliability of surveys. He is familiar with surveyors' professional indemnity insurance and issues arising with insurers, such as late notification, allegations of dishonesty and aggregation of claims.

---

## Insurance & Reinsurance

Jonathan's practice covers insurance and reinsurance of most classes of risk, including general commercial liability (EL/PL/products); professional indemnity; property; motor; legal expenses; trade credit; D&O; property title; personal accident / disablement; financial risk.

He regularly advises on, and acts in, substantial coverage disputes and in business disputes between insurers, underwriting agencies and reinsurers. He acts for insurers in substantial subrogated actions to recover their outlay. Non-contentious work includes drafting policy wordings and other contractual documents, including binding authority agreements. He is familiar with regulatory obligations of insurers under FSMA 2000 and with advising on the FOS jurisdiction (including challenges). He also advises professionals on indemnity insurance issues, including notifications and coverage.

He is recommended by Chambers UK and Legal 500 as a leading silk in this field. Comments in recent editions include the following:

*"Has a highly focused insurance practice that one solicitor described as being 'consistently outstanding.' Interviewees highlighted the excellence of his advice, and his responsiveness in the face of a heavy caseload."* (Chambers UK 2015)

*"Receives praise across the board for his insurance and reinsurance knowledge, responsiveness and versatility."* (Chambers UK 2014)

*"Very accessible and responsive."* (Legal 500 2014)

*"Very effective advocate."* (Legal 500 2013)

Examples of his current and recent work include the following:

- *Coles v Hetherington* [2014] Lloyd's Rep IR 367, [2013] EWCA Civ 1704: Appeared successfully for Royal & Sun Alliance in lead case litigation in the Commercial Court and Court of Appeal. The dispute concerned the

- commercial model by which RSA handled and pursued motor claims.
- *Network Rail Infrastructure Ltd v Conarken Group Ltd* [2012] 1 All ER (Comm) 692, [2011] EWCA Civ 644: Acted in the appeals in test cases concerning the obligation of insurers to pay very large claims for the financial consequences of damage to the railway infrastructure.
  - *Persimmon Homes Ltd v Great Lakes Reinsurance (UK) Plc* [2010] Lloyd's Rep IR 101, [2010] EWHC 1705 (Comm): Coverage dispute in which a litigant challenged the decision of a legal expenses insurer to avoid an ATE policy based upon allegations and findings of dishonesty in the underlying litigation.
  - *Temple Legal Protection Ltd v QBE Insurance (Europe) Ltd* [2009] Lloyd's Rep IR 544, [2009] EWCA Civ 453.
  - *Europ Assistance Insurance Ltd v Temple Legal Protection Ltd* [2008] 1 Lloyd's Rep IR 216, [2007] EWHC 1785 (Comm): Acting for a leading underwriting agency in separate commercial court and arbitral proceedings against both its former capacity providers concerning the run-off of a binding authority agreement.
  - *Bee v Jenson* [2008] Lloyd's Rep IR 221, [2007] EWCA Civ 923: Test litigation to determine whether an insurer needed to give credit for a rebate or commission payment when pursuing a subrogated claim.
  - *HomeServe Plc v Royal & Sun Alliance Insurance Plc (2013-14)*: Acting for the claimant in a £16M coverage dispute against PI insurers. Dispute concerned coverage for mitigation costs arising from FSA-mandated remediation exercise.
  - *Transtek Services Ltd v Aviva Insurance UK and anor (2012-13)*: Acting for property insurer in coverage dispute over fire at commercial premises.
  - *Grundon Waste Management Ltd v Hygrade Industrial Plastics Ltd (2012)*: Coverage dispute over notification issues, relating to substantial claim for fire in an odour control plant.
  - *West Ham Utd FC v QBE Insurance and ors (2011)*: Representing the underwriting market in a £6M coverage dispute relating to an injury which disabled an England first team footballer.
  - *Mopani Copper Mines Plc v Emerald Insurance Ltd (2008-10)*: Acting for a Glencore subsidiary in a US\$6M dispute with South African and Mauritian insurers relating to a property risk in Zambia. Issues included jurisdiction and enforceability of a cut-through agreement.
  - Acting for motor insurers in a series of appeals in the Court of Appeal and House of Lords concerning accident management and credit hire / repair schemes. Reported cases include: *Burdis v Livsey* [2003] QB 36; *Lagden v O'Connor* [2004] AC 1067; *Thew v Cole* [2004] RTR 25; *Purushothaman v Malik* [2012] RTR 21; *Singh v Yaqubi* [2013] Lloyd's Rep IR 398; *Opoku v Tintas* [2013] EWCA Civ 1299. Also acted for the ABI in proceedings before the OFT and CAT concerning the GTA settlement protocol.
  - Acting for the major trade credit insurer, Atradius, in two Commercial Court actions of 2010-11 regarding its entitlement to reject substantial claims arising from insolvency/default.
  - Litigation over the entitlement of an insurer to rely upon a 'reasonable precautions' exclusion where grossly negligent repair of a helicopter resulted in a crash with multiple fatalities.
  - Advising a major professional indemnity insurer on legal expenses cover and statutory obligations to provide freedom of choice of legal representative.
  - Successful strike-out of claims to be indemnified by legal expenses insurers in respect of professional liability claims: *Thakerar v Lloyds TSB Insurance* [2012] EWHC 1875 Comm.
  - Acting for wealthy private individual in action against insurers to recover sums for valuable jewellery stolen (dispute concerning limits of indemnity).
  - Acting for aviation premises insurer in dispute over public liability coverage with insured and a second insurer.
  - Disputes over the applicable policy year for claims against successive solicitors' indemnity policies.
  - Advice on the effect of a security system warranty in property insurance.
  - Advice on whether an insurer could allege late notification in relation to a venture capitalists' indemnity cover, in the context of a large 'pump and dump' claim in the US.
  - Advice on whether contamination with Para Red dye constituted physical damage for the purposes of product liability insurance.
  - Acting for a large insurer in a £3M dispute with a local authority over a claims handling agreement.

---

## Public Law and Human Rights

Jonathan has a wide range of experience in public and administrative law, advising and acting for public bodies, companies and private individuals in judicial review claims. He has almost unrivalled experience and expertise in the law relating to coroners and inquests.

He is recommended by Legal 500 as a leading silk in the field of administrative and public law. Chambers UK Bar recommends him as a leading silk in the field of inquests and public inquiries. Comments in recent editions of the directories include the following:

*"Extremely impressive."* (Legal 500 2014, Administrative and Public Law)

*"He's very impressive, partly because he applies the law in a practical way"; "His strengths are his thorough preparation, attention to detail and ability to react quickly to changing circumstances"; "Has a strong reputation for his consummate expertise in coronial law"* (Chambers UK 2015, Inquiries)

*"He is assiduous, covers every angle and looks out for the client's interests at every turn."* (Chambers UK 2014,

Inquiries)

He has appeared in several important cases on the scope and application of Convention Rights. For example, he appeared for the successful intervening insurers in the House of Lords in *Wilson v First County Trust* [2004] AC 816, the leading case on the compatibility of domestic consumer credit law with the ECHR. He also appeared in the case which decided that domestic law of self defence is compatible with Article 2 of the ECHR (*R (Bennett) v HM Coroner for Inner South London* [2006] HRLR 22) and in the case which set the balance between a news organisation's source protection rights and the need for thorough public inquiry by a tribunal.

His recent work includes the following:

- He is currently (2013-15) acting as one of two lead counsel to the inquiry in the inquests concerning the Hillsborough Stadium Disaster, having been appointed by Lord Justice Goldring.
- He was counsel to the inquiry in the inquests into the deaths of Diana, Princess of Wales and Dodi Al Fayed, and examined a large number of the witnesses. He appeared for the coroners (Lord Justice Scott Baker and Lady Butler-Sloss) in all the satellite litigation: *R (Paul) v HM Coroner for the Queen's Household* [2008] QB 172; *HM Asst Deputy Coroner v Channel 4 TV Corpn.* [2008] 1 WLR 945; *R (Paul) v HM Asst Deputy Coroner for Inner South London* [2008] 1 WLR 1335; *R (Al Fayed) v HM Asst Deputy Coroner for Inner West London* [2008] EWHC 713 Admin.
- He was counsel to the inquiry in the inquest into the shooting of Jean-Charles de Menezes in Stockwell station. He successfully resisted the challenge to the coroner's initial decision to adjourn that inquest pending criminal proceedings. He also successfully resisted a judicial review of Sir Michael Wright's narrative verdict directions. See: *R (Pereira) v HM Coroner for Inner South London* [2007] 1 WLR 3256; *R (de Menezes) v Assistant Deputy Coroner* [2008] EWHC 3356 Admin.
- Acting as counsel to the inquiry in the Potters Bar Rail Crash inquests (June/July 2010) and as sole counsel to the inquiry in the Grayrigg rail crash inquest (November 2011).
- Acting as sole counsel to the inquiry in four other important inquests: that concerning an explosion on HMS Tireless, a nuclear submarine on under-ice exercises; that concerning the fatal shooting of a police firearms officer in role-play training; that concerning the death of Sabina Akhtar, a young woman murdered after an escalating and reported history of domestic violence; that concerning Dale Burns, who died as a result of 'designer drug' toxicity and following police restraint and Taser applications. Successfully resisted judicial review of Coroner's decision on police anonymity in the Dale Burns inquest.
- Successfully resisting the appeal in *R (Lewis) v HM Coroner for Shropshire* [2010] 1 WLR 1836, which decided that the state's procedural obligation under Article 2, ECHR, does not require a coroner's inquest to make findings on matters which were not causally relevant to death.
- He appeared successfully in the case which established a coroner's right to obtain from a Local Safeguarding Children Board the reports prepared in the course of a Serious Case Review into the death of a child: *Worcs. CC v HM Coroner for Worcestershire* [2013] PTSR D41, EWHC 1711 (QB).
- He advised the Wiltshire coroner on the inquest concerning nerve agent experiments at Porton Down in the 1950s, and he appeared in both judicial review challenges to the inquest proceedings.
- He acted for HH Judge Gerald Butler QC in two sets of judicial review proceedings arising from the New Cross Fire Inquest. See: *R (Francis) v HM Asst. Deputy Coroner for Inner London South* [2005] EWHC 980 Admin.
- He has appeared in many of the other leading cases in recent years on inquests in the Court of Appeal and the Administrative Court. These include the following recent cases as well as those mentioned above: *R (Lagos) v HM Coroner for the City of London* [2013] EWHC 423 (Admin); *R (Secretary of State for Justice) v HM Deputy Coroner for Eastern District of West Yorkshire* [2012] ACD 88; *R (Sreedharan) v HM Coroner for City of Manchester* [2012] EWHC 1386 Admin; *R (Medihani) v HM Coroner for Inner South London* [2012] ACD 63; *R (Cairns) v HM Deputy Coroner for Inner West London* [2012] ACD 22; *R (Mack) v HM Coroner for Birmingham* [2011] EWCA Civ 712; *R (Evans) v HM Coroner for Cardiff* [2010] EWHC 3478 Admin; *Connah v Plymouth Hospitals NHS Trust and ors* [2010] EWHC 1727 Admin; *Fraser v HM Coroner for NW Wales* [2010] EWHC 1165 Admin; *R (Pounder) v HM Coroner for Durham* [2010] ACD 52; *R (IPCC) v HM Coroner for Inner North London* [2009] EWHC 1974 Admin; *R (Bennett) v HM Coroner for Inner South London* [2007] EWCA Civ 617; *R (Coker) v HM Coroner for Inner South London* [2006] EWHC 614 Admin; *R (MOD) v HM Coroner for Wiltshire* [2006] EWHC 309 Admin; *R (Longfield Care Homes Ltd) v HM Coroner for Blackburn* [2004] EWHC 2467 Admin; *Terry v HM Coroner for East Sussex* [2002] QB 312.
- Acting for a West Midlands bus company in an important judicial review challenge to concessionary reimbursement by Integrated Transport Authority: *R (The Green Transport Co Ltd) v WMITA and WMPTE* [2013] EWHC 2834 Admin.
- Advising a local authority on a potential challenge to funding provision made by central government under public service agreements.
- Advising a local authority on challenge by a community association to disposition of council property.
- Advising on, and acting in, judicial review of disciplinary proceedings against solicitors and accountants (including, recently, *R (Crookenden) v ICAEW* [2013] EWHC 1909 Admin).
- Advising insurers on potential judicial review challenges to FOS decisions under the compulsory jurisdiction.
- Acting for local authorities in proceedings to claim injunctions prohibiting illegal trading activities. See, for example: *London Borough of Southwark v Sanli and Bankside Catering Ltd* [2011] EWHC 3085 QB; *Lambeth LBC v Sanli and Meli* [2012] EWHC 1623 QB. Advising local authorities on trading and markets regulation.

- Advising a limited partnership on a challenge to public bodies concerning its date of registration.
- Appearing in the Bloody Sunday Inquiry to represent the MOD in response to the specific criticism of failing to assist the tribunal.

---

## Consumer Credit

Jonathan has special expertise in consumer credit law and has appeared in a number of important reported cases in this field. He regularly advises on consumer credit agreements and credit schemes in various commercial contexts.

He is recommended by Chambers UK Bar directory in the field of consumer law, with particular reference to consumer credit. Recent comments in the directory include:

*"An expert in consumer credit and credit hire matters"; "If anything is a bit out of the ordinary, he is the man to go to. He has an ability to get to the root of issues"; "A steady hand and someone who is incredibly hard-working"* (Chambers UK 2015, Consumer Law)

*"[C]omes to greatest market attention for his command of consumer law, in which role he often advises financial institutions"; "A highly responsive barrister who gives clear, succinct advice... a methodical and persuasive advocate"* (Chambers UK 2014, Consumer Law)

Important recent cases in which Jonathan has appeared include:

- *Wilson v First County Trust* [2004] AC 816: appearing successfully for insurance companies intervening on the compatibility of UK domestic consumer credit legislation with the ECHR and on restitutionary remedies.
- *Southern Pacific Mortgage Ltd v Heath* [2010] 2 WLR 1081: appeared for the successful mortgage lender in this leading case concerning the enforceability of 'top up' mortgage loan agreements.
- Test litigation concerning 'credit hire' agreements, including *Burdis v Livsey* [2003] QB 36 and *King v Daltray* [2003] EWCA Civ 1828, which determined the construction of credit agreements and of key provisions in consumer credit legislation. Continued appearances in important cases in this field, for example: *Singh v Yaqubi* [2013] Lloyd's Rep IR 398; *Opoku v Tintas* [2013] EWCA Civ 1299, [2013] All ER (D) 81; *Purushothaman v Malik* [2011] EWCA Civ 1734.

Other examples of recent work include:

- Acting for a firm of solicitors in a dispute with a finance company over the firm's obligation to indemnify its clients for large debts arising under multiple consumer credit agreements of questionable validity.
  - Acting for a firm of solicitors in a large claim arising out of allegedly negligent drafting of standard-form consumer credit agreements and notices: *Conister Bank v Lester Aldridge*.
  - Advising a major credit hire company on an insurance scheme for customers, and on effect of the effect of Doorstep Selling Regulations in that context.
  - Advising on potential challenges to a substantial litigation funding scheme.
  - Advising a medical agency on consumer credit agreements to be used in rehabilitation scheme.
-