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JONATHAN SELBY QC

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Areas of Practice

- Construction & Engineering
- Professional Negligence
- PFI/PPP
- Energy & Natural Resources
- Offshore Construction and Marine Engineering
- Party Walls

Clerks' Details

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Practice Overview

Jonathan Selby QC was called to the Bar in 1999 and was made Queen's Counsel in 2018. He specialises in Construction and Engineering, Energy and Professional Negligence claims (architects, engineers and surveyors).

He was recently described as "a real fighter who puts his heart into things and gets results" who "gets to the issues straight away, and is very pragmatic and a good tactician."

Jonathan frequently appears in high value litigation in the Technology and Construction Court and has a long list of reported cases from that Court and the Court of Appeal. He is particularly well known for his work on cases concerning apartment blocks, hotels, fire safety and building warranty claims.

Jonathan is often instructed to act for clients in arbitration, adjudication and mediations and is a practising accredited Adjudicator.

Recent Cases

Construction & Engineering

- Acted as Leading Counsel for leaseholders of 30 flats at New Lawrence House in Manchester in a four-week trial against Zurich Insurance in which it was established that the Building Inspector had fraudulently issued Final Certificates for the development and judgment was given for £3.6 million in respect of claims under the Zurich New Home Warranty for the rectification of numerous defects in the common parts, including wholesale fire safety failures and a roof that needed to be replaced. Jonathan also successfully represented the leaseholders in the associated appeal to the Court of Appeal, with the result that the leaseholders' recovery was increased to £10.8m.
- Instructed on a number of claims concerning the cost of removing and replacing ACM cladding and its compliance with fire safety requirements, including TCC Proceedings relating to the Premier Inn at Heathrow Terminal 3, the Sky Plaza halls of residence in Leeds and various apartment blocks owned by Housing Associations.
- Acted as Leading Counsel for a glass recycling company in an ICC arbitration concerning the design and installation of the plant for a bottle bank and MRF processing facility.
- Acted as Counsel for Grandlane Developments Ltd against Skymist Holdings Ltd in a series of hearings in the TCC and Commercial Court concerning whether or not an adjudicator had been properly appointed, whether an adjudicator's decision had been obtained by fraud and an application for pre-action disclosure.
- Acted in *Universal Piling v VG Clements*, where the issues turned on the rights of the parties under NEC3 in relation to interim payment applications.
- Advised a dredging contractor about the inter-action between the compensation event and joint insurance provisions in NEC3.
- Acted for a University in a series of adjudications with its contractor under a NEC3 contract concerning a £1 billion development project. The disputes concerned: how partial possession under the NEC3 affects the quantification of delay damages; the operation of the value engineering provisions and the quantification of the claimed saving; and the pricing of variations.
- Acted in a two-week arbitration concerning a c. \$60 million final account dispute between a foreign state department and its contractor about the construction of a road around its headquarters.
- Acted for the Dorchester Collection in its TCC claim against a national contractor for the payment of undeclared discounts which had been obtained from sub-contractors for work carried out under an "open book" contract."
- Jonathan regularly advises and acts for employers, contractors and sub-contractors in connection with the various JCT and NEC standard form contracts in relation to all sizes and type of project.
- Acted in a four-week trial concerning a claim under the Defective Premises Act in respect of the construction of a block of 171 apartments.
- Instructed on behalf of a large utility company in a series of adjudications under an IChemE form of contract about the design and construction of a sewage treatment works.

"A hard-working and dazzlingly bright silk, he provides superb legal advice, mixed with insightful commercial strategy."

Chambers & Partners UK Bar 2021

Professional Negligence

- Instructed for a developer in a multi-million pound TCC claim against their quantity surveyor, project manager, development manager, architect, M&E and structural engineers concerning the cost and time overruns on a mixed use retail/residential development in Berkshire: see *Standard Life Assurance Ltd v Gleeds (UK) and others* [2020] EWHC 3419 (TCC).
- Acted for a developer in a £16 million claim against their design and build contractor, contract

administrator, architect, M&E and structural engineers for the cost of rectifying multiple defects in a new build residential development in Manchester.

- Defended an architect in a two-week trial of a £10 million claim made by a property developer who claimed that the architect had failed to design a planned 5-star hotel in accordance with his budget.
- Acted for an NHS Trust in a £10 million claim against its architect, M&E and structural engineers concerning a number of defects in and the delayed completion of a new hospital in the Rhondda Valley, Wales.
- Acted for the claimants in a two-week trial against an architect who had negligently designed damp-proofing measures and negligently inspected the mechanical and electrical works for a substantial property overlooking the River Thames. Also acted in the subsequent appeal to the Court of Appeal.
- Instructed on behalf of a property developer in connection with claims against its quantity surveyors and structural engineers arising out of the Regent Quarter Development in Kings Cross, London.
- Acted for the claimant in a five-week trial (as Junior Counsel to Adrian Williamson QC) where the architect, engineers and project manager were alleged to have been negligent in their design and supervision of a £4 million residential property in Jersey to such an extent that the property was demolished and had to be rebuilt.

PFI/PPP

- Acted for a School Trust in its dispute with the Local Authority about responsibility for utility payments under a Project Agreement.
- Acted for a large contractor in relation to adjudication and TCC proceedings concerning the design, construction and performance testing of a MBT waste treatment facility in Cambridgeshire.
- Acted for a contractor in an early neutral evaluation concerning a claim for the rectification of the payment formula in a concession agreement relating to the provision of three schools in Hampshire.
- Acted for a contractor in connection with its extension of time claims concerning the delayed completion of a hospital in Coventry.
- Acted for a contractor in an adjudication regarding the scope of its obligations to provide and maintain telecommunications systems for an educational establishment in Croydon.

“Great legal brain. A formidable opponent who gives clear, punchy advice. Adored by clients.”

Legal 500 2021

Energy & Natural Resources

- Advised a pipeline contractor about whether the compensation event provisions in a NEC3 contract were conditions precedent to their entitlement to claim additional monies in respect of unforeseen ground conditions.
- Acted for a M&E contractor in a £3 million arbitration claim against a main contractor in respect of delay and disruption to their work at a power station in Nottingham.
- Acted in a multi-million pound arbitration claim by a pipework sub-contractor in connection with the construction of a Liquefied Natural Gas Terminal in Wales.
- Acted for a piping and mechanical erection sub-contractor in connection with disputes regarding its work on a CCGT power station in Wales. Those disputes gave rise to adjudication claims concerning its final account and injunction proceedings in the TCC seeking delivery up of testing documentation.
- Represented a large international contractor in an ICC arbitration relating to a multi-million dollar dispute concerning an oil pipeline in North Africa.
- Instructed as Junior Counsel to Petromec in its litigation with the Brazilian State oil company in the Commercial Court regarding the cost of constructing an oil rig in the South Pacific.

Offshore Construction & Marine Engineering

- Instructed in a professional negligence action concerning the failure of temporary works intended to enable the installation of two sheet-piled cofferdams.
- Instructed in arbitration proceedings concerning a buyer's entitlement to rescind a contract for the design and construction of a drillship.
- Advised a dredging contractor in relation to its ability to recover the costs of repairing damage to its dredger after it had struck a submerged pile during the course of its works and whether the incident gave rise to a compensation event under its contract.
- Represented Van Oord in a trial concerning the erosion of backfill material and adequacy of scour protection laid over offshore culverts connected to a power station: see *Mouchel v Van Oord* (No. 1) [2011] EWHC 72 (TCC).
- Represented a dredging contractor in a final account dispute which included issues concerning the inundation of a foundation, over-dredging and the use of unsuitable fill material.

Party Walls

- Advised and acted for parties in connection with issues arising under the Party Wall Act 1996 and appeals in respect of party wall awards.
- Represented a residential property owner in a 3-day appeal of an award relating to the party wall between neighbouring cottages.

“He is very considered in his advice and pleadings, able to see the big picture very easily and not someone who gets taken in by the other side’s tactics.”

Chambers & Partners UK Bar 2021

Other Specialist Areas

Insurance

- Jonathan has experience in relation to claims under insurance policies including professional indemnity policies, NHBC policies, the Zurich Building Guarantee and home insurance policies.
- Acted as Leading Counsel for leaseholders of 30 flats at New Lawrence House in Manchester in a four-week trial against Zurich Insurance in which judgment was given for £3.6 million in respect of claims under the Zurich New Home Warranty for the rectification of numerous defects in the common parts, including wholesale fire safety failures and a roof that needed to be replaced. Jonathan also successfully represented the leaseholders in the associated appeal to the Court of Appeal, with the result that the leaseholders' recovery was increased to £10.8m.
- Acted for a large insurance company in connection with a £750,000 claim by home-owners for the cost of reinstating an old barn which had burnt down in a fire. The trial resulted in success for his client who recovered their costs on an indemnity basis.
- Acted for the NHBC in claims against builders who have failed to comply with the NHBC Rules.

Hotels & Hotel Management

- Jonathan has acted in a number of cases about the design and construction of well-known hotels in Central London.
- Jonathan also acted in an ICC arbitration concerning the management, sales and marketing of a 5-star hotel in Zanzibar.

Rail

- Acted in a \$12.5 million ICC arbitration claim for breach of three contracts for the supply of sleepers.
- Acted for a designer and supplier of level crossing panels in connection with claims in the Commercial

Court (including injunction proceedings) against the product manufacturer for breach of an exclusive distribution agreement.

- Advised a contractor responsible for the maintenance of the London Underground lines in relation to the termination of one of its sub-contracts.
- Acted for a telecommunications provider in an adjudication regarding the scope of its testing obligations in respect of communications systems on the London Underground.

“Tenacious, driven, totally focused and relentless in getting the right commercial outcome.”

Chambers & Partners UK Bar 2019

Selected Reprted Cases

- *Manchikalapati v Zurich Insurance* [2020] BLR 1
- *Grandlane Developments Ltd v Skymist Holdings Ltd* [2019] BLR 363
- *Skymist Holdings Ltd v Grandlane Developments Ltd* [2019] BLR 173
- *Zagora Management Ltd v Zurich Insurance Plc* [2019] 182 Con LR 180
- *Riva Properties Ltd v Foster + Partners Ltd* [2017] EWHC 2574 (TCC); 175 Con LR 45
- *WES Futures Ltd v Allen Wilson Construction Ltd* [2016] EWHC 2863 (TCC); 170 Con L.R. 121; [2016] 6 Costs L.R. 1083
- *Purton v Kilker Projects Ltd* [2015] EWHC 2624 (TCC); [2015] B.L.R. 754
- *Rendlesham Estates Plc & Ors v Barr Ltd* [2015] 1 W.L.R 3663
- *Hills Contractors & Construction Limited v Struth* [2014] 1 W.L.R. 1
- *West v Ian Finlay & Associates* [2014] EWHC Civ 316; [2014] CILL 3507; [2014] BLR 324.
- *Oak Leaf Conservatories Ltd v Weir* [2013] EWHC 3197 (TCC)
- *Stella Willis v Mr J Rundell & Associates Limited* [2013] EWHC 2923 (TCC); [2013] 6 Costs LR 924
- *Natas Group Ltd v Styles & Wood* [2012] EWHC 526 (TCC)
- *Partner Projects Ltd v Corinthian Nominees Ltd* [2012] 1 BLR 97
- *Mouchel Ltd v Van Oord (UK) Ltd* [2011] EWHC 72 (TCC); 135 Con LR 183
- *Mouchel Ltd v Van Oord (UK) Ltd (No 2)* - [2011] BLR 492, 137 Con LR 105
- *Speymill Contracts Ltd v Baskind* [2010] BLR 257, 129 Con LR 66

Education & Professional Career

Queen’s Counsel	2018
Lay Member of the RIBA Professional Conduct Panel	2017 to date
Public Access Training	2008 & 2015
TECBAR Accredited Adjudicator	2007
Keating Chambers	2001
Pupillage, Keating Chambers	2000-2001
Research Assistant, Law Commission (Company and Commercial Law Team)	1999-2000
Marshallled Colman J in the Commercial Court	1999
Called to the Bar (Gray’s Inn)	1999

CJ Hamson Prize for Aspects of Obligations, University of Cambridge	1998
MA in Law, St. Catharine's College, Cambridge	1998

Memberships

Technology and Construction Bar Association (TECBAR)
Society of Construction Law
Commercial Bar Association (COMBAR)
London Common Law and Commercial Bar Association

Languages

French (working knowledge)
German (working knowledge)

Additional Information

Jonathan is a big sports fan and particularly enjoys football, cricket, tennis and swimming. His other passions are food and cinema.