

Joss Knight



YEAR OF CALL: 2014

INN: LINCOLN'S INN

Practice Overview

Joss has a varied commercial and chancery practice spanning commercial/contractual disputes, real estate litigation, and wills & trusts matters.

Recent cases where he has appeared as sole counsel include:

- ▶ A multi-track trial concerning a claim for a resulting and/or constructive trust over a £1m property.
- ▶ A reported High Court decision concerning the ability of company directors to obtain a limitation direction and the scope for awarding a non-party costs order.
- ▶ Three-day trial in the Birmingham Technology and Construction Court.

Joss has particular experience of partnership disputes, cases which include a Court of Protection element, and claims under the Inheritance (Provision for Family and Dependents) Act 1975. He frequently appears in fast-track and multi-track matters in the County Court, the High Court and the First-Tier Tribunal (Property Chamber).

Areas of Expertise

Agriculture & Rural Affairs

Having grown up with a rural background, Joss regularly advises in agricultural matters and has particular experience of farming partnership disputes. Recently he has been involved in a long-running dispute between neighbouring farmers involving allegations of trespass, interference with easements and the applicability of the rule in *Rylands v Fletcher*.

He recently acted for a national animal feed distributor in a dispute arising out of an allegation that animal feed supplied under a contract was having a detrimental impact on milk yields, and on behalf of a farmer against a neighbour who carried out unauthorised works to a boundary hedge.

Commercial

Joss advises in a wide-range of complex commercial, company and insolvency matters.

He recently appeared for the applicant in *Housemaker Services Ltd v Cole & Anor* [2017] EWHC 753 (Ch) in which the court considered the circumstances in which it would give a 'limitation direction' to a company under section 1028 of the Companies Act 2006 disapplying the period in which the company was struck off the register for the purposes of limitation and thus allowing the company to bring a claim against a third party.

Joss has particular experience in partnership law and has acted in relation to partnerships concerning a building company, a farm, a public house, and a Christian holiday and education centre. He recently appeared on behalf of the claimant in a long-running and acrimonious partnership dispute, culminating in a two-day trial. The client, who had been excluded from a highly successful construction partnership with extensive assets, successfully challenged the dissolution accounts.

Joss is also frequently instructed on a wide range of bankruptcy and insolvency matters, including insolvent estates. He has particular experience of cases involving the restoration of a dissolved company to the register.

Joss' recent caseload includes:

- ▶ **H v M** – an on-going dispute concerning the allegedly negligent drafting of a Share Purchase Agreement which resulted in a seven-figure loss.
- ▶ **M v T** – a claim against a bank for allegedly mis-selling insurance facilities.
- ▶ A dispute over the enforceability of personal guarantees given by company directors
- ▶ A claim concerning the enforceability of restrictive covenants and 'non-compete' clauses within contracts of employment.
- ▶ **E v F** – alleged breach of contract and/or Tomlin order under which the defendant manufacturer was obliged to produce a large number of components in accordance with the claimant's design.
- ▶ **B v U** – a claim brought by a student against a university for on the grounds of misrepresentation and negligent/substandard tuition.

Recovery of Legal fees

Joss has particular experience in claims for the recovery of legal fees. His recent caseload includes a successful summary judgment application on behalf of the claimant solicitor and a trial where he successfully argued that the only consideration the defendant client was obliged to provide the solicitor under the retainer was assistance in the design of a charity website.

Construction & Engineering

Joss frequently acts in a wide variety of residential and commercial construction matters.

- ▶ A three-day trial in the Technology and Construction Court in Birmingham concerning allegations of defective renovation work by a building company. Awaiting judgment.
- ▶ An appeal in the Central London County Court concerning complex issues of VAT chargeable and recoverable in relation to residential conversion works. Joss acted for the successful appellant.
- ▶ A trial against a national homebuilding company for failing to ensure a property had adequate drainage.
- ▶ A claim against a boat yard for the defective restoration of a luxury yacht.
- ▶ Proceedings against a caravan park for damages arising out of the sale and supply of a defective static home and its inadequate installation.

Court of Protection

Joss has particular experience in Court of Protection work and acts in both health and welfare and property and estates matters.

Recent work includes:

- ▶ A claim to recover a six-figure sum appropriated by the defendant from an elderly relative whilst acting under a lasting power of attorney.
- ▶ Proceedings brought by an individual who had received a multi-million pound award following a catastrophic road traffic accident. P was adjudged to have lacked capacity to make decisions about his property and affairs and consequently a professional deputy was appointed. Following a breakdown in relations between P and the deputy, P commenced the claim on the basis that he had regained capacity and sought to have the deputy replaced with a professional trustee. The matter is currently on-going.
- ▶ On-going proceedings involving cross-applications by two brothers both seeking to prevent the other from being appointed as a deputy for their father and seeking their own appointment.
- ▶ A contested application to be appointed as property and affairs deputy. Joss' client was successful in defeating the objection and obtaining a deputyship order.

Joss spent two months in the spring of 2016 on secondment with Foot Anstey LLP. During this period he operated exclusively in Court of Protection matters, predominately in cases where Foot Anstey were acting on behalf of the Official Solicitor. As a result he has a detailed understanding of how the Court of Protection operates.

Professional Negligence

Joss has acted in a wide variety of professional negligence disputes including claims against solicitors, architects, builders, contract administrators, approved inspectors, valuers, and surveyors.

His current solicitors' negligence caseload includes:

- ▶ Acting for the claimant in a seven-figure claim against a solicitors' firm arising out of the negligent drafting of a Share Purchase Agreement.
- ▶ A claim under the principle laid down by the House of Lords in *White v Jones* on behalf of a beneficiary against solicitors engaged by the deceased testator to provide will writing services. The will was drafted and executed negligently and has subsequently been deemed invalid such that the estate was distributed according to the rules of intestacy.

Joss is currently on secondment at RPC LLP, specialising exclusively in construction negligence and claims against solicitors.

Real Estate

Joss specialises in real estate matters, and has extensive experience of both commercial and residential landlord and tenant matters. As well as appearing on behalf of both landlord and tenants in lease renewal claims under the 1954 Act; possession claims; and claims under the dilapidations protocol.

Joss also acts in a wide variety of residential property matters including boundary disputes, claims under the Trusts of Land and Appointment of Trustees Act 1996 and claims for easements.

His recent caseload includes:

- ▶ *C v G (2017)* – a dispute as to the effect of a local authority signing, but not exchanging, an engrossed counterpart lease.
- ▶ *W v M (2017)* – a dispute arising upon the termination of a tenancy as to whether there had been an implied surrender and re-grant or whether the tenancy had simply been varied.
- ▶ *D v B (2017)* – advised in relation to an application for a statutory lease renewal under the Leasehold Reform, Housing and Urban Development Act 1993. The case also considered the applicability of the principles of waiver and estoppel.
- ▶ *H v W (2017)* – a two-day trial in which Joss successfully defended his clients in dispute with their neighbours, including, inter alia, a claim under the Protection from Harassment Act 1997.
- ▶ Advising in a long-running dispute between neighbouring farmers involving allegations of trespass, interference with easements and the applicability of the rule in *Rylands v Fletcher*.
- ▶ *H v R (2017)* – Joss acted for the defendant at trial in a claim seeking a beneficial interest in a property in central London worth in excess of £1m on the basis of a common intention constructive trust and/or resulting trust.

- ▶ **Yardley v Portlock (Bristol County Court – 2017)** – a two-day trial where Joss was successful in ensuring an application for an easement on the basis of prescription and/or s.62 of the Law of Property Act 1925. The parties occupied their respective properties as long-leaseholders but owned the freehold title to the other's property in a 'criss-cross' arrangement.
- ▶ **K v E (2017)** – Joss successfully defended a claim in the Leasehold Valuation Tribunal.
- ▶ **C v T (2017)** – Joss appeared for the claimant in a multi-track trial in the Chancery Division of the Bristol District Registry who was claiming an interest in the property of his deceased partner on the basis of common intention constructive trust and/or proprietary estoppel. Awaiting judgment.
- ▶ Defending, on the basis of resulting trust and/or proprietary estoppel, a possession claim brought by the step-father of the defendant's deceased husband.

Wills & Trusts

Joss acts in a wide variety of wills, probate and estates matters. He has particular expertise in claims where the validity of the will is disputed, and claims for an interest in property on the basis of proprietary estoppel, resulting trust or constructive trust.

Joss advises on all matters relating to the estate administration, and has particular experience in applications for the removal of executors under s.50 of the Administration of Justice Act 1985, and the administration of insolvent estates. He was recently successful in obtaining the removal of the professional trustees and executors of a seven-figure will trust on the basis they had acted capriciously in the exercise of their discretion and had incurred excessive costs.

He has extensive experience of matters where the validity of the will is disputed on the grounds of forgery, lack of capacity or undue influence.

Joss regularly acts for claimants and defendants in claims under the Inheritance (Provision for Family and Dependents) Act 1975. His recent caseload involves claims by spouses, adult children and cohabitants, as well as acting on behalf of clients seeking to bring a claim outside the six-month limitation period.

Joss also frequently advises in claims advanced under the principle of proprietary estoppel.

Recent work includes:

- ▶ **D v T** – a claim brought by an excluded beneficiary for a declaration of invalidity on the basis the Deceased was suffering from hallucinations and psychosis at the time instructions for the will were given and when it was signed.
- ▶ **W v M** – a claim for a declaration that the will was invalid as a result of undue influence exerted by the sole beneficiary, who was living with the Deceased for an extended period of time as a non-romantic cohabitee.

- ▶ **K v M** – a claim, brought by a disappointed beneficiary against solicitors engaged by the deceased testator to draft a will on his behalf which was subsequently deemed to have been invalidly executed.
- ▶ **R v K** – a dispute arising out of whether the deceased had the capacity to get married, draft a new will and dispose of property.
- ▶ **H v R (2017)** – Joss acted for the defendant at trial in a claim seeking a beneficial interest in a property in central London worth in excess of £1m on the basis of a proprietary estoppel and/or resulting trust.
- ▶ **C v T (2017)** – Joss appeared for the claimant in a multi-track trial in the Chancery Division of the Bristol District Registry who was claiming an interest in the property of his deceased partner on the basis of common intention constructive trust and/or proprietary estoppel. Awaiting judgment.
- ▶ Defending, on the basis of resulting trust and/or proprietary estoppel, a possession claim brought by the step-father of the defendant's deceased husband.
- ▶ **E v P** – Acting in a neighbour dispute where the claimants had carried out extensive works to a patch of land on the basis the Defendant had agreed they could have it.

Joss recently successfully resisted an application under s.14 TOLATA for the sale of jointly owned commercial property, appeared in two multi-track trials seeking a declaration as to the existence and extent of an interest in property, and obtained the removal of the professional trustees of a seven-figure trust.

Qualifications & awards:

- ▶ BA Hons, Philosophy And Theology, Jesus College, University of Oxford
- ▶ Lord Denning Scholarship, Lincoln's Inn
- ▶ Lord Haldane Scholarship, Lincoln's Inn
- ▶ Hardwicke Entrance Award, Lincoln's Inn
- ▶ Sankey Scholarship, Jesus College, University of Oxford

Professional Memberships

- ▶ Chancery Bar Association

Additional information:

Prior to pupillage Joss worked variously as a teacher in Moscow; a chef in a double Michelin-starred restaurant; and as a paralegal for OSG solicitors, where he worked exclusively on *First Subsea Ltd v Balltec Ltd & Ors* [2014] EWHC 866 (Ch). This landmark case was the subject of a 25-day trial in the High Court and involved allegations of breach of fiduciary duty, conspiracy to injure by unlawful means and patent infringement.

Joss grew up in the Lake District and enjoys hiking, cooking and going to the theatre. He is a keen squash player, an enthusiastic cricketer, and an adequate tennis player. He occasionally goes running out of a sense of obligation rather than any real enjoyment.

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