



serle court

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## Jonathan McDonagh

Year of Call: 2011

*"Jon is a silk in all but name. He is very commercial, produces extremely impressive written work, and is great on his feet. He would be an asset to any team litigating a complex and high stakes case."*

Chambers & Partners 2026

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## Practice Overview

Jonathan is a commercial chancery junior specialising in several of chambers' core practice areas as well as group litigation. He has been described in the directories as *"a fantastic junior"* and *"a silk in all but name...an asset to any team litigating a complex and high stakes case."* In recent years, Jonathan has acted for the claimants in the *Município de Mariana and oths v BHP Group* litigation, one of the most substantial pieces of litigation currently before the English courts.



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## Areas of Expertise

### Chancery

Please see the sections below on Civil Fraud; Company; Insolvency; International and Offshore; Matrimonial Finance; Trusts and Company Law; and Private Client Trusts and Probate.

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### Civil Fraud

*Viegas v Cutrale* (2025) – Led by Andrew Fulton KC, Jonathan appeared for the claimants in a limitation preliminary issue trial in the Commercial Court. The claims arise from allegations of cartel practice in connection with the Brazilian orange juice market.

*Union Bank of India v Badri Kasturi and Satyan Kasturi* [2021] EWHC 979 (Comm) and until 2023 – Jonathan acted for the UK branch of the Union Bank of India seeking to recover more than US\$6 million against defendants based in India in a claim (inter alia) for fraudulent misrepresentation arising from a loan for the purchase of shares in the USA.

*Flywheel v Andrew, St Hill and Andrew* [2021] EWHC 3746 (Comm) – and at other stages, led by Paul Chaisty KC, acted for the claimant company seeking various heads of relief arising from a purchase of an IT services company from the defendants, on the bases of breaches of warranty and fraudulent misrepresentation.

*Taylor v Van Dutch Marine Holding Ltd* [2019] EWHC 324 (Ch) – Led by Lance Ashworth KC, Jonathan acted for the defendants alleged to have been undisclosed principals in respect of a purchase of shares, and liable for conspiracy to injure by unlawful means.

*The VW NOx Group Litigation* (2016-2019) – Led by Andrew Onslow KC, Jonathan acted for c. 90,000 affected vehicle owners seeking compensation in respect of the VW Group's 'defeat devices' fitted into vehicles to alter vehicle performance during emissions testing.

*Conapro v Republic of The Gambia* [2016] 12 WLUK 109 - Led by Elizabeth Jones KC, Jonathan acted for the

Gambian government in relation to a claim involving a purported contract for the purchase of oil, and allegations of bribery relating to the same.

*Otkritie v Urumov and oths* [2014] EWHC 191 (Comm) - Jonathan acted for the Urumov and Pinaev defendants (led by Jonathan Adkin KC and Anthony Peto KC) in a banking fraud case worth more than US\$170 million. The case was the subject of considerable international media attention, and in addition to the usual issues arising from a civil fraud action, raised questions of international private law, foreign law, privilege and the doctrine of *ex turpi causa*.

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## Commercial Litigation

*Município de Mariana and oths v BHP* [2025] EWHC 3001 (TCC) – The largest opt-in group action ever brought before the English courts, with more than 620,000 issued claims, arising from the collapse of the Fundão Dam in Brazil in November 2015, which caused Brazil's worst ever environmental disaster. Jonathan has acted for the Claimants from the commencement of the proceedings and appeared at the first stage liability trial which resulted in a finding that BHP were liable for the collapse. The claim value has been estimated at £36 billion. Other notable judgments in the course of this litigation, and in respect of which Jonathan acted, are:

- [2020] EWHC 2930 (TCC) – the first instance decision in which the claims were initially struck out for abuse of process and as part of BHP's jurisdiction challenge.

- [2021] EWCA Civ 1156 – having been refused permission to appeal by the Court of Appeal on paper, the Claimants made a successful challenge under CPR 52.30 and were subsequently granted permission.

- [2022] EWCA Civ 951 – the Claimants' successful appeal on issues of abuse of process and jurisdiction, paving the way for the litigation to proceed in England.

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*Union Bank of India v Hayre; Union Bank of India v Country Developments & Investments Limited; and others* (2021 – ongoing) – Jonathan acts for the Union Bank of India in several actions seeking to recover sums loaned under banking facility agreements, and enforcement of a range of security interests.

*Sargeant Petroleum v Thomas Miller* (2020 – 2023) – Jonathan represented the assured owners of a vessel moored in the Port of Rio Haina, Dominican Republic, in a dispute with underwriters concerning the scope of an insurance policy to cover the impact of 2016's Hurricane Matthew.

*Re Magnolia* (2020 – 2022) – Jonathan represented the successor entities to the insurers of the vessel, "MAGNOLIA" an oil carrier attacked and struck by a missile in the Persian Gulf in 1984. These entities succeeded in claims to a fund held in court arising from a multi-jurisdictional marine insurance dispute in the mid-1980s. The fund represented the remainder of monies that were paid into escrow during the course of a dispute between the insurers

and the insured thereafter.

*Al-Mojil v Protiviti* [2016] CA 003 (23 August 2016), DIFC - (2016-2018) – Led by Jonathan Adkin KC and David Head KC, Jonathan represented the claimant seeking relief from an accountancy firm following a report it had issued to the Saudi Capital Markets Authority in respect of MMG, a Saudi oil infrastructure and engineering company. It remains one of the most substantial claims ever brought before the courts of the DIFC, and established significant case law on the *forum non conveniens* doctrine in the DIFC, before the parties reached settlement on the eve of trial.

*The VW NOx Group Litigation* (2016-2019) – Led by Andrew Onslow KC, Jonathan acted for c. 90,000 affected vehicle owners seeking compensation in respect of the VW Group's 'defeat devices' fitted into vehicles in order to alter vehicle performance during emissions testing.

*Certain Underwriters at Lloyds v Syrian Arab Republic and others* (2015) – Advised in respect of a claim against the Syrian regime arising from a US judgment in the sum of US\$51 million relating to the hijacking of Egypt Air flight 648 in November 1985. The case concerned recognition of foreign awards and issues of state immunity in the context of the ongoing Syrian civil war.

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## Company

*Município de Mariana and oths v BHP* [2025] EWHC 3001 (TCC) – The liability trial (in which Jonathan represented the claimants) was concerned with the liability of the parent companies of a large multi-national corporate group. BHP Group (UK) Limited and BHP Group Limited were found liable. Via a chain of subsidiaries, BHP owned 50% of the shares in Samarco, a Brazilian company; Samarco in turn owned and operated the mine at Fundão, which was the site of the catastrophic dam collapse that led to the proceedings. The claim value has been estimated at £36 billion.

*Re KTA Group; Hussain v Hussain* [2022] EWHC 1880 (Ch) and [2023] EWHC 3080 (Ch) - Jonathan acted for the Respondent directors and shareholder in an unfair prejudice petition concerning a family business. The dispute raised issues of separate ownership of business interests under the company identity, the passage of business interests between generations of a family, and various allegations of breach of directors' duties. The Respondents were successful at both first instance and appeal.

*Al-Mojil v Protiviti* [2016] CA 003 (23 August 2016), DIFC - (2016-2018) – Led by Jonathan Adkin KC and David Head KC, Jonathan represented the claimant seeking relief from an accountancy firm following a report it had issued to the Saudi Capital Markets Authority in respect of MMG, a Saudi oil infrastructure and engineering company. It remains one of the most substantial claims ever brought before the courts of the DIFC, and established significant case law on the *forum non conveniens* doctrine in the DIFC, before the parties reached settlement on the eve of trial.

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## Insolvency

*Union Bank of India v Hayre; Union Bank of India v Country Developments & Investments Limited; and others* (2021 – ongoing) – Jonathan acts for the Union Bank of India in several actions seeking to recover sums loaned under banking facility agreements, and enforcement of a range of security interests.

*Ullah v Ullah* (2015) – successful application under s. 423 IA 1986 reversing a transfer of a debtor's share in his family home.

*Power v Godfrey* [2014] BPIR 484 – a successful High Court appeal against a bankruptcy order, in a case involving an allegedly fraudulent crossclaim against the petitioning creditor, on which default judgment had been obtained.

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## International and Offshore

*Re Scherbakov* (2021 – 2023) – Jonathan acted for the English, BVI and Singaporean Administrators of the valuable estate of a deceased Russian businessman, in the context of proceedings concerning beneficiaries' rights to his estate, and a factual background of asset holding within corporate structures across several offshore jurisdictions.

*Al-Mojil v Protiviti* [2016] CA 003 (23 August 2016), DIFC - (2016-2018) – Led by Jonathan Adkin KC and David Head KC, Jonathan represented the claimant seeking relief from an accountancy firm following a report it had issued to the Saudi Capital Markets Authority in respect of MMG, a Saudi oil infrastructure and engineering company. It remains one of the most substantial claims ever brought before the courts of the DIFC, and established significant case law on the *forum non conveniens* doctrine in the DIFC, before the parties reached settlement on the eve of trial.

*AF v MF & oths* [2016] EWFC 65 – Jonathan acted for H's father, the settlor of an offshore foundation subject to attack from an application for ancillary relief by W. The applicant wife had sought relief in the sum of c. £20 million, but was awarded around £2 million following trial.

*Trilogy Management v YT* [2014] JRC 214. Assisted Dakis Hagen in advising a corporate trustee within a \$500m charitable trust structure on questions of restructuring and steps in ongoing litigation.

*Re Walker* (2013-2014) - Jonathan was instructed (along with Gareth Tilley and Justin Higgo, led by Elizabeth Jones KC) on behalf of a trustee defendant in the \$100+ million Jersey trust dispute arising from investment decisions made in respect of the Jack Walker settlement.

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## Matrimonial Finance: Trusts and Company law

*Re B* (2021) – Jonathan is advising the applicant husband in respect of an ancillary relief claim where W appears to benefit from a long-standing trust arrangement in which valuable commercial property is held.

*Hagen v Hagen* (2017) – Led by Alan Boyle KC and Nicholas Harrison, Jonathan acted for the daughter of the parties in a substantial and much publicised divorce involving the family behind Viking River Cruises, in financial remedy proceedings in the High Court.

*AF v MF & oths* [2016] EWFC 65 – Jonathan acted for H's father, the settlor of an offshore foundation subject to attack from an application for ancillary relief by W. The applicant wife had sought relief in the sum of c. £20 million, but was awarded around £2 million following trial.

*Joy v Joy-Morancho* [2015] EWHC 2507 – Led by Hodge Malek KC, assisted family counsel in advising on the trust analysis relevant to this matrimonial dispute, where issues arose as to the nuptiality of settlements, the extent of a trust as a resource, and allegations of concealment of assets.

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## Private Client Trusts and Probate

(Please also see entries under Matrimonial Finance: Trusts and Company Law)

*Re Scherbakov* (2021 – 2023) – Jonathan acted for the English, BVI and Singaporean Administrators of the valuable estate of a deceased Russian businessman, in the context of proceedings concerning beneficiaries' rights to his estate, and a factual background of asset holding within corporate structures across several offshore jurisdictions.

*Re Pawley* (2020 – 2023) – Acted for the administrator of an estate being sued by the executors of the estate of the deceased's former (pre-deceased) wife, with issues relating to the inheritance tax treatment of an alleged interest in possession, and a counterclaim for the misappropriation of assets by the former wife during a period of Deputyship over the deceased.

*Re Magnolia* (2020 – 2022) – Jonathan represented the successor entities to the insurers of the vessel, "MAGNOLIA" an oil carrier attacked and struck by a missile in the Persian Gulf in 1984. These entities succeeded in claims to a fund held in court arising from a multi-jurisdictional marine insurance dispute in the mid-1980s. The fund represented the remainder of monies that were paid into escrow during the course of a dispute between the insurers and the insured thereafter.

*Pakistan v Prince Muffakham Jah & Oths* [2020] Ch 421 - Jonathan acted for Prince Muffakham Jah (led by Hodge Malek KC and Dakis Hagen) in the long-running Hyderabad Fund dispute. This dispute concerned several parties, including the sovereign states of Pakistan and India, claiming beneficial entitlement to the £35m resting with NatWest after monies were wrongfully paid out of the account of HEH the 7th Nizam of Hyderabad in 1948. Proceedings were first brought by the 7th Nizam in 1954, but were stayed upon Pakistan's successful invocation of sovereign immunity (*Rahimtoola v Nizam of Hyderabad* [1958] AC 379; and *Pakistan v Natwest* [2015] EWHC 55 (Ch)). At an interim stage, a series of strike out and summary judgment applications brought by Pakistan and by India were dismissed (*Pakistan v Natwest* [2016] EWHC 1465 (Ch)) and significant guidance was given relating to the interests of purported heirs vis-à-vis claims held by an estate (*Pakistan v Natwest* [2015] EWHC 3052 (Ch)). At trial, the terms of the transfer in 1948 from the Nizam to the High Commissioner of Pakistan were found to have resulted in Pakistan holding the monies on trust for the Nizam, as a trustee de son tort. The judgment also dealt with significant issues of justiciability in claims relating to sovereign states, and found an abuse of process in Pakistan's attempt to plead limitation. Following trial, Jonathan has continued to act for Prince Muffakham Jah in relation to a subsidiary issue of rights of succession to the English estate of the 7<sup>th</sup> Nizam.

*Akhtar v Arif* (2015-2017) – Acted for the successful claimant in a ToLATA dispute between family members concerning ownership of a Property purchased, developed and operated for rental as a joint venture; established the beneficial shares of the parties in the Property and consequential issues of accounting, and alleged breach of trust.

*Rezvani v Rezvani* (2015 – 2016) acting for the claimant executrix in respect of a disputed inter vivos transfer by the testator. The dispute involves issues of mental capacity, undue influence, and Iranian law.

*Trilogy Management v YT* [2014] JRC 214. Assisted Dakis Hagen in advising a corporate trustee within a \$500m charitable trust structure on questions of restructuring and steps in ongoing litigation.

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## Group Litigation

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*Viegas v Cutrale* (2025) – Led by Andrew Fulton KC, Jonathan appeared for the claimants in a limitation preliminary issue trial in the Commercial Court. The claims arise from allegations of cartel practice in connection with the Brazilian orange juice market.

*NOx Litigation* (2022-2023) – Led by David Blayney KC, Jonathan advised a claimant firm across a portfolio of emissions claims in the initial stages of proceedings.

*The VW NOx Group Litigation* (2016-2019) – Led by Andrew Onslow KC, Jonathan acted for c. 90,000 affected vehicle owners seeking compensation in respect of the VW Group’s ‘defeat devices’ fitted into vehicles to alter vehicle performance during emissions testing.

Jonathan also regularly advises funders and insurers in respect of prospective group actions.

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## Quotes

*"He is an extremely effective advocate both in writing and orally, and has superb judgement, particularly when it comes to tactical decisions. There is little he doesn't know about group litigation."* Chambers & Partners, 2026

*"Jon is a silk in all but name. He is very commercial, produces extremely impressive written work, and is great on his feet. He would be an asset to any team litigating a complex and high stakes case."* Chambers & Partners, 2026

*"He combines unflappable good humour with a razor-sharp mind and a strong work ethic."* Chambers & Partners, 2025

*"Jonathan is very impressive; he is always somebody who is very considered and gives good pragmatic and commercial advice."* Chambers & Partners, 2025

*"Jonathan is an extremely well-rounded barrister, phenomenally smart and details-oriented but able to clearly see the overall strategic picture. He is lovely to work with and incredibly down to earth and wears his intelligence very lightly."* The Legal 500, 2025

*"Jonathan McDonagh appears in major group litigation claims arising from a broad spectrum of areas. He has acted in relation to the Fundão Dam litigation and in emissions cases."* Chambers & Partners, 2024

*"Jonathan McDonagh is a fantastic junior. His advice is clear and to the point, compelling and methodical. He will do his utmost to achieve the client's objectives while excelling in all the large and small ways that make a barrister worth instructing again and again."* Chambers & Partners, 2024

## Publications

Contributor to first edition of DIFC Courts Practice (Reed and Montagu-Smith, eds), 2020.

Evidence in trustees' applications: reading *Public Trustee v Cooper* together with *Pitt v Holt* (with Will Henderson), *Trusts & Trustees*, Vol 23, Issue 9, November 2017.

'Leaving it to the next generation: what should change in the law of wills', New Law Journal, 22 September 2017

'Legal advice privilege: traditional limits and modern practice', The Law Society, Legal Compliance Bulletin, July 2013

'Piercing the Corporate Veil in the Family Division: Prest – the latest from the Court of Appeal' (with Toby Graham), Trusts & Trustees, Vol 19, Issue 2, March 2013.

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## **Education & Qualifications**

Magdalen College, Oxford: BA (Modern History and Politics), First Class; MPhil (Modern European History), Distinction

GDL (City University); BPTC (BPP)

Hardwicke, Denning and Cholmeley Scholarships, Lincoln's Inn

Former stipendiary lecturer in History, St John's College, Oxford

## **Memberships**

Commercial Bar Association

Chancery Bar Association

CORLA

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