

## Jonathan Rich

Called: 1989

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### Profile

Jonathan (“Joe”) Rich has specialised in consumer and property law for twenty two years. For nearly ten years of that time, he has been recognised by the main directories as a leader in his field. The 2011 edition of Chambers and Partners praises his “high volume of contract work” and “excellent reputation for advising car, boat and plane dealerships” and makes it clear that he is “known for taking a very fair but very effective approach to his work”. He is identified by Legal Experts’ as a “Leader at the Bar” in four specialist areas – Consumer and Regulatory Law, Costs, Commercial and Property Law.

Whilst the majority of Joe’s work is commercially-orientated, he undertakes a substantial amount of regulatory work, where criminal allegations are made. Joe acts for both suppliers and consumers, landlords and tenants. He offers a meticulous, unpretentious, approach towards avoiding, and resolving actual and potential litigation, as well as general consulting advice.

### Description of Practice

Jonathan is perhaps best known for Court of Appeal appearances in *Clegg v Andersson* and *Jones v Gallagher*, the leading cases on satisfactory quality and loss of the right to reject goods and services.

He appeared for the successful mortgagor in *Zurich Securities v Potomek Construction*, the leading case on sales at an undervalue by mortgagees. In nearly 20 years at the Bar, he has also represented more than 200 farmers, and others, whose livelihoods depend on dealing with animals.

### Qualifications

Magdalene College Cambridge – MA (Cantab)  
Middle Temple Gottlieb Award  
Middle Temple Terence Fitzgerald Prize

### Recent Matters

***Kelly v Bakir, ChD, LTL 27/4/2009, Independent 8/11/08***

Agency – Power of Attorney – Fraud – Real property

An estate agent who had been appointed to market a property by the owner's agent pursuant to a power of attorney had lawfully purchased the property at arm's length and was not part of any conspiracy to defraud the property owner, even though he had purchased the property at a price significantly below its theoretical market value.

***Burrington v RSPCA [2008] All ER D, LTL 29/5/2008, [2008] EWHC 946 (DC, Admin)***

Criminal Procedure – Material Averments – Criminal Evidence

Summonses issued against a farmer alleging offences contrary to the Protection of Animals Act 1911 s.1(1)(a), although unclear as to the nature of the charges, were valid given that the farmer had the benefit, at an early stage, of the detailed report of an expert witness that contained findings in relation to each animal referred to in the summonses.

***Hatton v Hopkins, [2007] 2 Costs LR 172***

Civil Evidence – Costs – Legal Advice – Funding

An application under the Access to Justice Act 1999 s.11 by a beneficiary of a costs order seeking determination proceedings against persons protected from costs liability had to be made within three months of the date of the costs order concerned. A beneficiary was not entitled to wait until all possible costs orders between him and the protected party in pending proceedings had been made before making an application for a determination.

***Wiltshire County Council v Beale [2006] LLR, R (Beale) v South Wiltshire Magistrates, [2005] LLR 149, [2003] 167 JP 41, Beale v UK (App No 6743/03) ECHR 12 October 2004***

Regulatory Offences – Animals – Criminal Evidence – Criminal Procedure

The failure by trading standards officers to inform a suspect of what offences he was being interviewed in respect of was a serious failure, resulting in the exclusion of all such evidence against the defendant. However, the obligations imposed under the Police and Criminal Evidence Act 1984 to inform suspects of the availability of legal aid were restricted to persons under arrest in police detention or at a police station. The obligations did not apply to trading standards officers, whose obligations were limited to giving a suspect the opportunity to consult a solicitor.

***Jones v Gallagher (T/A Gallery Kitchens & Bathrooms), [2005] 1 Lloyds 377***

Sale of goods – Satisfactory Quality – Right to Reject

While it was true that the Sale of Goods Act 1979 s.35(6)(a) stressed that a consumer was not deemed to have accepted goods merely because he asked for or agreed to repair, there was no absolute rule that any situation in which information on remedying defects was sought by a consumer from the supplier could not involve the loss of a right to reject.

***Dickins v Inland Revenue, ChD [2004] EWHC 852, LTL 7/4/2004***

Insolvency – Agreement to pay – Registrar's Discretion

The bankruptcy registrar had been entitled to make an order for bankruptcy against the appellant, despite an agreement between the parties to pay the tax due within a short period following a summary determination by the Registrar that it was due.

***Clegg v Andersson (T/A Nordic Marine), [2003] 2 Lloyd's Rep. 32, [2003] 1 All ER (Comm) 721, [2003] 20 LS Gaz R 28, (2003) Times, (2003) Times, 14 April, [2003] All ER (D) 150***

Sale of Goods – Contract – Damages

*Bernstein v Pamson Motors (Golders Green) Ltd (1987) 2 All ER 220* no longer represented the law after the Sale and Supply of Goods Act 1994. Time taken to ascertain what would be required to effect modification or repair was to be taken into account in resolving the question of fact which arose under s.35(4), Sale of Goods Act 1979 as to what was a reasonable time to elapse before deeming that the buyer had accepted the goods because he had not rejected them.

***Potomek Construction v Zurich Securities, [2003] All ER (D) 524***

Real Property – Banking – Finance

A mortgagee enforcing a power of sale had to seek to obtain the true market value of the property, but the court was not obliged to speculate on what the alternative outcome would have been in the case of a different buyer.

***Cercato-Gouveia v Kyprianou, LTL 30/11/2001, Court of Appeal, [2001] EWCA Civ 1887***

Employment – Civil Procedure – Torts

Summary judgment was set aside because it was improper to deal with an issue of vicarious liability in respect of an employee's tortious actions on an application for summary judgment.

***Jacobs v Coster, Coster v Avon Insurance, [2000] Lloyd's Rep IR 506***

Insurance – Banking – Finance – Personal Injury

The judge was wrong to infer from the evidence that there was a 50 per cent chance that: (i) the claimant was likely to bring a claim against the defendant for personal injury sustained whilst on the defendant's premises; (ii) the third party insurers were entitled to avoid its liability to indemnify the defendant for damages paid to the claimant in accordance with the terms of the policy of insurance.

***Cohort Construction Company UK v Julius Melchior, [2001] CP Rep 23, LTL 20/10/2000***

Civil Procedure – Costs – CPR

Where an application was made to strike out a claim for failure to comply with a court order, the merits of, or difficulties facing, the claims were only one particular factor to be taken into

account in an overall assessment. Merely because a claim had a real prospect of success did not mean that it did not face substantial obstacles which were taken into account, along with all other relevant considerations, when evaluating an application to strike out for non-compliance with an order.

## Directories

For the last five years, Jonathan has been described as a 'Leading Junior' by 'Legal 500' for his consumer law work. The Chambers Guide to the Legal Profession 2009 describes him as having 'case law at his fingertips'. He is identified by 'Legal Experts' as a 'leader' in four specialist areas – Consumer Law, Costs, Commercial and Property Law.

## Professional Memberships

Joe is a member of the Commercial Bar Association, the Criminal Bar Association, TECBar, the European Bar Association, the South Eastern Circuit, AWSELVA, the London Common Law and Commercial Bar Association and the Society of Conservative Lawyers – an organisation whose Executive he sat on for two years, chairing its Younger Members.

## Other Interests

As well as being a Conservative Councillor, Joe works hard for the profession, not least on Committees at the Bar Council and his Inn of Court. In 2009, he was brought in to organise the very successful 2010 Bar Conference. He raises money for Centrepoint, and was Founder Chairman of the Inns of Court Ball, a continuing project which has routinely seen each event (there have been ten) raise well over £30,000 for this charity.