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## Joshua Hedgman

Called in 2011 +44 (0)20 7583 9241

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Joshua Hedgman has a broad common law practice, which incorporates all of Chambers' specialist areas (personal injury, employment and commercial/insurance litigation) as well as the fields of chancery, professional negligence, construction and property law.

He is in court daily and represents both claimants and defendants. He has represented individuals, businesses, insurance companies and charities at various hearings from interim stages through to trials. He also represents parties at JSM and mediation.

Joshua has appeared as sole counsel in the Court of Appeal and both the Chancery and Queen's Bench Divisions, in seven-figure personal injury litigation and matters involving the construction and validity of wills and breaches of contract.

He also has an active paperwork practice and is happy to accept instructions to advise on merits, quantum and tactics, as well as to draft statements of case.

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## Clinical Negligence

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Joshua has acted in a number of multi track clinical negligence cases, including:

- The wrongful diagnosis of cancer that lead to unnecessary chemotherapy and considerable loss of earnings (over £60k/year).
- The alleged failure of a leading high street optician to identify glaucoma, leading to permanent loss of sight.
- An incompetently performed appendectomy raising issues of consent.

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### Location

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# Commercial

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Joshua has a broad caseload in commercial matters.

Past and present instructions include:

- A successful three-day multi-track construction trial that turned on issues of agency and whether a managing agent had authority to order extensive work.
- Defending a claim brought against a principal contractor for damage sustained during excavation works; the principle issue being whether excavation in the vicinity of subterranean power lines is an 'ultra-hazardous act' for the purposes of a non-delegable duty of care.
- Breach of directorship duties in an ongoing claim for \$7.5 million against a former director.
- Advising on the construction of pension agreements.
- Breach of confidence, privacy and proceedings in the Queen's Bench Division for injunctive relief and substantial damages.
- Resisting a defamation claim following articles published in a public journal.

# Credit Hire

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Joshua regularly represents clients in credit hire cases. He is fully conversant with arguments on enforceability, impecuniosity, rate, duration, need (personal and corporate), especially in light of *Stevens v Equity*.

# Employment

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Appearances in the Employment Tribunals in proceedings relating to unfair dismissal, redundancy, sex and disability discrimination, TUPE and claims under the Equality Act generally. Joshua has recently been instructed in appeals to the EAT on TUPE.

# General Common Law

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Joshua has acted in numerous cases concerning the provision of services and also title to goods (especially cars), sale, transfer and wrongful interference through trespass and conversion. Joshua recently acted for a clients in:

- A £450,000 claim to reject substandard yacht worth half a million pounds.
- A substantial claim for damages against a local council after arsonists raised the house to the ground.

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## Insurance

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Joshua has broad experience in both insurance and re-insurance. He has recently acted or advised in cases concerning aggregation, coverage and indemnity clauses.

Joshua is fully conversant with the Uninsured Driver's Agreement and recently succeeded in a trial on behalf of an insurer to recover substantial payments from an uninsured driver.

## Personal Injury

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Joshua has represented claimants and defendants in claims on both the fast and multi-tracks in the County Court and in the High Court, as well as at JSM. The upper end of Joshua's caseload includes claims and defences of well over £500,000.

His experience includes:

- Road traffic collisions, including Low Velocity Impact arguments, occupancy disputes and civil fraud.
- Landlord and occupier's liability, especially public rights of way.
- Employer's liability.
- Public liability, particularly under the Highways Act 1980 and New Roads and Street Works Act 1991.
- Chronic pain.
- Defective products
- Claims under the Fatal Accidents Act 1976.

Away from personal injury, Joshua has a substantial practice in wills and probate. As a result, he is often asked to represent clients in unusual cases that involve an overlap between the two areas. Recent examples include:

- Proceedings brought between siblings following the passing of their father. Instructed by the estate in claims for compensation following sexual abuse and for failure to leave a reasonable will under the 1975 Act.
- Instructions from a defendant in a QBD claim brought under the Fatal Accidents Act, the substantial component of which was an increased inheritance tax liability, the deceased having passed within seven years of several inter vivos transfers to her son.
- Claims against a negligent tortfeasor under the Fatal Accidents Act alongside a claim against the deceased for failing to make reasonable financial provision under the related Inheritance (Provision for Family and Dependents) Act 1975.

## Professional Negligence

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Joshua has acted in negligence cases that touch on a variety of professions but has developed a particularly strong practice in claims concerning solicitors.

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He has been instructed by both disappointed litigants and solicitors in matters including:

- Resisting a claim, on behalf of a solicitor, for the allegedly negligent handling of a foreign royal's immigration/asylum application (instructed with Andrew Hopper QC).
- A claim against a firm of solicitors for the conduct of a defence in the Chancery Division; the substantive proceedings concerning the sale of a £650,000 residential home.
- The defence in a claim for £550,000 arising from an allegation that the solicitor unreasonably failed to scrutinise interests in land before the conveyance took place.
- Strike out of a claim brought for £72,000 in which the claimant alleged that the solicitor had negligently advised on and conducted litigation against real estate agents following the purchase of a property in Bulgaria.
- A claim against a solicitor for breach of trust; the solicitor having released funds to their own client that were held on trust for the benefit of the opposing party.
- Strike out of case alleging that a solicitor had negligently prepared proceedings in the Family Division.
- A claim against a firm of solicitors who conducted the client's defence to a partnership dispute; the partners in dispute themselves being solicitors.
- A claim for the lost opportunity to bring Employment Tribunal proceedings for discrimination and unfair dismissal after the client was not advised on limitation.

## Trusts & Probate

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Joshua has extensive experience of matters proceeding in the Chancery Division.

The considerable bulk of Joshua's probate practice is concerned with the formal and substantive validity of wills. Joshua has acted in many cases concerning section 9 validity, undue influence, knowledge and approval, capacity and forged wills.

Joshua has also advised on, and appeared, in many applications for failing to make reasonable financial provision under the Inheritance (Provision for Family and Dependents) Act 1975, including:

- An interesting Chancery Division case in which the deceased promised his wife maintenance over her lifetime provided she forbore objection to divorce proceedings. In the event, the deceased made a non-provision declaration in his will. Claim brought in the Chancery Division for misrepresentation, breach of contract and failure to make reasonable financial provision pursuant to the 1975 Act.
- A claim by the fiancée of the deceased who was killed in a car accident by the tortfeasor before being able to change his will for the benefit of the claimant.

Joshua has experience in other chancery matters, including:

- Breach of trust and knowing receipt.
- Part 64 proceedings for the administration of multi-million pound estates.
- Trusts of land, particularly constructive trusts.
- Claims for wilful default, negligence and devastavit and associated proceedings for removal.

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- The representation of parties in proceedings following the dissolution of business partnerships.
- Section 994 petitions alleging the unfair prejudice of minority shareholders.

## Public Access

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Joshua frequently accepts instructions on a public access basis.

## Notable Cases

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### Lomberg v Roszkowski, Gloucester & Cheltenham CC, HHJ Harington (2017)

Joshua represented the defendant in a claim for £250,000 following a road traffic accident. Liability was admitted but the dispute surrounded a substantial loss of earnings claim as the claimant imported unique Hungarian goods and was prevented from doing so as a result of a significant back injury. The defendant's orthopaedic surgeon was unable to attend trial but the court refused an application to adjourn and the matter proceeded with the claimant's orthopaedic surgeon in attendance only. Joshua cross-examined the claimant on the first day of trial and, by lunchtime, the claimant had taken the defendant's pre-trial offer of £20,000.

### Carter v Walker, QBD (2016)

Joshua acted for the defendant in a fatals claim, the vast majority of which sought damages for an increased inheritance tax liability as the deceased passed within 7 years of substantial inter vivos transfers of shares to her son.

### Re Fulton, QBD (2016)

Joshua is instructed as sole counsel for a principal contractor, one of three defendants, in a claim and contribution proceedings for over £1 million following a serious spinal injury during an extensive construction project. The matter settled favourably two days before the commencement of trial. Joshua's client took a significantly lower apportionment than the other two defendants.

### Ashman v Thomas [2016] EWHC 3806 (Ch)

An interesting case concerning the formal validity of three wills. Joshua successfully argued that the presumption of due execution upon regular attestation arose regardless of any suspicious circumstances, albeit the strength of the presumption may be affected by such circumstances. On the facts, two wills were found to be invalid but a first and earlier will was upheld. The decision on costs has attracted much commentary.

### Re Yalcinkaya & Paling, QBD (2015)

Advice and representation in a property damage claim following a series of arson attacks on the Claimants' homes, the last of which caused the house to be destroyed by fire. Pre-trial settlement achieved and approved by the Court.

### Re Estlick, QBD (2015)

Advice and representation in an interesting case for loss of enhanced pension provision further to a compromise agreement. The issues went to the construction of the settlement contract and the extent of the Claimant's lost chance given that a third party pensions provider was responsible for determining applications for the enhanced disability pension. Expert forensic accountancy evidence was also called to value the difference between the standard pension and the enhanced pension. Settled favourably at pre-trial JSM.

### Silva v Seago, Oxford CC, HHJ Owens (2015)

Successful resistance to an appeal against a decision not to grant relief from sanction, which effectively deprived the Claimant of permission to rely on a rheumatology report that was thought to be worth over £1million to the value of the claim.

### Perry v Stevens, Walsall CC, Recorder Bright QC (2015)

Successful multi-track trial arising from a road traffic accident. Following cross examination, the Judge found that the witness for the other side had 'woven a

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tissue of lies'. Joshua accordingly sought a referral to the Attorney General for contempt, which was directed by the Court.

#### Pemberton & Pemberton v Wainwright & Wainwright, Taunton CC, Recorder Whipple QC (2014)

Represented a landowner over a two-day multi-track trial with oral expert evidence on both sides. The question for the Court was whether the Defendant, who enjoyed an easement over a 300m drive, was liable to pay for anticipatory flood defence measures under a covenant to contribute to the 'repair, maintenance and renewal' of the driveway. The Court accepted that the Defendant was so liable within the terms of the covenant and that the works were reasonable on the expert evidence.

#### Khaleque v HSBC Trust Company &Ors, Ch D, (2014)☒

An interesting case in which the deceased promised his wife maintenance over her lifetime provided she forbore objection to divorce proceedings. In the event, the deceased made a non-provision declaration in his will. Claim brought in the Chancery Division for misrepresentation, breach of contract and failure to make reasonable financial provision pursuant to the 1975 Act.

#### Re Grice (Deceased) (2014)☒

A claim by the fiancée of the deceased who was killed in a car accident by the tortfeasor before being able to change his will for the benefit of the claimant. Claims against the tortfeasor under the Fatal Accidents Act 1976 and the deceased's estate by the Inheritance (Provision for Family and Dependents) Act 1975. Settled favourably.

#### ECS Groundworks v Dominion Mosaic, Central London CC, HHJ Bailey (2013)☒

Represented a groundworks contractor over a three-day multi-track construction trial raising issues as to the authority of a managing agent in ordering extra works. Claim successful in its entirety, the learned Judge having no hesitation in finding that the Defendant's agent had implied authority to order the works.

#### Downing v IMG (2013)

☒Instructed in a claim for over £450,000 following the delivery of a substandard yacht. Settled favourably.

If you would like to instruct Joshua Hedgman or would like help or advice in doing so, please call and talk to our excellent clerking team, led by senior clerk Alan Kilbey MBE. Our phone number is +44 (0)20 7583 9241. Alternatively, please email us at [chambers@farrarsbuilding.co.uk](mailto:chambers@farrarsbuilding.co.uk)

For more information about our clerking team, please [click here](#) for the clerks page.

## Education & Qualifications

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- BA Hons, Jurisprudence, Keble College, Oxon (2010)
- Farnham Sixth Form College (2007)

## Testimonials

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"Josh is an excellent barrister providing objective advice with his excellent knowledge of common law practice and procedure. He is our first port of call for personal injury quantum advices and with his unassuming natural charisma is our favourite choice for any liability dispute hearings with an untarnished feedback from clients. I would recommend him every time."

**Emma Bradshaw, Principal Solicitor AXA Insurance**

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## Personal Interests

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Outside of the Bar, Joshua enjoys travel and theatre. He is a Governor of his former secondary school, Farnham Heath End School, and a lecturer in contract law on the Graduate Diploma in Law. He also examines for the leading A-level Law examination board.

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