



## Jeremy Cousins QC

Silk: 1999 | Call: 1977

### Queen's Counsel

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**Jeremy Cousins QC** specialises in substantial professional negligence, commercial, commercial chancery (including trusts) and banking disputes.

He has appeared in numerous leading cases, including the very important and well-known banking and solicitors' breach of trust case *AIB v Redler* in the Supreme Court, the major, and very high value, banking dispute in *Rosserlane v Credit Suisse* and in *Dreamvar v Mishcon de Reya*, a landmark case on solicitors' breach of trust and negligence in conveyancing transactions, which led to the rewriting of the Law Society's Code for Completion by Post in 2019. In 2021 he appeared in the Supreme Court in *Mathew v Sedman*, which turns upon the critically important issue in limitation cases as to the ascertainment of precisely when time begins to run against a claimant.

Jeremy is consistently recommended by the leading legal directories for professional liability, commercial and banking litigation.

#### PROFESSIONAL LIABILITY

Jeremy has been recognised for his professional negligence expertise by Chambers UK and Legal 500 (ranked Tier 1) for many years. He is described as "*clear, concise, and robust*", and speak of his "*considerable involvement in major professional negligence cases*". He has particular expertise in relation to solicitors' negligence. Amongst the many cases at House of Lords/Supreme Court and Court of Appeal level that he has undertaken over decades, a significant number has been concerned with professional liability issues.

In 2018 he led Peter Dodge in *Dreamvar v Mishcon de Reya* one of the most significant professional negligence cases in modern times. This case, and *P&P Properties v Mary Monson Solicitors*, heard at the same time over four days in the Court of Appeal, has far-reaching implications for the conduct of all conveyancing transactions in England and Wales. It authoritatively (i) established the liability of a vendor solicitor's liability as trustee of purchase monies to a purchaser, (ii) lay down clear guidelines as to the interpretation of the then Code for Completion by Post, (iii) defined the scope for claims for breach of warranty of authority, and (iv) confirmed the absence of solicitor's liability based upon the Money Laundering Regulations, or generally for negligence to a counterparty in conveyancing transactions. This case led to the redrafting of the Law Society's Code for Completion by Post in 2019.

The width and depth of his experience is reflected by his appearances in the following particularly significant cases:

- *Mathew v Sedman* [2021] UKSC 19 – the case turns upon the critically important issue in limitation cases as to ascertainment of precisely when time begins to run against a claimant.
- *CNM v VeCREF and others* [2020] PNLR 27 – the issue concerned the scope and interpretation of exclusion clauses in relation to receivers’ alleged liability under security documentation.
- *Dreamvar v Mishcon de Reya* [2019] Ch 273, [2018] PNLR 29, CA –see above.
- *AIB Group (UK) Plc v Mark Redler & Co Solicitors* [2015] AC 1503, [2014] UKSC 58, SC –a case concerning solicitors’ liability for breach of trust in a security transaction.
- *Thomas & Anor v BPE Solicitors (A Firm)* [2010] EWHC 306 (Ch) –solicitors’ alleged negligence in completion of commercial transaction, in a case that is also considered a landmark decision on contractual acceptance by e-mail.
- *Knight v Haynes Duffell, Kentish & Co* [2003] EWCA Civ 223, CA, assessment and quantification of loss of chance for solicitor’s failure properly to progress breach of trust claim.
- *Acton v Graham Pearce & Co* [1997] 3 All ER 909, Ch D – solicitor’s liability for negligent conduct of a criminal trial against a solicitor for alleged dishonesty, leading to his conviction and imprisonment on the basis of forged evidence.

## **BANKING AND FINANCIAL SERVICES**

Jeremy is an acknowledged expert in banking and finance litigation, a field in which he has appeared in leading cases, including many in the House of Lords, Supreme Court, and the Court of Appeal. He has written and lectured about/advised in/acted both for and against banks and financial institutions in relation to a wide range of financial issues, covering loan and syndicated loan agreements, letters of credit, and bond issues. In 2014 he was the consultant editor for Rowles-Davies Third Party Litigation Funding a leading text on that aspect of financial service. The Legal 500 UK Bar has noted him for his “*Excellent advice*”, being “*highly knowledgeable*”, and his “*strong commercial approach*.”

Much of Jeremy’s work in this area is highly sensitive and confidential, and has included advising leading banks and financial institutions upon various aspects of their practices and documentation. A representative selection of his work includes:

- *CNM v VeCREF and others* [2020] PNLR 27 dealing with the scope and interpretation of exclusion clauses in security documentation.
- Advising in relation to Aviva’s attempt to redeem high coupon bonds, which was ultimately resolved without litigation (2018)
- *Rosserlane Consultants Ltd & Anor v Credit Suisse International* [2015] EWHC 384 (Ch) – a claim against the bank in relation to its involvement in the sale of an interest in an oil field in Azerbaijan
- Advising shareholder group and participating, but only in pre-trial stages of the claim, which arose from Lloyds Bank’s acquisition of HBOS in 2009. It was later determined in *Sharp v Blank* [2019] EWHC 3096 (Ch).
- Advising a bondholder group on the disputed redemption of several billion GBP of enhanced loan notes issued to Lloyds Banking Group affiliates. The case was ultimately decided in *BNY Mellon v LBG* [2016] Bus LR 725, SC.
- *AIB Group (UK) Plc v Mark Redler & Co Solicitors* [2014] UKSC 58– Appearing for the appellant in the Supreme Court in a case concerning solicitors’ liability for breach of trust in a security transaction
- *Davies v AIB Group (UK) Plc* [2012] EWHC 2178 (Ch) –representing the bank in a case concerning alleged undue influence in a lending transaction, the significance of a solicitor’s involvement, estoppel by contract from disputing liability in transaction and subrogation in respect of earlier securities

- *Shogun Finance Ltd v. Hudson* [2003] UKHL 62 – Appearing a House of Lords’ appeal considering the scope of the application of the *inter praesentes* principle where there is a written contract and the passing of title to goods.

## COMMERCIAL DISPUTES

Jeremy has a well-deserved reputation as a leading commercial silk. Effective both on paper and in court, Jeremy deals with a wide variety of commercial disputes, from the strictly contractual to trust related. He has extensive experience not only of domestic disputes but also those involving foreign jurisdictions. He is recommended in this area by *Legal 500 UK Bar*.

## TRUSTS

As well as leading breach of trust cases, he has dealt with other multi-million pound trust disputes, both private client and corporate, such as *Allen v Liddle* (revocation of a settlement created contrary to the settlor’s instruction), *Jones v Firkin Flood* (judicial control of trustees’ discretions, and removal of trustees), and many Jersey cases dealing with investment of trust funds, and the exercise of powers by trusts or trust companies. Both in England and Jersey he has dealt with very substantial cases concerning wills, including on capacity and knowledge and approval issues, of which *Wharton v Bancroft* is a leading example.

## RECOGNITION

Jeremy has consistently been recognised over many years by *Chambers UK Bar* and *The Legal 500 UK Bar* for his expertise, skill as an advocate, and user-friendly qualities. His recent recommendations include:

- *“His knowledge, manner with clients and composed nature are second to none.”* (Chancery: Commercial, *Chambers UK Bar 2021*)
- *“Clear, concise and robust in his view and does not deviate from it.”* (Professional Negligence, *Chambers UK Bar 2021*)
- *“He is a very thorough and detailed thinker.”* (Professional Negligence and Banking and Finance, *Legal 500 UK Bar 2021*)
- *“Very knowledgeable about the law in the area and also the commercial imperatives.”* (Commercial Litigation, *Legal 500 UK Bar 2021*)
- *“He has an ability to provide clear and concise advice in a format suitable for both the instructing solicitor and also our lay client. This is incredibly helpful.”* (Commercial Chancery, *Chambers UK Bar 2020*)
- *“He is a walking legal encyclopaedia, I have never seen a man carry so much legal information in his head.” “He has a detailed and thorough approach.”* (Professional Negligence, *Chambers UK Bar 2020*)
- *“Strong commerciality and excellent detailed legal analysis.”* (Banking and Finance, *Legal 500 UK Bar 2020*)
- *“A very strong commercial litigator.”* (Commercial Litigation, *Legal 500 UK Bar 2020*)
- *“He is very experienced”* (Professional Negligence, *Legal 500 UK Bar 2020*)
- *“Has a great depth of knowledge and has done a vast array of legal work.” “He is statesmanlike and has a very nice manner about him. You just learn a lot from him.”* (Chancery: Commercial, *Chambers UK Bar 2019*)
- *“His encyclopaedic knowledge of the authorities in the area of professional negligence and property is astounding. His ability to call upon this detailed knowledge, and the reasoning adopted by the presiding judges, makes him truly a heavyweight advocate in this field.” “He commands enormous respect.”* (Professional Negligence, *Chambers UK Bar 2019*)
- *“He has in-depth experience.”* (Professional Negligence, *The Legal 500 UK Bar 2019*)
- *“Confident in dealing with novel points of law and has an excellent depth of knowledge.”* (Commercial Litigation, *The Legal 500 UK Bar 2019*)
- *“Excellent advice, highly knowledgeable, and a strong commercial approach.”* (Banking and Finance, *The Legal 500 UK Bar 2019*)

- “A strategic thinker who is very good at professional negligence cases.” (Professional Negligence, *Chambers UK Bar 2018*)
- “Has great gravitas and a lovely manner with clients. He has an encyclopaedic knowledge of case law at his fingertips.” “Jeremy likes to deal with every element of the claim, and he goes the extra mile in terms of client services.” (Chancery: Commercial, *Chambers UK Bar 2018*)
- “He has superb knowledge of the law. He’s very quick to respond and his advice is always excellent.” (Banking and Finance, *Chambers UK Bar 2018*)
- “First class.” (Professional Negligence, *The Legal 500 UK Bar 2017*)
- “Very clever and unflappable, and a very reassuring presence during complex matters.” (Commercial Litigation, *The Legal 500 UK Bar 2017*)
- “A friendly and confident silk with outstanding knowledge.” (Banking and Finance, *The Legal 500 UK Bar 2017*)
- “He is excellent: he has an eye for detail, is incredibly thorough and looks at things in a very calm way.” (Professional Negligence, *Chambers UK Bar 2017*)
- “He’s very calm and assured, and you know he’s carefully considered things. His clients have a lot of faith in his advice.” (Chancery: Commercial, *Chambers UK Bar 2017*)
- “His encyclopaedic knowledge of the law combined with his thorough preparation makes him unbeatable.” (Banking and Finance, *Chambers UK Bar 2017*)
- “He has superb grasp of detail and wonderful client care.” (Commercial litigation, *The Legal 500 UK Bar 2016*)
- “A high-quality silk, who provides in-depth research and analysis.” (Banking and Finance, *The Legal 500 UK Bar 2016*)
- “He has tremendous judgment and is very reliable.” “He’s basically a dream to work with. He is incredibly knowledgeable and also very personable.” (Banking and Finance, *Chambers UK Bar 2015*)
- “A favourite for heavyweight litigation”. “A quite exceptional performer who is very intuitive and has a touch of genius about him.” “Remarkably versatile and client-friendly. His encyclopaedic knowledge of the law and thorough preparation make him unbeatable.” (Chancery: Commercial, *Chambers UK Bar 2015*)

## **PUBLICATIONS AND SPEAKING**

Jeremy has contributed articles to a number of leading publications:

- “The future of Banking Litigation”, *Legal Week*, May 2015
- “Damages for delay: generally a liability at large”, *Journal of International Banking and Financial Law*, May 2014
- “The revival of lenders’ breach of trust claims”, *Journal of International Banking and Financial Law*, July 2012
- “Misrepresentation on bond issues: liability in the secondary market”, *Journal of International Banking and Financial Law*, January 2011
- “Trustees – how to sell a business and distribute the proceeds”, *Sweet & Maxwell’s Private Client Business*, May 2010 (considering trustees’ powers to give warranties on sale, and to restrict powers of appointing proceeds pending beneficiary covenants being given to vendors)
- “Should Jersey follow South Australia: Developments in Liability for Negligent Advice”, *Jersey Law Review*, October 2006 (considering developments in negligence liability and whether the Jersey Courts are free not to follow the English decisions)
- “Company Charges”, *Solicitors’ Journal*, 2005, Volume 149 (23), pages 694-695 (analysing the validity against a liquidator of an unregistered charge which arises by implication of law)

He is the consultant editor of “Third Party Litigation Funding” by Nick Rowles-Davies published by OUP. He also contributes articles on a regular basis for a number of leading publications, including *The Royal Court Rules* a commentary on civil procedure in Jersey, published by Jersey Advocates Hanson Renouf.

## **POLICIES AND OTHER DETAILS**

- Read Jeremy's [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#)