

Jonathan Barne QC

Year of Call: 2003 Year of Silk: 2017

jonathan.barne@axiomadvocates.com
07739 639315



Professional Career to date

Devil Masters: Eric Robertson, Chris Shead.

2003 to date: Practising Advocate, Advocates' Library, Parliament House, Edinburgh

2002 - 2003: Devil (trainee advocate) training with Eric Robertson, Advocate (civil law) and Chris Shead, Advocate (criminal law)

2000 - 2002: Shepherd + Wedderburn, Castle Terrace, Edinburgh

Trainee with six-month seats in following departments: (one) commercial litigation, (two) commercial property, (three) energy and intellectual property, and (four) construction

1999 - 2003: Faculty of Law, Edinburgh University, Edinburgh

Tutor (part-time) in Public and Administrative Law

Tutor (part-time) in Scottish Legal Studies

1994 - 1997: Sotheby's, New Bond Street, London

Expert and catalogue in the Chinese Art and Works of Art Department

1993: The Baltic Independent Newspaper, Pärnu mnt., Tallinn, Estonia
Journalist

Education & Professional Qualifications

Edinburgh University, Old College, Edinburgh
Diploma in Legal Practice

Edinburgh University, Old College, Edinburgh
LLB (Distinction)
Thow Scholar of Jurisprudence, Edinburgh University

Christ Church, Oxford University, Oxford
BA (Hons) in Classics (Double First)
Open Scholar, Christ Church, Oxford University

Areas of Expertise

- Commercial Contracts
- Commercial Property
- Construction and Engineering
- Insolvency
- Product Liability
- Professional Liability
- Public Law, Judicial Review and Human Rights

Professional Experience

Since calling to the Bar in 2003, Jonathan has been involved in wide range of commercial and public law litigation. His experience includes construction and contractual disputes, claims by commercial agents, the enforcement of high-value property purchases and the bringing of the first derivative action under the Companies Act 2006. Jonathan is also regularly instructed in professional negligence cases and recently has been involved in a number claims relating to the administration of pensions and other investments.

In public law, Jonathan has been regularly instructed in judicial reviews and statutory appeals both against and on behalf of the Scottish Government. He has also represented the Security Industry Authority, the Scottish Legal Complaints Commission, the Scottish Legal Aid Board and local authorities in housing matters. He was instructed by the successful appellants in the important freedom of information case, *Glasgow City Council v The Scottish Information Commissioner*.

Recent Cases

Commercial / Property

Royal Bank of Scotland v O'Donnell 2015 S.C. 258 - enforcement of bank guarantee with counterclaim for reduction and damages for negligent misrepresentation.

Esso Petroleum Co Ltd v The Scottish Ministers and others [2015] CSOH 21 - claim arising out of historical pollution of a site purchased for the M74 extension.

Ted Jacob Engineering Group Inc v RMJM 2014 S.C. 579 - action to recover documents in the context of an international arbitration and the proper application of the Law of Dubai.

Bell v Shackleton (Court of Session, 7/11/14) - partnership dispute involving claims that funds had been embezzled over a number of years. (Not published due to on-going criminal proceedings.)

Lloyds TSB Foundation for Scotland v Lloyds Banking Group Plc 2013 SC (UKSC) 169 - dispute about the proper interpretation of a deed of covenant where a subsequent change in accounting standards had significant consequences for the correct application of the deed.

East Dunbartonshire Council v Bett Homes Ltd [2012] CSIH 1 - an action to enforce multi-million pound missives.

G4S Cash Centres (UK) Limited -v- Clydesdale Bank Plc [2011] CSIH 48 - dispute concerning the proper interpretation of a long-term contract.

Morrison Sports Ltd v Scottish Power Ltd 2011 SC (UKSC) 1 - dispute over liability for a fire and whether or not a breach of the Electricity Supply Regulations 1988 gave rise to private law rights.

Wishart, Petitioner 2010 SC 16, [2010] BCC 161 - the first derivative action in Scotland brought under the Companies Act 2006; the first "Wallersteiner Order" in Scotland was granted in the course of proceedings.

Construction

SSE Generation Ltd v Hochtief Solutions AG [2015] B.L.R. 774 - £130m claim arising out of the collapse of a tunnel forming part of a hydro-electric scheme.

Europools v WYG Engineering Ltd (7/1/15 and 31/3/16, Glasgow Sheriff Court) - claims against a structural engineer in relation to the design of swimming pools with moving floors and booms.

Scottish Power Renewables (UK) Ltd v Amec Group Ltd and Halcrow Group Ltd - claim arising out of the allegedly defective construction of concrete wind turbine bases.

Stone 3 (Southern) Limited v The McLennan Partnership Ltd (14/5/15, Glasgow Sheriff Court) - action

against architect in relation to alleged design failures in the renovation of a historic building.

Scottish Association for Marine Science v The ERDC Group Ltd (In Administration) - claim arising out of the construction of a new research facility near Oban.

Western Isles Council v Aecom Design Build Ltd and Hotrot Organic Solutions Ltd - dispute surrounding the construction of a recycling plant for a local authority.

Fern Trustee 1 Limited and another v McLaughlin & Harvey Limited - claim against a design and build contractor arising out of the construction of a new office block (Buchanan House) in Glasgow.

Gray Construction Ltd v Harley Haddow LLP [2012] CSOH 92 - claim against structural engineer arising out allegedly defective foundations.

Professional Negligence

Rex Procter & Partners Retirement Benefits Scheme's Trustees v Edwards [2015] CSOH 83 - claim against an actuary for advice connected with the transfer out of a pension scheme.

Clark's Judicial Factor v Clark's Executors [2015] CSOH 53 - long-running series of actions arising out of the executory of an estate.

Gordon's Trustees v Campbell Riddle Breeze Paterson LLP [2015] CSOH 31 - action against solicitors in relation to the service of a notice to quit, including a preliminary issue related to prescription.

Glasgow City Council v Aberdeen Asset Management - claim against a pension fund's discretionary investment manager for investments made in City premises.

Wyatt v Crate 2013 SCLR 323, [2013] PNLR 16 - action against solicitor in relation to alleged negligence arising out of the conclusion of missives.

Low & Bonar Plc v Mercer Ltd [2010] CSOH 47 - claim against actuary for an alleged failure to equalise pension rights.

WTL International Ltd Retirement Benefits Scheme Trustees v Edwards and Scottish Widows [2010] CSOH 34 - claim against actuary for advice in relation certain investments.

William Grant & Sons Ltd v Mercer Ltd [2010] 52 - claim against actuary for an alleged failure to equalise pension rights.

Administrative and Public Law

Sneddon v Scottish Legal Complaints Commission [2015] CSIH 62 - challenge to the respondent's finding that a solicitor had provided inadequate professional services.

Coal Pension Properties Ltd v Scottish Ministers [2015] CSIH 57 - statutory appeal based on the proper interpretation of planning conditions.

Cloburn Quarry Co. Ltd. v HMRC 2014 SLT 303 - representing the petitioner in an action seeking to suspend summary diligence to enforce the Aggregates Levy in a context where the legality of the tax was in doubt as a result of an investigation by the European Commission into potential unlawful state aid. The case was reclaimed to the Inner House where, after argument, it was sisted pending determination of the Commission's phase II inquiry into the levy.

Highland Council v Scottish Ministers [2014] CSIH 74 - two appeals concerning the grant of planning permission by a reporter for the construction of an incinerator; one case has been appealed to the Supreme Court.

McWatters v Inverclyde Council 2014 S.L.T. (Sh Ct) 155 - representing the local authority in enforcing a demolition order on the basis that the property was beneath the tolerable standard in terms of the Housing (Scotland) Act 1987. I am now instructed on behalf of the same local authority in relation to approximately 275 appeals against demolitions orders.

Beggs v Scottish Information Commissioner and another [2014] CSIH 10 - instructed on behalf of Police Scotland in relation to an appeal by a high profile prisoner who was seeking under FOISA to obtain information relating to the investigation that gave rise to his conviction for murder.

South Lanarkshire Council v Scottish Information Commissioner 2014 SC (U.K.S.C.) 1 - Supreme Court appeal against a determination of the Scottish Information Commissioner involving aspects of freedom of information and data protection.

Dawn Developments Ltd v Scottish Ministers [2013] CSOH 154 - appeal relating to the refusal of planning permission for a superstore.

Smith v Scottish Legal Aid Board 2013 S.C. 45 - instructed for the Scottish Legal Aid Board in relation to a claim by counsel for interest on outstanding fees in terms of The Late Payment of Commercial Debts (Interest) Act 1998.

RM v Scottish Ministers [2012] UKSC 58 - Supreme Court appeal in relation to an alleged failure by the Ministers to enact regulations to make effective certain appeal rights provided for in terms of the Mental Health (Care and Treatment) (Scotland) Act 2003.

Black v Mental Health Tribunal for Scotland 2012 S.C. 251 - human rights appeal about the lawfulness of a patient's detention.

Glasgow City Council v The Scottish Information Commissioner 2010 SC 125 - representing the pursuer in an appeal about the definition of "information" under the Freedom of Information (Scotland) Act 2002.

Miscellaneous

E.N. v G.N. [2015] CSIH 26 - action relating to historical sexual abuse.

Patricia Polley v Accountant in Bankruptcy and another [2015] CSIH 19 - action for reduction of sequestration.

Alexander v Skene Investments (Aberdeen) Limited [2012] CSIH 61- one of several actions on behalf of the trustee in sequestration seeking to undo a number of property transactions forming part of a complex fraud

Accountant in Bankruptcy and another v Baird [2012] CSOH 117 - reduction of gratuitous alienating involving a human rights challenge to the Bankruptcy (Scotland) Act 1985.

Class action v Pfizer Inc. and others [2012] CSOH 144 - instructed on behalf of Pfizer in relation to product liability claims arising out of alleged consequences of the use of Celebrex.

Miller v Greater Glasgow Health Board 2011 S.L.T. 131 - test case relating to a hospital's liability for a patient infected with MRSA.

Fatal Accident Inquiry into the Death of SF - representing the Scottish Ambulance Service in relation to the death of a patient whilst being transported to hospital.

Public Inquiry: Beaully to Denny Pylons - representing one of the objectors in the public inquiry relating to whether or not Scottish Power and SSE should be allowed to replace the existing transmission line from Beaully to Denny with a line with greater capacity.

Advocates Courts & Tribunals

Supreme Court, Court of Session (Inner and Outer House); Sheriff Court; Scottish Land Court; Lands Tribunal for Scotland; Arbitration; Adjudication; Fatal Accident Inquiry; Public Inquiry (into the proposed pylon line between Beaully and Denny).

Advocates Appointments & Memberships

2008 (to date): Standing Junior to the Scottish Government

Directories

Chambers (2015/16): Professional Negligence (Band 1)

Chambers (2015/16): Construction (Band 2)

Chambers (2015/16): Commercial Dispute Resolution (Band 2)

Legal 500 (2015/16): Public and Administrative Law (Tier 1)

Legal 500 (2015/16): Property, Construction and Agriculture (Tier 1)