

# Jonathan Bertram

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Year of call: 2003

*“He is an excellent advocate and also very good on paper.” “He impresses with his pragmatism and way of working.”*

Chambers & Partners 2018



# Overview

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Jonathan Bertram is ranked as a leading junior by Chambers & Partners and Legal 500 in the specialist fields of clinical negligence and product liability.

He has been instructed in several major group actions for Claimants in the product liability field including the Pinnacle Hip implant GLO which proceeded to a 4 month trial in 2017/18.

His clinical negligence practice focuses on high value, complex claims, involving major, life changing injuries.

He also practices in the general fields of personal injury and commercial litigation, with a particular emphasis in the latter upon professional negligence, often involving allegations of negligence against solicitors and financial professionals.

He is frequently instructed in cases as sole junior against silks.

## What the Directories say:

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### **Chambers & Partners:**

*“Excellent with clients. Very good on his feet in court. He has very good judgment and tactical awareness” (Chambers & Partners 2019)*

*“An excellent advocate and also very good on paper” (Chambers & Partners 2018)*

*“Very good on the detail; very incisive in his ability to get to grips with things and he knows the law” (Chambers & Partners 2017)*

*“He is impressive in terms of advocacy and was operating at a very high level” (Chambers & Partners 2016)*

*“He’s very personable and very thorough. In conference with experts it’s clear that he has a very good grasp of the medicine” (Chambers & Partners 2015)*

### **Legal 500:**

*“An up-and-coming junior” (Legal 500, 2019)*

*“A very good advocate” (Legal 500, 2017)*

*“Very clever and approachable” (Legal 500, 2016)*

## Areas of expertise

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- Clinical Negligence
- Commercial
- Personal Injury
- Product Liability

## Clinical Negligence

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Since 2015 Jonathan has been repeatedly rated by Chambers & Partners as a leading junior in the specialist field of clinical negligence.

He has been instructed in cases concerning birth injuries, spinal injuries, brain injuries, amputations, fatal injuries, late diagnosis of cancer, liver disease, kidney disease and other similar conditions. He has litigated many cases concerning orthopaedic procedures (shoulders, knees, ankles, wrists, and hips) and negligently performed bariatric and other similar weight loss/reduction procedure claims. He has successfully settled secondary victim claims arising from negligently medical treatment.

He has successfully pursued claims advanced on the basis of systemic failures by Trusts that have then led to injuries to patients, e.g. by failing to adequately staff maternity units.

He has litigated claims against dentists, optometrists and ophthalmologists.

He has a particular interest in claims arising from alleged substandard cosmetic surgery, particularly in relation to the potential contractual and tortious liability of cosmetic surgery clinics/providers.

He has appeared at numerous medical death inquests where he has frequently, though not exclusively, acted for bereaved families, including Article 2 inquests and inquests sitting with juries.

## Memberships

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- Association of Personal Injury Lawyers

## Inquest & Judicial Review

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Jonathan has developed a significant inquest practice within the healthcare field. He is frequently instructed in '*difficult*' cases where the outcome of the inquest is thought to be likely to make a material difference to whether or not a clinical negligence claim can be successfully pursued.

His recent cases have included inquests concerning the management of patients in A&E departments, treatment that has gone 'wrong' during routine procedures such as cholecystectomies, concerns over the prioritisation of resources in cases of gravely ill children, and cases where GPs have declined to refer patients for treatment who have subsequently died. He is also experienced in dealing with mental health cases and he has recently dealt with inquests concerning the appropriate management and risk assessment of mental health patients.

Jonathan has always been committed to representing families within this field and he is prepared to consider occasionally acting entirely pro-bono in cases where there is no realistic prospect of a clinical negligence claim being pursued.

## Disciplinary Tribunals

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Jonathan has a growing practice within the healthcare disciplinary field. He has represented doctors before the G.M.C. and he is keen to continue to develop this aspect of his practice in the future.

## Clinical Negligence Cases

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- *K.R. v London Ambulance Service NHS Trust* (ongoing) claim involving a failure to immobilise K.R. after suffering a fall, which it is alleged has caused or materially contributed to significant ongoing disability, leaving him wheelchair dependent.
- *S.C. v Care (UK) Ltd* (ongoing) acting for S.C. who underwent incompetently performed gallbladder surgery, leaving her with significant continuing problems and a R C-S v Dr C D (2015-2017) Claim for failure to diagnose chronic kidney disease, ending in avoidable end stage renal failure, claim settled at JSM for £450,000.
- *L.C. v RNOH* (2017) claim involving failure to appropriately consent LC to the use of an experimental shoulder resurfacing product, which subsequently failed early causing her significant injury.
- *E.M. (deceased) v University Hospitals Coventry and Warwickshire NHS Trust* (2012-2017): Claim for damages arising from failure to continue to administer clexane to E.M. after major surgery for cancer treatment. Represented the family at the inquest where the coroner made a finding of neglect and subsequently throughout the litigation, ultimately settling at a JSM for £350,000.
- *B.F. v Dr R S* (2014-2016) negligently missed pericarditis in a 20 year old training for the army, which caused him to undergo an avoidable median sternotomy, case settled at JSM for £175,000 at JSM.
- *F.A. (on behalf of estate of K.B.) v Northern Lincolnshire and Goole Hospitals NHS Trust* (2015-2016) acted for estate of K.B. who suffered a hypoxic brain injury at birth causing her to develop cerebral palsy, she died aged 7, liability was denied, but the claim settled for £185,000.
- *R.O. v University Hospitals Coventry and Warwickshire NHS Trust* (2013): Settled claim for damages arising from extremely difficult labour contributed to by failure to adequately staff maternity unit.
- *L.C v Dr N.M* (2014): Settled claim against G.P. for negligent failure to stop prescribing nephrotoxic drugs to L.C. causing him to enter avoidable end stage renal failure.
- *J.M. v Dr D.L* (2013-2014): Settled claim after exchange of expert evidence in case where Dr D.L failed to refer J.M. for investigations for breast cancer. The claim concerned interesting questions of causation and the course of probable treatment with earlier referral.

## Commercial

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Jonathan is instructed in a broad range of commercial disputes, including sale of goods, insurance, consumer contract disputes, guarantee claims, agency claims, claims in professional negligence, and general contractual litigation.

In recent years his professional negligence practice has increased significantly and he has been regularly instructed in cases concerning allegations over the conduct of litigation by solicitors and other legal professionals. He has also conducted cases concerning architects, surveyors and medical professionals.

Jonathan has advised in a number of disputes concerning financial products; primarily in relation to interest rate swap claims.

## Commercial Cases

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- *Beechcrest Properties Ltd v Luminis Real Estate Limited & Another* (2010-2013): Central London County Court, Chancery, claims and counterclaims arising from a property investment Joint Venture c. £300,000.
- Acting for a gold mining company based in a Central Asian country (and other Claimants) who were the victims of a £500 million alleged fraud. Obtained a freezing and disclosure order in Jersey.
- Advising a bank on its obligations to report potential sanction breaches to the Office of Foreign Assets Control, US Department of Treasury (OFAC). This case concerned an interesting question of the extent to which the US can lawfully assert extra-territorial jurisdiction over foreign entities dealing in US dollars.
- *UCC v Bender & Ors*: A US\$ 97 million claim in relation to the profits of a hedge fund.
- Acting for a Jersey Hotel in a multi-million Euro, multi-party construction dispute, which was subject to Arbitration in Zurich under the I.C.C. rules. The case eventually settled at mediation.

# Personal Injury

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Jonathan is only instructed in multi-track personal injury claims. His recent practice has focussed on catastrophic or life changing injuries, such as brain injuries, spinal injuries, or amputations, along with cases that concern allegations of fraud or have an international/jurisdictional element.

## Memberships

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- Association of Personal Injury Lawyers

## Actions Involving The Police

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Jonathan has litigated a variety of claims against the police, usually for claims based on wrongful arrest, unlawful imprisonment and other associated claims. Whilst he predominantly acts for Claimants, the Commissioner of the Metropolitan Police has instructed him on several cases, including at trial.

## Inquests

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Jonathan is a very experienced inquest practitioner. He has appeared in Article 2 and jury inquests. He primarily acts in healthcare cases, but he has also acted in cases which have involved deaths in the workplace, usually large construction sites, lifting operations going wrong etc and deaths due to fires.

## Fraudulent Claims

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Jonathan is very familiar with dealing with cases where allegations of fraud have been pleaded. He is adept at identifying the strongest and weakest points in these cases and he is very experienced with advising upon the appropriate tactics to pursue to obtain the best resolution for clients. His primary experience has come from road traffic cases, but he has also dealt with fraud in the context of EL claims and in relation to Highways claims as well.

## Personal Injury Cases

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- *S.M. v T.C.* (ongoing) – Brain injury arising from road traffic accident, life changing injuries suffered, complex care and support needs, substantial value.
- *R.B. v A.B.* (ongoing) – RTA, R.B. suffered injuries which have significantly impacted upon his pre-existing complex conditions, lost substantial business opportunities, high value claim.
- *G.A. v B.B.* (ongoing) – RTA, G.A. suffered shoulder and ankle injuries which have significantly affected his capacity to work in his trade.
- *I.M. v eSure Insurance Limited* (ongoing) – RTA, I.M. suffered a significant injury to his upper limb leaving him in chronic pain, substantial difficulties with returning to work, significant prospect of career loss, high value claim.
- *M.P. v Barts NHS Trust* (2017) – Quantum trial, liability admitted days before trial due to start, arising from MP's exposure to TB at work. Allegations advanced under the COSHH legislation c. £125,000 awarded in damages.

# Product Liability

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Jonathan is ranked by the Legal 500 as a leading junior in the specialist field of Product Liability.

He is instructed in a number of high profile and ongoing pieces of medical product group litigation, or de-facto group litigation concerning failed metal on metal hip implants.

He is also regularly instructed in unitary claims concerning allegedly defective medical devices such as knee implants and shoulder implants.

Away from medical products he has also recently litigated personal injury claims concerning bicycles, defective shower seats, and balloons.

He is particularly interested in cases which potentially engage liability under the Consumer Protection Act 1987, as well as the associated contractual entitlements under the various sales of goods and services Acts and the Consumer Rights Act 2015.

## Memberships

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- Association of Personal Injury Lawyers

## Product Liability Cases

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- DePuy Pinnacle Group Litigation Order: junior counsel led by Hugh Preston QC and Robin Oppenheim QC with a team of juniors litigating the allegedly defective Pinnacle Ultamet metal-on-metal hip prosthesis.
- Finsbury Adept Litigation: junior counsel led by Hugh Preston QC litigating the allegedly defective Finsbury Adept metal on metal total hip replacement and resurfacing products.
- DePuy ASR International Group Litigation: junior counsel led by Hugh Preston QC litigating international product liability claims concerning the allegedly defective metal on metal ASR total hip replacement and resurfacing products.
- Mitch TRH Litigation: sole counsel leading the Mitch TRH metal on metal total hip replacement claims.
- Mix-match Litigation: junior counsel pursuing a variety of 'mix-match' claims against NHS Trusts and Private Surgeons.

## For more information please contact:

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