

Edwin Johnson QC

Call 1987

Silk 2006

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Edwin Johnson was called to the Bar in 1987 and joined 9 Old Square in 1988. He joined Maitland Chambers on its merger with 9 Old Square in 2004.

Edwin was appointed Standing Counsel to the Rent Assessment Panel in 2000, was Chambers UK Bar Awards Real Estate Junior of the Year in 2005, was appointed Queen's Counsel in 2006, was nominated for the Chambers UK Bar Awards Real Estate Silk of the Year in 2012 and 2013 and was Chambers UK Bar Awards Real Estate Silk of the Year in 2018.

In 2017 Edwin was appointed a Deputy Judge of the High Court, sitting in the Business and Property Courts, and a Barrister Member of the Bar Tribunals & Adjudication Service.

Expertise

Edwin appears regularly in Courts and Tribunals at all levels. He was successful in the Supreme Court in *Hosebay*. This followed consecutive successes in four House of Lords cases *Shalson*, *Boss Holdings*, *26 Cadogan Square* and *Atlantic Telecasters*. With these five victories Edwin has never lost a case at the highest level. More recently Edwin has been successful in *First Tower*, a key decision of the Court of Appeal on exclusion clauses in misrepresentation claims, and in *Car Park Services Limited*, a decision of the Court of Appeal of Northern Ireland, which has major implications for the distinction between a lease and a licence.

Edwin's practice is in property, chancery and commercial litigation and advisory work. His experience includes property disputes (including all aspects of landlord and tenant, leasehold enfranchisement, break clauses, development contracts, conveyancing, mortgages, easements, restrictive covenants, noise nuisance, rights of light and mineral rights), professional negligence (solicitors, surveyors, valuers, architects, other construction professionals, accountants and insurance brokers), and general commercial and chancery work including trusts disputes, insolvency, development and other commercial contracts, building and construction work, insurance work and competition law.

Clients range from individuals and small companies through to large estates, global corporations, public authorities, pension/life/equity funds, and nation states. Edwin has particular experience of acting for public authorities in relation to their property holdings, including the complex area of service charges in leases of public authority housing stock. Disputes over break clauses and conditional contracts/development contracts are other areas of particular expertise, as are cases involving noise nuisance and interference with rights of light. Another area of specialisation (an area of increasing legal importance), is the impact of consumer protection legislation on the letting of residential properties.

Edwin was also the subject of extensive media coverage concerning the case of *Lepic v Clarke*, where Edwin secured a possession order in respect of a property in Cheyne Mews against a former solicitor who claimed a statutory tenancy of the property dating from 1968. The case was one of several cases in which Edwin has advised on claims for possession against

persons claiming statutory tenancies. Most recently Edwin acted for the successful claimant in the appeal in *Fouladi*, a noise nuisance case which has also been the subject of extensive media coverage.

Edwin also has experience of acting for clients in Northern Ireland, where he has appeared in the High Court and the Lands Tribunal. He represented the successful appellant in *Car Park Services Limited* in the Court of Appeal of Northern Ireland, a case involving the distinction between a lease and a licence in the commercial context, which has considerable implications for agreements labelled as business licences in England and Wales.

Experience

Cases demonstrating Edwin's experience include:

Property

- *Reiner v Triplark Ltd* [2018] EWCA Civ 2151 (whether equitable assignment of a lease breached a covenant against parting with possession and, if so, whether consent unreasonably withheld to such parting with possession)
- *Duval v 11-13 Randolph Crescent Ltd* [2018] EWCA Civ 2298 (whether a landlord's covenant to enforce obligations of other tenants in a building prevents the landlord from waiving or varying tenants' covenants)
- *Aldford House Freehold Ltd v Grosvenor (Mayfair) Estate* [2018] EWHC 3430 (Ch) (meaning of a flat in the Leasehold Reform, Housing and Urban Development Act 1993)
- *Fouladi v Darout Ltd* [2018] EWHC 3501 (Ch) (appeal in a noise nuisance claim raising questions of what constitutes an actionable noise nuisance, what remedies are available, and the ability of an appeal court to review findings of fact made by the trial judge)
- *H Company 2 Limited v Spitalfields Small Business Association Ltd* [2018] EWHC 2065 (Ch) (construction of a rent review provision in a lease)
- *First Tower Trustees Ltd v CDS (Superstores International) Limited* [2018] EWCA Civ 1396 (claim for damages for misrepresentation arising out of the presence of asbestos in warehouse units, distinction between exclusion clause and clause defining primary rights and obligations of parties, reasonableness of exclusion clause)
- *Great Dunmow Estates Ltd v Crest Nicholson* (2018 WL 02887296) (jurisdiction of the Court to interfere with an expert determination in respect of a matter agreed in the expert determination)
- *Car Park Services Limited v Bywater Capital (Winetavern) Limited* [2018] NICA 22 (whether an agreement described as a licence to occupy a car park was in fact a lease)
- *Warborough Investments Ltd v Lunar Office SARL* [2018] EWCA Civ 427 (construction of an alienation covenant in a commercial lease)
- *Mundy v Trustees of the Sloane Stanley Estate* [2018] EWCA Civ 35 (whether the traditional methods for determining relativity in enfranchisement valuations should be replaced by a new method based on transactions unaffected by rights of enfranchisement)
- *Grosvenor (Mayfair) Estate v Merix* [2017] EWCA Civ 190 (whether a property was a house within the meaning of the Leasehold Reform Act 1967)
- *First Tower Trustees Ltd v CDS (Superstores International) Ltd* [2017] EWHC 891 (Ch) (claim for damages for misrepresentation arising out of the presence of asbestos in warehouse units)
- *Lunar Office SARL v Warborough Investments Limited* [2017] EWHC 19 (Ch) (construction of an alienation covenant in a commercial lease)
- *Reiner v Triplark* [2016] UKUT 524 (LC) (whether equitable assignment of a lease breached a covenant against parting with possession and, if so, whether consent unreasonably withheld to such parting with possession)
- *Ingram v Church Commissioners for England* [2015] UKUT 0495 (LC) (recoverability through service charges of VAT charged to landlord by third parties)

- *Snowball Assets Ltd v Huntsmore House (Freehold) Ltd* [2015] UKUT 338 (LC) (right of landlord to retain property in a collective enfranchisement pursuant to Section 1(4) of the Leasehold Reform, Housing and Urban Development Act 1993)
- *Merie Bin Mahfouz v Barrie House (Freehold) Ltd* [2014] UKUT (LC) (right of landlord to claim leasebacks in a collective enfranchisement)
- *Kutchukian v Free Grammar School of John Lyon* [2013] EWCA Civ 90 (construction of the break provisions in Section 61 of the Leasehold Reform, Housing and Urban Development Act 1993)
- *Kim v Chasewood* [2013] EWCA Civ 239 (estoppel as a defence to a ground rent claim and the relationship between proprietary estoppel and Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989)
- *Morshead Mansions Ltd v Mactra Properties Ltd* [2013] EWHC 801 (Ch) (costs payable in service charge dispute)
- *Morshead Mansions Ltd v Mactra Properties Ltd* [2013] EWHC 224 (Ch) (construction of service charge provisions and obligation to provide an annual account of the service charge)
- *Day v Hosebay* [2012] UKSC 41 (whether properties are houses within the meaning of Section 2(1) of the Leasehold Reform Act 1967)
- *Hosebay Ltd v Day* [2010] EWCA Civ 748 (whether properties are houses within the meaning of Section 2(1) of the Leasehold Reform Act 1967)
- *Hotgroup plc v Royal Bank of Scotland plc* [2010] EWHC 1241 (Ch) (whether service of a break notice effective)
- *Earl Cadogan v Atlantic Telecasters Ltd* [2008] UKHL 71 (whether hope value included in valuation of price on leasehold enfranchisement)
- *Howard de Walden Estates Ltd v Aggio; 26 Cadogan Square Ltd v Earl Cadogan* [2008] UKHL 44 (whether a tenant of a flat and other premises not included in the flat was a qualifying tenant of the flat for the purposes of the Leasehold Reform, Housing and Urban Development Act 1993)
- *Boss Holdings Ltd v Grosvenor West End Properties* [2008] UKHL5 (whether a property was a house within the meaning of Section 2(1) of the Leasehold Reform Act 1967)
- *Warborough v Central Midlands Estates* [2006] PLSCS 139 (validity of a notice in a rent review)
- *St. George's Investment Co. v Gemini Consulting* [2005] 1 EGLR 5 (setting aside of award in rent review arbitration for misconduct)
- *Fattal v John Lyon's Charity* [2005] 1 All ER 466 (valuation of price on leasehold enfranchisement)
- *Shalson v John Lyon's Charity* [2004] 1 AC 802 (disregard of improvements on leasehold enfranchisement)
- *Muscat v Smith* [2003] 1 WLR 2853, (exercise of right of set off against assignee of reversion)
- Edwin's current and recent workload ranges across the full spectrum of property related disputes, through rights of light disputes, disputes over the operation of break clauses, disputes over conditional contracts/development agreements, and collective enfranchisement and other enfranchisement claims. Current and recent matters include noise nuisance claims, advice on a multi-million pound development agreement, securing the release of a restrictive covenant affecting a two billion pound residential development site, advice on manorial mineral rights affecting thousands of properties, advice on service charge and management issues for one of the principal London estates, and advice on stamp duty in respect of a major property portfolio.
- Edwin has most recently acted in appeals in the Court of Appeal and the High Court in cases concerning the constructions of rent review provisions, the effect of covenants requiring a landlord to take enforcement action against a tenant, and the interrelationship between the Landlord and Tenant Act 1988 and the Commonhold and Leasehold Reform Act 2002.
- Edwin was also the subject of extensive media coverage concerning the case of *Lepic v Clarke*, where Edwin secured a possession order in respect of a property in Cheyne Mews against a former solicitor who claimed a statutory tenancy of the property dating from 1968.
- Most recently Edwin acted for the successful claimant in the appeal in *Fouladi*, a noise nuisance case which has also been the subject of extensive media coverage.

Commercial/chancery/insolvency/professional negligence

- *Fouladi v Darout* [2018] EWHC 3501 (Ch) (appeal in a noise nuisance claim raising questions of what constitutes an actionable noise nuisance, what remedies are available, and the ability of an appeal court to review findings of fact made by the trial judge)
- *First Tower Trustees Ltd v CDS (Superstores International) Limited* [2018] EWCA Civ 1396 (claim for damages for misrepresentation arising out of the presence of asbestos in warehouse units, distinction between exclusion clause and clause defining primary rights and obligations of parties, reasonableness of exclusion clause, whether trustees of a Jersey trust could take advantage of contractual provisions to limit their liability in misrepresentation)
- *Great Dunmow Estates Ltd v Crest Nicholson* (2018 WL 02887296) (jurisdiction of the Court to interfere with an expert determination in respect of a matter agreed in the expert determination)
- *Car Park Services Limited v Bywater Capital (Winetavern) Limited* [2018] NICA 22 (whether an agreement described as a licence to occupy a car park was in fact a lease)
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- *First Tower Trustees Ltd v CDS (Superstores International) Ltd* [2017] EWHC 891 (Ch) (claim for damages for misrepresentation arising out of the presence of asbestos in warehouse units, distinction between exclusion clause and clause defining primary rights and obligations of parties, reasonableness of exclusion clause, whether trustees of a Jersey trust could take advantage of contractual provisions to limit their liability in misrepresentation)
- *Lunar Office SARL v Warborough Investments Limited* [2017] EWHC 19 (Ch) (construction of an alienation covenant in a commercial lease)
- *Royal Mail Estates Ltd v Pridebank Ltd* [2015] EWHC 1540 (Ch) (construction of a user provision in a restrictive covenant)
- *Extra MSA v Accor* [2011] EWHC 775 (Ch) (whether conditional contract subject to implied term that party could not take advantage of own wrong)
- *Shell UK Ltd v Total UK Ltd* [2010] EWCA Civ 180 (recoverability of damages in respect of economic loss)
- *Rind v Theodore Goddard* [2008] EWHC 459 (Ch) (whether claim in solicitor's negligence could be made by beneficiary of estate suffering a tax loss)
- *Malmesbury v Strutt & Parker* [2008] EWHC 424 (QB) (the impact of exaggeration of a claim on costs/taking conduct in a mediation into account in relation to costs)
- *Malmesbury v Strutt & Parker* [2007] EWHC 999 (QB) (claim in surveyor's negligence in relation to the grant of leases of premises for use as airport car parks)
- *John Thomas v Ken Thomas Limited* [2006] EWCA Civ 1504 (rights of forfeiture in respect of arrears of rent compromised by a company voluntary arrangement)
- *Montlake v Lambert Smith Hampton* [2005] 3 EGLR 149 (claim in valuation negligence in relation to Wasps rugby ground)
- *Patel v Brent London Borough Council (No. 2)* [2005] EWCA Civ 644 (dispute over status and expenditure of a Section 106 contribution)
- Current and recent work includes advice on a number of major development sites, various disputes over conditional contracts, a number of rights of light disputes, a substantial claim involving the management of assets in a pension fund, the trial of a noise related claim involving flats in Knightsbridge, further noise nuisance claims involving flats in Central London, and a claim for damages for misrepresentation, arising out of the presence of asbestos in warehouse premises and involving a dispute over the effect of a non-reliance clause. Current and recent work includes acting in a claim to terminate a development agreement and forfeit a lease held by an insolvent tenant, acting in a claim by a commercial landlord of an industrial estate against an insolvent tenant, advising a major bank on its security in relation to a London estate, advising in connection with the restructuring/administration of various substantial property portfolios, acting in a dispute over the enforceability of an original tenant guarantee where the current tenant had gone into liquidation, disclaiming the lease, and advising on the application of consumer protection legislation in relation to fees charged in the letting of properties within a major property portfolio.

Memberships

Edwin is a member of the Chancery Bar Association, the Professional Negligence Bar Association, and the Property Bar Association.

Qualifications

BA (Oxon) First Class



Edwin Johnson QC



Recommendations

2018 Chambers Bar Awards

Real Estate 'Silk of the Year'

Chambers UK

Real Estate

"He gives practical and excellent advice on all aspects of landlord and tenant real estate law." "Supremely diligent and knowledgeable." "Extraordinarily tenacious and helpful." "Utterly thorough in cross-examination while remaining courteous to all." (2019)

"He is very good both on his feet and on paper, and he really cuts through to the heart of the matter." "Tremendously knowledgeable, extremely responsive and first-rate with clients." (2018)

"He is particularly good on his feet, and a very smooth operator who is incredibly intelligent and prepared to get stuck in. He's a silk who doesn't mind getting his hands dirty." "He has an amazing brain and he is user-friendly and clear." (2017)

"He is very quick-thinking and great in guiding clients through difficult issues. He is formidable on his feet."

"He's a details man. If you have something technical or complicated and need to sit down and get into details you should approach him." (2016)

"The right man for a hard fight, he is a fantastic courtroom advocate."

"He is extremely thorough, very good with clients, and a really good team player." (2015)

"A fine property litigation silk highly regarded by clients for his advocacy and particularly singled out for praise for his leasehold enfranchisement work."

"Endlessly patient and immensely approachable."

"He's clever, rigorous, meticulous and very thorough." (2014)

"Sources complimenting him for his "forensic approach to cases" and his "wonderful grasp of detail." One solicitor ruefully commented that "he wiped the floor with us when we were against him." (2013)

"Could absolutely wipe the floor with anyone," "comprehensive, commercial and detailed advice" in a "very measured and authoritative manner." (2012)

"He is just superb at whatever he does, and always displays compelling logic and produces brilliant advocacy." (2011)

"A highly persuasive yet measured advocate - he is thorough and tough but never less than charming on the opposite side." (2010)

Legal 500

Professional Negligence

"User friendly." (2018/19)

"Able to turnaround work in a short timescale." (2017)

"Very thorough and hardworking." (2016)

"A top-notch performer." (2015)

"Possesses excellent attention to detail." (2014)

"Incredibly thorough." (2013)

"A master of detail." (2012)

"Recognised for his experience in acting for and against solicitors, and in property-related matters." (2011)

Legal 500

Property Litigation And Agriculture

"He is technically very able and has a good eye for detail." (2018/19)

"He is brilliant, tenacious and has a reassuring eye for detail without losing perspective." (2017)

"Extremely knowledgeable, excellent with clients, supreme at written submissions but also great on his feet." (2016)

"He is a fabulously powerful adviser and advocate; he oozes authority." (2015)

"He is excellent on paper, and his ability to control the court and the opposition is second to none." (2014)

"Commanding and extremely effective." (2013)

"For complex rights of light case, clients turn to the determined Edwin Johnson QC." (2012)

"Extremely client-friendly" "very good in the area of leasehold reform." (2011)

"Gives carefully considered advice." (2010)