

Landmark Chambers

Barrister CV

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Joel Semakula

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Joel practises across all three of Chambers' main practice areas with a focus on planning, infrastructure, environmental and property law.



Expertise

Property, Rating and Valuation, Planning, Environment, Public and Administrative

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Practice Summary

Joel practises across all three of Chambers' main practice areas with a focus on planning, infrastructure, environmental and property law. Given his commercial background, he has a particular focus on claims with a commercial element. In appropriate cases, Joel accepts instructions on a direct access and pro bono basis. He is an assistant editor for Garner's Environmental Law.

He has significant experience in obtaining injunctions and contempt proceedings to protect land and buildings from trespass and nuisance, particularly by protesters. He is very familiar with the intricate procedural and legal issues which arise in relation to claims brought against 'persons unknown'. In this field he has recently acted for National Highways, Shell and Exolum in response to direct action by groups such as 'Insulate Britain,' 'Extinction Rebellion' and 'Just Stop Oil.'

His most recent instructions include:

- **Shell UK Ltd v Persons Unknown and ors [2023] EWHC 1229 (KB)**: Acting for Shell in the High Court (led by Myriam Stacey KC) in applications to continue three interim injunctions to restrain unlawful protest activity at a range of its sites. This is leading case on non-party challenges to 'Persons Unknown' Injunctions.

- Acting for National Highways in the examination for the DCO for the A66 Northern Trans-Pennine project.
- Acting for the commercial developer (led by James Maurici KC) in a ten-day planning inquiry appealing the decision to refuse planning permission for a mixed-use development in Takeley (APP/C1570/W/22/3291524).
- Acting for a residents group in the Mole Valley Local Plan examination challenging the soundness of a draft plan on green belt grounds.
- Acting for the defendant (led by David Holland KC) in a ten-day trial in the High Court where the claimants seek his removal as a trustee and substantial damages for alleged breach of trust.
- Assisting with ***Annington Property Limited (and ors) v Secretary of State for Defence*** (led by Zia Bhaloo KC and James Maurici KC) in high value (approx. £8Bn) leasehold enfranchisement and judicial review proceedings.
- ***National Highways Ltd v Heyatawin*** [2021] EWHC 3093 (QB): Acting for National Highways (led by David Elvin KC and Myriam Stacey KC) in proceedings to prevent trespass and nuisance on the strategic road network in response to significant disruption caused by large-scale protest action by campaign group 'Insulate Britain.'
- ***Wallpott v Welsh Health Specialised Services Committee*** [2021] EWHC 3291 (Admin): Acting for NHS Wales (led by David Lock KC) in a judicial review of a decision not to approve NHS funding to meet the costs of the claimant's treatment for terminal illness where it was determined she did not fall within the policy to permit independent patient funding.
- Successfully appeared, unled, for a Rule 6 party in a five-day planning inquiry, which was one of the first appeals to challenge a proposal for Discounted Market Sale housing where key issues were Rural Exception Sites and Very Special Circumstances for Green Belt development (APP/D3640/W/20/3248358)

Before commencing legal studies, Joel was an investment banker with Morgan Stanley in New York. Joel, therefore, brings a wealth of commercial experience to his practice at the Bar. Following his legal studies, he was the Judicial Assistant to Lady Justice Gloster (as she then was) and Lord Justice David Richards (as he then was) at the Court of Appeal where he assisted on cases covering commercial, chancery, public and international law.

Away from the law, Joel can be found performing on a comedy stage or volunteering with initiatives that support social mobility.

Property

Joel was the designated Property pupil, having further developed his property law experience at the Court of Appeal. He has a particular interest in the intersection between property rights and human rights and has been recently involved in a number of cases in this area. He is developing a varied residential and commercial property practice and recent instructions include:

- ***Shell and others***: Acting for a number of large commercial entities to secure urgent interim injunctions to restrain trespass and nuisance to their private land in response to large-scale protest activity.
- Assisting with ***Annington Property Limited (and ors) v Secretary of State for Defence*** (led by Zia Bhaloo KC and James Maurici KC) in high value (approx. £8Bn) leasehold enfranchisement and judicial review proceedings.

- Acting for the defendant (led by David Holland KC) in a ten-day trial in the High Court where the claimants seek his removal as a trustee and substantial damages for alleged breach of trust.
- **National Highways Ltd v Heyatawin** [2021] EWHC 3093 (QB): Acting for National Highways (led by David Elvin KC and Myriam Stacey KC) in proceedings to prevent trespass and nuisance on the strategic road network in response to significant disruption caused by large-scale protest action by campaign group 'Insulate Britain.'
- Appearing in related contempt proceedings (led by Myriam Stacey KC) in the Divisional Court.
- Acting for the tenant in a disputed lease extension claim under the Leasehold Reform, Housing and Urban Development Act 1993.
- **Lescott v Heil**: Acting for the Respondent Landlord in an appeal of a possession order where the key issue was the extent to which District Judges are required to scrutinise the complex forms for possession orders and the consequence of a failure to notice an error by the landlord, even if not raised by a tenant in the defence or hearing.
- Acting for the successful local authority in the First-tier Tribunal Property Chamber (Land Registration) on an application to alter the register based on mistake where the respondent had been registered as proprietor of its farmland on the basis of adverse possession.
- Advising a large multinational energy company on how to secure rights as part of the installation of EV chargers on 3rd party owned land
- Advising a global energy company on recovery of approx. £3m overpaid rent in respect of its petrol station sites.
- Acting for the successful landlord in the County Court in a claim for rent arrears and property damage and in defence of a counterclaim for breach of the Housing Act 2004 and breach of covenants.
- London Borough ("LB") is intending to enter into an agreement for a lease with ST of land held subject to a statutory trust for enjoyment by the public ("the Trust"). The transaction will involve ST carrying out development including building a training academy at the northern end of the site, which will be closed off to the public. A number of local charities have written to LB challenging the lawfulness of the proposed disposal.
- Acting for a residential landlord to secure approx. £40,000 in service charge arrears.
- Acting for landlords and tenants on a range of matters related to orders for sale, service charges and possession of residential and commercial premises including: s.8, s.21, tenancies falling outside the Housing Act 1988, property guardianship schemes, service occupancies, forfeiture, and claims against trespassers.
- Providing advice and drafting on matters such as beneficial interests, alterations to the register, auction sales, service charges, charging orders, rent arrears, rectification of contracts of sale and leases, tenancy deposits, property damage, notices and restrictions, equality act defences to possession claims, securing access rights, restrictive covenants, co-ownership, rights of way, the right to park, open space, interpretation of leases, implication of terms into leases, enforcement of landlord covenants, the Renting Homes (Wales) Act 2016, right of first refusal, 1954 Act renewals, structuring property transactions and the frustration of leases in relation to the COVID-19 pandemic.

Joel regularly presents on the topic of the intersection between property rights and human rights at conferences including the Property Litigation Association Conference and Landmark Chambers' Land Conference.

Rating and Valuation

Joel is developing a varied practice covering all aspects of rating law.

- Acting for the Appellant in a council tax appeal before the Valuation Tribunal.
- Acting for the successful local authority in the High Court resisting an application for permission to judicially review a decision not to grant coronavirus grants and small business rates relief.

Joel is a regular speaker at Chambers' annual rating conference.

Planning

Joel is developing a varied practice covering all aspects of planning, CPO and procurement law. Examples of his recent instructions, as both sole and junior counsel, include:

- Appearing for the developer in an appeal for a single dwelling in a conservation area where the key issues were heritage impact, arboricultural impact and sustainability.
- Acting for a residents group in the Mole Valley Local Plan examination challenging the soundness of a plan on green belt grounds.
- Appearing for Westbury Town Council in a 1-day inquiry objecting to the development of the Northacre Energy from Waste Facility on air quality and other environmental grounds and advising on grounds for judicial review (Ref: APP/Y3940/W/22/3302008).
- Acting for the commercial developer (led by James Maurici KC) in a ten-day planning inquiry appealing the decision to refuse planning permission for a mixed-use development in Takeley (APP/C1570/W/22/3291524).
- Acting for the successful Rule 6 Party (local residents' group) in a five-day planning inquiry, which was one of the first appeals to challenge a proposal for DMS housing where key issues were Rural Exception Sites and Very Special Circumstances for Green Belt development.
- Acting for the successful Parish Council in the High Court to challenge the lawfulness of a Certificate of Lawful Existing Use or Development ("CLEUD") for a motocross track in an AONB.
- Acting for the successful appellant business owner (led by Paul Brown KC) in an enforcement appeal where the local planning authority alleged the material change of use (without planning permission) of a property to a mixed use as a nightclub and shisha lounge and required the cessation of the use.
- Acting for a local residents' group to challenge the adoption of the Local Plan.
- Acting for the successful Parish Council (led by Sasha Blackmore) to challenge a new housing development of 64 dwellings in a small village on the basis that it was outwith the resolution to grant.

- Appearing at a Pre-Inquiry Meeting for the Hatfield Aerodrome Quarry Appeal concerning mineral extraction where impact on water quality in the local area was a key concern.
- Advising the relevant Minerals Planning Authority on planning enforcement options to secure the developer's compliance with the restoration of a former colliery site.
- Providing advice and drafting on matters such as deliberate concealment risk, certificates of lawful use and proposed development, heritage issues, open space, EIA development, CIL, inappropriate development in the green belt and AONB, climate change, s.73 and s.96A applications, permitted development, conservation areas, habitats concerns, permitted development rights, planning conditions and s.106 obligations and costs in planning inquiries.

Joel also regularly investigates corporate complaints on behalf of local authorities against planning departments.

Infrastructure

Joel is developing a varied practice covering all aspects of infrastructure law. Examples of his recent instructions include:

- Acting for National Highways in the examination for the DCO for the A66 Northern Trans-Pennine project including providing specialist advice in respect of alternative route selection, equalities & discrimination and compliance with environmental legislation.
- Acting for the relevant highways authority and local transport authority (led by Richard Turney) on highways and compulsory acquisition issues related to the DCO for the Aquind Interconnector between France and England, including making oral representations before the Examining Authority.
- Advising the Royal Society for the Protection of Birds on environmental issues as part of the examination in the Sizewell C DCO to build and operate a new nuclear power station.

Highways, Footpaths and Rights of Way

Joel is regularly instructed on cases with a highways element. Examples of his recent instructions include:

- Acting for National Highways in the examination for the DCO for the A66 Northern Trans-Pennine project including providing specialist advice in respect of alternative route selection.
- Acting for the relevant highways authority and local transport authority (led by Richard Turney) on highways and compulsory acquisition issues related to the DCO for the Aquind Interconnector between France and England, including making oral representations before the Examining Authority.
- Acting for Highways England (led by Samantha Broadfoot KC) in related inquiries investigating deaths on smart motorways.
- Advising (led by Alex Goodman KC) on a potential claim in respect of a number of Experimental Traffic Orders made by a local council where carrying out the orders would lead to further breaches of NO₂ legal limits and further exacerbate air quality concerns in the area.

Environment

Joel is developing a varied practice covering all aspects of environmental law. Examples of his recent instructions, as both sole and junior counsel, include:

- Advising a large multinational energy company on how to secure rights as part of the installation of EV chargers on 3rd party owned land.
- Appearing for a Town Council in a 1-day inquiry objecting to the development of an energy from waste facility on air quality and other environmental grounds.
- Acting for the appellant in a hearing challenging a refusal of permission on conservation and arboricultural grounds.
- Advising the relevant Minerals Planning Authority on planning enforcement options to secure the developer's compliance with the restoration of a former colliery site.
- Advising the Royal Society for the Protection of Birds on environmental issues.
- As sole counsel, acting for the successful Parish Council to quash a Certificate of Lawful Existing Use or Development of a motocross track in an AONB in the High Court on environmental grounds.
- Appearing at a Pre-Inquiry Meeting for the Hatfield Aerodrome Quarry Appeal concerning mineral extraction where impact on water quality in the local area was a key concern.
- Advising (led by Alex Goodman KC) on a potential claim in respect of a number of Experimental Traffic Orders made by a local council where carrying out the orders would lead to further breaches of NO₂ legal limits and further exacerbate air quality concerns in the area.
- Acting for energy companies to secure urgent injunctions to protect key assets in response to largescale protest action.
- Acting for the statutory highways authority (led by David Elvin KC and Myriam Stacey KC) in committal proceedings against environmental protestors.
- Advising a global environmental charity on a potential challenge - including on climate change grounds - to the grant of planning permission for a new service station on a site proximate to a Site of Importance for Nature Conservation and a Conservation Area.

Joel is a member of the UK Environmental Law Association, the Planning and Environment Bar Association and the National Infrastructure Planning Association. He also accepts pro bono instructions from the Environmental Law Foundation and is an assistant editor for *Garner's Environmental Law*.

As an in-house litigator at an oil major, Joel advised on environmental and decommissioning claims.

Public and Administrative

Joel is developing a varied public law practice and is a member of the Attorney-General's junior junior scheme. Examples of his recent instructions, as both sole and junior counsel, include:

- Acting for Humber and North Yorkshire Integrated Care Board in Court of Protection proceedings related to the deprivation of liberty and provision of care for individuals with significant needs.
- Acting for the Appellant in his appeal before the Upper Tribunal against the decision of the Disclosure & Barring Service to include him on the Adult's and Children's Barred Lists
- Acting for the successful Leader of the Opposition of a local authority in disciplinary proceedings and defending her right to free speech before the Standards Committee.
- Acting in oral permission renewal hearings in the High Court.
- **Wallpott v Welsh Health Specialised Services Committee** [2021] EWHC 3291 (Admin): Acting for NHS Wales (led by David Lock KC) in a judicial review of a decision not to approve NHS funding to meet the costs of the Claimant's treatment for terminal illness where it was determined she did not fall within the policy to permit independent patient funding.
- Assisting with **Annington Property Limited (and ors) v Secretary of State for Defence** (led by Zia Bhaloo KC and James Maurici KC) in high value leasehold enfranchisement and judicial review proceedings.
- Acting for a child in a race discrimination claim against her school.
- Acting for NHS Blood & Transplant (led by Charlie Corey-Wright KC), a core participant in the Infected Blood Inquiry.
- Assisting with the Secretary of State's appeal to the Supreme Court against **Begum v Special Immigration Appeals Commission** [2020] EWCA Civ 918 concerning deprivation of citizenship and leave to enter to participate in judicial proceedings.
- Acting for the Claimant (led by Fiona Scolding KC), who has Autism Spectrum Disorder and learning disabilities, bringing a claim for damages flowing from breaches of Article 3, Article 5 and Article 8 of the ECHR and professional negligence in respect of his ill-treatment in hospital while detained under s.3 of the Mental Health Act 1983.
- Assisting the Department of Health and Social Care with a review of legislation in preparation for a new Health and Social Care Bill.
- Appointed as an independent investigator of complaints against a local authority's planning department.
- Drafting and advising on matters related to just satisfaction under the ECHR and data protection.

Joel regularly presents on the topic of the intersection between property rights and human rights at conferences including the Chancery Bar Association Annual Conference, Property Litigation Association Conference and Landmark Chambers' Land Conference.

NHS, Health and Community Care

Joel's previous commercial experience as an investment banker involved conducting analysis on strategic rationale of mergers, acquisitions, leveraged buyouts, equity and debt offerings, recapitalisations and other capital allocation decisions for healthcare companies. He brings that experience to his developing practice in healthcare law. His most recent instructions include:

- Acting for Humber and North Yorkshire Integrated Care Board in Court of Protection proceedings related to the deprivation of liberty and provision of care for individuals with significant needs.

- **Wallpott v Welsh Health Specialised Services Committee** [2021] EWHC 3291 (Admin): Acting for NHS Wales (led by David Lock KC) in a judicial review of a decision not to approve NHS funding to meet the costs of the Claimant's treatment for terminal illness where it was determined she did not fall within the policy to permit independent patient funding.
- Acting for NHS Blood & Transplant (led by Charlie Corey-Wright KC), a core participant in the Infected Blood Inquiry.
- Acting for the Claimant (led by Fiona Scolding KC), who has Autism Spectrum Disorder and learning disabilities, bringing a claim for damages flowing from breaches of Article 3, Article 5 and Article 8 of the ECHR and professional negligence in respect of his ill-treatment in hospital while detained under s.3 of the Mental Health Act 1983.
- Assisting the Department of Health and Social Care with a review of legislation in preparation for a new Health and Social Care Bill.

ADR

Joel is developing a varied practice covering all aspects of commercial/arbitration law, having come to the Bar with significant commercial experience, including investment banking, in-house litigation within a major corporation and assisting leading commercial judges in the Court of Appeal. Examples of his recent instructions include:

- Appearing for the successful judgement creditor in a claim for an order for sale to enforce payment of a debt in the sum of approx. £300,000.
- Appearing for the respondent company in the Insolvency and Company Courts to resist an application for an interim payment on account of costs in the amount of £920,000 in insolvency proceedings.
- Advising a global energy company on recovery of approx. £3m overpaid rent in respect of its petrol station sites.
- Appearing for the Claimant in the County Court in a preliminary hearing in an approx. £1m claim for damages for breach of contract related to the operation of a car boot sale business.
- Appearing for the successful professional recruitment company resisting a claim brought in the County Court by a potential recruit for breach of contract.
- Acting for an events planner claiming significant damages in the County Court against a venue and caterer for breach of contract.
- Advising a developer on the commercial and property law implications of adopting a particular structure for commercial property transactions.
- Acting for a landlord seeking to recover rent arrears from a commercial tenant resisting the claim on the basis that its lease was discharged by frustration of common purpose by the coronavirus business closure regulations.
- Providing advice and drafting on matters such as negligence, contractual interpretation, mistake, rectification and misrepresentation.

Joel is also currently acting as a Tribunal Secretary to Dame Elizabeth Gloster in two high-value commercial arbitrations (LCIA and HKAIC).

Prior to starting pupillage, Joel worked in the global litigation team of an oil major. During that time, he advised on various matters including enforcement proceedings, bilateral investment treaty claims, environmental and decommissioning claims, JV disputes and general commercial disputes in various upstream and downstream oil and gas sectors. He also gained experience in institutional arbitration under the LCIA, ICC and LMAA rules and worked on several multi-million-dollar arbitrations, including:

- An LMAA arbitration concerning the cause of two explosions aboard a large commercial ship that caused the ship to be taken off hire and contaminated the cargo aboard.
- Two related ICC arbitrations concerning indemnification under the French abrupt termination regime for losses/damages incurred following the decision to discontinue shipments of crude oil via a pipeline.
- An ICC arbitration concerning the French interdependence regime and unlawful termination of a European Gas Transportation Agreement.

Costs Litigation

Joel is developing a varied costs practice. His recent instructions include:

- Acting for the payor to resist an application for payment on account of costs in the amount of £920,000 where the other side's costs award in the application were reduced from approx. £14,000 to £1,500.
- Acting for the successful defendant in its claim for indemnity costs following the discontinuance of proceedings against it which the judge accepted were an abuse of process.
- Acting for the successful landlord in recovering its costs under an indemnity provision in a lease following service charge proceedings that had been transferred from the County Court to the First-tier Tribunal (Property Chamber).
- Acting for a London local authority in detailed assessment proceedings in the Senior Courts Costs Office following settlement of a large number of housing disrepair claims.
- Advising on settlement and using set off to resist a costs application following the discontinuance of property proceedings.

Joel also has experience in obtaining and/or setting aside default cost certificates.

Qualifications

- University of North Carolina at Chapel Hill – BA Political Science and Economics (First Class)
- University of Oxford (Mansfield College) – BA Jurisprudence (with Senior Status)
- BPP University, London – BPTC (Outstanding)

Cases and inquiries

19 12 23	High Court Refuses Permission in Clear-Felling Judicial Review Challenge
19 09 23	Colney Heath Planning Inquiry
02 06 23	Completion of the Public Examination into the Development Consent Order for the A66 Northern Trans-Pennine Project
25 05 23	Court of Protection (Confidential)
23 05 23	Shell UK Ltd v Persons Unknown and ors [2023] EWHC 1229 (KB)
01 01 23	Disclosure & Barring Service Appeal (Confidential)
01 01 23	Aucott v Martin
29 11 22	A66 Trans Pennine DCO Examination
28 10 22	Mole Valley Local Plan Examination (2022)
17 11 21	Committal - National Highways Ltd v Heyatawin [2021] EWHC 3078 (QB)

Publications

Property Litigation column: Section 21 or a 2 for 1: Issuing two sets of possession proceedings in a pandemic

Res Judicata in Judicial Review