

# Winston Jacob



Winston specialises in property, commercial and insolvency litigation. He provides advice, drafting and advocacy to clients across these specialisms. Please click on a specialism link below for more details of his experience in the relevant practice area.

He has appeared as sole counsel at all levels up to the Court of Appeal and has drafted a notice of objection to permission to appeal in the Supreme Court. He regularly appears in the High Court, the County Court, the First-tier Tribunal and the Upper Tribunal in petitions, applications and trials. He appeared in the Court of Appeal for the successful Appellant in *Elim Court RTM Co Ltd v Avon Freeholds Ltd* [2017] H.L.R. 18; [2017] EWCA Civ 89.

He has particular experience of commercial debt recovery, personal insolvency, mortgage disputes and landlord and tenant.

His recent cases include:

- *Halborg v Apple (UK) Ltd*: representing successful Respondent in appeal in the County Court at Central London. The appeal court considered the requirements for exercising a right of audience under sub-paragraph 1(7) of Schedule 3 to the Legal Services Act 2007.
- 3-day trial in the County Court at Central London for successful Claimant claiming beneficial interest in property in ex partner's sole name; relying on inferred common intention constructive trust.

Winston represents the Bar Standards Board before the Bar Disciplinary Tribunal and the Interim Suspension Panel. He has also taken part in the Chancery Bar's pro bono CLIPS scheme to assist litigants in person in the High Court.

He has provided insolvency training to the internal lawyers at the Bar Standards Board. He has provided lectures on various topics to solicitors, corporate lay clients and the judiciary. He edits the Tenant arrears and bankruptcy section of the RICS isurv website.

In certain circumstances, Winston accepts direct instructions on a public access basis.

Winston was appointed a Deputy District Judge on the South Eastern Circuit in May 2020.



**Year of Call: 2005**

Contact Practice Manager

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## Feedback

'Thank you for your help in this multi track trial. The outcome was an unconditional victory, and the clients were very impressed with your performance. As they put it: 'we believe you all could not have fought harder for us and we certainly couldn't have wanted for any more. Winston was outstanding. He ran rings around the opposition': John Gordon, Partner, Wilson Browne Solicitors

'I recently instructed Winston in a complex property damage and boundary case. He provided invaluable advice throughout the process; in particular, on preparation of evidence and settlement offers. His most important contribution was his advocacy at trial. Winston was a highly effective advocate with a good understanding of the law and the complex factual background. He was able to use his knowledge deftly in cross-examination, including of an expert witness. We were able to achieve a great outcome for the client and an indemnity based costs award': Toby Walker, Head of Dispute Resolution, Hedges Law

'We are very grateful to Mr Jacob for his assistance and confirm that our client was very happy with the outcome': Mary Rouse, Senior Associate, Wright Hassall LLP

'Winston was absolutely brilliant and we would very much like to keep him on board for the entirety of this case if at all possible': lay clients

## Further information

### Qualifications

- 2005 Called to the Bar (Middle Temple)
- 2004-2005 Bar Vocational Course (Very Competent)
- 1997-2000 Balliol College, University of Oxford, MA (Hons) in Jurisprudence

### Memberships

- COMBAR
- Chancery Bar Association

### Background

Prior to joining Chambers Winston worked as a solicitors' agent, attending hearings on a daily basis in the County Courts and the Royal Courts of Justice in property, insolvency, consumer credit, contract and debt recovery matters.

He has also previously worked in the Commercial Litigation Department of Norton Rose and in the



Insurance/Reinsurance Department of CMS Cameron McKenna.

Immediately after university, he spent one year as Editor of the Jersey Law Reports, reporting judicial decisions of the Jersey Royal Court and appeals to the Jersey Court of Appeal and the Privy Council in matters such as financial regulation, trusts, bankruptcy and insurance, as well as chronicling most important rulings on criminal law, procedure and evidence.

## Commercial

Winston has a broad commercial litigation practice involving regular appearances in the County Court and the High Court. His experience includes sale of goods and services, bailment, agency, insurance and debt recovery.

He has extensive experience of commercial debt recovery proceedings. His clients include banks and other financial organisations, insurance companies, partnerships and sole traders.

His commercial practice includes the following core areas:

- Commercial debt recovery
- Consumer credit agreements
- Finance agreements
- Guarantees and indemnities
- Insolvency (personal and corporate)
- Insurance
- Partnership disputes
- Professional negligence
- Sale and supply of goods and services
- Shareholder disputes

Examples of his work:

- *Aries Robotics Plc v Persons Unknown*: acted for Appellant seeking permission to appeal from Court of Appeal against discharge of interim injunction against alleged blackmailers. The appeal concerned the extent of the court's jurisdiction to maintain an interim injunction prior to service of the claim form. Drafted skeleton argument in support of request for permission to appeal, following which the Court of Appeal granted permission to appeal. The parties subsequently settled.
- *La Cotte Consulting Ltd v Sovereign Steel Stockholders*: appeal to Court of Appeal of indemnity costs order following trial. Permission to appeal obtained. Settlement reached shortly before appeal hearing due to take place.
- *La Cotte Consulting Ltd v Sovereign Steel*



*Stockholders* [2021] EWHC 1517 (Ch): representing claimant claiming fraud, mistake, unlawful means conspiracy and procuring breach of contract in relation to alleged scrap metal business joint venture, including 3-week High Court trial.

- *Yasin v Whitmore Law Solicitors* [2021] Costs LR 1219: representing successful claimant seeking detailed assessment of solicitor's gross sum bill under s. 64(3) of the Solicitors Act 1964 where more than 12 months had passed since delivery of the bill and no special circumstances existed to justify assessment under s. 70(2)-(3).
- Acting for commercial property consultants in fee claim for over £600,000 for a business rates reduction service.
- Acting for unregulated lender in 3-day trial of claim for repayment of over £380,000 for bridging loan advanced on basis of declaration that intended for business purposes. Defence and Counterclaim alleging that agreement unenforceable under s. 26 of FSMA 2000 as a regulated mortgage contract; alternatively, an unfair relationship under s. 140A(1) of CCA 1974.
- Acting for claimant sub-contractor in claim for unpaid commission, estimated at between £100,000 to £300,000, for sales leads provided. Settled on favourable terms at the door of the court.
- Representing defendant partners in a partnership dispute involving a jointly-owned mixed use property worth around £265,000 rented out for profit. Dispute as to whether property should be sold on open market or the defendants permitted to buy out the claimant's interest at a valuation. Settled on favourable terms.
- Acting for commercial property consultants in quantum meruit claim for over £150,000 for services on aborted lease negotiation.
- Representing company director in High Court claim to rectify the register and for injunction against another director following alleged unlawful filings at Companies House terminating directors' appointments.
- Acting in claim on a home-insurance policy defended by insurer alleging claim forfeited due to insured's use of a fraudulent device.
- Representing Defendant company in successful application for wasted costs of over £50,000 against the Claimant's solicitor.

## **Consumer credit**

Winston provides representation and advice in claims involving all aspects of the Consumer Credit Act 1974 and related legislative provisions. He has represented banks and other financial institutions in claims relating to



consumer credit and consumer hire agreements. His experience includes:

- Improperly executed regulated agreements
- Regulated hire purchase and hire agreements
- Regulated mortgages
- Unfair relationships (ss. 140A-C)

Examples of his work:

- Representing mortgagee in possession claim defended on basis that the mortgage was unenforceable under s. 26 of the Financial Services and Markets Act 2000 as a regulated mortgage contract made by an unregulated lender. Reserved judgment is due to be delivered in January 2022.
- Representing different mortgagees in a number of possession claims defended, among other matters, on grounds that the agreement was an unfair relationship within the meaning of s. 140A of the 1974 Act
- Representing finance company in dispute with individual who hired a car on hire-purchase. Successfully obtained an order striking out allegations of misrepresentation, duress and improperly executed agreement made in the defence and counterclaim.
- Advising an unincorporated association regarding its potential liability under a regulated hire agreement.
- Drafting defence to a claim on a regulated hire agreement raising issues of enforceability of the agreement under ss. 86D and 87 of the 1974 Act.

