



John Virgo

Call: 1983

Email: john.virgo@guildhallchambers.co.uk

Practice:

Commercial team

Professional Negligence

Financial Services

Alternative Dispute Resolution

Professional Negligence

Liability of surveyors, financial advisers and lawyers

Surveyors' Liability

John has acted extensively for insurers and claimants in both defending and bringing actions against surveyors. Defence work has concentrated mainly on proceedings arising out of Building Surveys and Homebuyers' Reports relating to properties in Devon and Cornwall. There has been a particular emphasis on litigation involving Cornish properties affected by mundic decay or blighted by adverse mining searches, where appropriate searches and reports had not been recommended at time of purchase. Claimant work has involved both private litigants bringing claims for allegedly negligent pre-property purchase reports and work for building societies/banks in connection with negligently high valuations. Following the property market collapse in the early 1990's he conducted a series of claims in the TCC in London for one particular building society, which included negligent valuations of (in one case) a Hotel complex in South Wales and (in another action) a Hotel conversion to flats located on the Isle of Wight.

He has also worked on numerous 1954 Landlord & Tenant Act contested renewals for both landlords and tenants - including cases concerning leases of shops and a renewal of a lease of harbour premises in Devon.

Commercial

Mercantile disputes; construction of contracts; exclusion clauses

Financial Services Law and Regulation

John has wide experience in dealing with claims arising from mis-selling of personal pension plans, with-profits annuities, endowment policies, life time mortgages, permanent health insurance policies and a wide range of investment products.

Between 1995 and 1998 he was the lead counsel in litigation arising out of the mis-selling of personal pension plans centred on a specialist list set up in the Bristol Mercantile Court. This court was the national venue for handling some 500 claims, not addressed through the Review process. He headed a team of four other counsel who conducted this group litigation on instructions from the Royal College of Nursing, the GMB Trade Union and UNISON.

In 2000 to 2002 he was retained to advise a group of Non-GAR policyholders wishing to pursue claims for mis-selling of investment contracts by representatives of Equitable Life following the closure of the Society in the aftermath of the Hyman litigation.



Between 2002 and 2007 he was instructed in a group action on behalf of trapped annuitants claiming damages from Equitable Life for the mis-selling of with-profits annuities (conducted in the Commercial Court, London).

John also has experience in the handling of Membership and Disciplinary matters before the PIA Membership and Disciplinary Tribunal and now the Financial Services and Markets Tribunal. In 1998 he represented a major IFA Network, disciplined for delay in the conduct of the Pensions Review. He has acted for a substantial Bristol based firm of IFA's in connection with their contested application for membership of the PIA. He also appeared before the Appeal Commissioner on an appeal from a Tribunal refusal of membership to a firm of IFA's. He has regularly advised authorised persons on regulatory obligations arising out of the Pensions Review and related professional indemnity insurance issues (including subrogated claims by insurers). He has been much concerned with advising on professional indemnity insurance issues following the *Rothschild* decision. He has acted in numerous commission claw back cases both for/against the industry and individual financial advisers, including contribution proceedings between Networks, appointed representatives and life offices where financial products have been mis-sold leading to investor claims. He has experience of applications to the PIA Ombudsman for compensation and the Financial Ombudsman Service.

Reported cases:

Bunney v Burns Anderson 2007 EWHC 1240 – Acted for claimant in challenge to the scope of jurisdiction of the Financial Ombudsman Service in high value claims.

Brinsons v Financial Ombudsman Service [2007] EWHC 2534 – Acted for the Applicant in a challenge to the scope of jurisdiction of the Financial Ombudsman Service over mortgage-endowment linked mis-selling claims.

Baker v Clark [2006] EWCA Civ 464 – Acted for Defendant/Respondent in case concerning efficacy of trustee exoneration clauses protecting occupation pension scheme trustees.

Plymouth & South West Co-operative Society v Architecture, Structure and Management Ltd [2006] EWHC 5 (TCC) – Acted for claimant in case concerned with negligent estimation of refurbishment costs and contract letting.

Seymour v Ockwell [2005] PNLR 758 – Acted for Zurich Independent Financial Advisers, a Part 20 Defendant to a claim for contribution by an IFA relating to a mis-advised investment into the Imperial Consolidated Fund in the Bahamas.

North Devon Homes v Brazier [2003] 2 EGLR 14 – Landlord & tenant - possession - tenant suffering from disability - breach of tenancy - nuisance & annoyance - whether claim for possession unlawful under Disability Discrimination Act 1995 - whether reasonable to grant possession under Housing Act 1988.

Swansea Building Society v Bradford & Bingley (t/a BBG Surveyors [2003] PNLR 740 – Surveyor's negligence - defective building - limitation - knowledge required to start time running - whether deliberate concealment by defendant.

National Westminster Bank v Somer International (UK) Ltd [2002] 1 AER 198 – Availability of defence of estoppel/change of position to restitutionary claims for return of money paid under a mistake of fact.

Devine v Jefferies 2001 Lloyds Law Reports Professional Negligence – Credit for windfall gains in computing damages for negligent surveys.

Loosemore v Financial Concepts 2001 Lloyds Law Reports Professional Negligence 235 – Impact of the Limitation Act on claims for mis-selling personal pension plans.

Truk (UK) Ltd v Tokmakidis GmbH 2000 1 Lloyds Law Reports 543 – International sale of Goods dispute; loss right to reject for delay; acceptance of goods; mitigation of loss.



Woolls v Powling 1999 TLR 163 – Acted for Claimants; use of extrinsic evidence in defining parcel clauses.

Searles v Cann & Hallett 1999 PNLR 494 – Acted for Claimant; scope of solicitor's duty of care to third party in connection with provision of protection scheme for investment plan.

Hale v Guildarch & others 1999 PNLR 44 – Acted for Defendant; no personal liability of employee in respect of negligent advice given in connection with sale of Home Income Plan product.

May & May v Woolcombe Beer Watts 1999 PNLR 283 – Acted for Claimants, use of expert evidence in conveyancing negligence claims.

Cocking v Prudential 1996 CCH Commercial Law Cases 692 – Acted for Claimants; no right to stay of proceedings over pension mis-selling despite availability of PIA Review.

Crocker v British Coal 1995 29 BMLR 159 – Acted for Claimant; Rylands v Fletcher liability and date of knowledge under the Limitation Act 1980.

Rhone v Stevens 1994 2 WLR 429 [HL] – Acted for Claimants; enforceability of positive covenants between successor land owners.

Ex parte Nacquvi 1994 TLR – Acted for Respondent City Council; ambit of duty to provide Renovation Grants.

Bell v McCubbin 1990 1 All ER 54 [CA] – Acted for Claimant; Case B Agricultural Holdings Act 1986; no need for express grant of planning permission if landlord intends to continue residential use of principal farm house; this decision lead directly to and was reversed by the Agricultural Holdings (Amendment) Act 1990.

Education:

MA (Oxon) 1984
Worcester College, Oxford
Graduated in Jurisprudence 1980

Pupillage:

Guildhall Chambers; pupil to John Royce QC (now the Honourable Mr Justice Royce)

Appointments:

Since 1999 John has been an appointed arbitrator with the Centre for Business Arbitration at 11, Old Square, Lincoln's Inn, London WC2A 3TS contact: arbitration@lincolns-inn.com

He is also a door tenant at 5, Stone Building's, Lincoln's Inn, London and happy to conduct conferences from those Chambers if more convenient to solicitors or clients.

Professional memberships:

Professional Negligence Bar Association

Awards:

Sometime scholar of Worcester College, Oxford and winner of the Gibbs Prize in the University Law Moderations.

Publications:

Surveyors' Liability, Law and Practice, Jordans February 1998

Financial Advice and Financial Products: Law and Liability, (co-authored with Gerard McMeel), Oxford University Press, December 2001 (now a loose-leaf edition).



The IFA's Guide to the FSA Handbook, City and Financial Publishing (2003).

A Practical Guide to the FSA's Regulation of Mortgages, City and Financial Publishing (2004).

Mortgage Regulation for Intermediaries, Lexis Nexis (2004)

Compliance Officer's Handbook, Lexis Nexis (2004)

Investment Management, Oxford University Press (contributed - Chapter on Management of With-Profits Funds) due to be published in hardback in December 2009

Market abuse, Oxford University Press (2nd edition, co-authored with Dr Ned Swan and due to be published in March 2010).

Articles:

Numerous articles, principally on financial services and regulatory issues for Compliance Monitor, IFA Review, Compliance Institute Gazette, Journal of Financial Regulation and Compliance, The Lawyer, General Insurance, Pensions Week, Journal of Pensions Management and the Law Society Gazette.

Directory Recommendations:

Chambers UK 2011

Commercial

Financial services mis-selling expert John Virgo continues to thrive and earns praise for his "sense of humour, fast brain and tremendous advocacy." Someone who "gives his all to a case," he is often involved in cases of some significance. By way of example, he recently acted as lead counsel for three trade unions in a group pension mis-selling claim.

Chambers UK 2010

Commercial

John Virgo is "a very competent and effective financial services specialist" with a serious client following. His particular area of expertise is claims arising from financial mis-selling and negligent investment advice, and he has received instructions from Zurich Life, Sun Life and Equitable Life. Sources say he "turns around papers very quickly, gives practical advice and always delivers."

Chambers UK 2009

Commercial

Top junior John Virgo has a formidable reputation for his specialist work involving mis-selling claims.

Legal 500 2010

Commercial

John Virgo is 'bright, streetwise, tenacious, and very commercial'.

Legal 500 2009

Commercial

John Virgo is excellent, with expert knowledge of the financial services arena.

Legal 500 2008

Commercial

Financial services expert John Virgo recently saw the conclusion of the group action against Equitable Life.

**Clerk:**

Please contact Dan Cuthbertson (dan.cuthbertson@guildhallchambers.co.uk)

CFA:

Considered on a case by case basis

DPA:

Yes

Interests:

The operas of Mozart and keeping up with modern French and German, which subjects originally took him to University.