

ROBERT CUMMING

Call 2010

Get in touch

rcumming@2tg.co.uk

+44 (0)20 7822 1200



*"A very good advocate";
"personable and reassuring"*
(Chambers UK)

Practice Overview

Robert has a specialist practice in two core areas: commercial and employment litigation; and clinical negligence and personal injury litigation. He frequently represents clients in trial before the High Court and has appeared in appellate courts (as sole counsel) on numerous occasions. He has particular experience in private international law group actions brought in the English courts by foreign claimants against multinational corporations (often based in Africa).

Chambers and Partners (2019) recommend him as an *"up and coming"* junior, saying *"he is really thorough, intelligent and very sharp"*, and *"very good on his feet. A strong advocate"*. He combines excellent academic credentials with a rigorously practical approach. This, along with his reputation as a determined and tenacious advocate, results in him being instructed on complex and high value matters and often against opponents who are many years his senior.

Before coming to the Bar, Robert graduated from Girton College, Cambridge as the Sir Francis Goldsmid Law Scholar. He subsequently taught undergraduate law at Cambridge, before working for one of the leading offshore law firms in its Guernsey litigation team, where he was involved in a range of commercial disputes with an international flavour. His international practice has continued at the Bar and he is experienced in disputes before the Guernsey and Jersey Courts, Isle of Man Courts, BVI Courts, the Supreme Court of Gibraltar and the Dubai International Financial Centre.

Practice areas

Clinical Negligence
Employment
Personal Injury
Private International Law & Travel

Memberships

PIBA
Guernsey International Lawyers Association

Qualifications

MA (Cantab)
BVC (Certificate of Honour)

Education

Cambridge University



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Highlights of his recent and current work include:

- *Kadie Kalma & ors v Tonkolili Iron Ore (SL) Ltd* [2018] EWHC 120 (QB); and ongoing: Robert, led by Neil Moody QC, acts for the defendant mine in Sierra Leone in respect of a claim by 142 residents arising out of the mine's alleged collusion with the local police who acted with unjustified violence during two public order incidents. This landmark case has attracted significant international press attention and is understood to be the first time that the English High Court has conducted part of a hearing outside of the jurisdiction (2 weeks of the trial were held in Sierra Leone, during which time Robert cross-examined various witnesses), and involved the unprecedented creation of a confidentiality club and various anonymity orders in respect of witnesses on the basis of subjective fears alone.
- *Suetta v (1) Auld (2) MIB* (ongoing): Robert, led by Howard Palmer QC, acts for the claimant in a multi-million pound personal injury claim proceeding before the Supreme Court of Gibraltar. This landmark case is understood to be the first time that such a significant injury is to be dealt with by the Courts of Gibraltar.
- *JJML Pelvic Organ Prolapse* (ongoing): Robert has acted for various defendant NHS Trusts in claims arising out of the high-profile vaginal mesh litigation.
- *Optical Express litigation* (ongoing): Robert (as sole counsel) is currently retained by Optical Express in dozens of linked claims arising out of ophthalmic treatment provided by it.
- *Hawkins v York Teaching Hospital NHS Foundation Trust* [2017] – Robert represented the 26 year old Claimant (as sole counsel against a QC) in a particularly financially complex quantum claim concerning the delayed diagnosis of SLE. The case recently settled a week before trial for a lump sum of £3million and periodical payments of £59,000.

Clinical Negligence

Robert has an extensive clinical negligence practice and is regularly instructed by NHSR and the Defence Organisations. He has experience in claims covering a vast array of medical issues and is adept at quickly getting to grips with complex legal and medical issues. He also has extensive experience in group actions and has acted for various defendant NHS Trusts in claims arising out of the high-profile *JJML Pelvic Organ Prolapse* litigation, and is currently retained by *Optical Express* in dozens of linked claims arising out of ophthalmic treatment provided by it.

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Cases of Note

Watson v Alder Hey Children's Hospital NHS Foundation Trust [2017]: Represented the successful Defendant Trust at trial in a urology claim arising out of the alleged negligent performance of a cystoscopy and re-catheterisation of a child with spina bifida.

Collins v Wirral University Teaching Hospital NHS Foundation Trust [2017]: Represented the successful Defendant Trust at trial in a cardiology claim arising out of the alleged negligent discharge of a patient who was admitted with heart failure.

Gomari v United Lincolnshire Hospitals NHS Trust [2017]: Represented the successful Defendant Trust at a preliminary limitation hearing in an orthopaedic claim arising out of the performance of bunion surgery.

Lopez v George Eliot Hospital NHS Trust [2017]: Represented the successful Defendant Trust at trial in an orthopaedic claim arising out of the alleged failure to identify and treat a hip CAM lesion whilst the Claimant was being treated for a fractured tibia and fibula.

Hawkins v York Teaching Hospital NHS Foundation Trust [2017]: Represented the 26 year old Claimant (as sole counsel against a QC) in a particularly financially complex quantum claim concerning the delayed diagnosis of SLE. The case recently settled a week before trial for a lump sum of £3million and periodical payments of £59,000.

Bouwmeester v Norfolk and Norwich University Hospitals NHS Foundation Trust [2016]: Represented the successful Defendant Trust in a nursing claim arising out of the alleged mismanagement by A&E nursing staff in respect of a patient admitted following an overdose

Kownacki v Wirral University Hospital NHS Foundation Trust [2015] LTL 2/7/2015: Represented the successful Defendant Trust in a surgical claim concerning a damaged spleen after emergency treatment for a perforated duodenal ulcer.

Bond v Norfolk and Norwich University Hospitals NHS Foundation Trust [2015]: Represented the successful Defendant Trust in an A&E claim arising out of an alleged negligent failure to identify that the Claimant had appendicitis on an initial attendance at A&E.

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Employment

Robert has a busy employment law practice in the full range of employment claims. He is an impressive advocate who acts for a wide range of both claimants (usually senior level executives) and respondents from public sector bodies to large international corporations. He is specialist in discrimination and whistleblowing claims and has a busy appellate practice. Robert is acutely aware that advice is often needed at short notice; he has developed a reputation for being able to deliver pragmatic advice within short timeframes and is retained by two PLCs to provide advice in relation to complex internal disciplinary and contractual matters (when a tribunal looks likely to arise).

He has extensive experience in High Court litigation arising out of the employment relationship and issues concerning restrictive covenants, team moves, breach of confidence and breach of fiduciary duty and the obtaining of injunctive relief (given his complimentary commercial litigation practice).

Cases of Note

Employment Tribunal

AW v LL Ltd (2015) – 5 day trial. Represented the successful claimant in his claims for whistleblowing detriment and dismissal and unlawful deduction from wages. Case concerned complex issues of the disclosure having been made at a former employer, TUPE considerations and the “*lago situation*” (i.e. the decision-maker having been manipulated by another).

NM v (1) PIC Ltd (2) Dr S (2015) – 5 day trial. Represented the successful claimant in her claims for sex discrimination and sexual harassment as against a Consultant Plastic Surgeon.

AB v H Ltd (2014) – 6 day trial. Complex sex discrimination and sexual harassment case. Settled during trial.

RW v DES Group (2014) – 3 day trial. Represented the successful claimant in his unfair dismissal claim arising from a summary dismissal for gross misconduct.

GD v S&P NHS Trust (2014) – Represented the successful respondent NHS Trust in an unfair dismissal claim arising from a summary dismissal for gross misconduct.

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Employment Appeal Tribunal

Simmonds v Milford Club [2013] ICR D14 – Represented the successful appellant in this widely reported case concerning the circumstances in which an internal warning, used to justify a subsequent dismissal, can be challenged to argue that the dismissal was unfair.

Personal Injury

Robert frequently appears in trials and disposal hearings in personal injury matters. He also has a busy paperwork practice drafting and advising on a range of road traffic (often tainted with fraud) and employer's liability cases. His experience also extends to injuries in the marine context.

As a keen sportsman, Robert has a particular interest in sport injury claims.

Private International Law & Travel

Robert has significant experience in defending high profile private international law group actions brought in the English Courts by foreign claimants against multinational corporations. Robert, led by Neil Moody QC, is currently acting for the defendant mine in Sierra Leone in the landmark case of ***Kalma & ors v Tonkolili Iron Ore (SL) Ltd*** [2018] EWHC 120 (QB); and ongoing.

His international practice goes beyond Africa and has involved disputes from the Channel Islands to the BVI, and from the Isle of Man to Dubai.

Cases of Note

Kadie Kalma & ors v Tonkolili Iron Ore (SL) Ltd [2018] EWHC 120 (QB); and ongoing: Robert, led by Neil Moody QC, acts for the defendant mine in Sierra Leone in respect of a claim by 142 residents arising out of the mine's alleged collusion with the local police who acted with unjustified violence during two public order incidents. This landmark case has attracted significant international press attention and is understood to be the first time that the English High Court has conducted part of a hearing outside of the jurisdiction (2 weeks of the trial were held in Sierra Leone, during which time Robert cross-examined various witnesses), and involved the unprecedented creation of a confidentiality club and various anonymity orders in respect of witnesses on the basis of subjective fears alone.

Suetta v (1) Auld (2) MIB (ongoing): Robert, led by Howard Palmer QC, acts for the claimant in a multi-million pound personal injury claim proceeding before the Supreme Court of Gibraltar. This landmark case is understood

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to be the first time that such a significant injury is to be dealt with the by the Courts of Gibraltar.

Atkins v Hidden Hearing [2017]: Robert (as sole counsel) acted for the respondent in both England and Jersey in a complex employment dispute, successfully challenging jurisdiction in England and then successfully invoking a limitation defence in Jersey.

Al-Khorafi v Vannin [2016]: Robert (as sole counsel) acted for the Al-Khorafi family in proceedings in Dubai in respect of a dispute arising out of a funding agreement in relation to underlying claims in relation to the miss-selling of various loan notes.

Recommendations

"Really thorough, intelligent and very sharp." "Very good on his feet. A strong advocate."

Chambers UK 2019

"Personable and reassuring. He has a good manner with clients and witnesses. He's a very good advocate, capable of thinking on his feet."

Chambers UK 2018

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