

## ADAM SOLOMON QC

Silk: 2018 | Call: 1998



Adam specialises principally in the fields of Commercial and Employment Law. He also practises in the fields of regulatory and public law, covering areas such as education and sport. He has consistently appeared in the legal directories since 2005 in respect of all his practice areas.

He is recognised as a leading barrister in Chambers & Partners, which describes him as **"An excellent all-rounder, who combines flair in the courtroom with diligence and perseverance." "A rising star."**

As a new silk, the Legal 500 also recommends Adam in the fields of Commercial Litigation, Employment, and Professional Disciplinary and Regulatory Law, stating that he is **"an effective, determined and persuasive advocate with a pleasing court manner"** (Employment). **"His work includes solicitors regulation"** (Professional discipline and regulatory law), and he is **"a tough and uncompromising cross-examiner, well prepared and effective"** (Commercial Litigation).

Adam is also ranked as a leading barrister in Who's Who Legal 2016 where he is described as **"a 'distinguished player' in the field."**

He appears regularly in the High Court, Court of Appeal and the Employment Appeal Tribunal and **"is considered excellent on High Court restrictive covenant injunctions"** (Chambers & Partners). Adam has appeared in the highest courts and tribunals: he was instructed in an appeal to the European Court of Human Rights (on appeal from the House of Lords), appeared in July 2017 in the Supreme Court in the case of *Michalak*, and has also appeared as an advocate on a number of occasions before the Privy Council, including *Adamas v Cheung* [2011] I.R.L.R. 1014 which concerned variation of contract.

Adam is also called to the Bar of the British Virgin Islands, and has recently (summer 2016) appeared in the BVI Commercial Court in a unfair prejudice and share dispute trial, and was successful before the BVI Court of Appeal when responding to the appeal (summer 2017).

Recent legal directory comments include the following:

- **"his arguments are punchy and he is a real fighter"**
- **"he chomps through the work with endless enthusiasm"**
- **"a positive and pragmatic advocate, who is excellent with clients and on his feet"**
- **"always looks to get the best possible result for the client, and never distances himself from problems"**
- **"he has a very can-do attitude"**

- **"handles all aspects of employment and commercial litigation", and is "client friendly, extremely helpful and a witty advocate"**
- **"upbeat can-do attitude", "very tenacious and will fight for the results it needs"**
- **"masters his brief well and his highly tenacious"**
- **"he punches holes in the other side's position..."**
- **"combines intelligence with humour, show great perseverance and manages to charm clients along the way"**
- **"he is so hard-working and dedicated that even if he is super-busy he will always find a way of helping you"**

## Commercial Litigation

Adam's commercial practice includes the areas of commercial fraud, breach of contract, and professional negligence. He also regularly appears in commercial cases requiring urgent injunctive relief, including obtaining or resisting freezing orders, Norwich Pharmacal relief and general restrictive covenant work. Adam also accepts instructions for arbitrations in this jurisdiction and internationally.

Some of his more significant cases include:

- ***Jervis v Skinner*** [2011] UKPC 2 in which Adam successfully represented the respondent in an appeal to the Privy Council from the Court of Appeal in Bahamas concerning a profit share from the sale of land.
- ***Hopkin v Financial Security Assurance*** (UK) Ltd [2011] All ER (D) 142, in which Adam successfully represented the respondent in the Court of Appeal in a case concerning the construction of a share vesting agreement.
- ***Glentree v Holbeton*** [2011] 28 E.G. 74, in which Adam was instructed on behalf of the Defendant in a claim by an estate agency for fees pursuant to the sale of a substantial property. There were a number of interlocutory applications (for freezing orders and other matters) and the claim was originally a multi-party claim, but eventually fought as between claimant and defendant. Adam successfully defended the claim, in which it was held that the Claimant was not the effective cause of sale. Adam was thereafter successful (as respondent) in the Court of Appeal.

Recent cases include:

- ***Centrehigh Ltd v Amen and others*** [2013] EWHC 1448 (Ch) (Led by Clive Freedman QC) Successful defence in the Chancery Division of an application for third party costs against two defendants, arising out of litigation concerning video licensing and the company Telstar Records.
- ***Maurice J Bushell & Co v Born*** [2013] All ER (D) 64 (Feb) Adam successfully represented the Appellant company in the Chancery Division in an appeal against findings of an arbitrator in a dispute as to the entitlement of the defendant to various monies on his leaving the claimant. The case is now going to the Court of Appeal.
- ***Vigeland v Ennismore Fund Management Ltd and another company*** [2012] All ER (D) 115 (Nov) Adam represented the Claimant in his multi-million pound claims for breach of contract and in breach of trust. The Claimant sued his former employer and the Trustee of the Jersey Trust set up to oversee employee benefits. The case turned on the issues of express and implied terms and misrepresentation against the first defendant, and on breach of trust against the second defendant.
- ***Day v Harris et al, High Court, Chancery Division***, 2012 EWHC 2042 (Ch) Adam represented the Claimant, Mr Day, in this Chancery Division matter concerning the estate of the late composer, Sir

Malcolm Arnold, who sought to prove his unpaid contractual rights which had accrued over a period of 22 years. The judge found Adam's submissions "breathtaking" but was nonetheless persuaded that they were correct.

- **United Trust Bank Ltd v Dohil** [2012] All ER (D) 06 Adam successfully represented the bank in respect of its claim under a personal guarantee agreement which the defendant had given on behalf of a third party company.

## Off-Shore Work

Adam has an extensive off-shore practice. He was called to the bar of the British Virgin Islands in 2007 and since then has advised on, and appeared in, a number of cases in the BVI.

These include:

- **Kensington International v Montrow International** (2008), a US\$100m sovereign debt dispute in the BVI, involving allegations of sham corporate personality and fraud.
- **Henley v Poco Loco Enterprises** (2014): Privy Council, a claim arising from insurance damage, and turning on contractual construction. The claim settled the day before the PC.
- **CH Trustees SA v Omega Services Group Ltd et al** 2015 [BVIHC] 0037: Eastern Caribbean Supreme Court, Commercial Division. 5 day trial in July 2016. The claim was for relief for unfair prejudice, and for rectification of the company's register, and was effectively a battle for control of a company group. Adam's clients won, and Adam successfully responded to the appeal in the BVI Court of Appeal in July 2017.

In addition to his BVI work, Adam has appeared on numerous occasions in the **Privy Council** in appeals from various other off-shore jurisdictions including:

- **Jervis v Skinner** [2011] UKPC 2 (from the Court of Appeal of Bahamas)
- **Cheung v Adamas Ltd** [2011] UKPC 32, [2011] IRLR 1014 (from the Supreme Court of Mauritius)
- **Hanna v Imperial Life Assurance Company of Canada** [2007] UKPC 29 (from the Court of Appeal of Bahamas)

Adam has also advised clients in relation to Cayman, Jersey, Mauritius and Bermuda litigation and arbitration matters.

## Business Protection

Adam regularly appears in the High Court in relation to applications for emergency injunctive relief, and full trials arising from the employment relationship.

He accepts instructions on behalf of both claimants and defendants in respect of all aspects of the business relationship including claims relating to:

- enforcing or contesting restrictive covenants;
- confidential information;
- freezing or seizing assets;
- protecting or defending database rights;
- delivery up of documents or property;
- team moves; and
- bonus claims.

Some of Adam's notable civil court business protection cases include:

- **First Rate FX Ltd v Trading by Telephone Ltd and others**: [2014] EWHC 982 (QB); [2014] EWHC 983 (QB). The case involved an alleged team move by a number of foreign currency traders to set up in competition with their former employer, and involved allegations of breach of restrictive covenant, conspiracy to cause loss by unlawful means, inducement to breach contract and unlawful use of confidential information. Adam, representing the Claimant employer, successfully obtained interim orders. There were a number of contested multi-day interlocutory hearings, in which variously, one of the Defendants was struck out, the injunctions were upheld, and a speedy trial ordered. The case settled on the first day of trial.
- **East England Schools v Palmer et al** [2013] EWHC 4138 (QB). Adam successfully represented the Claimant company in the High Court, enforcing post-termination employment restrictive covenants against a former employee, and also to obtain relief and judgment against a new employer.
- **ESL Fuels Limited v Fletcher et al** [2013] EWHC 3726 (Ch). Adam successfully obtained an interim injunction in the Chancery Division against a former employee in respect of use and maintaining confidentiality of a trade secret in circumstances where there were no contractual restrictions.
- **Tenon v Cocking** [2013] EWHC 846 (QB). Adam represented the defendant former employee in this contested interim hearing in the Queen's Bench Division, against a claimant ex-employer (represented by leading counsel). The case concerned enforcement of post-termination restrictive covenants in circumstances in which the employee was raising arguments as to the enforceability of the contract (in light of a lack of consideration), repudiatory breach by the employer (thus making the covenants unenforceable) and delay meaning that the Court should not exercise its discretion.
- **Hopkin v Financial Security Assurance Hopkin v Financial Security Assurance (UK) Ltd** [2011] All ER (D) 142, in which Adam successfully represented the respondent in the Court of Appeal in a case concerning the construction of a share vesting agreement.
- **Brandeaux (Advisers) UK Ltd v Chadwick** [2011] IRLR 224, the leading case on protecting confidential business information, in which Adam obtained both interim and final injunctive relief on behalf of the claimant, and protected information valued in the region of billions of pounds.
- **Rutherford v Seymour Pierce** [2010] IRLR 606. A case in which Adam successfully argued on behalf of an employee for a discretionary bonus.

## Employment Law

Adam regularly appears in the High Court in relation to applications for injunctive relief and trials arising from the employment relationship. He is also often instructed in the Employment Tribunal, EAT and Court of Appeal, on behalf of both employers and employees, and covers all areas of employment litigation. Adam has appeared successfully as an advocate in the Privy Council in an employment dispute from the Court of Appeal of the Bahamas, and is currently instructed to do so again.

Adam is equally relaxed representing employers or individual employees, multi-nationals or trade unions. He undertakes all aspects of employment law, from bonus claims in contract to discrimination, from TUPE to union election law.

Adam has appeared in a number of high profile and legally significant cases, of which some recent ones include:

- **Engel v Joint Committee for Parking and Traffic Regulation outside London** (PATROL) [2013] ICR 1086:[2013] IRLR 787. This was an important case in the EAT determining the extent of judicial immunity. The question for the Court was whether, when allocating cases to judges, the presiding judge was carrying out a judicial function, even if in so doing, he was acting in a discriminatory way.
- **Faleye v UK Mission Enterprises et al** [UKEAT/0061/13/JOJ]. Adam represented the Dubai ambassador to the UK in this multi-party appeal to the EAT following a lengthy trial in the ET. This was the second time the case has gone to the EAT (the first being [2010] UKEAT 0359). The case involved significant allegations of wrongdoing, and Adam successfully obtained reporting restrictions and anonymity orders.
- **Rutherford v Seymour Pierce Ltd** [2010] IRLR 606. Adam successfully represented Mr Rutherford in his claim for an unpaid bonus against the bank. The case was legally significant for deciding that there was no implied contractual term that in order to be eligible to receive a bonus, an employee has to be employed and/or not under notice of termination as at the date of the award.
- **EBR Attridge Law LLP v Coleman** [2010] IRLR 10. Adam represented the Appellant, seeking to determine whether the Disability Discrimination Act can be construed, as required by the European Court of Justice, so as to prohibit direct discrimination against an employee on grounds that they care for a disabled person, even though the DDA in terms protects only those who are disabled themselves.
- **Mireskandari v Law Society** [ET]. Adam was instructed in this case, having appeared on a number of occasions previously on behalf of the Law Society. The Claimant, a solicitor, alleged discrimination in respect of the manner in which he was disciplined by the Law Society.
- **Everett v University of East London** [2009] All ER (D) 38 (Jun). An urgent claim for injunctive relief which went to the Court of Appeal, to seek to prevent a University from dismissing a Vice Chancellor in breach of contract.
- **Johns v Solent SD Ltd** [2008] IRLR 88. Adam successfully represented Anna Johns in the Court of Appeal, the first age discrimination case to reach the appeal courts and described by Age Concern as a "landmark victory".
- **James v Redcats** [2007] IRLR 296. Adam appeared in the ET and EAT in this case, the leading EAT decision on the definition of 'worker'.
- **Canary Wharf v Edebi** [2006] IRLR 416. The leading case on the definition of a grievance for the purposes of the statutory procedures. Adam successfully appealed the decision of the ET.

Other employment work:

Adam has appeared in a number of cases in which individuals have claimed unpaid bonuses;

- He regularly undertakes work in the High Court in respect of enforcing employment contracts, restrictive covenants or obligations of confidence.
- Instructed by Luton Town Football Club in the multi-million pound claim brought against them by their former manager, Mike Newell.
- Adam successfully represented Ms Forsyth, an art teacher employed by Eton College, in her claim for unfair dismissal. The case was widely reported in the press, not least for the allegations made concerning Prince Harry cheating in his exams.
- In respect of trade union elections, Adam was instructed in the case of **AB v CD** [2001] IRLR 808, which determined whether terms could be implied into a Trade Union's rules.

## Regulatory

Adam regularly acts for regulators, and appears before regulatory bodies. During 2013 alone, his regulator clients included the Nursing and Midwifery Council (NMC), the Law Society and Solicitors Regulatory Authority (SRA), the Care Quality Commission, the Architects Registration Board and various healthcare regulators. Adam has appeared both before the relevant regulatory boards themselves, and also before the High Court and Divisional Courts in challenges to regulatory decisions. He also advises and acts for individual professionals in the process of regulation, including dentists, doctors, lawyers, legal executives and accountants.

Some of his recent high profile cases include:

- ***Nowak v (1) Nursing and Midwifery Council (2) Guy's and St Thomas' NHS Foundation Trust*** [2014] EWHC 336 (QB) and [2013] EWHC 1932 (QB) (ongoing). Adam continues to act for the NMC in this litigation, which has already occasioned a number of reported judgments.
- ***Adesemowo v Solicitors Regulation Authority*** [2013] EWHC 2020 (Admin), [2013] All ER (D) 217 (Aug). Adam represented the SRA in this High Court challenge to a decision of the Solicitors Disciplinary Tribunal (SDT). In an important judgment, the Court considered the scope of an appeal under Section 49(1) of the Solicitors Act 1974, and dismissed the claimant's claim.
- ***R (on the application of Farrell) v Architects Registration Board*** [2013] NLJR 21. This case, recognised by the Judge to be "important", was the first case to determine the scope and effect of CPR Part 3.3 as regards the correct procedure for costs in judicial review.
- ***R (on the application of Agarwal) v The University of Nottingham*** [2013] All ER (D) 322 (May). Adam represented the Defendant at the full merits hearing of this judicial review, and was successful in having the claim dismissed, with costs.

## Sports

Adam is recommended in the most recent edition of Legal 500 as a leading junior for Sports work.

Adam has represented clubs, players and trainers in both civil litigation and regulatory work.

- ***Fretwell v O'Neill***. Adam represented the champion racehorse trainer, Eoghan O'Neill, in a long-running partnership dispute in the Chancery Division concerning the stables and gallops.
- ***Newell v Luton Town Football Club***. Adam represented the football club in the Employment Tribunal in this multi-million pound claim, following allegations of unfair dismissal and whistleblowing brought by the ex-manager.
- ***Football Association v Peter***. Adam represented a former Director of Luton Town FC in disciplinary proceedings brought against him by the FA.
- ***McCallister v Tottenham Hotspur Football Club***. Adam successfully represented Spurs in a claim arising out of the employment relationship.
- ***Re Bishop's Stortford Football Club***. Adam represented the local authority in a planning matter before an inspector, and thereafter in the High Court, in relation to the football club's development of its pitch and grounds.

## Arbitration

Adam has acted in relation to a number of arbitrations including under the ICC and LCIA rules. He has also advised and acted for clients seeking stays to enforce arbitration clauses, on the enforceability of arbitration



clauses, and in respect of the enforceability agreements and awards.

Examples of arbitration cases include:

- Junior Counsel (with Charles Samek QC and David Holland QC) in the appeal to the Court of Appeal from the judgment in *Michael Wilson & Partners Ltd v Sinclair and others* [2012] EWHC 2560 (Comm), concerning abuse of process following arbitral proceedings (judgment awaited)
- *Maurice J Bushell & Co v Born* [2013] EWHC 7 (Ch) – Adam successfully appealed to the High Court on behalf of the Claimant, setting aside an arbitral award under ss 68 and 69 of the Arbitration Act 1996
- *Z et al v P Ltd* (2016): Acting as sole counsel for Claimants in £25million claim concerning earn-outs following a business sale, under LCIA rules.
- *X LLP & Y LLP v Z*: Acting for Claimant LLP in an international arbitration against a former member concerning LLP member's rights and obligations (ongoing). *Ad hoc*
- *A Ltd v B LLP*: Acting for Claimant in an *ad hoc* arbitration concerning breach of contract (ongoing)
- *S LLP v L & K*: Acting for Respondents in a London arbitration concerning a Bahamian LLP."

## Publications

Adam has published both books and articles. Adam was also formerly the contributing editor of the Education Law Review, for whom he wrote a number of articles.

### Books

- Contributing author to *Security for Costs and Other Court Ordered Security*, Jordans, 2010
- Contributing author to *Butterworths Employment Law: Practice, Procedure & Precedents* (5th Edition), 2007
- Contributor author to "Commercial Judicial Review" by P. Engelman, 1st ed., 2000 (Sweet & Maxwell)

His published articles include:

- "Sports Law Update", *Solicitor's Journal* 2009, Vol 153 (14)
- "The Cost of Asylum" *Solicitor's Journal* Vol. 146 (44)
- "Exporting Human Rights - the extra territorial application of the HRA" *Solicitor's Journal* Vol. 145 No. 19
- "Delay and when to bring proceedings for judicial review", *Judicial Review*, May 2001
- "Interim Declarations: a new power?", *Judicial Review*, January 2001
- "New Competition for Supermarkets" *DAC House Journal*, April 1999
- "How to stop "Go" - competition law in the air" *Freight Transport Buyer*, 07.1998
- "The Long Arm of European Competition Law" *Journal of American Institute of Defence Counsel*, 03.1998
- "Arbitrators are not lawyers" *Lloyds List*, 11.1997
- "The EC Directive on Commercial Agents" *Freight Transport Buyer*, 11,1997
- "Law on trial in Kazakhstan" *Legal Action*, the journal of the Legal Action Group, 11.1997, following participation in the Law Society's pro-bono project to teach law in Kazakhstan