

XXIV

OLD BUILDINGS

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Edward Cumming KC

Call: 2006 | Silk: 2018

He is phenomenally bright and has an insane capacity for work - a real dynamo. His written work and advocacy put clients at ease." "A strong advocate - he's quick on his feet, thorough, very bright and a pleasure to work with.

Chambers & Partners 2021 (UK and Global)



Edward Cumming KC – **"a superstar in the making"**, who was one of the youngest-ever silks upon his appointment – specialises in most areas of chancery and commercial work as part of his busy practice.

Described as **"the perfect modern barrister"** and **"just one of the best around"** in the latest legal directories, Edward is recommended as a 'Leading Silk' in nine categories in Chambers and Partners (2022) which ranks him for commercial chancery, traditional chancery, charities, and offshore disputes as well as for commercial litigation, civil fraud claims, banking & finance, company law and art and cultural property law. Having long been recognised as **"a lion in court,"** Edward is said, in its latest edition, to be **"delightful and brilliant – he's just relentlessly good and relentlessly charming"**, **"a strong advocate, quick on his feet, very thorough, very bright and a pleasure to work with"**, and **"a tenacious silk who is very eloquent and meticulous on detail"**. **"Imaginative and super bright"**, he is **"very good at mastering the facts and the law"**, **"gets to grips with things easily... and really fights your corner"**. At the 2020 UK Bar Awards, he was one of three QCs shortlisted for the accolade of 'Chancery Silk of the Year'.

Legal 500 ranks him as a 'Leading Silk' in five categories, observing that he is **"highly intelligent, quick to pick up the core points including points missed by others"** and offers **"huge amounts of energy, and an appetite to get involved in the detail of the matter"**. Combining **"humour, hard work, stamina and a very large brain – nothing phases him"**.

Solicitors praise him as **"a formidable advocate and masterful in designing strategies"**, as well as a **"great team player who combines intellect with great enthusiasm"**. Edward is **"the antithesis of an inaccessible advisor in an ivory tower"**, and **"so bright, you get the feeling that there isn't anything that he doesn't know"**. He **"particularly stands out for his ability to relay advice in a client-friendly way"** (while he is also **"not afraid to make his views very clear to difficult clients"**) and he couples this with **"a fearlessness that makes him fight hard for his clients"**.

Edward read Law at Downing College, Cambridge where he was President of the Cambridge Union. After leaving Cambridge he was a Thouron Fellow at the University of Pennsylvania, studying at both the Law School and Wharton Business School. He then became director of a group of engineering and property management companies, acquiring a practical understanding of the commercial realities of business and, in particular, company law, before completing pupillage at XXIV Old Buildings.

Edward is called to the Bar of the Eastern Caribbean.

Highlights of his recent work include:

- *Advinia Care Homes Limited v Bupa Care Homes Investments (Holdings) Limited & others* [2020] EWHC 1563, (Ch), [2020] EWHC 3607 (Ch), [2018] EWHC 2963 (Ch): Edward represented Bupa, the well-known not-for-profit international healthcare group, throughout this multi-million pound commercial dispute arising from the takeover of various care

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homes by another healthcare provider that culminated at a three-week trial in early 2021.

- Sir Frank Bowling OBE RA v Hales Gallery (ongoing): Edward acts for one of Britain's finest living artists in his high-profile claim against his former gallery for the payment to him of the proceeds from sales of his artwork, and the delivery up of other artworks that the gallery refused to return.
Lehtimäki v Cooper & others; The Children's Investment Foundation Fund (UK) v HM Attorney General & others [2020] UKSC 33: Edward appeared in the Supreme Court for the successful appellant (the well-known philanthropist, Jamie Cooper) in this hard-fought dispute. The Supreme Court's decision is the leading authority on the extent of the court's inherent jurisdiction to supervise the administration of charities, and the duties of members of a company limited by guarantee.
- WX v HX & others [2021] EWHC 241: Edward successfully defended the interests of the beneficiaries of substantial Barbadian trusts in ancillary relief proceedings arising from their parents' divorce in which their mother had sought relief treating trust assets as matrimonial assets.
St John's Trust Company (PVT) Ltd v Watlington and others [2020] SC (Bda) 51 Civ and (ongoing): Edward acted for the successful applicants in this bitter dispute arising from a battle for control of a company that acted as trustee of a Bermudian trust holding assets worth billions of dollars. He has also represented the same parties in separate ongoing trust proceedings and in relation to potential claims arising from what is alleged to have been the largest-ever US tax fraud.
- Yukos International UK BV and others v Merinson [2019] EWCA Civ 830 (Comm): Edward acted for Mr Merinson in relation to this claim – said to be an unjust and improper attempt to punish him for trying to “blow the whistle” regarding wrongdoing by those in charge of the Yukos Group – in which Mr Merinson was alleged to have received “kickbacks” amounting to millions of pounds from financial institutions with which he negotiated the Yukos Group's banking arrangements. The Court of Appeal's decision on Mr Merinson's jurisdiction challenge provides the only judicial consideration to date of the meaning of the phrase “after the dispute has arisen” in article 23(1) of Regulation (EU) 1215/2012, the Brussels I Regulation (Recast).
- In the matter of Z [2019] EWCOP 55, and [2018] EWHC 1488 (Ch): Edward appeared on behalf of the brother of a successful businessman (Z) in complex and substantial proceedings in the Court of Protection concerning Z's capacity to manage his property and affairs, the validity of various powers of attorney (and whether they had been validly revoked), who should manage Z's property and affairs, and questions regarding Z's contact with his wider family.
- Wood v Sureterm Direct Ltd & Capita Insurance Services Ltd [2017] AC 1173: Edward appeared as sole counsel in the Supreme Court, before Lord Neuberger, Lord Mance, Lord Clarke, Lord Sumption and Lord Hodge, in what is now the leading authority on the proper approach to the interpretation of contracts, having acted throughout on behalf of Capita in the underlying multi-million pound dispute that arose from Capita's takeover of a leading specialist insurance broker.
- In the matter of the X Trusts [2018] SC (Bda) 56 Civ and (ongoing): Edward appeared in the Supreme Court of Bermuda on behalf of trustees of a trust structure (said to be worth in the region of £5 billion) in a – failed – attempt by a group of beneficiaries to remove the trustees (or their directors).
- Libyan Investment Authority v Société Générale SA & others [2017] EWHC 390 (Comm), [2015] EWHC 550 (Comm) and (ongoing): Edward, led by Mark Howard QC, Roger Masefield QC, Craig Orr QC and Andrew George QC, also acts for the LIA as lead junior on its claim to set aside various derivative investments of around US\$2.1 billion made during the Gaddafi era and said to have been procured by a fraudulent and corrupt scheme. The case has been chosen by The Lawyer as one of the top 20 cases of 2017.
- Viscount Weymouth v Parry & others (2015-2016): Edward, initially as sole counsel and subsequently led by Alan Steinfeld QC, acted on behalf of Viscount Weymouth in his claim to remove one of the trustees of the trusts of the famous Longleat Estate.
- Libyan Investment Authority v Goldman Sachs International [2016] EWHC 2530 (Ch) and [2014] EWHC 3364 (Ch): Edward, led by Roger Masefield QC and Philip Edey QC, acted for the LIA in relation to its claim that, during the Gaddafi era, Goldman Sachs procured the LIA to enter into derivative investments of around US\$1.2 billion by undue influence and/or that the investments were unconscionable bargains. The case – which was heard at a two-month trial in the Chancery Division in mid-2016 – was chosen by The Lawyer as one of the top 20 cases of 2016.
- Crociani and others v Crociani and others (2015) 17 ITELR 624, [2014] UKPC 40, [2014] All ER (D) 287 (Nov), [2014] JCA

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095, and [2014] JCA 089: major trust litigation in both Jersey and Mauritius, involving claims for more than US\$100 million for alleged breaches of trust. In October 2014 Edward appeared in the Privy Council on behalf of the former and present trustees, resulting in the leading decision on jurisdiction clauses in trust instruments, a judgment which STEP has described as “landmark” and as having “far-reaching implications for trust lawyers”.

- *Fox v Hall* [2015] EWCA Civ 794, [2014] All ER (D) 78, [2014] EWHC 2747 and [2014] EWCA Civ 930: Edward acted as sole counsel for the successful defendant (the son-in-law of an Oscar-winning actor). The claim concerned (a) alleged harassment said to arise from the defendant’s own earlier pursuit of harassment proceedings and a complaint to the police regarding the claimant’s attempts to recover an alleged debt, and (b) whether, in fact, any debt was owed. The final judgment, given after a week-long High Court trial, praised Edward’s “forceful and skilful cross-examination” as well as the “skill and courtesy” with which he successfully presented the defendant’s case.

Expertise

Art, Cultural Property & Luxury Assets

Edward is often instructed in disputes between major auction houses, vendors and purchasers (or potential purchasers) concerning provenance and the true ownership of important pieces of art, he is a respected lecturer on the subject of art litigation, having spoken at a symposium entitled “Dealing in Looted Art from Post-Conflict Countries” during Frieze London (which has led to Edward being involved in founding a group to promote industry action to combat dealing in looted art and cultural property).

Aviation & Travel

Aviation litigation has always formed a substantial part of Edward’s practice, and he is familiar both with a wide-range of technical matters as well as the complexities and nuances of issues relating to aircraft maintenance regimes and the regulation of aviation more broadly. During the course of his career, he has been retained by many of the largest airlines and airport operators and has appeared in some of the leading aviation cases, including the first case to consider the meaning of ‘airworthiness’ of an aircraft, *Olympic Airlines (in special liquidation) v ACG Acquisition XX LLC* [2013] EWCA 369 and [2012] EWHC 1070 (Comm), which was also the first case in which a court has refused summary judgment for rent despite the lessee having signed a certificate of acceptance.

Highlights of his most recent work include:

- **Optimares v Qatar Airways (ongoing)** – Edward acts for Qatar Airways in these ongoing Commercial Court proceedings, in which more than US\$100m is in dispute, regarding the airline’s decision to terminate orders for new seats and associated equipment for a significant proportion of its fleet.
- **LCIA arbitration (ongoing)** – Edward acts for an airport that is a leading international hub in a EUR35m dispute with a leading budget airline.
- **Toerama v Odyssey Aviation (2020)** – Edward acted for the vendor in this US\$30m dispute concerning the abortive sale of a B737-72U aircraft.
- Edward has long advised **Heathrow Airport** on a variety of contractual issues with airlines and third party service providers.
- **Aldersey Aviation Ltd v Murray** – Edward represents an experienced pilot in this claim by his former employer for damages allegedly resulting from a collision which took place as the pilot landed a Gulfstream Commander at Chester

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Airport.

Banking & Financial Services Disputes

Edward has a broad experience of a range of banking and financial services disputes (both retail and commercial, domestic and international) in addition to his particular experience of hedge fund disputes.

He has advised on cases involving capital markets and the trading of financial derivatives including disputes over contracts for differences, spread bets and options. He has developed a good understanding of the Financial Services and Markets Act 2000 ('FSMA 2000'), as well as having particular experience of financial and corporate regulation in Guernsey (where he is presently instructed on a multi-million pound claim for fraudulent/negligent investment advice) and the BVI.

He also frequently acts on and advises in relation to cases involving guarantees, indemnities and security rights in relation to real and personal property (particularly where they may involve challenges to creditors' rights).

Edward has experience of a wide variety of mis-selling claims (acting for financial institutions, other businesses and retail customers). In recent years he has developed particular expertise in disputes arising from the sale by various major banks of interest rate hedging products (including swaps, caps, floors and collars) to small business customers.

He was recently instructed, with Alexander Pelling, in a FFA dispute in the Commercial Court and regularly undertakes a range of work for spread-betting companies.

He is presently heavily engaged in **Re Carlyle Capital Corporation (in liquidation) (ongoing)**. Edward acts for the Carlyle Group (the renowned American based global asset management firm) and its high-profile directors in a multi-jurisdictional, \$1 billion investment management dispute arising from the insolvency of Carlyle Capital, its Guernsey-based mortgage investment spin-off. The matter has been the subject of bitterly disputed and ongoing jurisdiction battles in Delaware, Washington DC, New York and now Guernsey.

Civil Fraud & Asset Recovery

Edward has a particular interest in civil fraud and asset recovery disputes. He has acted in several major dishonesty and fraud cases, often involving international elements, and has extensive experience of freezing injunctions (including their discharge and abuse), orders for disclosure and other asset preservation and tracing remedies (including those involving offshore trusts).

Recent work in this area includes:

- **Thomas & Pick (as liquidators of GBI Investments Ltd) v Jakes & Nestarec [2012] EWHC 525 (Ch), [2011] EWHC 2619 (Ch)**: acting as sole counsel Edward successfully pursued an application to commit two company directors to prison for contempt of court in (a) transferring bearer shares to a third party, despite an order that they deliver them up to English liquidators, and (b) deliberately deceiving the court at an earlier hearing by advancing a false case. Each respondent was sentenced to 1 year's imprisonment.
- Edward continues to advise the liquidators of GBI Investments Ltd regarding ongoing international asset recovery matters (encompassing jurisdictions including Slovakia, the Czech Republic and the United States).
- Being instructed on behalf of receivers in **Cadogan Petroleum Plc v Tolley** a major fraud claim in the Chancery Division.
- Assisting a Manx company in a multi-million pound claim before the Royal Court of Guernsey for fraudulent investment advice.
- Acting for one of the oldest art galleries in the world in a claim against the sole director of a sales agent for dishonest assistance and knowing receipt.

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Together with Elspeth Talbot Rice QC he successfully opposed an application for permission to amend to allege fraud in **Fattal and others v Walbrook Trustees (Jersey) Ltd and others [2011] 1 All ER (Comm) 647, [2010] EWHC 2767 (Ch)**, a case concerning alleged mismanagement and abuse of a complex offshore trust and corporate structure.

Commercial Litigation

Edward deals with a wide range of contractual and other commercial and business disputes in the High Court, the County Court and arbitration. Having studied in the USA at the University of Pennsylvania Law School and the Wharton Business School, Edward has particular strength in international and offshore matters in line with XXIV Old Buildings' expertise in this area. He has extensive recent experience of disputes in which important principles of the conflict of laws (including jurisdiction and proper law disputes) have proved decisive, and of applications for anti-suit injunctions.

He is recommended for commercial dispute resolution by Chambers & Partners 2014, which notes that "[s]ources are quick to highlight him as a junior to pay close attention to whose expertise belies his year of call" and observes that Edward "has already developed superb advocacy skills and has sound judgment".

Highlights of his recent work include:

- **Re Carlyle Capital Corporation (in liquidation) (ongoing):** Edward acts for the Carlyle Group (the renowned American based global asset management firm) and its high-profile directors in a multi-jurisdictional, \$1 billion investment management dispute arising from the insolvency of Carlyle Capital, its Guernsey-based mortgage investment spin-off. The matter has been the subject of bitterly disputed and ongoing jurisdiction battles in Delaware, Washington DC, New York and now Guernsey;
- Acting on behalf of a leading London art dealer in the latest round of litigation in **HRH Prince Jefri Bolkiah v Brunei Investment Authority** being pursued in both London and New York;
- A multi-jurisdictional banking dispute worth around US\$100 million between a Bahamian company (for which Edward acted along with David Brownbill QC) and a leading Swiss financial services provider. Edward was heavily involved with a jurisdiction challenge in Singapore which was ultimately resolved by the Singapore Court of Appeal (Singapore's highest court);
- Acting as sole counsel against a leading silk in an LCIA arbitration concerning an aviation dispute worth over US\$11 million;
- Acting with Alan Steinfeld QC and Elspeth Talbot Rice QC in major Chancery Division litigation by which one of four offshore trusts claimed to be entitled to exercise a right of pre-emption in relation to another trust's interest in companies owning a substantial London commercial and residential property;
- **Chapman v Wilson and others [2010] EWHC 1746 (Ch):** Edward appeared on behalf of the successful defendants in a week-long Chancery Division trial of this multi-million pound dispute. The case concerned the validity of a creditor's appointment of LPA receivers over various assets, including debts and work in progress, of a troubled solicitor's firm and raised novel questions about the steps necessary under the Bills of Sale Acts to perfect and allow enforcement of various types of security over an individual's assets;
- **Eagle Aircraft Leasing v Air France (2009-2010):** Edward was led by Steven Thompson (as part of a team of counsel from XXIV Old Buildings representing Air France) in this complex Commercial Court claim concerning the delivery of six Boeing 747-400s pursuant to agreements for their sale and purchase;
- Appeared with Elspeth Talbot Rice QC for creditors of Oilexco North Sea Limited, both at first instance and on the expedited appeal, in **Oilexco North Sea Ltd and others v Harms Offshore AHT "Taurus" GmbH & Co KG and another [2010] Ch 187, [2010] 2 WLR 349** the leading Court of Appeal judgment on the courts' power to grant anti-suit injunctions in support of insolvency proceedings;
- Representing the estate of a significant artist in a dispute over one of the artist's most significant pieces (with Elspeth Talbot Rice QC);
- Advising a well-known provider of financial services about its potential liability as custodian of a Guernsey-based hedge

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fund affected by the Madoff litigation and potential clawback issues (with David Brownbill QC);

- Lady Henrietta St George & others v Sir Jack Hayward & others (2008-2009): Edward was instructed (with Stephen Moverley Smith QC and David Herbert) in litigation concerning ownership and control of Freeport, the second-largest port in the Bahamas;
- Alberg v Kenexa Corp (2008): appeared on behalf of a director and former majority shareholder of a market-leading psychometric testing company in a dispute over 'earn out' provisions of a share purchase agreement and associated disclosure requirements;
- Successfully defending the former chief executive of a prominent sporting body against a claim alleging that he had personally guaranteed certain of the body's debts;
- Successful applications for a worldwide freezing injunction both with and without notice in support of a claim regarding the sale of a property in breach of trust in the High Court;
- Appearing for a well-known clothing brand in a multi-jurisdictional dispute over a terminated distribution agreement with the brand's French distributor;
- Acting for a leading hotel and conference centre in a claim against a professional body for unpaid fees relating to a national conference, involving counter-allegations that the facilities and services provided were inadequate; and
- A wide variety of claims concerning sale of goods, breaches of warranty and the extent of indemnities in share purchase agreements.

His experience also covers a range of interim and enforcement measures, including freezing orders (their discharge and abuse), orders for disclosure (in particular working with leading and junior counsel on an application for non-party disclosure under CPR 31.17), applications to set aside default judgment, security for costs, unless orders, charging orders and third party debt orders.

Edward has written an article on "[Economic torts after Douglas v Hello](#)".

More details of Edward's experience of financial services disputes, hedge fund disputes, civil fraud claims and asset tracing can be found by clicking the relevant box .

Company

Edward has particular experience and expertise in company law and related matters, including:

- Unfair prejudice petitions pursuant to s.459 of the Companies Act 1985 and s.994 of the Companies Act 2006 (together with applications for urgent injunctions in support of such petitions);
- Petitions for just and equitable winding-up;
- Winding-up petitions in the Companies Court;
- Applications for injunctions restraining presentation and/or advertisement of winding-up petitions;
- Derivative actions;
- Actions for specific performance of share transfer agreements, including a recent claim concerning a fund based in Hong Kong and investing in North Korea;
- Claims concerning directors' duties and responsibilities;
- Civil fraud claims in a corporate context;
- Drafting of share purchase agreements;
- Drafting of memoranda and articles of association, minutes and other corporate documents;
- Advisory work on company structuring and the launch/listing of offshore funds;
- Directors' disqualification proceedings and applications for permission to act as a director notwithstanding disqualification.

Edward was led by Lawrence Cohen QC in obtaining evidence in aid of proceedings in Texas concerning the valuation of a unique type of very high-value redeemable preference shares in a multinational oil-trading company: *L v L* (2009).

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Edward was also recently instructed on an urgent basis for a major shareholder and director in a dispute with other shareholders and directors over control of a large group of computer software companies based in both the US and the UK.

Crypto & Digital Assets

Edward is co-author of the disputes chapter in *Crypto and Digital Assets Law and Regulation* published by Sweet and Maxwell in December 2023.

Hedge Funds & Structured Investment Vehicles

Edward has an exceptional understanding of hedge fund structures and operation having twice been retained for a substantial period of time to advise one of the leading offshore firms on a number of fund matters – both litigious and transactional – in both Guernsey and the British Virgin Islands.

His experience of hedge fund disputes, multinational shareholder disputes, asset tracing claims (involving offshore trusts and listed multinational companies) and international civil fraud matters includes having recently:

- advised regarding provisions in the articles and offering memorandum of a (Cayman Islands) fund relating to gating redemptions and redemption management;
- advised a well-known provider of financial services about its potential liability as custodian of a Guernsey-based hedge fund affected by the Madoff litigation and potential clawback issues (with David Brownbill QC);
- acted on behalf of the administrator of another Guernsey-based fund in relation to a potential negligence claim against its auditors; and
- been instructed in a multi-million pound dispute between managing partners of a hedge fund as to how the fund's profits and losses from its various domestic and international operations should be distributed between them;
- acting for the Carlyle Group (the renowned American based global asset management firm) and its high-profile directors in a multi-jurisdictional, \$1 billion investment management dispute arising from the insolvency of Carlyle Capital, its Guernsey-based mortgage investment spin-off.

Insolvency

Edward has a particular interest in both corporate insolvency and bankruptcy. He has been repeatedly recognised as a leading insolvency junior by Legal 500 which has recommended him as a "rising star". He has developed a well-respected practice and has a particularly loyal client base. As well as being an expert contributor to Tolley's Insolvency Law, his recent work includes:

- **Thomas & Pick (as liquidators of GBI Investments Ltd) v Jakes & Nestarec [2012] EWHC 525 (Ch)**, [2011] EWHC 2619 (Ch): Edward has advised the liquidators of GBI Investments Ltd on various matters arising from the complicated liquidation of the company, including many difficult issues of cross-border insolvency. Most recently he successfully pursued an application to commit two directors to prison for contempt of court in (a) transferring bearer shares to a third party, despite an order that they deliver them up to the liquidators, and (b) deliberately deceiving the court at an earlier hearing by advancing a false case. Each respondent was sentenced to 1 year's imprisonment.
- Appearing successfully at first instance and on appeal in one of the leading recent cases on the remuneration of officeholders which was cited with approval in *Brook v Reed* [2011] EWCA Civ 331, the leading Court of Appeal authority. Edward successfully opposed an appeal by a trustee-in-bankruptcy against an order fixing the amount of his remuneration and expenses at a little over a tenth of the total amount he sought before Proudman J: *Hunt v Yearwood-Grazette* [2009] BPIR 810.

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- Acting (with Elspeth Talbot Rice QC) for creditors of Oilexco North Sea Limited both at first instance and on the expedited appeal in *Oilexco North Sea Ltd and others v Harms Offshore AHT "Taurus" GmbH & Co KG and another* [2010] Ch 187, [2010] 2 WLR 349, [2009] 2 BCLC 473, the leading Court of Appeal judgment on the courts' power to grant anti-suit injunctions in support of insolvency proceedings.
- Pursuing a complicated challenge to an IVA in *Re Tappenden* (2011-2012).
- Advising a major multi-national group regarding migration of its COMI under the EC Regulation on Insolvency.
- An application in the High Court on behalf of a trustee-in-bankruptcy in which he successfully obtained a worldwide freezing injunction against the assets of a bankrupt and his wife.
- Frequent applications to the High Court in respect of administrators' appointments.
- Frequent applications for annulment of bankruptcy orders.
- Written advice concerning the application of the Insolvent Partnerships Order 1994.
- Written advice on the consequences of annulment of a bankruptcy order.
- Litigation and advice in relation to the Company Directors' Disqualification Act 1986 including applications for permission to act notwithstanding disqualification. Edward also regularly speaks about this area to professional audiences.
- Litigation and advice in relation to possession and sale proceedings.
- Frequent appearances in the Companies Court pursuant to winding-up petitions, on applications to restrain presentation and/or advertisement of winding-up petitions and on applications for validation orders.

Edward, together with Elspeth Talbot Rice QC, has produced a [Legal Update](#) on the Court of Appeal's decision in *Bloom v Harms Offshore GmbH & Co KG* [2010] 2 Ch 187.

Their article "[How long is insolvency's arm?](#)" has been published in *Insolvency Intelligence* on 7th July 2010 and the *Solicitors' Journal* in October 2010.

His latest podcast with Elspeth Talbot Rice QC is on the topic of "Anti-suit injunctions in insolvency proceedings"

Partnership & Joint Ventures

Edward has acted in a wide range of partnership and joint venture disputes, an area of practice in which his business experience proves particularly invaluable.

In ***Keegan v Fitzgerald (2011) LTL AC0130343*** Edward successfully obtained summary judgment on behalf of the defendant in a bitter joint venture dispute. He persuaded the court that a partner who had been required by the set-off provisions in a facility letter, by which a bank had extended a multi-million pound loan to the partnership, to allow funds which the bank held for him personally to be used to reduce the loan to the partnership could only recover a contribution from the defendant by the taking of an account in equity after the dissolution of the partnership. He was not entitled to pursue a debt claim under CPR Part 7.

He has also recently advised on a claim for the dissolution of a solicitors' partnership (where one partner was suspected of frequent unauthorised withdrawals from the partnership account) and a dispute between former partners of a major hedge fund (where there were LLPs and partnership assets in both the UK and the Cayman Islands). He also appeared successfully in a dispute over a partnership which conducted a travel agency business specialising in flights for the Hajj.

In 2010 and 2011 much of Edward's time was spent on a massive joint venture dispute in the Chancery Division (see, for example, ***Fattal and others v Walbrook Trustees (Jersey) Ltd and others [2011] 1 All ER (Comm) 647, [2010] EWHC 2767 (Ch) and Fattal and others v Walbrook Trustees (Jersey) Ltd and others [2010] EWHC 3049 (Ch)***) by which one of four trusts claimed to be entitled to exercise a right of pre-emption in relation to another trust's interest in companies owning a substantial London commercial and residential property. Edward was instructed together with Alan Steinfeld QC and Elspeth Talbot Rice QC.

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Professional Negligence

Edward has acted and advised in a range of professional negligence claims against trustees, auditors, custodians, investment managers both in England and offshore. Recent highlights of his experience include:

- a multi-million pound claim for allegedly fraudulent/negligent investment advice given to a Manx company by a Guernsey-based investment advisor;
- advising the administrators of a prominent Middle Eastern bank about potential claims against its auditors;
- acting in a claim against a firm of accountants arising from the way in which they handled a client's bonus payments which were paid to them rather than their client; and
- advising a well-known provider of financial services about its potential liability as custodian of a Guernsey-based hedge fund affected by the Madoff litigation and potential clawback issues (with David Brownbill QC).

Real Estate Litigation

Edward has a broad experience of property disputes, including possession actions, residential and commercial landlord and tenant (in particular distress and issues arising from service of notices), proprietary estoppel and constructive trust claims and disputes regarding boundaries and rights of way in the High Court, County Courts and Leasehold Valuation Tribunal. In particular:

- Edward successfully represented a large group of leaseholders in the three-day trial of a half-a-million pound service charge dispute with their local authority freeholder in the Leasehold Valuation Tribunal: **Fleury & Ors v Westminster City Council (LON/00BK/LSC/2007/0086)**.
- He represents a residential tenant in an ongoing dispute with her landlord, its managing agent and the cleaners of the block of flats after the cleaners entered her flat whilst she was away and threw out all of her belongings rather than an adjacent flat which had recently become vacant at the end of a tenancy.
- **Zambra Investments Ltd v Patel & Bagasrawala (LON/00AJ/LBC/2010/0018) (2010)**: Edward acted for the successful Respondent in this claim for a declaration under s.168 of the Commonhold and Leasehold Reform Act 2002 that the Respondents had breached covenants in their leases.
- **RSPCA v Bowe (2008-2009)**: Edward successfully acted on behalf of the RSPCA in this Chancery Division claim against a former employee for sums owed under the terms of an employee shared equity scheme.
- He was recently instructed on behalf of a restaurant owner in the trial of a claim by owners of the property neighbouring the restaurant that his user breached the terms of a restrictive covenant which permitted only the running of a "high-class" restaurant from the premises.
- Edward frequently advises and has particular experience of both pursuing and defending claims for fees and commission in respect of 'introductions' to property transactions.
- He also has experience of construction-related disputes and multi-party litigation arising from property-development joint ventures. This year he has represented a builder in the three-day trial of a dispute arising from his construction of a loft conversion in which Edward's rigorous cross-examination proved decisive and is currently acting for a firm which seeks to recover significant unpaid fees in respect of the construction of a development of 30 sustainable "eco-homes".

Sports Law

As a keen sports enthusiast Edward takes particular interest in the field of sports law. He has been instructed on a variety of matters – often of a sensitive or confidential nature – concerning Formula One, Moto GP, football and cricket.

His recent experience includes acting for a leading Championship football club in a dispute with a recently sacked manager,

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successfully defending the former chief executive of a prominent cricketing body against a claim alleging that he had personally guaranteed certain of the body's debts, acting on behalf of a prominent Premier League footballer (and former captain of his national side) and representing a Formula One team in the High Court in a sponsorship dispute. Edward has particular experience of issues arising from the financing of football clubs and football club insolvencies (including the impact of FA and league rules).

Trusts, Probate & Estates

Edward has a particular interest in this central area of practice at XXIV Old Buildings as well as international trust advice and litigation. Clients are impressed by the breadth of his experience of both contentious and advisory work, partly resulting from time spent on secondment, early in his career, to the contentious trust and probate department of one of the pre-eminent London firms of solicitors.

He is now recommended for chancery work by both Chambers and Partners and Legal 500, and is said to be "A regular participant in heavyweight trust litigation who often takes instructions from notable UK and offshore law firms. He also represents clients in a wide range of other key areas, including Inheritance Act claims, probate disputes and proprietary estoppel suits."

The directories released in late 2015 recommend Edward as a leading junior, with sources saying that "He is a lion in court" and "He is very engaging, highly confident and he has a good head on his shoulders." He is also described as "A human dynamo – always available for a call and ready to assist."

Chambers & Partners (2014) recommended Edward as a leading junior, noting "his strength in both traditional and commercial chancery work in the UK and abroad" and that he has both "a distinct trusts and estates flavour to his practice" and "considerable experience in the financial services field" which make him "a junior in high demand."

"He is straight talking and distils legal issues effectively and quickly. A formidable advocate, while at the same time very good at client facing"

"He brings to the table substantial courtroom experience and a fearlessness that makes him fight hard for his clients."

Chambers & Partners (2013) recommended Edward as an 'up and coming' junior, describing him as providing "advice that is bullish as well as accurate and realistic" and keeping "busy with a mix of traditional and commercial chancery works".

Chambers & Partners (2012) recommended him saying:

"Edward Cumming is surely destined for great things, given market feedback. As with his fellows at XXIV Old Buildings, he has cut his teeth on tricky and often deeply bitter international trusts, probate and succession cases. In these cases, he has shown himself to be 'confident, thorough and an excellent drafter of documents.'"

He regularly appears in both trials and interlocutory hearings of contentious trust and probate matters. His recent work includes:

- C and others v C and others: major ongoing trust litigation in both Jersey and Mauritius, involving claims for more than US\$100million for alleged breaches of trust.
- Re K: a bitterly fought dispute in the High Court regarding the administration of a substantial and high-profile estate.
- Fattal and others v Walbrook Trustees (Jersey) Ltd and others [2011] 1 All ER (Comm) 647, [2010] EWHC 2767 (Ch) and [2010] EWHC 3049 (Ch): Edward appeared with Alan Steinfeld QC and Elspeth Talbot Rice QC in this major trust litigation by which one of four trusts claimed to be entitled to exercise a right of pre-emption in relation to another trust's interest in companies owning a substantial London commercial and residential property;
- Obtaining various orders for the urgent and/or interim appointment of administrators in order to safeguard estate assets;
- Griffin v Griffin (2010): appearing at the much-publicised trial of this dispute between two brothers over a sum allegedly

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- owed by one to the other in relation to the administration of their mother's estate;
- Re Bell (2008-2010): a procedurally difficult and bitterly-contested probate claim involving allegations of undue influence, want of knowledge and approval and fraud;
 - Re Radford (2009): defending proceedings brought under the Inheritance (Provision for Family and Dependants) Act 1975 by a deceased husband's first wife against his wife at his death;
 - Re D'Aguilar (2009): advising the Costa Rican descendants of a Spanish conquistador about a claim to substantial monies paid into Court as part of 18th century litigation over his estate;
 - Davies v Davies & Atlas Trust Company (Jersey) Ltd (2007-2009): acting for the Jersey trustees of an employee benefit trust in English ancillary relief proceedings in the Family Division of the High Court;
 - Read v Read & Read (2008-2009): successfully representing two brothers, one of whom was executor of their late father's estate, in various claims brought by a third brother in the Chancery and Family Divisions of the High Court relating to the administration of the estate;
 - Acting for the Guernsey trustees of an Isle of Man trust in English proceedings relating to Manx divorce proceedings;
 - Advising as to the tax-efficient reconstruction of a complicated offshore structure involving both Jersey and Guernsey trusts and a Liechtenstein foundation;
 - Claims for breach of trust and breach of fiduciary duty;
 - Variation of trusts;
 - Substitution of trustees;
 - Applications by trustees for directions;
 - A wide variety of contentious probate claims (including allegations of fraud, undue influence, lack of capacity and want of knowledge and approval);
 - Applications for grants of interim letters of administration and grants ad colligenda bona;
 - Proprietary estoppel claims;
 - Claims and trials of claims under the Inheritance (Provision for Family and Dependants) Act 1975;
 - Proceedings in the Court of Protection in relation to Enduring Powers of Attorney;
 - IHT and CGT planning.

Edward has twice been retained for a substantial period of time to advise the business and trust law department of one of the leading offshore firms on a number of matters requiring a detailed understanding of many aspects of international estate planning and offshore trust and corporate structures in both Guernsey and the British Virgin Islands. He therefore has a good working knowledge of the trust laws of these offshore jurisdictions.

Publications

- Co-author of the disputes chapter in *Crypto and Digital Assets Law and Regulation* (Sweet and Maxwell, December 2023)
- Co-General Editor of *International Trust Laws* (Jordans, loose-leaf)
- Regular expert contributor to *Tolley's Insolvency Law*
- 'Officeholders' remuneration: a cautionary tale', *Recovery magazine*, Autumn 2009
- 'Insolvency issues for trusts and estates practitioners', *23 Insolvency Intelligence* (2010) 33
- 'Netting Assets', *Solicitors Journal* (2010) Vol. 154, No. 33, Supp. 21-22
- "Referring to legislation in finance documents: more than you bargained for?" [2023] 3 JIBFL 162 (co-authored with Tom Stewart Coats).

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