

Toby Brown

Called to the Bar 2005

+44 (0)20 7696 9900

tobybrown@southsquare.com



Toby practices in commercial litigation and arbitration, insolvency and restructuring, banking and financial services, civil fraud and company law. He also has experience of costs law and charity law.

Toby has worked on cases at all levels up to the Supreme Court, as well as in international arbitrations and before the Cayman Islands courts. Much of his work involves cross-border situations or foreign law. For example, since 2014 he has advised and appeared in *Primeo v HSBC*, a \$2bn claim in the Cayman Islands.

Toby trained and initially practised in civil, criminal and family law, obtaining experience of expert evidence in civil matters and appearing in the County Court, Youth, Magistrates and Crown Courts, the Principal Registry of the Family Division and the High Court.

He then moved to South Square in a role supporting various charitable initiatives, including as legal director of the NGO, African Prisons Project. Toby subsequently gained commercial trial experience with Robin Knowles CBE QC in the Chancery Division and the Commercial Court, and in a Supreme Court appeal, followed by a third-six pupillage at chambers.

During 2014, he worked in the Cayman Islands on secondment to Campbells law firm. Toby is a CEDR Accredited Mediator.

Toby is ranked as a leading junior in Legal 500 for Offshore.

Insolvency and Restructuring

Toby has advised or appeared in respect to various bankruptcy matters, including petitions, income payments orders, validation orders, individual voluntary arrangements and examination of bankrupts.

In addition, in various corporate insolvency matters, including winding-up petitions, cross-border recognition of foreign proceedings, letters of request and assistance to foreign liquidators, block transfers of office-holder appointments, applications under s. 216 of the Insolvency Act, restoration of companies, issues of bona vacantia and administration orders.

Of particular interest:

Re Fromm (15 May 2015, unreported), annulment of bankruptcy on grounds COMI was in Germany

Re Proximity Ventures Ltd, winding-up in England a company incorporated in Ras al-Khaimah, UAE (2014); resisting recession application (2015)

Commerzbank AG v Brehm [2014] B.P.I.R. 359, application to annul bankruptcy, centre of main

interests

Javelin Wholesale v Waypharm, 2014, winding up of a limited partnership

Re a group of companies in administration, 2014, advising re applying to remove administrators

Re two Formula One teams, advising creditors with respect to administrations

Re a football club, 2014, acting for supporting creditor

Re a company in provisional liquidation, 2014, removal of liquidators and injunction to prevent advertisement of petition

Esprit De Vie Limited (in Liquidation), 2013, examination of directors

Mackay v Kaupthing Singer & Friedlander [2013] EWHC 2553 (Ch), whether sums due under pre-administration contracts ranked as an expense of the administration; permission to enforce security during administration (assisting Tom Smith)

BESTrustees v Kaupthing Singer & Friedlander [2013] Pens LR 339, application to reverse administrator's decision to reduce proof of debt on grounds of double dipping/double proof & unjust enrichment (assisting Tom Smith)

New Cap Reinsurance Corp v Grant [2013] 1 AC 236 (Supreme Court) cross-border enforcement of foreign insolvency judgments Commercial arbitration matters involving international parties (assisting Robin Knowles CBE QC)

Peter Nottingham v Hussain, 2013 - application for third party costs order

Banking and Finance

Primeo v HSBC acting for HSBC in a claim in Cayman Islands brought under fund administration and custodian agreements (since 2014)

Saltri III v MD Mezzanine SA Sicar [2013] 1 All ER (Comm) 661, enforcement and restructuring under intercreditor agreement, rights and duties of security trustee (assisting Robin Knowles CBE QC)

Commercial Litigation and Arbitration

Toby has advised or appeared in various civil and commercial matters, both at pre-litigation stages, interlocutory hearings and to trial. Advisory work has spanned pleading through to disclosure through to expert evidence. Notable cases include:

Primeo v HSBC acting for HSBC in a claim in Cayman Islands (since 2014)

LCIA arbitration regarding purchase of Ukrainian business, substantial trial involving a significant number of claims & counterclaims (2015, led by Tom Smith QC)

Parvalorem v Olivera [2013] EWHC 4195 (Ch), urgent freezing injunction in aid of foreign proceedings (assisting Ben Valentin)

Smithton (formerly Hobart Capital Markets) v Naggar [2013] EWHC 1961 (Ch) assisting Tom Smith re costs submissions

Ilott v Williams [2012] All ER (D) 216 (First instance); [2013] EWCA Civ 645 (Court of appeal), financial trader claim: contract, partnership and LLP issues (assisting Robin Knowles CBE QC)

Civil Fraud and Asset Recovery

Hilton v D IV LLP [2015] EWHC 2 (Ch) with Felicity Toube QC and Glen Davis QC, advising investors in unregulated collective investment schemes

Re a Cayman company in liquidation - advising regarding claw-back of redemption payments in context of fraud (2014)

Re a BVI bank - advising regarding fraud perpetrated on customer account (2014)

Offshore

Re a BVI company in liquidation - advising regarding claims against directors and service providers (2014)

Re a Cayman company in liquidation - advising re claw-back of redemption payments in context of fraud

Re a Cayman fund and a foreign bank - negotiation and drafting of compromise/stay

Letters of request - assisting Cayman liquidators obtaining letters of request from the Grand Court (2014)

Re a Cayman company - advising re disputed removal of a director (2013)

Pro Bono

Volunteer at pro bono duty schemes

Panel member, Advocate (the Bar's pro bono charity)

See also Appointments below

Career

- 2014 Admitted to the Bar of the Cayman Islands (for secondment at Campbells)
- 2013 Tenant, South Square
- 2008-2013 Employed role supporting various UK and international charitable initiatives with advice and project management, including as legal director of African Prisons Project, executive officer of the Access to Justice Foundation, together with working with Robin Knowles CBE QC on commercial or charity law (based at South Square)
- 2006-2007 Pupillage and initial practice, 9 Gough Square
- 2005 Called to the Bar of England and Wales
-

Appointments

- 2023- Chair, steering group, Attorney General's Pro Bono Committee of England & Wales
- 2022- Bencher, Gray's Inn
- 2018- Chair, Pro Bono Week UK organising committee
- 2018-2023 Director/ Secretary, Justice Defenders (USA) Inc
- 2016- Bar Council Pro Bono Committee
- 2015-2021 Trustee, the Access to Justice Foundation
- 2014-2022 COMBAR Africa Committee
- 2012-2015 Treasurer, the Access to Justice Foundation
- 2011-2017 Chairman, Council of Advisors, African Prisons Project
- 2011-2012 Assistant member, Civil Justice Council working party on self-represented litigants
- 2010- Member, Attorney General's National Pro Bono Coordinating Committee
- 2009-2013 Qatar Law Forum, International Organising Committee
- 2008- National Pro Bono Week Organising Committee
-

Memberships

Commercial Bar Association

Chancery Bar Association

Restructuring and Insolvency Specialists Association, Cayman Islands

INSOL International

Insolvency Lawyers' Association

Member, Chartered Institute of Arbitrators

Publications

Contributor to *International Corporate Rescue*

Previous articles in *Legal Voice, Solicitors Journal, Law Gazette, District Judges Bulletin and Green Book Civil Court News*

Original editor of *guidance for the judiciary and legal profession on pro bono costs under section 194 Legal Services Act 2007*

Contributor to *Asbestos Claims: Law, Practice and Procedure* (2007)

Lectures and Seminars

Co-Chair, international young lawyers session, Qatar Law Forum on the Rule of Law (2012)

LawWorks training sessions for law firms and agencies (2009, 2010 and 2012)

Short address, Civil Justice Council costs and funding forum (2010)

Plenary address, Joint National Pro Bono Conference (2009)

Education and Qualifications

CEDR commercial mediation skills training (CEDR Accredited Mediator)

Harvard Law School negotiation course

College of Law, Graduate Diploma in Law, Commendation

Nottingham University, BSc (Hons) Biology, First Class Honours

Prizes and Scholarships

Award from the Treasurers' fund to support attendance at Harvard (Gray's Inn)

Written Commendation from the Master of Advocacy (Gray's Inn)

Tooks Prize for Criminal Litigation

Lord Justice Holker Award (Gray's Inn)

Languages

French (intermediate)

Interests

Skiing and travelling