

## ADAM ROONEY

Barrister, Inner Temple, October 1997

Registered European Lawyer authorized to practice in Malta (Presidential Warrant 1 March 2018)



## BACKGROUND

<b>TupperS Law</b>	<b>2019 - present</b>
Joined TupperS Law as a consultant to provide litigation support, particularly in relation to competition litigation.	
<b>Distinction Services Limited</b>	<b>2019 - present</b>
Founder and Director of a litigation consultancy.	
<b>Signature Litigation LLP</b>	<b>2015-2019</b>
Equity Partner, Head of Competition	
<b>Greenberg Traurig LLP</b>	<b>2014-2015</b>
Head of Litigation, Equity Partner, London.	
<b>Gide Loyrette Nouel LLP</b>	<b>2007-2014</b>
Local Partner in London office from 2011. Previously Senior Associate, International Dispute Resolution.	
<b>Nabarro</b>	<b>2005-2007</b>
Associate, Litigation	
<b>Freshfields</b>	<b>2001-2005</b>
Associate, Litigation	
<b>Chambers of Richard King, 5 Paper Buildings, Inner Temple</b>	<b>2000-2001</b>
Tenant	
<b>Chambers of Sir Ivan Lawrence QC, One Essex Court, Inner Temple</b>	<b>1998-2000</b>
Tenant, Second Six Pupillage	
<b>Chambers of Andrew, Frances Taylor Building, Inner Temple</b>	<b>1997-1998</b>
First Six Pupillage	

## EDUCATION

<b>Inns of Court School of Law</b>	<b>1996-1997</b>
Bar Vocational Course, Very Competent. <i>Laurence Kingsley Prize for Drafting</i>	
<b>Université de Paris I (Panthéon-Sorbonne)</b>	<b>1994-1996</b>
Maîtrise en droit privé, 13/20 <i>mention assez bien</i>	
<b>University of London, Kings College</b>	<b>1992-1994</b>
LLB English and French Law (Hons) 2 :1. <i>Laws Exhibition Prize (Best Results in Year) ; Strand Trust Law Prize; Alsop Wilkinson Prize in Contract</i>	

## RANKINGS AND RECOGNITION

- Rated by Chambers and Legal 500 for dispute resolution since 2012, both in the UK and France. Commentary includes:

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*“noted for his expertise concerning cross-border commercial litigation. Fluent in French, he advises multinationals and financial institutions on disputes in both France and England ”*

*“Clients highlight his strong technical expertise and full availability. ...Clients say he is a “ top lawyer ”*

*“Partner Adam Rooney enters the rankings this year on the back of strong client endorsements. He has “clear technical strength ” , and a “clear understanding and appreciation of clients ’ needs ” . Another client adds that he has “the ability to literally know how the whole system of foreign judgments work. ” ”*

## COMPETITION AND REGULATORY LAW EXPERIENCE

- **Roofing materials case, Competition Appeal Tribunal:** Advising a trade association on potential collective proceedings as representative of affected purchasers following the CMA’s investigation of the roofing
- **Company A, Competition Appeal Tribunal:** Advising a company in relation to its follow-on claim for damages against competitors found by the CMA to have foreclosed the market materials sector.
- **University A v. SGL, Court of Session Edinburgh:** Acting for SGL in defending claims by the university for trademark infringement and passing-off and counterclaiming for breach of competition law in relation to retail of undergraduate gowns.
- **CGL and anor v E&R and ors, Competition Appeal Tribunal:** Acting for nascent suppliers to the academic dress market in a claim against the incumbent suppliers for abuse of dominant position.
- **Refusal to supply case, Chancery Division:** Advising a manufacturer on defending a threatened injunction application by European customers for refusal to supply, following justifiable price increases for certain of its products.
- **Abuse of dominant position case, Chancery Division:** Advising an Indian company defending claims of abuse of dominant position in a specific market for pharmaceuticals, both in the UK and more widely in the EU.
- **Israeli pharmaceuticals manufacturer v. European Medicines Agency, General Court/ECJ:** Advising the manufacturer of a new medicine in relation to action against the EMA before the European Court following refusal of an EU marketing authorisation and related action in England against a competitor, holding exclusivity under orphan medicines regulations
- **Breaches of Article 101 TFEU:** Advising on the enforceability of sale and purchase agreements between a manufacturer and its customer on grounds of illegal exclusive purchasing terms and price-fixing.
- **French Bank LIBOR case:** Advising a French Bank on its potential exposure to private law damages claims following on from its settlement with the European Commission and fine related to manipulation of the LIBOR benchmark
- **Car Parts Cartel:** Advising a French car manufacturer in relation to compensation claims, following a decision of the EU Commission to fine certain of its former suppliers under EC antitrust legislation
- **ESBR Cartel European Court of Justice and Chancery Division:** Acting for a Czech company alleged to be an ESB cartel member in defending private law damages claims brought against cartelists in the UK. The client was ultimately successful in challenging the EU Commission’s decision that it was a participant in the cartel, leading to cancellation of its fine and dismissal of all damages claims against it.

- **iPhone Distribution:** Advising a telecommunications provider on its distribution agreements with a mobile telephone manufacturer in 9 different member states of the EU after parts of it were found to be anti-competitive and void as a matter of French law by the French Competition Authority
- **Insider Trading Investigation:** Providing English law support to Paris office defending the CEO of an aircraft manufacturer against claims of insider trading made by the AMF (French Stock Market Regulator)
- **Vitamins Cartel, Chancery Division:** Acting for a vitamins cartel member in successfully challenging the jurisdiction of the English Court to deal with claims made against it.

## COMMERCIAL LITIGATION

- **Members of UHNW Family v. CS AG and ors** High Courts of Bermuda, Singapore and New Zealand: Acting for the family to recover losses approaching USD 1 billion resulting from mismanagement and fraud on accounts held with the Bank at its Singapore and Swiss branches, including trust accounts. Co-ordinating teams of local lawyers and litigation in Bermuda, Singapore and New Zealand, together with associated actions in British Virgin Islands, the Bahamas and criminal proceedings in Switzerland.
- **B v. Shareholders in Russian Co and ors** BVI and Cyprus, Judicial Committee of the Privy Council: Acting for a Cayman hedge fund in strategic and coordinating role related to separate proceedings in BVI and Cyprus seeking to recover shares held in a Russian company, including successful applications for freezing orders. Managing local counsel teams
- **RI plc v. J-W Inc and ors**, Commercial Court and State Courts of Oregon: Acting for RI in USD30 million claim against the buyer of the business of former subsidiaries, arising out of a group restructuring which exposed the client to liability under guarantees in various leases which the buyer had agreed, but had failed, to discharge. Concurrent claims in US and in UK. UK aspects involve managing actions brought against the US company by liquidators of the former subsidiaries and enforcing US-issued letters of request to obtain evidence for use in the Oregon proceedings.
- **EGB AG v. State Corporation R and ors**, Commercial Court: Acting for the Bank to recover USD 80 million loaned to a steel mill business in Russia. The business is held and operated by subsidiaries of Russia's state defence company, which is alleged to have conspired with other group companies to keep the Bank out of repayments to which it is entitled, principally by dissipating assets. Successfully obtained early disclosure orders against several Russian defendants immediately after service of the Claim Form before those companies could be dissolved and documents lost. Obtained summary judgment for the full amount of the claim against the Borrower and its Guarantor. Tort claims against remaining defendants were subject to a jurisdictional challenge, which the Defendants lost before Flaux J. The application raised issues of substantive Russian law and the risk of political interference in Russia if the case is litigated there, requiring expert evidence. Appeal ultimately allowed by the Court of Appeal.
- **CFM Limited v. NPL and M SICAV**, Commercial Court Client: City Fund Management Limited: Acting for CFM in its action arising out of the unlawful termination of a management agreement. Successfully settled between the parties following the hearing of an injunction application by Burton J.
- **FS Limited (in liquidation) v. DWAM**, Bankruptcy Court for the Southern District of New York and Eastern Caribbean Supreme Court, British Virgin Islands: Co-ordinating D's defence of claims made against it to recover USD43 million of redemption payments arising from its former subscription to FS, a Madoff feeder fund in the BVI. Pursuing a pre-emptive strategy against the liquidators in the BVI Court for orders that the US proceedings be discontinued.
- **DM v. MFGU Limited (in special administration)**, Companies Court: Acting for single largest individual investor with the failed broker firm. Successfully recovering shares worth £5 million.

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Case also involved a challenge to the Distribution Plan approved by Richards J and a claim for losses whilst Mr Mills was kept out of his shares.

- **DNG v. MFGU Limited (in special administration)**, Companies Court: Acting for DNG in challenging the application of an absolute title transfer clause to avoid return of monies in her account with the failed broker firm. First Gide litigation department CFA. Claim settled on special administrators' agreement to pay DNG in full.
- **MCF Limited (in liquidation) v. Banque S**, Tribunal de commerce, Paris: Advising the joint liquidators of a BVI Madoff feeder fund in relation to potential claims governed by French law against the Bank, arising out of failure by the bank to satisfy its obligations of "vigilance" in relation to its role as custodian of assets over 3 years.
- **Bank A v. Bank B**, Tribunal de commerce, Paris and Chancery Division: Acting for claimant Bank in claims against the proposal by Bank B (as senior lender) to avoid guarantees owed to the client by transferring assets of group companies against which it might enforce into another group structure (under a scheme of arrangement). Co-ordinating with colleagues in Paris, responsible for bringing the main claim, and providing support with an English Freezing Order. Claim successfully settled by offer of Bank B guarantee to the client for the full amount owing.
- **Bank Syndicate v. JSC "VMZRO"**, Arbitrazh Courts of Volgograd, Russia: Providing English law assistance to a syndicate of Banks seeking to pursue claims against Russian debtors through insolvency proceedings before the Russian Courts. The case involves working closely with the firm's Moscow office, co-ordinating efforts in the Russian proceedings which may impact potential English-law governed claims.
- **BNYMCS Limited v. IUD ISD**, Ukraine, Poland, BVI, Cyprus Client: Acting for BNYMCS acting as Trustee in seeking to enforce an arbitral award relating to USD 60 million due under Notes, for the benefit of the Noteholders. Case involved co-ordinating action in the courts of Ukraine, Poland and Cyprus, and advising on action in the BVI, all directed from London.
- **GDAF LLP v. PTBI**, Commercial Court: Successfully prosecuting a claim against the Indonesian Guarantor of Notes issued in 1999 by a Dutch SPV; further successful application under s. 51 Senior Courts Act 1981 to obtain costs from a third party funder. Providing English law assistance to efforts to enforce the English judgment and costs orders in Singapore.
- **MM v. CCIC and another** Commercial Court: Co-ordinating the defence against 14 allegations of contempt arising from breaches of English Court orders. 3 week trial before Christopher Clarke J, one of the longest trials of a committal application in recent memory. In the event, defence partially successful and Judge gave conditional permission to appeal in relation to all allegations where contempt had been found.
- **On appeal** Court of Appeal (E&W): Co-ordinating appeal against the imposition of conditions and requirement for permission to appeal under s. 13 Administration of Justice Act. The judgment clarifies that proceedings under CPR RSC 52 against companies (where imprisonment is not sought) are not "committal proceedings" for the purpose of CPR, and confirms the position in the light of previous conflicting CA authorities.
- **CCIC v. MM** Court of Appeal (E&W): Appeal against case management order of David Steel J, allowed in respect of the Judge's refusal to require the respondent to name enquiry agents he had used so that the appellants could obtain information from them as to the means by which they had obtained information on which the respondent relied.
- **EJ and others v. MM** Court of Appeal (E&W): Co-ordinating the successful appeal of judicial administrators appointed by the Lebanese Courts against an English order including them personally in a penal notice attached to a receivership order against companies in respect of which they had been appointed and over whom they exercised control.
- **AE v M**, Queen's Bench Division: Acting for a judgment creditor in successfully enforcing its multi-million judgment against one of Uganda's largest companies, including CPR 71 examination of an English director, an application under the Bankers Books Evidence Act and

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contempt proceedings against a Ugandan director who was served with proceedings whilst on a trip to the UK

- **TCWLL** Bermuda Court of Appeal: Acting for the appellant challenging the appointment of a receiver to collect a debt to which it was jointly entitled together with a judgment debtor. The Bermuda CA declined to deal with the substantive appeal, on the basis that since the receiver had not yet attempted to collect anything, one of two joint debtors could not complain to have suffered any prejudice as a result of the order, and therefore had no standing. The Bermudian Courts followed English case law in appointing a receiver. The issue of what assets a receiver may be appointed to collect therefore remains to be examined by the CA, in England or Bermuda.
- **MM v. CCIC**, Grand Court (Cayman Islands) Financial Services Division: Co-ordinating the successful application to set aside service of the originating summons on grounds that, in order to assume jurisdiction to enforce a foreign judgment or order, the Court should be satisfied that there was some asset of value within its jurisdiction against which enforcement could be made.
- **TPJSC v. NBC PJSC and another**, Court of First Instance DIFC: Acting for a defendant against claims that it had exerted undue influence over a subsidiary of the Claimant to enter into property transactions in Dubai on extremely disadvantageous terms
- **Re B Limited** Companies Court: Acting for mezzanine lenders in the leading recent case on valuation in a restructuring of an insolvent group; case has impacted on LMA standard documentation and commercial relationship between senior and mezzanine lenders
- **(1) Bank C (2) MBIAIU v. K**, Chancery Division: Co-ordinated action in English and French courts to prevent shut-down of alternative BUS provider on €900 million collateralisation and facilitating commercial discussions to source and put another provider in its place.
- **OTH SAE v. The Republic of C** Commercial Court: Successful enforcement of an ICC arbitral award against a state bank account in London. A leading case on the interpretation of "commercial transaction" under the State Immunity Act 1978.

## ARBITRATION/ADVISORY MATTERS

- **German energy company v Chinese joint venture partner – SIAC Arbitration, Singapore:** Acting for the claimant seeking to recover a consultancy success fee from its joint venture partner arising out of a renewable energy and infrastructure project in Europe
- **Indian Investors Shareholder Dispute – LCIA Arbitration, London:** Advising various investors in relation to a shareholders dispute arising out of the lack of funding to a joint venture developing IT platforms for use in Africa
- **Commodities Exchange Africa Commercial Dispute – LCIA Arbitration, London:** Advising the owner of various warehouse facilities across Africa in relation to a dispute with its South African collateral manager
- **UK Property Developer v. Secretary of State for Communities and Local Government:** Advising a developer in relation to claims against the Secretary of State for rectification of an agreement following a sale of property in SE England and related claims against its former legal advisors
- **C Administration:** Advising a secured creditor in relation to its various claims arising in the administration of the C group
- **Syndicate of multinational banks v. Chinese borrower - ICC Arbitration, Hong Kong:** Advising a syndicate of multinational banks following the default of their Chinese borrower in relation to a USD 30 million facility governed by English law
- **Spanish company v. Indonesian company - LCIA Arbitration, London:** Acting for a Spanish company and its Polish subsidiary to recover outstanding fees relating to their



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installation of an automated warehouse system at a factory in Russia for an Indonesian company

- **Polish company v. Moroccan mineral company - ICC, Paris (in English):** Acting for a Polish claimant in its English law governed action for the price of fertiliser delivered CFI to Morocco, following the buyer's attempts to reject the consignment on quality grounds
- **Government of African State v. US Energy Co - ICC, Paris (in English):** Acting for the government of an African island state to defend claims made by a US company under a contract signed by a Minister of State in fraudulent circumstances
- **Professional negligence claim against US law firm – LCIA Arbitration, London:** Acting for a Bank in a claim against its previous advisors relating to their conduct of an LCIA Arbitration, leading to an incorrect award for interest and problems of enforcement against the debtor in Russia.
- **Spanish IT Company v. Hong Kong Accountants – Ad hoc arbitration, Singapore:** Acting for the IT firm in a claim to recover monies due under a services agreement relating to a World Bank project in Vietnam. Claim successfully settled in client's favour.
- **Advice to Minority Shareholder in UK plc company:** Advising a French company in relation to a dispute with the Board of the plc following their failure to co-opt its nominee
- **French Software Designer v. English NFP organisation:** Advising the French claimant in relation to its claims against a partner in relation to the provision and servicing of an online platform business
- **French Telecoms Operator - LCIA Arbitration, London:** Acting for a telecoms company in its dispute arising out of the sale of two telecoms operators in different African states, through a Maltese holding company, including advising in relation to injunctions in support of the arbitration in Malta and actions to recover deposits under the English Law of Property Act
- **Failed MVNO in Saudi Arabia:** Advising Saudi Arabia's third largest telecoms operator in relation to indemnity claims raised against it by a party which it had introduced to a consortium partner for the purpose of acquiring a new MVNO in Saudi Arabia. There is an on-going arbitration between the 2 consortium partners, LCIA in London.
- **Chinese Joint Venture Dispute - ICC Arbitration, Istanbul; Cayman Islands:** Advising the Turkish claimant in an arbitration against its Chinese joint venture partners in relation to Norwich Pharmacal proceedings in the Cayman Islands, where the JV partner had set up a competing entity notwithstanding anti- competition provisions in the JV agreement
- **French Energy Company v. Australian Mining Company, Jersey:** Providing advice to a French shareholder in a dispute with joint venture partners relating to control of a Jersey holding company for a business in Africa
- **Italian Hedge Fund v. Note Issuer and Swiss Bank:** Acting for an Italian hedge fund in a dispute with a Swiss Bank, the investment manager for a national assets fund. The bank is liable to receive commission from the national fund for its investment activities if a loan made by the government is repaid. The hedge fund alleges the Bank has conspired to bring about early redemption of Notes, so that the loan is repaid and its commission received. The case raises a novel issue about the availability of restitutionary damages in tort claims and exemplary damages in cases of this kind.
- **Belgian Biosciences Company:** UK advisor to a Belgian company, involving advice on IP issues arising out of European sales of certain fertiliser products and defending claims made by a UK distributor in relation to product liability issues, following complaints from various end-users
- **Spanish Ceramics Company:** Acting for a Spanish company seeking to recover USD 1 million which it believed it had paid to a Chinese supplier, but which had in fact been stolen by a fraudster through a bank account in the UK. Involved advising on a *Norwich Pharmacal* application against the bank to identify the wrongdoer and trace the monies.

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- **English Bank v. French Bank:** Advising and acting for a French Bank in the pre-litigation stage of a dispute concerning the transaction fee for a deal which did not complete. The case involved substantial pre-action disclosure, obtained under the provisions of the Practice Direction on Pre-Action Conduct. Claim was successfully settled in the French Banks favour.
  - **French Investment Fund:** Advising FIF in relation to claims arising from the liquidations (in the BVI and Cayman Islands) of various Madoff feeder funds. FIF is the investment manager for a fund which had redeemed its investments prior to the liquidations, but faced claims by liquidators to recover those amounts. Liaising with local counsel in the BVI and Cayman Islands. Providing advice on possible claims by Cayman liquidators in England under s. 426 of the English Insolvency Act 1986.
  - **French hotel restructuring:** Advising the bank in relation to a restructuring of a well-known 5-star hotel in France, and identifying possible actions against one of the directors of the borrower company, resident in the UK.
  - **Web Search Engine Co v. Telecoms Operator:** Advising TO against claims that it had breached confidentiality provisions in a framework agreement, resulting from discussion by its CEO of the terms of the agreement in the press. Successfully resolved without any action being brought.
  - **Russian Bank v. Russian State Corporation:** Advising the Bank in respect of its potential claims against the State Corporation arising out of the collapse of a subsidiary business and avoidance of payments due to the Bank under a secured facility agreement.

## ALTERNATIVE DISPUTE RESOLUTION

- **Expert determination – closing accounts:** Acting for a Swedish automobile manufacturer in relation to disputed closing accounts following its acquisition of a European truck business
- **Expert determination – force majeure:** Acting for a French party which exercised a right of force majeure in a construction contract relating to works on a site in Eastern Ukraine, following Russia's annexation of Crimea
- **Early Neutral Evaluation:** Use of ENE in a dispute concerning the proper interpretation of an intercreditor deed
- **Mediation:** Case involved 2 airlines and a multi-million pound dispute arising out of an aircraft maintenance agreement

## PUBLICATIONS AND PRESENTATIONS

- Complex Antitrust Damages Claims: the Interchange Litigation and Certifying Collective Proceedings, Competition Law Association
- Supporting colleagues from Brussels competition practice in various client presentations
- Intel May Have Won the Battle, but Not the War, CDR Magazine
- Commentary in the press (The Times; City AM) on competition law issues
- Various client alerts: New EU Jurisdiction Rules in Force; Cross-Border Disclosure Obligations; Participation in a Russian Insolvency is not a Submission; UK Supreme Court Confirms Time-Limits in Cartel Damages Claims
- Anti-trust Update: Private Law Cartel Damages Claims, Oil and Gas Finance Review