

# Jeffrey Jupp

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Year of call: 1994

*“Technically strong with client care second to none.”*



## Overview

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Jeffrey Jupp practises in commercial litigation, employment law and regulatory and professional discipline. His practice crosses between all three areas and he is as at home in the High Court as he is in the Employment Tribunal, Employment Appeal Tribunal or in a professional regulatory tribunal. Many of his cases involve the interface between these areas. His cases are frequently factually or legally complex or are highly sensitive.

Jeffrey often acts for offshore and international clients and has been involved in cases in a number of jurisdictions including Isle of Man, Jersey, Guernsey, the DIFC and has been called to the Cayman Islands Bar.

He is experienced at appellate level having appeared in a number of cases in the Employment Appeal Tribunal, Court of Appeal, and Privy Council.

He is a member of the Disciplinary Panel of the Bar Tribunals and Adjudication Service (formerly the Council of the Inns of Court Disciplinary Panel) and the Chair of the Disciplinary Committee of the Institute of Financial Accountants.

## Areas of expertise

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- Commercial
- Employment
- Offshore & International
- Regulatory & Professional Discipline
- Sports Law

# Commercial

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Jeffrey has practised in commercial litigation, arbitration and mediation for 18 years. His practice routinely involves the following:

- Agency
- Breach of Warranty
- Civil Asset Recovery
- Conflict of Laws
- Fraud and Breach of Fiduciary Duty
- Insurance Law
- Partnership
- Professional Negligence
- Sale of Goods

He has acted or advised in international and offshore cases in the following jurisdictions: DIFC; Jersey; Guernsey; Isle of Man; and the Cayman Islands.

## Memberships

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London Common Law and Commercial Bar Association

## Asset Recovery

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Jeffrey has acted in a number of cases which have involved asset tracing both by claimants in civil fraud cases and in cases involving the state seeking to recover assets which are the proceeds of crime.

He represented one of eight respondents from whom the Director of SOCA (now the NCA) was seeking a civil recovery order following a multi million pound Missing Trader Intra-Community ('MTIC') fraud. The case involved the proceeds of fraud being transferred to Dubai and allegedly being laundered through a variety of companies and properties back to the UK.

## Commercial Fraud

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Jeffrey has considerable experience of cases involving civil fraud. Recent cases have involved: Acting for a group of franchisees in a case involving fraudulent misrepresentation; acting on behalf of a well-known financial institution in respect of a freezing order relating to a £12m VAT fraud; representing the Defendant in an alleged shipping fraud involving the falsification of a bill of lading relating to a cargo held in Shanghai.

## Conflict Of Laws

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Jeffrey has significant recent experience of cases involving conflicts of law. Recent cases include appearing for a UK Plc on an application for a stay under Article 34 of the Recast Brussels Regulations (Re: Zavarco Plc [2015] 3 WLR 1479); advising a large bank on the enforcement of a 21 million euro loan to a Greek Company (instructed by a Greek Firm of solicitors for the bank); acting for an American victim of fraud in an action against a Romanian defendant; advising foreign individuals in respect of the enforcement of regulatory penalties overseas.

## Insurance Law

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Jeffrey has acted for many cases involving coverage disputes in insurance contracts. These frequently involve alleged fraud by the insured, material non disclosure and misrepresentation.

He has also acted for solicitors' firms in respect of issues arising out of professional indemnity insurance and the Assigned Risks Pool.

He appeared in *Scottish Coal Co Ltd v Royal Sun Alliance Ltd* (<http://www.baillii.org/ew/cases/EWHC/Comm/2008/880.html>)[2008] EWHC 880 which was concerned with material non-disclosure and affirmation (with Derek Sweeting QC).

## Professional Negligence

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Jeffrey has substantial experience of professional negligence. In recent years he has acted in a number of cases for and on behalf of solicitors, accountants, independent financial advisers, insurance brokers and, surveyors.

He also advises on coverage issues in professional liability policies.

## Commercial Cases

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- *Re Zavarco Plc* [2015] EWHC 1898 (Ch); [2016] 1 Ch 128: Allocation of jurisdiction under EC Regulation 1215/2012; Forum non conveniens; Pending actions; Shareholders; Stay of proceedings
- *Flanagan & Coles v Greenbacks Ltd (t/a Lazenby)* [2014] EWCA Civ 1702; 151 Con. L.R. 98: New intervening act in contract law.
- *Scottish Coal Co Ltd v Royal Sun Alliance Ltd* [2008] EWHC 880; [2008] Lloyd's Rep. I.R. 718: Insurance law – material non-disclosure and affirmation (with Derek Sweeting QC).
- *Seatbooker Sales Ltd v Southend United FC* [2008] EWHC 157 (QB): Alleged mistake and misrepresentation relating to internet ticket sales software in a football ticketing contract.
- *John McCarthy v McCarthy & Stone Plc* [2007] EWCA Civ 664, [2008] 1 All ER 221: Company law – Restitution. Share option, discretion and taxation of share options. (With Derek Sweeting QC).

# Employment

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Jeffrey is experienced in all aspects of employment and discrimination law. He has practised in this field for 18 years. He acts for private companies, local authorities, employees and trade unions. He is instructed in high value, legally complex and/or sensitive cases. Jeffrey has acted in many substantial discrimination cases involving all strands of discrimination.

Much of Jeffrey's practice is concerning groups of claimants bringing claims relating to: indirect discrimination; TUPE; failure to consult under the 1992 Act; underpayment of the national minimum wage; holiday pay claims. He has acted for and against trade unions in respect of industrial disputes, internal disciplinary matters and in recognition cases.

He has a particular interest in TUPE and has a highly regarded blog at [www.tupe.uk.net](http://www.tupe.uk.net).

Jeffrey also has considerable experience in the High Court and has been involved in a number of cases involving post termination restraint and issues of employee confidentiality. He has also acted in City cases including those related to the alleged manipulation of LIBOR, bonus cases, and carried interest arrangements. He recently acted for a senior banker in respect of a proposed clawback of deferred bonus payments.

Jeffrey is a co-author of the Chapter; Human Rights in the Workplace in Tolleys' Employment Law. He also regularly advises on matters of data protection, RIPA, social media, and human rights issues arising out of the use of personal data in the employment context.

Jeffrey has published on employment law matters in The Times; Financial Times; Employment Law Journal, Solicitors' Journal, Workplace law and New Law Journal.

## Memberships

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- Employment Lawyers Association
- Industrial Law Society
- Employment Law Bar Association
- The Discrimination Law Association

## Bonus Cases

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Jeffrey has recently acted on behalf of a number of traders and other financial professionals in the City in respect of both internal disciplinary proceedings, High Court and tribunal claims.

He acted in internal disciplinary proceedings for individuals alleged to have been involved in the fixing of LIBOR. He has advised bank employees in respect of matters arising out of the alleged miss-selling of derivatives and swap products to SMEs.

He has knowledge and experience of executive compensation including bonus claims and carried interest arrangements. He has also acted for bank professionals in cases involving proposed claw back of bonus payments.

He is an experienced regulatory lawyer and is familiar with the FCA regulatory issues that arise in the employment context.

## Director Disputes

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Jeffrey also practises in commercial litigation and has acted in a number of cases concerned with the fiduciary and statutory duties of directors and senior employees. These cases have often involved alleged fraud, corruption or bribery and consequent applications for freezing and search orders.

By way of example he has acted for company that successfully traced funds stolen by a senior employee in a fictitious invoice fraud and obtained orders for sale over properties held by individuals connected to the fraudster. He has similarly advised individual directors against whom freezing orders have been sought arising out of the alleged misappropriation of funds and/or misuse of confidential information.

Jeffrey has also advised both a local authority and a housing ALMO in relation to a major housing fraud and the alleged involvement by senior housing officers. He has acted in relation to Libor on behalf a senior employee and in that context gave employment advice as part of a team of UK and US regulatory and criminal lawyers.

## Equality & Discrimination

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Jeffrey has acted in discrimination cases for most of his time at the bar. He has acted for local authorities, NHS trusts, private sector employers and individuals. He has experience of cases involving all strands of discrimination both direct and indirect and has acted in many complex cases lasting weeks at a time. He appeared in *Edie v HCL Insurance Services* [2015] ICR 713 which concerned claims of indirect age discrimination when terms and conditions were changed. He is currently instructed in a group action in an overseas territory challenging a compulsory retirement age on the basis of indirect discrimination.

Jeffrey has acted a number of alleged 'glass ceiling' cases where claimants have alleged either race and/or sex discrimination as the reason for a failure to be promoted to a senior level. He has acted a number of disability cases involving the alleged failure to make reasonable adjustments both in recruitment, during employment and in redundancy procedures.

Jeffrey has also acted in a number of county court discrimination cases involving the services and education. (For example *Garrard v Governing Body of University of London* [2013] EqLR 746).

Jeffrey has also acted for local authorities in a number of large scale equal pay claims.

## Industrial Action & Collective Labour Law

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Jeffrey regularly acts in cases involving industrial action, collective disputes and trade union issues. For example:

**Industrial action:** Jeffrey has acted for both employers and trade unions in relation to strike action and other industrial disputes. He advised schools in relation to the recent industrial action by teaching staff. He was also instructed by a local authority relating to the pay freeze on public sector pay affecting thousands of employees.

**Collective Disputes:** Jeffrey is regularly instructed on behalf of groups of claimants or employers in cases involving a failure to consult over TUPE, protective awards under the 1992 Act; large scale National Minimum Wage claims, and; claims relating to travel time or holiday pay.

**Trade Union issues:** Jeffrey has acted for trade unions and employers in respect of applications before the CAC. These have included union recognition agreements involving the appropriate bargaining unit and cases of internal trade union discipline.

**EWCs:** Jeffrey has advised both employers and SNBs on TIGER and the application of the EWC Directive and also the terms of EWC agreements.

Recent cases include:

- Advising a national construction company on holiday pay claims.
- Advising a national care services provider on issues relating to travel time and the national minimum wage.
- Advising a multinational company on a trade union recognition application leading to rejection of the application by the CAC.
- Advising a supplier of labour to the automotive industry of the application of the Agency Workers Regulations 2010 and the Swedish derogation.
- Advising a multinational on the terms of an EWC agreement.
- Advising an EWC on the timing of consultation and the provision of information.
- Numerous cases both advising and representing parties on TUPE, protective awards and collective redundancy cases.

## Injunctive Relief & Employee Competition

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Jeffrey represents both employers and senior employees in High Court injunction proceedings in relation to post termination restraint, confidentiality clauses and springboard injunctions, and database rights.

Recent cases include the following:

- Acting for a multi national company advising on the enforceability of non compete and non dealing covenants in respect of two departing senior employees.
- Advising a software company on the extent of the common law duty of confidentiality and what information in the hands of a senior employee would amount to a trade secret.
- Securing an interim injunction and then undertakings on behalf of a recruitment consultancy firm in respect of two employees alleged to be in breach of the non solicitation and non compete clauses in their employment contracts.
- Advising a director and minor shareholder as to the enforceability of two year non compete covenant.
- Advising a departing employee in respect of confidential information and trade secrets.
- Advising members and employees of an LLP in respect of a proposed team move.

## Pensions & Benefits

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Jeffrey has advised in a number of public sector pensions cases involving the application of the Teachers' Pension Scheme, the Local Government Pension Scheme, COSOP, the Pensions Direction, the Fair Deal and issues of age discrimination. This has often been in the context of TUPE in which he has a particular interest.

## TUPE

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Jeffrey is regularly instructed by individuals, and transferors and transferees in TUPE cases and has particular experience of the following sectors: Local government; motor industry; cleaning; car transportation; retail; mining; engineering; consulting; defence contractors; outsourcing and IT. He has acted in many cases involving large groups of employees. Recent cases have involved the cross border issues; substantial protective awards; insolvency (the application of regulations 8(6) and 8(7)); the right to object; agency workers; and TUPE and pensions.

He has a blog on TUPE at [www.tupe.uk.net](http://www.tupe.uk.net) (<http://www.tupe.uk.net>).

## Employment Cases

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- *Mist v Derby Community Health Services NHS Trust* (2016) UKEAT/0170/15/MC: Whether EC Procedure applies to joinder of respondent.
- *Edie v HCL Insurance Services* [2015] ICR 713: Indirect age discrimination; changing terms and conditions and the correct approach to the PCP.
- *Garrard v Governing Body of University of London* [2013] EqLR 746: Jurisdiction of the county court to hear a claim of disability discrimination related to a doctor's medical training.
- *Baxter v Titan Aviation Ltd* UKEAT (2011) 0355/10/SM: Whether driver entitled to National Minimum Wage during layover.
- *Agbodo v Hertfordshire County Council* [2010] All ER (D) 232: Whether concessions made before ET were binding on unrepresented Claimant.
- *Duncan v Secretary of State for Defence* [2009] EWCA Civ 1043, [2009] All ER (D) 121: Whether Sec of State's interpretation of the armed forces compensation scheme for injured soldiers was correct (with Derek Sweeting QC).
- *Johnson v Edwardian International Hotels* [2008] All ER (D) 23, UKEAT/0588/07: Mental capacity in the employment tribunal.
- *John McCarthy v McCarthy & Stone plc* [2007] EWCA Civ 664, (2008) 1 All ER 221: Discretion and taxation in share option schemes (with Derek Sweeting QC).

## Offshore & International

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Jeffrey acts in international and offshore cases involving commercial and employment issues.

In Cayman Islands he previously acted for an office-holder in a six-day trial in the Grand Court and is currently instructed in a substantial group age discrimination claim due for trial in July 2016. He is also currently instructed in respect of a significant employment case in the Isle of Man.

In commercial litigation he has acted in cases in Jersey, Guernsey, Isle of Man and DIFC Arbitrations involving fraud, construction disputes, commercial contracts, professional negligence, insurance and regulatory issues.

He also has been instructed by law officers in Jersey and the Isle of Man as well as by leading solicitors on the Islands.

He has been called to the bar of the Cayman Islands and is a registered DIFC practitioner.

## Offshore & International Cases

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- *Muschette v Attorney General of the Cayman Islands* Grand Court of the Cayman Islands 28 August 2013 (unreported).

# Regulatory & Professional Discipline

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Jeffrey has significant recent experience in defending and prosecuting regulatory cases as well as sitting on regulatory panels.

## Healthcare

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Jeffrey has acted for a number of doctors in MTPS proceedings. Most recently, he successfully represented a senior consultant in a lengthy fitness to practise to investigation, instructed by Bindmans. This included successfully before the IOP of the MPTS on two occasions. Eventually the proceedings were discontinued. Jeffrey has also represented pharmacists before the Disciplinary Panel of the Royal Pharmaceutical Society.

## Veterinary surgeons

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Jeffrey acted for the successful veterinary surgeon in the Privy Council case of Samuel v Royal College of Veterinary Surgeons [2014] UKPC 13. This is a key case regulatory on dishonesty in a private capacity and its effect on impairment.

## Financial

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Jeffrey is regularly instructed by CIPFA to prosecute cases. These include cases arising out of the collapse of the Icelandic Banks when findings were made against the Respondents. He has acted in a number of cases involving FCA regulation, including market abuse and allegedly unlawful collective investment schemes. He has also acted in a number of cases concerned with the scope of the Financial Ombudsman Service. Jeffrey has appeared before the Disciplinary Committee of the Institute and Faculty of Actuaries.

## Legal

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Jeffrey has recently acted in a number of cases before the SDT in particular on Rule 43 cases.

## Discrimination

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Because of his extensive experience in cases of discrimination in the employment context he has been instructed to act for and against regulators in cases of alleged discrimination on the grounds of race and disability. Jeffrey has published in the ARDL newsletter on this issue.

## Appointments

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He is the Chair of the Disciplinary Committee of the Institute of Financial Accountants, a member of the Disciplinary Panel of the Bar Tribunals and Adjudication Service (formerly the Council of the Inns of Court Disciplinary Panel)

## Memberships

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- Association of Regulatory and disciplinary Lawyers

## Regulatory & Professional Discipline Cases

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- *Samuel v Royal College of Veterinary Surgeons* [2014] UKPC 13.

## Sports Law

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Jeffrey has acted in a number of sports cases. He acted for the successful party in *Seatbooker Sales Ltd v Southend United FC* (<http://www.bailii.org/ew/cases/EWHC/QB/2008/157.html>)[2008] EWHC 157 (QB) concerned with football club ticketing contract. He has also recently advised a premier league netball team in relation to an issue of points deduction under the premier league rules.

Jeffrey's extensive experience in employment tribunal proceedings combined with his acknowledged skills as an advocate means that he is adept in undertaking sports law disciplinary and regulatory cases before a range of Tribunals. He accepts instructions from individual sportsmen and women in addition to sports organisations before various disciplinary tribunals.

Jeffrey has a particular interest in contemporary issues in cricket, football, and rugby union and in appropriate cases will accept instructions on a pro bono basis or on a direct access basis.

Jeffrey is a member of British Association for Sport and Law. He sits as a member of the Bar Disciplinary Tribunal.

## Memberships

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- British Association of Sport and the Law
- Football Association Regulated Lawyer
- Association of Regulatory and Disciplinary Tribunals

## Sports Law Cases

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- *Seatbooker Sales Ltd v Southend United FC* [2008] EWHC 157 (QB): Alleged mistake and misrepresentation relating to internet ticket sales software in a football ticketing contract.

## For more information please contact:

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Tel: +44 (0) 20 7242 3555

**Email:**

Civil matters: [civilclerks@7br.co.uk](mailto:civilclerks@7br.co.uk)

Criminal matters: [crimeclerks@7br.co.uk](mailto:crimeclerks@7br.co.uk)

Family matters: [familyclerks@7br.co.uk](mailto:familyclerks@7br.co.uk)

Address: 7 Bedford Row; London; UK; WC1R 4BS.

DX: LDE 347 London

