Year of call 2020

Mobile 07809 212 707

Telephone 0131 226 5071

Email robert.hovey@themis-advocates.co.uk

Areas of Practice

Criminal & Disciplinary, Damages & Reparation

Qualifications

Diploma in Legal Practice University of Edinburgh 2012 – 2014

Bachelor of Laws University of Edinburgh 2010 – 2012

Profile

Robert was admitted to the Faculty of Advocates in 2020 after training with one of Scotland's leading litigation firms. His main areas of practice are reparation, professional negligence, professional disciplinary, and criminal / regulatory.

Reparation

Robert is instructed by both pursuers and defenders and has experience in all areas of personal injury litigation. He is regularly instructed in road traffic accidents, both low and high value and those featuring allegations of fraud including low velocity impact or phantom passenger claims. Robert is instructed in foreign travel claims including accidents abroad and food poisoning cases, representing individuals to large groups. Robert is also heavily instructed in actions arising from employers' liability, occupiers' liability, and public liability. He is highly familiar with health and safety regulations, HSE guidance and publications, and highly competent in using these to inform the nature and scope of a duty of care. Robert has a broad practice in industrial disease including conditions arising from exposure to noise, vibration, dust and asbestos. Robert is involved in a number of product liability actions and also actions arising from historical abuse.

Robert regularly appears for procedural hearings and proofs in the All-Scotland Personal Injury Court. He is also instructed in a number of personal injury actions in both the Court of Session and local Sheriff Courts. He has a particular interest in actions involving complex valuations and chronic pain.

Professional Negligence and Disciplinary

Robert has experience of professional negligence claims and has a particular interest in claims arising from clinical negligence. He has been instructed in a wide range of clinical negligence actions including contaminated water supplies in hospitals, misdiagnosis causing delayed or unnecessary treatment and fatal claims.

He also has experience of professional disciplinary proceedings. Prior to calling he was appointed as an ad-hoc reporter to the Law Society of Scotland's Professional Conduct Sub-Committee. He has also delivered seminars on conduct complaints against solicitors.

Profile (continued)

Criminal and Regulatory

Robert has experience of road traffic and health and safety prosecutions. He recently acted as junior to senior counsel is a three week health and safety prosecution following a death in a care home. He has experience in the High Court of Justiciary and has appeared in the Sheriff Appeal Court (Criminal). Robert regularly appears in the Bail Appeal court. Robert also has experience of Fatal Accident Inquiries.

He has a particular interest in appellate advocacy and won the Mike Jones Excellence in Advocacy Award in 2019. He has considerable experience in the Sheriff Courts, having conducted numerous proofs, debates, and has appeared in the Sheriff Appeal Court (Civil).

He holds a Bachelor of Laws and Diploma in Legal Practice awarded by the University of Edinburgh. He is also a tutor in International Private Law and has delivered training in partnership with the Judicial Institute for Scotland. He is a member of the Faculty of Advocates' Free Legal Services Unit. He is also a civil indexer to the Faculty of Advocates Library. He was recently appointed Standing Junior to the Faculty Complaints Committee.

Damages & Reparation

X v Greater Glasgow Health Board

Robert acted for the defender in this personal injury action arising from an assault of a nurse in a hospital. The pursuer claimed that the patient who had assaulted her had suffered an epileptic fit which was reasonably foreseeable and advanced a number of grounds of fault and a valuation of £150,000. This case was fully investigated, a defence prepared and advanced at the pre-trial meeting. The pursuer subsequently sought to discharge the proof and amend with a further case alleging that the patient was suffering from alcohol withdrawal and this was the cause of the assault. Similarly, this was fully investigated and responded to with detailed answers to the amendment. Thereafter, the action was disposed of on a no expenses due to or by basis with significant savings made by the NHS board.

Karoline Kusiakiewizc v NFU

Two actions arising from a road traffic accident defended on allegations of fraud, specifically a phantom passenger defence. Robert successful negotiated settlement of the driver's action and represented the passenger at proof. The pursuer succeeded at proof with the sheriff reiterating the seriousness of allegations of fraud and stressing that establishing would require very cogent proof.

Crawford v Highland Council

Robert acted for the pursuer, representing his young child who sustained injuries on a school bus when the defenders van rolled downhill colliding into it. The defender conceded that the van was parked uphill and rolled down but denied any fault on the part of the driver. The pursuer led expert evidence from an engineer on the mechanics and working of a handbrake. The pursuer successfully established that in parking the van the driver failed to exercise reasonable care.

Peter Aitken v Barrhead Travel Service Ltd

Robert acted for the pursuer who contracted gastroenteritis while on an all-inclusive holiday. It was contended that the cause of the gastroenteritis was contaminated food at the hotel. Expert evidence was led from a gastroenterologist, neurologist, and liability experts for both pursuer and defender. The All-Scotland Personal Injury Court found in favour of the pursuer, accepting counsel's proposition that the correct methodology was that adopted in Lavery v TUI, with consideration placed on a number of factors of descriptive epidemiology. The court accepted that while evidence of a stringent food safety system would act as a counterbalance, that evidence was unreliable in this case and did not outweigh the inferences drawn by the pursuer.

Representative Cases (continued)

Robert Henderson v Iceland Foods Limited
Robert acted for the pursuer who sustained injuries following a fall when a goods lift malfunctioned and stopped short of the surrounding floor. The extent to which this had previously occurred, the defender's knowledge of previous incidents and whether the accident was reasonably foreseeable was highly contentious. This case incorporated manual handling regulations and work equipment regulations into the common law. Settlement was achieved prior to proof.

Grant Lindsay v John Graham Construction Limited
Robert acted for the pursuer who sustained injuries at work from a fall during adverse weather. Liability was admitted but quantum remained dispute. The pursuer suffered complex orthopaedic and psychiatric injuries overlapping with chronic pain. Focused largely on the differing views of two experts in chronic pain and whether the existence of chronic pain was dependant on clinical signs or whether it could be diagnosed on self-reporting alone. Settlement was achieved.

Stephen Boag v DDC Group Insurances Limited
A claim for damages by the family of the victim of a fatal road traffic accident. Liability was admitted and the dispute related to the value of the families claim. Involved detailed, complex valuations with negotiations with the defender leading to a successful settlement.

Angela Anderson v B&Q Limited
Robert acted for the pursuer who sustained injuries to her hand following an accident at work involving an automatic door. The action proceeded to a proof on liability and quantum. The pursuer contended that a reasonable and prudent employer would have trained employees on the risk and safe method of closing the doors, and the failure to do so was negligent. The pursuer succeeded at proof and at a further expenses hearing seeking sanction for counsel.

Appointments

Ad-hoc reporter, Law Society of Scotland's Professional Conduct Committee
Tutor in International Private Law, University of Edinburgh
Civil Indexer, Faculty of Advocates Library
Standing Junior to Faculty Complaints Committee

Memberships

Faculty of Advocates Free Legal Services Unit