



Year of Call

2006

Devil Masters

Robert Milligan QC

Roddy Dunlop QC

Mathew Jackson



Practice Profile

Duncan has a busy civil practice, principally focused in the areas of reparation, media, clinical negligence and public law.

Ranked for his expertise in media law by both Chambers & Partners and the Legal 500.

Ranked as a Band 1 media practitioner by Chambers & Partners, Duncan is instructed regularly on behalf of a range of national newspapers, broadcasters (including the BBC) and high profile individuals. Recently Duncan has appeared in a number of important cases in the area of contempt of court and media coverage of court proceedings.

Duncan has also developed a strong practice in reparation, acting both for individuals and also for insurers. He is regularly engaged in the defence of clinical negligence actions and also in Fatal Accident Inquiries.

In the area of public law, Duncan acts for the Scottish Ministers in matters of judicial review, having been appointed Standing Junior Counsel to the Scottish Government in January 2013.

Education & Professional Career to Date

Bar Traineeship, Simpson & Marwick

Part-time Special Adviser to the First Minister of Scotland (2007-08)

Member of the Scottish Parliament ('MSP'), serving on six Parliamentary Committees including the Justice Committee (1999-2003)

MA (Hons); LLB; Diploma in Legal Practice; Kennedy Scholarship to study at Kennedy School of Government, Harvard

Appointments

- Standing Junior to the Scottish Government (2013–present)

Selected Cases

- **William Beggs v Scottish Ministers [2016] CSOH 153**
Acting on behalf of the Scottish Ministers in Judicial Review brought by life prisoner
- **Janet Hill v Highland Health Board [2016] CSOH 146**
Representing the Health Board at a debate on the question of Personal Injury Trusts in high value Personal Injury claims
- **FAI into the death of Gerard Tierney 2015 FAI 32**
Successful representation of the Scottish Ambulance Service at lengthy FAI arising from the death of a patient due to paracetamol overdose
- **David McMahon v Gavin Dear [2014] CSOH**
Successful defence of case in negligence brought against professional golfer. Case additionally providing authoritative review of common law liability of sporting participants.
- **A v BBC [2014] UKSC 25**
Recent Supreme Court authority on interpretation of key aspects of Contempt of Court Act 1981 and existence and extent of inherent jurisdiction. See previous reports from Inner and Outer Houses at [2012] CSOH 185 & [2013] CSIH 43
- **Massie v McCaig & Others [2013] CSIH 14**
Leading recent Inner House authority on defamation and interim interdict.
- **Petition of the BBC for Access to Crown Productions in the case of HMA v Kimberley Hainey [2012] HCJDV 10**
Media law, privacy and defamation. Landmark ruling in relation to Article 10 right for media to broadcast, and citizen to receive, information relating to the productions lodged in criminal trial
- **BBC Petrs [2012] HCJ 2**
Media law, privacy and defamation. Petition to nobile officium in relation to establishing correct procedure for review of Crown decision in relation to accessing court materials being used in the context of a criminal trial
- **Response Handling Ltd v BBC [2008] SLT 51**
Media law, privacy and defamation. Important early Scottish challenge in relation to the relative rights to privacy in the context of investigative journalism
- **Petition of Her Majesty's Secretary of State for Business Enterprise and Regulatory Reform [2010] CSIH 80**
Public law. Appointed amicus curiae by Second Division seeking to establish the basis upon which company directors might appear without a legal representative in relaxation of the rule in Equity and Law Life Ass Soc v Tritonia Ltd
- **Scottish National Party v BBC [2010] CSOH 56**
Public law. High profile judicial review ahead of the 2010 UK general election relating to judicial review of the decision of the BBC to exclude the petitioners from participation in televised leaders' debate
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Martin Hines and Wallace Commercial Ltd v King Sturge LLP [2009] CSOH 96 & [2010] CSIH 86

Negligence. Successful appeal on existence of duty of care, assumption of responsibility, the necessary components of the 'special relationship' and the extension of the 'White v Jones' principle in a Scottish context

- **Inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 into the sudden death of Mrs Mary MacAuley (February 2012)**
Fatal accident inquiry. FAI involving multi-agency review of procedures relating to equipment and emergency support provided by public authorities to elderly, home based clients.
- **PF v Mountain Animals Sanctuary Trust (March 2014)**
Appearing for the accused at Health & Safety prosecution

Areas of Practice

- Clinical and Professional Negligence
- Media Law, Privacy and Defamation
- Personal Injury
- Public and Fatal Accident Inquiries
- Public Law

Publications & Seminars

Scots Law for Journalists, Rosalind McInnes (Ed.), contributor to 8th edition

'The legal implications of the future expansion of the powers of the Scottish Parliament', Scottish Public Law Group Annual Conference 2010

Seminar, Glasgow University School of Law 2011

'The Rule of Law, Democracy, Media and Constitutional Change' - 2012

'Can the Union Survive?', Royal Society of Edinburgh seminar, 2012

Directories

Duncan is ranked as a Band 1 practitioner by Chambers and Partners 2017. The Chambers Directory says of him:

"He's somebody who is easy to work with, will listen to those instructing him and will do a very, very good job in court."

"He has built up a lot of expertise - he's someone who has the ear of the court."

Recommended in The Legal 500 in 2016.

"He wears his considerable intellect with remarkable humility"

Quotes from previous editions of Chambers and Partners:

"He has a media savvy other advocates struggle to match, and has a real gravitas in court"

"He has a good knowledge of the issues and he knows exactly when to argue and when not to."

"An excellent junior, one of the few at the Scottish Bar to have a good deal of media law experience."

"Duncan Hamilton of Arnot Manderson is developing an impressive practice in privacy and defamation law. He has received instructions from a broad range of clients, including broadcasters, newspapers and notable individuals. Sources view him as one to watch in this area."

" he has built up a solid reputation for media and privacy disputes, and now represents key media clients such as the BBC. Sources agree that he is 'fluent and persuasive in his oral submissions', and that he exhibits 'a very good knowledge of media law'."