

## JEREMY LEWIS

Call: 1992



Jeremy is acknowledged as a leading practitioner in employment litigation (Legal 500 and Chambers and Partners), with particular areas of expertise in TUPE, whistleblowing, business protection/ injunctive relief and discrimination. He is the General Editor of the Sweet & Maxwell loose-leaf book on **Transfer of Undertakings** and co-author of the leading work on **Whistleblowing** (OUP, 2017). He is also a significant contributor to Bloch and Brearley on "**Employment Covenants and Confidential Information**" (Bloomsbury, 2018), to which he is co-author of five chapters including on the duty of fidelity, fiduciary duties, express covenants and final remedies, and is also a contributor to leading works on Business Protection and on Corporate Insolvency (Lightman and Moss, 2017). His practice also includes commercial law, sports law and public law and he is a fee paid employment judge, sitting in Watford, and an accredited mediator.

Jeremy is recognised for his strategic insight, robust advocacy and a user-friendly approach. Recent directory comments commend him as "**A robust and proactive advocate**" (Legal 500, 2018), "**exacting, commercial and good on his feet**" (Chambers & Partners, 2016), "**shrewd and determined**", "**the sort of barrister you immediately pay attention to as soon as he starts speaking ... able to handle complex matters and offers superb case analysis**" (Chambers & Partners, 2015), "**extremely hard-working**" (Chambers and Partners, 2018), and that "**He combines a first-rate legal brain with relentless dedication to assisting clients in obtaining the best outcomes**" (Chambers & Partners, 2015), and "**focused and exacting in his work. Accessible at all hours and goes the extra mile**" (Chambers & Partners, 2017).

His recent work has included:

- **Wallace v Cheshire East Council** (Manchester ET, June 2018), successfully defending a whistleblowing claim involving allegations against several senior Council officials.
- **Mehan and others v Visage Limited and another** [2017] EWHC 2734 (QB, 3 November 2017, Mrs Justice Yip) where, together with Selwyn Bloch QC, extensive interim injunctive relief was obtained in the context of team move.
- Acting on behalf of former CEO of a multi-national tool company in claims involving inter-relation of shareholder and employment covenants, compulsory share purchase and allegations of breach of confidentiality and director's duties.
- **Born London Ltd v Spire Production Services Ltd** [2017] I.C.R. 998; [2017] I.R.L.R. 493 (EAT): where he was successful in the first appellate decision on employee liability information obligations
- **Jinks v Havering LBC** UKEAT/0085/17/JOJ, 14 November 2017 successfully upholding the dismissal of the claim based on a service provision change under TUPE and obtaining an award of costs against the claimant.

- **NHS 24 v Pillar** UKEATS/0005/16/JW, 21 April 2017 – successfully reversing the unfair dismissal decision on appeal.
- **Summan v University of Lincolnshire** (Claim No. D00LN154, Lincoln County Court, 27 April 2017 – successfully defeating an application for an injunction to prevent internal disciplinary proceedings continuing
- **Muzi-Mabaso v Her Majestys Customs and Excise** [2015] UKEAT/0353/14/DA, 13 November 2015 – successfully overturning in part the first instance decision to reject disability discrimination claims.
- **Daugvila and Petrulenas v Expert Logistics** Bristol ET, June 2017 – successfully defeating a claim seeking to establish worker status (and holiday and whistleblowing claims) in the context of the gig economy.
- **Smith v Carillion** [2015] I.R.L.R. 467 (Court of Appeal) – together with John Bowers QC, successfully resisting the claim based on blacklisting victimisation on the basis of lack of worker status.
- **Underwood v Wincanton Plc** [2015] UKEAT/0163/15/RN, 27 August 2015 (EAT) – one of the first decisions on the public interest test for whistleblowing.
- **Services for Education (S4E) Limited v (1) White and (2) Birmingham City Council** [2015] UKEAT/0024/15/DM, 10 August 2015 – an important decision on the issue of continuity of employment on a transfer of an undertaking
- **MacIntosh v National Waiting Times Centre Board** [2015] UKEATS/0001/15/SM, 17 June 2015 – a successful appeal in relation to claims of discrimination arising from disability and disability related harassment.
- Together with Naomi Ellenbogen QC, acting as independent review in relation to BBC pay reforms for on air staff.
- Representing an NHS Trust in defending a judicial review claim by its former senior officer seeking to overturn dismissal and alleging dismissal by reason of whistleblowing.
- Representing a London Borough Council in defending multiple claims arising from alleged breach of collective redundancy obligations.
- Representing the outgoing CEO of major multi-national retail company in a whistleblowing dismissal claim.
- Advising a major sports administrator on issues relating to regulation of agents' fees.
- Advising on behalf of England cricketers suspended from selection.

## Business protection and injunctive relief

Jeremy regularly acts in claims for and resisting injunctive relief, primarily in cases involving restraint of trade, confidentiality, intellectual property and fiduciary duty issues concerning employees, directors and/or shareholders, partners or vendor/purchaser cases. He has been instructed in a wide range of business sectors including fashion, recruitment consultancy, internet travel, journalism, inter-dealer broking, insurance broking, engineering, computing, retail, telecommunications, solicitors and, NHS Trusts.

Notable cases have included:

- **Mehan and others v Visage Limited** [2017] EWHC 2734 (QB, 3 November 2017, Mrs Justice Yip), together with Selwyn Bloch QC, obtaining extensive interim injunctions, including non-compete and springboard injunctions, in the context of a team move in the clothing sector.
- **Summan v University of Lincolnshire** (Claim No. D00LN154, Lincoln County Court, 27 April 2017 – successfully resisting a claim for injunctive relief to prevent internal disciplinary proceedings continuing

against a University lecturer.

- **Tullet Prebon v BGC Brokers** (acting for the ten brokers moving to BGC against whom extended garden leave injunctions were sought)
- **Paul Wurth Limited and others v Siemens VAI Metals Technologies Limited** (CA), which concerned a springboard injunction in relation to a mass team move.
- **Ashworth v Royal National Theatre** [2014] 4 All E.R. 238 (resisting application for injunction seeking to require continued employment of the band in “Warhorse”).

Jeremy is co-author of five chapters in Brearley and Bloch, “Employment covenants and confidential information”. (Bloomsbury, 4th ed 2018) relating to:

- The duty of fidelity;
- Fiduciary duties;
- Reasonableness of express covenants;
- Introducing/ varying covenants; and
- Final remedies

## Employment Law

Jeremy’s practice covers all forms of employment law in the civil courts and employment tribunal, and also before the CAC. He is recommended as a leader in the field of employment law by Legal 500 and Chambers and Partners, and has acted in a number of the landmark cases in the field. He is particularly noted for his expertise in relation to transfer of undertakings, whistleblowing, business protection and discrimination (see the separate sub-headings above and below).

## Transfer of undertakings

Chambers and Partners have highlighted transfer of undertakings, together with whistleblowing, as fields in which Jeremy is particularly recommended, and he is General Editor of the leading work on the subject (Sweet & Maxwell’s loose-leaf). Sample notable transfer of undertakings cases in which he has acted include:

- **Jinks v Havering LBC** UKEAT/0085/17/JOJ, 14 November 2017 – successfully upholding the decision that employment had not transferred under TUPE by way of service provision change.
- **Born London Ltd v Spire Production Services Ltd** [2017] IRLR 493 – succeeding at first instance and on appeal in the first appellate decision on employee liability information.
- **Services for Education Limited v White** UKEAT/0024/15/DM, 10 August 2015, HHJ Elisabeth Laing J (concerning the meaning of “time of the transfer” under s.208 ERA, and therefore whether continuity of employment was preserved over a one month gap between fixed term contracts on a transfer).
- **Celtec and others v Astley** (House of Lords and European Court of Justice): This is the leading case on timing of a transfer, establishing the principle that there must be a single date for the transfer and the test as to how that date is to be ascertained. The reasoning in the case is also important in relation to the scope for employees to opt out of the transfer, and lies at the heart of argument in subsequent cases as to the validity of secondments in a TUPE context.
- **Sodexo Limited v Guttridge and others** (Court of Appeal): The leading authority on the approach to equal pay time limits in a TUPE context.
- **Small and others v Boots Co. Plc** (EAT): A claim concerning discretionary bonuses in a TUPE context. Acting pro bono on behalf of 10 warehouse workers, Jeremy, with Katheryn Apps as his junior,

successfully overturned the decision of the employment tribunal.

- **Doane v MK Dons and others**: in the context of a personal injury claim arising from a tackle during a league football match, the case established the principles that vicarious liability could transfer despite the liability being to someone other than a transferring employee.
- **Dudley Bower Building Services Limited v Lowe** (EAT): in the context of a complex facilities management contract, Jeremy succeeded at first instance and on the appeal in establishing that there had been a transfer notwithstanding that the undertaking contained only a single employee.

## Whistleblowing

As a leading barrister instructed on whistleblowing claims, Jeremy is lead author of what is widely recognised as the leading work on the subject - "Whistleblowing, Law and Practice (OUP, 3rd ed. 2017). The new (fourth) free supplement to Whistleblowing Law and Practice 3rd Edition can now be downloaded here -

<http://www.littletonchambers.com/publications/books-241/>

Jeremy is regularly instructed in whistleblowing claims, covering a wide variety of issues and sectors including claims involving City law firm, a multi-national food manufacturer, a car manufacturer, a teaching hospital, local authorities, banks, brokers, fund managers and other financial institutions, an employment agency and police and police-related organisations.

He acted in:

- **Underwood v Wincanton Group Ltd** UKEAT/0212/15/RN, 27 August 2015, on the new public interest test
- **Kuzel v Roche Products Limited** (CA), which is the leading case on burden of proof in protected disclosure claims
- **Darnton v University of Surrey** (EAT), the leading case on the test for a qualifying disclosure
- **Dunster v First Transpennine Express Limited**, EAT (on causation in whistleblowing cases).

Jeremy was also a member of the steering committee for the British Standards Institution's Whistleblowing Code of Practice, first published in July 2008.

## Discrimination and victimisation

Jeremy is regularly instructed in a range of discrimination claims including in relation to part time workers, fixed term workers, sex, race, age, disability, religious and sexual-orientation discrimination. He has also acted in equal pay claims in a variety of sectors (and together with Naomi Ellenbogen QC is currently acting as independent reviewer for the BBC's pay review for on-air staff), including acting for local authorities in ongoing mass equal pay claims, and also acting in equal pay claims in the university sector, the banking sector and the health sector.

Notable cases have included:

- **MacIntosh v National Waiting Times Centre Board** UKEATS/0001/15/SM, 17 June 2015 (discrimination arising from disability and disability-related harassment)
- **McCabe v Greater Glasgow Health Board** UKEATS/0004/14/SM, 10 June 2014, Langstaff J (unfair

dismissal and disability discrimination)

- **Matthews v Kent and Medway Town Fire Authority** House of Lords, the leading case on the Part Time Workers Regulations
- **Sodexo Limited v Gutridge**, Court of Appeal, concerning the approach to equal pay time limits in a TUPE context and *Sinclair Roche v Heard and Fellows* (an appeal in the context of a sex discrimination claim against a city law firm),
- **Smith v Carillion (JM) Ltd** [2015] I.R.L.R. 467 (CA) (requirement for contractual relationship for claims of detriment for health and safety and trade union activities; application of European Convention of Human Rights).

## Trade Unions and industrial action

In addition to acting in the civil courts and employment tribunals, Jeremy also acts in claims before the Central Arbitration Committee, and has been in several cases where decisions of the CAC have been challenged on an application for judicial review including:

- **R v CAC ex parte Kwik Fit (GB) Limited** (CA) (an important decision on the correct approach to determination of a collective bargaining unit)
- **R v CAC ex parte BBC** (concerning whether, for the purposes of trade union recognition, cameramen were to be regarded as professionals)
- **R (Netjets Management Ltd) v CAC** (permission to appeal in decision on territorial jurisdiction).

## Other

Jeremy has acted in a range of other types of claim across the employment field and related areas. His practice involves advising and successfully representing clients in high value wrongful dismissal and bonus claims, both for employers and employees, and in some cases involving broader partnership, shareholder and other commercial disputes.

## Sports law

Jeremy was recognised as a leading junior in Sports law in the 2015 edition of Legal 500 and has acted in a variety of sports including:

- Member of Sports Resolutions pro-bono panel
- Advised on revisions to regulation of agency fees in relation to a major administrator within UK sport.
- Advised on behalf of England cricketers suspended from national selection.
- A challenge to withdrawal of funding by British Swimming: **Tancock v British Swimming** SR/0000720014, 14 November 2014 (Mr David Phillips QC).
- wrongful dismissal by football managers,
- disputes as to television rights relating to Premier League teams
- disputes over renewal of central contracts
- personal injury in sports (eg **Doane v MK Dons and others** (Sheffield County Court)).

## Commercial litigation and professional negligence

Jeremy's practice involves a broad range of commercial litigation and advisory work, including:

- Commercial contract disputes
- Fire insurance claims

- Sale of goods
- Director disputes and fiduciary duties
- Shareholder disputes
- Business sales, franchise agreements and warranty claim
- Professional negligence claims (including solicitors, insurance brokers, accountants and auditors)
- Lotteries and prize gaming
- Injunctive relief

Sample notable cases include:

- ***Paul Wurth Limited and others v Siemens VAI Metals Technologies Limited*** (CA) (interim injunction and dispute as effect of without prejudice communications)
- ***I-Way Limited v World Online Telecom Limited*** (Commercial Court) (misrepresentation, implication of contractual terms, estoppel)
- ***Zakharov v White*** (interim injunction/ lawfulness of bench warrant/commercial fraud)
- ***In re Oriental Gas Company Limited*** (company; unfair prejudice)
- ***Owens Bank Limited v Etoile Commerciale S.A.*** (Privy Council) (conflict of Laws, estoppel/abuse of process)

## Judicial review

Jeremy's practice also includes judicial review, which he previously lectured in at Brasenose College, Oxford University. He had acted in a variety of matters including disputes relating to a claim to quash the dismissal of a Chief Financial Officer in the public sector, exclusions from school and university courses, disputes in relation to exclusion of doctors from specialist training courses, withdrawal of legal aid and decisions of the Central Arbitration Committee (including ***R v CAC ex parte BBC*** (judicial review/trade union recognition and ***R v CAC ex parte Kwik Fit*** (GB) Limited (CA) (judicial review/trade union recognition).

## Mediation

Jeremy is an Accredited Mediator within the ADR Group

## Publications

### Co-author/ editor:

General Editor, of "Transfer of Undertakings" (Sweet & Maxwell, looseleaf)

Lewis, Bowers, Fodder and Mitchell, "Whistleblowing, Law and Practice" (2017, OUP, 3rd ed)

"Vicarious liability" (PLC Practice Notice)

Bowers and Lewis, Employment Law and Human Rights (Sweet and Maxwell 2001)

Lewis and Lewis, The Work Family Challenge: Rethinking Employment (Sage, 1996).

### Contributor:

Bloch and Brearley, "Employment Covenants and Confidential Information" (Bloomsbury, 4th edition, 2018).

Lightman and Moss, "The Law of Administrators and Receivers of Companies" (Sweet and Maxwell, 6th edition, 2017).

Butterworth Tolley's Termination of Employment (looseleaf).

## Appointments, Memberships and Education

Jeremy is a Part time Employment Judge (Watford)

### Memberships

Employment Law Bar Association  
Employment Lawyers Association  
Industrial Law Society  
Commercial Bar Association

### Education

After attending Manchester Grammar School (1979-86), Jeremy studied law at Brasenose College, Oxford, where he obtained a First Class Honours degree and a First Class degree on the Bachelor of Civil Law course.