

## DANIEL TATTON BROWN QC

Silk: 2016 | Call: 1994



***“Daniel is the complete package: great on his feet, great on paper and great with clients. He is clear on the strategy and formulates persuasive arguments to achieve it.”*** Chambers and Partners 2018.

Daniel specialises in all aspects of employment law. He was appointed a QC in 2016. He is cited in all the leading directories (Chambers and Partners, Legal 500, “Who’s Who Legal”) as a leading silk in employment law. In the most recent edition of Chambers and Partners he is described as an

***“Impressive silk who centres his practice on employee competition litigation, tribunal claims and appellate work in the EAT and the Court of Appeal. He has knowledge of a raft of different issues including discrimination, whistle-blowing, collective labour law and redundancy.”***

Daniel prides himself on working closely and effectively with clients and solicitors. Recent unsolicited client feedback has included the following:

***“I am extremely grateful to you for everything you have done, the way you have always made yourself readily available and approachable not to mention your outstanding leadership in the case, without which I would have been completely overwhelmed a long time ago...”***

Daniel’s instructing solicitor in a substantial team move case, acting for individual and corporate defendants. The case settled on good terms shortly before the start of a 10 day High Court trial.

***“There are no words adequate to describe our gratitude for your professional excellence, humanity, humour and integrity.”***

Lay client for whom Daniel acted in successfully resisting all claims for injunctive relief following a speedy trial in the High Court. The client was awarded all his costs.

***“We simply cannot thank you enough for what you did for us last week. Thank you and ultimate respect for uncovering the reality that sat beneath their rhetoric.”***

Husband and wife entrepreneurs for whom Daniel acted in high value employment-related litigation that arose following the sale of their business.

Other recent Legal Directory comments include the following:

**"Technically strong and provides very considered, robust advice"**. Legal 500, 2018

**"Extremely measured and calm with a determined and proactive approach and very good client skills."**

Chambers and Partners 2017

**"Recommended for his rapid grasp of the issues and methodical approach."** Legal 500 2017

**"Singled out by sources for his sensitive and lucid approach to lay clients." "A very good and incisive advocate."** Chambers & Partners 2015

**"An extremely good advocate – tenacious and accomplished without coming across as heavy-handed or aggressive."** Legal 500 2015

**"He came up with the most imaginative and fabulous argument in a recent discrimination claim."**

Chambers & Partners 2014

He has experience of a wide variety of business sectors, with particular knowledge and expertise of disputes within the financial services sector.

Daniel is often instructed to carry out complex or sensitive work place investigations. Such instructions include investigating an allegation of bullying brought against a senior equity partner in a niche firm of City solicitors, and hearing an appeal against dismissal brought by a senior executive.

Daniel accepts instructions on a direct access basis in appropriate cases.

## Employee Competition

Daniel is regularly instructed – both for Claimant employers and departing employees - in cases involving employee competition. In a recent edition of Chambers and Partners it said that his **"broad-based employment practice is founded on his core expertise in relation to restraint of trade issues"**.

Recent work includes advising in relation to and successfully securing a Search Order and successfully defending in full the substantial claim for interlocutory relief brought against his client in **Capita Plc v Darch and others** [2017] IRLR 718.

Issues such as the enforcement of restrictive covenants (in employment contracts and in share sale or partnership agreements) and garden leave, the legality of team moves, breaches of fiduciary duties and the misuse of confidential information frequently arise. Other recent work includes:-

- Being instructed on behalf of the corporate defendant in a multi-million pound City team move case. The case settled shortly after disclosure.
- Securing an injunction to prevent the sale of shares in the context of substantial boardroom battle.
- Successfully defending an action for injunctive relief following a 3 day speedy trial in the High Court. Daniel's client was awarded all his costs.
- Getting leave to appeal to the CA against an adverse costs order following a without notice application made against a departing employee. The case would have addressed important issues of principle

concerning the costs in such applications, but settled once leave to appeal was granted.

Daniel appearing for the successful Claimant in **J M Finn v Holliday** [2014] IRLR 102 (QB), a leading garden leave case in which a 12 month garden leave injunction was granted following a speedy trial (having earlier successfully secured an injunction at the interim stage following a contested hearing). Daniel also appeared in **SG & R Valuation Service Co LLC v Boudrais and others** [2008] IRLR 770, the leading High Court authority on garden leave injunctions in the absence of a garden leave clause, and which was cited in **Holliday**.

## Daniel's Practice

Daniel's practice now principally consists of employee competition litigation, high value discrimination and whistleblowing claims, and High Court employment related contractual disputes. He is also regularly instructed, with notable success, on appeals to the EAT and the Court of Appeal. He is frequently instructed to act in cases against QCs and in cases in which he has been told by his solicitors are of particular sensitivity or complexity.

## Discrimination and Whistleblowing

Daniel acts for employers and employees in high value and high stakes discrimination and whistleblowing claims. In a recent edition of Chambers and Partners one of the testimonials records that "**He came up with the most imaginative and fabulous argument in a recent discrimination claim.**"

His recent work includes:

- Acting for a corporate defendant in a high profile and sensitive whistleblowing claim in the financial services sector that necessitated an application for an anonymity order to protect the identity of a bank's high profile customer.
- Acting for the successful appellant in **Reynolds v CLFIS (UK) Ltd** [2015] ICR 1010. This was an age discrimination case in which the CA provided authoritative guidance on how to approach allegations of direct discrimination involving "tainted information". It is one of the most practically significant CA discrimination decisions in recent years.
- Acting for a Respondent in a substantial (5 week) claim brought by multiple claimants alleging race and religious discrimination (direct, indirect and harassment) as part of a work-place dispute which resulted in industrial action and allegations of intimidation and corruption. The litigation generated an earlier appeal to the EAT following a Preliminary Hearing dealing with proposed amendments to the claims. Virtually all the multiple claims were successfully defended.
- Advising and acting on behalf of a senior banker whose claims against a well-known bank for sex discrimination and equal pay resulted in a substantial settlement. This litigation too resulted in an (unsuccessful) appeal by the Respondent against a case management decision. The client provided this unsolicited feedback: "**You have been such a formidable victorious opponent to such a giant organisation. Your wit, confidence, and brilliant strategy have made it all possible whilst navigating these muddy waters.**"

Other recent cases include being instructed by a leading City law firm to defend race and sex discrimination claims brought against it by a senior solicitor, and acting for a full equity partner in her claims for sex discrimination against another leading firm of solicitors. He has also recently acted for a well-known University in connection with a series of discrimination claims brought against it, its Vice Chancellor and senior academics.

Daniel acted for the Respondent in **J v DLA Piper LLP UK** [2010] ICR 1052, [2010] IRLR 936, an Equality and Human Rights Commission backed appeal before the EAT President which addressed important aspects of the definition of "disability" for the purposes of the Disability Discrimination Act 1995, in the context of depression.

## Employment Related Contractual Disputes

Daniel is frequently instructed in employment related contractual disputes, typically concerning such matters as bonus claims, enhanced redundancy payments, PHI related claims, claims arising out of the implied duty of trust and confidence and shareholder disputes, often of high value.

Examples of this work are **Silvey v Pendragon** [2001] IRLR 685, [2002] PLR 277 CA, which was a successful appeal in the CA on the assessment of damages for wrongful dismissal in the context of pension loss; and **Marlow v East Thames Housing Group Ltd** [2002] IRLR 798 a PHI claim in which the High Court considered the duty of an employer, as a facet of the implied duty of trust and confidence, to sue an insurance company which refuses to make PHI payments in respect of one of its employees.

As well as substantive claims Daniel is also highly experienced in employment related High Court applications – e.g. applications for pre-action disclosure under CPR Part 36.16.

## Appellate Work

Daniel is frequently instructed to appear in the EAT and the CA. His reported cases include: -

- **Reynolds v CLFIS (UK) Ltd** [2015] ICR 1010. An age discrimination case in which the CA provided authoritative guidance on how to approach allegations of direct discrimination involving "tainted information". It is one of the most practically significant CA discrimination decisions in recent years.
- **Dhunna v CreditSights Ltd** [2015] ICR 105 CA, whether a tribunal had jurisdiction to hear a claim for unfair dismissal brought by an employee based in Dubai.
- **Cockram v Air Products Plc** [2014] I.C.R 1065, [2014] IRLR 672. An important decision concerning the novel point of post resignation affirmation in constructive dismissal.
- **Tayeh v Barchester Healthcare Ltd** [2013] IRLR 387 – Successfully resisting appeal in CA against rejection of an unfair dismissal claim.
- **Dean & Dean v Dionissiou Moussaoui** [2012] 2 Costs LO 107 – Successfully resisting appeal in CA against refusal to award costs in discrimination claim.
- **J v DLA Piper UK LLP** [2010] IRLR 936 EAT – Equality and Human Rights Commission backed appeal focussing on the correct approach to determining "disability" in the context of mental impairments such as depression.
- **Adamson v Swansea University** [2010] All ER (D) 38 – Successfully represented the Respondent in an "appearance of bias" appeal which was dismissed following cross examination of the appellant, together with an order for costs.
- **McCarthy v Bradford & Bingley** [2010] All ER (D) 46 (May) – correct approach to s.98(A)(2) of the Employment Rights Act 1996.
- **JSC BTA Bank v Abyazov and others** [2009] All ER (D) 160 – an application to discharge a world- wide freezing order for material non-disclosure.
- **Davies v DHL Exel Supply Chain Ltd** - [2009] All ER (D) 218 (Jun) – successful challenge to tribunal's finding that it was "not reasonably practicable" to present claim in time.

- ***Distant v Hackney London Borough Council*** [2009] All ER (D) 18 (May) – successful appeal against a tribunal's finding of race discrimination.
- ***Seddington v Virgin Media Ltd*** [2009] All ER (D) 23 (Apr) – successful appeal against the tribunal's failure to make Polkey reduction and an excessive uplift for non-compliance with statutory procedures.
- ***Aryeetey v Tuntum Housing Association*** - [2009] All ER (D) 118 (Apr) – tribunal's approach to Polkey reduction upheld on appeal.
- ***Chambers-Mills v Allied Bakers*** - [2008] All ER (D) 257 (Dec) – tribunal's strike out of a DDA claim for failure to comply with relevant orders upheld on appeal.
- ***Software 2000 Ltd Andrews*** [2007] ICR 825, [2007] IRLR 568 EAT. Elias J gave guidance on the correct approach to be possible Polkey reductions, following a multi-claimant tribunal hearing.
- ***McPherson v BNP Paribas*** [2004] IRLR 588. One of the leading CA authorities on costs orders by employment tribunals. Daniel acted for the employer who secured a costs order for £90k against an investment banker claimant.
- ***DHL Air (UK) Ltd v Wells CA Times*** 14/11/03. A successful appeal in an employment related claim in deceit. The CA gave case management guidance.
- ***Marlow v East Thames Housing Group Ltd*** [2002] IRLR 798. High Court PHI claim considering the duty of an employer, as a facet of the implied duty of trust and confidence, to sue an insurance company which refuses to made PHI payments in respect of one of its employees.
- ***Silvey v Pendragon*** [2001] IRLR 685, [2002] PLR 277 CA: A successful appeal in the CA on the assessment of damages for wrongful dismissal in the context of pension loss.
- ***Ojinnaka v Sheffield College EAT*** [2001] ICR Part 7. Daniel successfully resisted an appeal in a SDA case focussing on and revisiting the question of what is meant by a "detriment".
- ***Abbey National v Robinson EAT*** 20/11/00 New Law Online 5001110802. A constructive dismissal case in which EAT considering the inter-relationship of the "last straw" doctrine and the doctrine of waiver/affirmation.
- ***Davenport v Taptonholm for Elderly People Ltd*** 914/1/99 EAT IDS Brief 638. The EAT considered the circumstances in which third party pressure to dismiss can amount to "some other substantial reason".

## Partnership & LLP

Daniel has significant experience of advising on and acting in disputes regarding partnership and LLP agreements. He has successfully secured interim injunctive relief restraining breaches of a partnership agreement; acted on behalf of a departing senior equity partner in dispute with a City firm of solicitors; advised on the enforceability of post termination restrictions in Partnership/LLP agreements, and on partnership status, expulsions and discrimination. He appeared in the recent decision of the CA in ***Cheema v Jones and others*** [2017] EWCA Civ 1706 which concerned the terms on which an expanded partnership was concluded in the absence of a new signed partnership deed.

## Personal Background

Daniel was educated at Winchester College, Hampshire, and Oriel College, Oxford University. He graduated from the latter with First Class Honours in PPE. He then completed a post graduate diploma in law at City University before being called to the Bar at Middle Temple in 1994. He was awarded the Diplock Scholarship by Middle Temple.

Daniel is a member of the Employment Lawyers Association, for whose Briefing Newsletter he is an occasional

contributor. He is also a member of the ELAAS scheme under which advocates appear pro-bono to assist litigants in person with apparently hopeless appeals in the EAT

Daniel lives with his wife, a Consultant at St Georges Hospital, Tooting, and their three children in South London, within striking distance of Tooting Bec Lido. Although he once cycled to Istanbul, he rarely now finds time to pedal further afield than Richmond Park, normally with a child in tow.