

## NIRAN DE SILVA

Call: 1997



*“A commercial and employment specialist, who is praised for his acuity and understanding of the law, as well as for his presentation and advocacy before the tribunal. He is particularly adept at handling disputes in the financial services sector.” “He is very articulate, very persuasive and takes a sensible approach to the evidence in a case - he doesn’t take unnecessary points.” “He is thorough and to the point.”*

### **Chambers and Partners 2016**

*“Applauded for his extremely commercial approach.”*

*“Singled out for his work on cases involving social media issues, and is also well known for advising both claimants and respondents on City-based claims.”*

### **Chambers and Partners 2015**

*“He offers commercial and sensible advice, which can be taken to a business without the need to translate it into layman’s terms.”*

*“He has an impeccable sense of judgement.”*

*“[His] ability to infuse his advice with an element of pragmatism owes a lot to his commercial background.”*

### **Chambers and Partners 2014**

*“Notable experience in high value discrimination claims and in restrictive covenant claims.”*

### **Chambers and Partners 2013**

*“Very bright” and “clear and concise.”*

### **Chambers and Partners 2012**

Niran is a leading junior barrister, specialising in commercial and employment law. He has a reputation for his robust advocacy and sound commercial judgment with particular expertise in disputes involving LLPs, directors’ duties and restrictive covenants.

Having worked as an equity derivatives broker in the City, Niran has a good understanding of complex financial products and is regularly instructed in disputes in the financial services sector. In particular, he has been instructed in numerous restrictive covenant and whistle blowing cases in this area.

Niran regularly acts in commercial disputes between companies, including having appeared in the leading cases on the entitlement of utility companies to recover the costs of repairing negligent damage to their networks.

He is also the sub-editor of Parker on Election Law, the leading textbook on the subject, and advises and acts for returning officers and petitioners in election petitions.

## Commercial Litigation

Niran is frequently instructed in a range of commercial disputes in the High Court.

Recent cases include:

- Appearing for a foreign government in a Commercial Court claim arising from a government tender for purchase of aircraft parts.
- Acting for a provider of commercial AV infrastructure and equipment in unfair prejudice petition brought by shareholder director.
- Acting for a telecommunications provider in test cases affecting million of pounds worth of claims annually, arising from incidents of negligent damage to its network.
- Appearing for shareholder director in High Court claim for misrepresentation and breach of warranty against commercial provider of military vehicles.
- Advising SMEs on potential claims under the Financials Services and Markets Act 2000 against banks for mis-selling of fixed income swaps.
- Acting for leading polling company in High Court claim arising from misuse of confidential information by former director.
- Advising an aviation maintenance and training provider on claim for breach of contract against emanation of foreign government.
- Advising a major health club chain on threatened claim by commercial provider of fitness instructors for fees under a Licence Agreement.
- Appearing on behalf of a film distributor in High Court injunctive proceedings arising from alleged breaches of its licence.

He also appeared in the following leading cases:

- **Gwynedd Council v BT** [2004] All ER 975 CA on the recoverability of costs under the New Roads and Street Works Act 1991 and
- **BT v Geraghty & Miller** [2004] LTL 21 September, leading authority on claiming fixed overheads as part of damages in negligence.

Niran lectures on a range of topics including Contribution Claims, Commercial Arbitration and Electronic Disclosure in Commercial Litigation.

## Commercial Arbitration

Niran de Silva is regularly instructed as Counsel in institutional and ad hoc arbitrations, in particular in the telecommunications and aviation sectors. Recent arbitrations include appearing in a multi-million domestic arbitration brought by a telecommunications provider for the costs of monitoring and repairing its network and advising an aviation maintenance provider on an international arbitration against an emanation of a state.

He is also experienced in court litigation supporting the arbitration process, including interim applications and anti-suit injunctions

In addition, he has recently acted as Tribunal Secretary in a multi-million pound ICC arbitration relating to the supply of allegedly defective equipment to a power plant and also an investment arbitration under the ICSID Convention.

He lectures to clients on International Arbitration and is available to provide a popular and highly-regarded seminar (with Alex Robson) titled "Introduction to International Arbitration" which is geared toward litigators who wish to develop their expertise in arbitration and which deals with drafting clauses, the arbitration process (administered and non-administered), court supervision, enforcement of awards and 'hot topics' in arbitration.

## Employment

Niran regularly represents companies and individuals in high-value wrongful dismissal and bonus claims in the High Court, the Employment Tribunal and the EAT.

Recent reported cases include:

- **Bear Scotland v Fulton and Baxter** [2015] ICR 221 EAT. Landmark judgment on inclusion of non-guaranteed overtime in holiday pay
- **Embassy of Brazil v de Castro Cerqueira** [2014] 1 WLR 3718. Important judgment on service of proceedings on foreign states
- **Allen v Hounga** [2014] 1 WLR 2889. Supreme Court determination on illegality as a defence to discrimination claims
- **Brennan v Sunderland & Others** [2012] ICR 1183 EAT. Leading case on contribution claims in employment claims under the Civil Liability (Contribution) Act 1978.

Other recent cases include:

- Several restrictive covenant and garden leave cases in the High Court including **Whalley v CSS** and **TUI Travel v Nugent & Others**
- **UNISON and Unite v Action for Children** (ET 2013): collective redundancy claim arising from restructuring
- **Ajar-Tec v Stack** [2012] EWCA Civ 543. Appeal concerning the alleged employment status of a company director and shareholder

Niran has recently been instructed in a number of collective claims including:

- Litigation involving claims by more than 2,000 ex-employees for protective awards following the administration of a major high street retailer.
- Claims for holiday pay based on alleged "normal remuneration" rather than basic salary.

Recent non-contentious work includes advising an investment bank on its pension and absence policies and advising an office services provider on a proposed bid, including consideration of the recent changes to TUPE.