

NIRAN DE SILVA

Call: 1997



Niran is a leading junior barrister, specialising in commercial and employment law with a particular expertise in applications for interim injunctive relief.

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

He has a reputation for his robust advocacy and sound commercial judgment with particular expertise in disputes involving LLPs and directors' duties.

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 described as follows in professional guides:

- *"Extremely bright and tactical in his approach. He wins trust quickly and is brilliant to work with. He is an extremely experienced advocate in court."* **Chambers and Partners 2018**
- *"Very personable and very approachable. He has a very good Court manner. Fantastic"* **Chambers and Partners 2017**
- *"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... He offers commercial and sensible advice, which can be taken to a business without the need to translate it into layman's terms"* **Chambers and Partners 2015**

Interim Injunctions

Appeared in ***Bourne Rail v Ashton*** (High Court (QBD) 26 April 2018), acting for three of the successful Defendants in interim application and 10-day expedited Trial of claims for unlawful means conspiracy and restrictive covenant injunctions.

Recently advised and appeared on behalf of numerous clients in interim injunction litigation in the Queen's Bench Division and the Chancery Division, including in following sectors: banking, insurance, recruitment, travel, PR and opinion polling.

Obtained 'without notice' freezing order, continued following return date, against client of bookmaking firm (including advising on practical issues around complying with duty of full and frank disclosure in the context of without prejudice negotiations).

A particular expertise in obtaining injunctive relief under the **Protection from Harassment Act 1997**, including advising companies on protecting their employees from harassment by ex-employees and protesters.

Noted in Chambers and Partners for his expertise in restrictive covenant litigation.

Provides seminars to clients on the following topics "*Obtaining and Defending Interim Relief: a Practical Guide*" and "*Protecting Your Client's Confidential Information in and out of Court*".

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:

- **Royal Mencap Society v Tomlinson-Blake** [2018] IRLR 932 (Court of Appeal). Landmark ruling on minimum wage affected thousands of workers. Currently on appeal to the Supreme Court
- **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 Houna** [2014] 1 WLR 2889. Supreme Court determination on illegality as a defence to tortious 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:

- **AB v XY** (EAT 8 August 2018). First reported case on Restricted Reporting Orders during the course of proceedings (and interaction of Article 8 right to privacy and Article 10 right to freedom of expression)
- **Bourne Rail v Ashton** (High Court (QBD) 26 April 2018). Speedy trial of claims for unlawful means conspiracy and restrictive covenant injunction
- Acting for an interdealer broking firm in High Court claim for damages brought by ex-partners
- Acting for a fund manager in sex discrimination and equal pay claim against major investment bank
- Appearing for a seafarer in EAT appeal on territorial scope of the Equality Act 2010

Recent instructions in collective claims include:

- 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 investment firm on the TUPE implications of a proposed bid

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.

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.

Investigations and Inquiries

Niran is Joint Head of Littleton's Disciplinary and Regulatory Group.

He regularly conducts internal investigations and hearings concerning grievances, whistle blowing allegations and disciplinary matters, in particular in the financial services sector.

Recent investigations include:

- An internal investigation into allegations of race discrimination at a major charity
- A whistleblowing investigation following alleged health and safety breaches at a multi-national food distributor
- An internal disciplinary investigation of harassment allegations made against regulated individuals This involved consideration of the firm and individuals' responsibilities under the FCA's Senior Managers and Certification Regime
- Investigating and determining a whistleblower's allegations against the board of a technology company that there were breaches of regulatory obligations when the company was floated

Niran was also Counsel to the Metropolitan Police in the public inquiry into Professional Standards and Employment Matters in the Metropolitan Police Service (the Morris Inquiry).