

## CRAIG RAJGOPAUL

Call: 2010



Craig Rajgopaul specialises in commercial, employment and education law. He is consistently rated as a leading barrister by Chambers & Partners Guide to the UK Bar and Legal 500. Craig has recently been described in the following terms: ***"Craig quickly becomes part of the team and works tirelessly to get the right result for the client. He is extremely intelligent and a real pleasure to work with"*** (Chambers & Partners 2018); ***"He is incredibly thorough in his preparation, excellent with clients and effective on his feet"*** (Legal 500 2017); ***"Lauded by respondents for his technical skill and unrivalled client service. He ... has a well-deserved reputation for the high quality of his advocacy"*** (C&P 2016); ***"he leaves no stone unturned and is a terrier in cross-examination*** (Legal 500, 2016); ***"Commercial, responsive and practical ... A rising star, he's quick and sharp, and gets stuff done."*** (Chambers & Partners 2015), and ***"very hard-working and very highly rated within the market"*** (Chambers & Partners 2014),

Craig has been a lawyer since 2005, and was a Solicitor-Advocate (with Higher Rights of Audience in all English Courts) from 2007 - 2011. He previously worked as a Solicitor-Advocate at Ashurst and McDermott Will & Emery. Craig joined Littleton as a Barrister in 2011.

Since moving to the Bar in March 2011, he has been instructed on a variety of different commercial matters in the County Court and High Court, in numerous multi-day claims in the Employment Tribunal, including complex discrimination claims, in High Court team move, restrictive covenant and confidential information cases and in education matters across different courts and Tribunals. Craig also has good experience of litigation in the Employment Appeals Tribunal, and the Court of Appeal, and regularly acts on high profile (and high value) claims.

Craig is frequently instructed as sole Counsel against Silks, and works well in a team being led by a QC. Craig prides himself on the quality of his written and oral advocacy, and has received plaudits for the clarity and persuasiveness of his submissions. He particularly enjoys cross-examination.

Craig uses his experience as a solicitor to bring a commercial, client-focused approach to his work, and likes to think that he is approachable, down to earth and enjoyable to work with. Recent comments from clients include: ***"not afraid of a good old fashioned scrap in our client's best interests"***; ***"really did a number on the [other side's] witnesses in cross-examination"***; ***"He is tenacious, well-prepared and fights to the end. A joy to work with,"*** and ***"He is very responsive, robust in the positions he takes, really user-friendly and willing to help."*** (the final two were cited in Chambers & Partners 2016).

## Commercial Litigation and Business Protection

Craig is an experienced advocate and adviser in a broad range of commercial disputes, at all stages from pre-action and interim stages to trials, ranging from insolvency related matters through shareholder disputes to disputes relating to partnerships and business sale/joint venture agreements. He appears in both the High Court and the County Court, as well as in arbitrations.

Craig has particular expertise in commercial disputes in the business protection arena: i.e. those relating to the sale of shares and businesses; shareholder and LLP membership; commercial fraud; and director relations (in addition to his experience in confidential information, restrictive covenant and team move claims referred to in the 'injunctions' section below). The strategic approach he brings to such claims means that he is frequently able to work with his solicitors and clients to obtain favourable settlements, following the issue of punchy pleadings, and hotly contested interim applications.

Commercial claims on which Craig has acted include:

- Unfair prejudice disputes, derivative actions and petitions for just and equitable winding up (Craig has acted for both the minority shareholder and the company in respect of such disputes)
- Commission claims, and claims for breach of warranty/covenant in respect of share sale agreements
- Misrepresentation claims (both in respect of business sale agreements, and in respect of joint venture arrangements)
- Disputes relating to the dissolution/winding up of partnerships, and of the rights of partners (by way of example, Craig has acted at various stages on the long-running dispute in *Lie v Mohile*, which has been in the County Court, the High Court and the Court of Appeal)
- Commercial fraud disputes (Craig has experience of acting both for the alleged fraudster, and for the victim of such fraud)
- Errors and omissions claims for a leading insurance broker (both in the County Court and in the High Court)
- Professional negligence claims against solicitors firms
- An LCIA arbitration arising out of a dispute concerning the operation by a Russian bank of a trading account. The dispute involved issues of agency and complex estoppel arguments
- Claims involving 'soft' IP (such as database rights and copyright)
- A claim relating to the sale of an aircraft involving conflict of laws issues.

## Injunctions

Craig has particular expertise in restrictive covenant/confidential information/team move claims, and has acted for the poacher, the gamekeeper and the employees involved in such claims. Chambers & Partners Guide has described his *"in-depth familiarity with ... restraint of trade issues"* as one of the foundation stones of Craig's practice. With a strong practice in obtaining injunctive relief as sole Counsel, Craig is also frequently led by the leading Silks in these areas, and works closely in partnership both with those leading him, and with his instructing solicitors. He regularly acts for inter-dealer brokers, insurance agents, insurance brokers recruitment companies and companies in the scientific field obtaining injunctions followed by further relief including springboard relief arising from a team move. He is also adept at without notice injunctions, recently obtaining: (i) a without notice garden leave injunction for a leading insurance broker (as sole Counsel); and (ii) without notice relief requiring preservation of documents, compliance with restrictive covenants and confidentiality clauses in contracts of employment and the provision of information by way of Affidavit for an insurance company (led by

Gavin Mansfield QC). Although many of these claims settle prior to reaching a full hearing, high profile reported claims on which he has acted include:

- ***Tradition v Gamberoni & Marex Spectron*** [2017] IRLR 698 multi-day speedy trial in the High Court between two inter-dealer brokers, focusing on the enforceability of post-termination non-compete and non-deal covenants, and springboard relief. The case is being appealed to the Court of Appeal (with a hearing expected in 2018). Craig is led by Jonathan Cohen QC.
- ***QBE v Dymoke & Ors*** [2012] I.R.L.R. 458: 20-day High Court team move trial relating to the insurance-industry involving complex (and at times novel) legal arguments relating to the application/appropriateness of springboard injunctive relief, pre- and post-termination confidentiality obligations, and the scope of the implied duty of fidelity. The Judge (Haddon-Cave J) described the written and oral submissions as "excellent". Craig was led by Selwyn Bloch QC and Damian Brown QC.
- ***Tullett Prebon v BGC Brokers***: Acted (as a solicitor) for BGC and its President in this 45 day liability trial in the High Court ([2010] IRLR 600) arising out of a team move between rival inter-dealer brokers, including allegations of misuse of confidential information, breaches of court orders, inducing breach of contract and conspiracy. Also acted on the appeal to the Court of Appeal ([2011] IRLR 420).

Craig also has experience of seeking 'strike busting' injunctions, including creatively using the threat of legal action to head off the Unions'"leverage" campaigns and flash mobs (by way of example he acted for a number of London Bus companies during the strikes relating to the Olympics).

## Employment Law

Craig is consistently ranked in Chambers & Partners Guide to the UK Bar as a leading Junior in employment law, and has been described in the following terms: ***"An up-and-coming junior, whose employment practice is going from strength to strength. He is a former solicitor and is praised for his commercial outlook and keen understanding of the pressures facing those that instruct him. His recent work includes high-profile discrimination claims in the Employment Tribunal and breach of contract and team move matters in the High Court."***

Craig has been instructed on numerous complex, multi-day discrimination and whistleblowing claims, and has a thorough knowledge of the different strands of discrimination law, and of whistleblowing, TUPE, employment status and unlawful deductions issues. He has appeared successfully as sole Counsel for both Respondents and Claimants where the other side has instructed a Silk. He has particular expertise in disability discrimination claims. Craig regularly acts in unfair dismissal claims, and has obtained a number of strike outs, deposit orders and costs awards at preliminary hearings.

Craig has extensive experience of litigation in the Employment Tribunal, Employment Appeals Tribunal, High Court and Court of Appeal. He is also regularly instructed to carry out sensitive investigations, grievances, disciplinary hearings and appeals (including by solicitors firms in respect of their partners). The nature and contents of such processes necessarily have to remain confidential.

Representative cases include:

- ***S v Large Financial Institution*** (2017) Acted (against a Silk) for the Claimant, a very senior banker, in his claim alleging breach of FCA obligations. Craig acted throughout (drafting the pleadings, advising and appearing at a hearing on various interlocutory matters, working on the witness statement and assisting with the negotiation of settlement). The claim settled for a seven figure sum just before the first day of the

10-day hearing.

- **B & D v B** (2017) – Acted for the successful inter-dealer broker respondent resisting a claim (said to be worth considerably more than £1million) by two former employees who alleged that they had been automatically unfairly dismissed for blowing the whistle.
- **D v P** (2017) – Acting for the Claimant (a former director of the Respondent) in a high value disability discrimination claim. The claim is currently part-heard, with evidence due to finish at the end of December 2017, and submissions completed in January 2018.
- **Roberts v Wilsons Solicitors** [2016] IRLR 586. Acted for the Respondent firm of solicitors in relation to the significant issue of the extent to which an LLP member can claim post-termination losses through a whistleblowing claim when they have purported to accept a repudiatory breach of contract (which was ineffective as a matter of law). The Court of Appeal is due to hear Craig (and Jonathan Cohen QC)'s appeal at the end of December 2017. Craig is also instructed in respect of the multi-day Tribunal hearing which is due to take place following the Court of Appeal's determination.
- **F v Large Insurance Company** (2016): Acted (against a Silk) for the Claimant in respect of a 15-day whistleblowing and victimisation claim involving allegations of breach of FCA obligations. Craig acted throughout (drafting the pleadings, and advising on various interlocutory matters). The claim settled on the morning of the first day of trial.
- **D v Large Insurance Company** (2015): Acted (against a Silk) for the Claimant in a 15-day sex and pregnancy discrimination claim. The claim settled on day 10, after some of the Respondent's witnesses had admitted under Craig's cross-examination that their actions had been sexist.
- **Gaughan v Ashridge Trust** (2015): Acted (against a Silk) for the successful Respondent (a higher education institution) in a multi-day sex and age discrimination claim. Following Craig's cross-examination, the Claimant was found by the Tribunal not to have been telling the truth in many respects.
- **Menzies Distribution Limited v Mendes** UKEAT 0497 13 (2014): Acted for the successful Appellant in an unusual bias appeal where the EAT overturned the ET Judge's findings (on disability) because of apparent bias. Lewis J described Craig's "*persuasive submissions*" in his judgment.
- **BGC v Moore** UKEAT 0211/14 (2014): Acted for the successful Appellant in an appeal against a Tribunal's decision where the Tribunal was – unusually - found to have failed to identify the relevant principles of law, and impermissibly to have substituted its own opinion for that of the employer.
- **Masson v Commissioner for the Metropolis** (2013- 2014): Acted (against a new Silk) for the Claimant in a 10-day race and disability discrimination and whistleblowing claim against the Metropolitan police. The case involved cross-examination of a number of senior police officers and arguments about the correct approach to the doctrine of judicial immunity.
- **J v S** (2012 – 2013): Acted for the (successful) Respondent in this multi-day disability discrimination PHR, focussing on the correct approach to the meaning of disability within the meaning of the Equality Act 2010, cross-examination of a vulnerable witness and submissions as to the weight to be given to expert and other medical evidence.
- **R v Readers Offers** (2011 – 2012): Acted for the successful Claimant in a 10 day indirect sex discrimination, victimisation and constructive unfair dismissal claim. Craig cross-examined 11 witnesses whose evidence was found (inter alia) to be "evasive", "unhelpful" and "contrived".
- **H v News International** (2011-2013) Multi-day disability discrimination remedies hearing (led by Clive Freedman QC) where the Claimant claimed close to £1 million, and there were complex issues of causation (with three expert witnesses) and potential double-recover, including settling an appeal to the

EAT in relation to the issue of apportionment of losses.

- **O v O** (2011) Five day race discrimination, unfair dismissal and unlawful deductions claim, settled on confidential terms on day three because, in the Claimant's words, Craig had "**destroyed**" his case in cross-examination.
- *Southampton CC v Burnett* (EAT, 2012): Acted for the Respondent. HHJ Peter Clark described Craig's skeleton argument and submissions as "excellent", and praised his forensic skills as an advocate.
- **Lewis v Jubilee Managing Agency Limited** (2011) Acted (as a solicitor) for the employer in its successful defence of an eight day sex discrimination claim which attracted press coverage in 2011 because of allegations by the Claimant in relation to the Tory party.
- **Switalski v F&C Asset Management** (2008 – 2010) Acted (as a solicitor) for the employer in the Review before the Employment Tribunal, in the EAT (UKEAT/0423/08) and in preparation for the Court of Appeal in relation to the Claimant's claim for £19 million as a result of alleged sex and disability discrimination.
- **Burlo v Langley and Carter**: Acted (as a solicitor) for the employers in their successful appeals to the EAT ([2006] ICR 850) and the Court of Appeal ([2007] ICR 390) in relation to the correct approach to assessing awards for wrongful and unfair dismissal.

Craig frequently gives talks and training on, and has written a number of published articles about, all aspects of employment law.

## Education Law

Craig has a long-standing interest in, and considerable experience of, education law, in particular the law relating to special educational needs.

Craig uses his experience in the education field – referred to further below - to bring a practical, analytical and sympathetic approach to the instructions he receives in relation to all areas of education law.

Cases on which he acts include:

- Appearances before the First Tier Tribunal and the Upper Tribunal relating to SEN issues
- Acting (for both sides) on disputes between universities and lecturers
- Advising higher education establishments on governance issues
- Educational negligence claims (both in contract and by way of judicial review)
- Acting for and against a variety of primary, secondary and tertiary education establishments in relation to exclusion, disability discrimination, SEN and other issues.

Craig has been a Representative for the charity IPSEA (Independent Parental Special Education Advice) since 2002, and has appeared for numerous parents in successful appeals to the Special Educational Needs and Disability Tribunal (now the First Tier Tribunal). Craig has been a school governor since 2003, so has practical experience of the application of education law in schools (and, as the Chairman of the Personnel committee, of the application of employment law in schools). Over the last nine years, as a Governor of a state primary school in Wandsworth, he has helped to turn a school in special measures into one which received an Outstanding grade from OFSTED in February 2014. Craig has been vice-chair of Governors for a number of years, and became Chair of Governors in September 2017. Craig has also worked with autistic children for more than 15 years, taught in a special needs school in Japan, and worked for a few months at the General Teaching Council.

## Personal Background

Craig grew up, and went to school in, Edinburgh. He then read Modern History at Keble College, Oxford University, graduating with First Class Honours in 2000.

Craig spent two and a half years living in Toyota City, Japan (teaching English and studying Japanese), and holds Level 1 in the

Japanese Language Proficiency Test (the highest Japanese language qualification). He obtained Distinctions in the GDL and the LPC from BPP Law School.

Craig trained and qualified at Ashurst LLP (qualifying as a solicitor in March 2007, and as a Solicitor-Advocate in the same year). He has spent time on secondment to the in-house legal departments at IBM and Abbey. He joined McDermott Will & Emery in September 2008, and moved to the Bar in March 2011.

He is currently authoring chapters on confidential information and legitimate interests for the next edition of the leading textbook on employee competition.