

Dale Martin QC

Silk: 2019 | Call: 1997

Queen's Counsel

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Dale Martin QC is one of the UK's leading specialists in employment and commercial law. He is often instructed in appeals, in business-critical injunctive cases, in long-running multi-claimant litigation, and in cases concerning high net worth individuals. With a keen attention to detail and a compelling advocacy style, Dale has a formidable reputation. Dale's team skills, his responsiveness and his reliability to work to deadlines are also highly valued amongst instructing solicitors. Dale is a natural trial and appellate advocate but uses his strategic insight, commercial judgement and tactical nous to position cases for favourable settlement where this achieves his clients' objectives.

Ranked for a number of years by Chambers & Partners and Legal 500 as a **leading employment practitioner**, Dale's practice encompasses **injunctions, restrictive covenant and confidential information disputes, bonuses, fiduciary duties, shareholder disputes, contractual disputes**, statutory claims including **discrimination, whistleblowing and unfair dismissal, TUPE, trade union litigation, internal investigations** and **mediation/ADR**. He also specialises in class-action litigation in the fields of **equal pay and working time**.

"Tenacious and very bright, with excellent drafting - he is a great team member. He is meticulous in his preparation and inventive in his solutions. A credit to his chambers and the profession." Legal 500 2021

"He masters the detail and gives good, sound, incredibly commercial advice." "Very sharp-witted, clear and great with clients." Chambers & Partners 2020

"Dale is technically brilliant and his legal knowledge is outstanding." Legal 500 2019/20

"Intelligent, strategic and extremely persuasive as an advocate." "Approachable and client-friendly." "His attention to detail is excellent." Chambers & Partners 2019

"An excellent advocate who unfailingly produces first-class work." Legal 500 2018/19

"An outstanding counsel with a reassuringly forensic approach. He has an exceptional ability to immerse himself in the detail of each case and his advocacy is superb." Chambers & Partners 2018

"Very commercial barrister who is well liked and respected by clients. He is very switched-on and provides a terrific service." Chambers & Partners 2017

Dale's recent work includes:

- Appearing at the **Court of Appeal** following a successful three-day appeal to the EAT on requirements for presentation of multiple claims in the context of over 1000 **equal pay** claims against Dale's supermarket client **Asda Stores Ltd v. Brierley** [2019] ICR 910. Dale also appeared at the EAT in 2020 in an appeal concerning the requirements for making amendments in tribunal proceedings. **Sainsbury's Supermarkets Ltd v. Ahmed**

- Acting in a 15 day **breach of fiduciary duty/alleged civil fraud** trial arising out of a **Share Purchase Agreement** with the director and former owner of the business and an alleged related **conspiracy** with a senior employee. Following Judgment and costs being awarded in his client's favour (2020), Dale is now instructed on two appeals, one on the issue of informed consent in the context of breach of fiduciary duty, one on the requirements of **Part 36 Offers**. He is also acting and has appeared at the High Court in a related £1m+ claim of **misrepresentation and mistake** in respect of earn out consideration paid pursuant to the SPA . **Reader v. Spie Ltd; Spie UK Ltd v. Garside**
- Appearing in the Queen's Bench Division on behalf of a leading Foreign Exchange company and obtaining an **injunction** to enforce **garden leave, post-termination restraints, springboard relief, protection of confidential information and forensic imaging of computer data**. **FairFX plc Malik & others** (2019)
- Appearing at a successful **mediation** of a highly complex and long running multi-million pound **computer software dispute** (2019)
- Acting in the Chancery Division for a company resisting an **injunction** application brought by a **minority shareholder** in aid of Part 8 construction proceedings following her husband's dismissal as a director and employee and the application of bad leaver provisions. **Glass v. Previs Ltd** (2019)
- Advising a number of employers about various business-critical issues related to the **Coronavirus pandemic**
- Acting for a top flight French football club both at first instance and on appeal in a **Brussels Recast jurisdictional dispute** concerning a £4m claim against the club, arising out of the alleged enticement away from the claimant of its new manager. **Letang v. Stade Rennais**

AREAS OF LAW

Employee Competition & Injunctions

- Dale acts in and advises on numerous **multi-party injunctive proceedings** and related **damages claims**. Dale's practice includes search and freezing order relief. He regularly appears in multi-party **financial services** sector and **insurance** sector injunctions. This work follows on from Dale's representation of the successful claimant in the landmark springboard injunction and team move case of **QBE v. Dymoke**. The case resulted in the first known order for final springboard relief consequent upon breaches of employees' duties of fidelity and breaches of fiduciary duty whilst in employment. They had already been successful in obtaining two interim injunctions prior to trial.
- Dale has recently acted for an English language college, securing the **closure of a competitor website** unlawfully established by existing employees of the college (2020)
- Dale acted on behalf of a boutique design consultancy to secure its business following the departure of a salaried partner (2020)
- Dale defended a senior executive departing from a software, business intelligence and data integration company in respect of High Court **confidential information proceedings** brought against his client (2019)
- Dale acted for a further education college in order to **close down a competing training business** set up by an existing employee (2019)
- Dale acted for an international property consultancy in **Chancery Division proceedings** brought against a former employee, following his dismissal for viewing pornography at work and his theft of **confidential information**, infringement of **database rights**, unlawful contact of customers and posting of videos on YouTube (2018/19)
- Dale advised a large hotel group in relation to competition by a former director following entry into **restrictive covenants** in a Mediation Agreement (2018)
- Dale successfully defended an **injunction** application in respect of a tech specialist employee seeking to leave his firm to join a competitor (2018)
- Dale acted for a claimant in a **team move** case in the trade displays business against seven defendants, including the new employer, enforcing **restrictive covenants** and obtaining a **springboard injunction**.
- Defended a **confidential information injunction** on behalf of a senior tech employee
- Dale acted for a high-end English sparkling wine company concerning their acquisition of a senior employee from a competitor

- Having successfully resisted an injunction at the interim stage, Dale acted for the Defendants at trial in the restrictive covenant dispute in **Romero Insurance Brokers Ltd v. Templeton** The case dealt with the correct test for repudiatory breach of contract, the alleged right to work prior to termination of employment and the approach to be taken to the enforceability of the covenants in the context of the insurance industry. The trial figured heavily in the insurance press.
- Dale has also defended injunction proceedings brought against an employee engaged by a new business of a TV celebrity entrepreneur.

Employment Appeal Tribunal & Employment Tribunal Work

- Appearing in a lengthy **stage 3 equal value hearing** for a supermarket defending **multiple equal pay** claims brought by numerous female distribution centre workers (2020)
- Defending a leading international insurance broker in a multi-day **age discrimination and unfair dismissal** matter (2020)
- Defending a logistics company in various parts of the UK in respect of **thousands of multiple holiday pay claims** based on recent developments in EU law (2010-ongoing, 3 week trial in 2021)
- Advising the executive team of a public waterway provider in respect of their policies and their **public sector and other equality duties**, and defending the trust in **discrimination** litigation in respect of the **provision of goods and services**. (2017-ongoing)
- Appearing at a (successful) **Employment Tribunal judicial mediation** in relation to an **equal pay** claim in the manufacturing industry, highly publicised in the national press (2019)
- Appearing on behalf of a further education college, defending **complex disability discrimination proceedings** (2019)
- Representing an art gallery faced with a claim of **constructive dismissal** in respect of an employee contemporaneously running a male escort business (and other businesses) during working time (2019)
- Appearing twice at the EAT on an **appeal** in a **working time/holiday pay** multiple concerning **strike out** for failure to comply with an **unless order**. **Cunning v. Amey Services Ltd** (2018-ongoing)
- Successful in two appeals to the EAT, one on relief from strike out, the other on wasted costs, concerning a different multiple of **working time/holiday pay** claims. **Bate v. Amey Services Ltd** (2018-ongoing)
- Instructed on appeal to act for an employer ordered to pay substantial damages for **race discrimination**. The appeal raised numerous points of general application in the context of remedies for discrimination (2018)
- Acted at the Employment Tribunal for a trader at a **merchant bank**, suing for **sex and disability discrimination** (2018).
- Successful strike out of 800 working time/holiday pay and associated claims brought in the Employment Tribunal against a major construction and highways company. **Wasted costs** award of £275,000. Also successful in relation to a major **res judicata** issue. Defended appeals on **strike out** and **costs**.
- Successful defence of a multi-day **race and sex discrimination** case brought by a solicitor against a law firm, with costs following the earlier obtaining of a **deposit order** .
- Two appeals to the EAT brought by an internationally renowned music industry celebrity, who kicked a long-term employee/confidante out of his inner circle. First appeal concerned celebrity's applications for **privacy** in the proceedings, namely, restricted reporting orders, anonymity orders and an application in respect of the underlying **discrimination** trial to be heard in private. The second concerned an appeal from an **amendment application**.
- Successful appeal to EAT laying down new law on approach to amendment applications in context of a multiple claim, **Aldridge v. Amey Services Ltd & another**.
- Defending appeal to EAT concerning **unless orders** and **EAT Procedure** - **Wentworth-Wood v. Maritime Transport Ltd**.
- **Mustafa v. Trek Highways Ltd** Multi-party EAT appeal on **TUPE/Service Provision Change** resulting from a business failure shortly before new Transport for London contracts for maintenance were due to begin.
- **2 Sisters Food Group Ltd v. Abrayte** EAT appeal establishing new law in relation to the approach to be adopted in dealing with applications to amend **equal pay** claims, particularly regarding changing the job in respect of which the claimant seeks to bring a claim.

- Dale is increasingly selected by law firms to act in respect of their own litigation, enjoying a ‘trusted advisor’ status in difficult disputes.
 - **Portnykh v. Nomura International plc**, and EAT appeal that established important new principles of wide application concerning the **without prejudice rule in discrimination** cases.
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Internal Investigations

- Dale specialises in both advising on and conducting **internal investigations in companies, LLPs, partnerships and public bodies** in respect of alleged misfeasance and wrongdoing on the part of employees and directors. This work is sensitive and confidential, often aimed at the prevention and/or the minimisation of risk of subsequent litigation. The following are examples from 2020. Further examples are available on enquiry.
 - Advising a **law firm** dealing with a **highly complex, confidential and sensitive internal gross misconduct case against a partner** in the firm, following the discovery of falsification of court documents, misappropriation of client funds and severe neglect of vulnerable clients, overlaid with **potential disability discrimination ramifications** (2020)
 - Advising a private company on their internal investigation following the **sharing by an employee/director/shareholder of commercially sensitive information between competing undertakings in contravention of UK and EU competition law** (2020)
 - Advising a college on the **investigation and disciplinary process** concerning a thwarted **team move** during the **Coronavirus pandemic** (2020)
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Fiduciary Duties, Shareholder and Contractual Disputes

- Dale continues to advise on a number of **shareholder and director disputes** in small companies and LLPs, often in connection with internal disciplinary proceedings. Work in 2020 includes advising on the company law, shareholder and employment aspects of a private company dispute between three directors in the oil exploration industry, following allegations of gross misconduct and the departure of the one of the directors/shareholders.
 - Dale acted for a departing director and shareholder of a digital marketing business in **unfair prejudice proceedings** commenced in the Chancery Division.
 - Dale has recently acted in a number of multi-million pound claims for **breach of warranty** being brought by purchasers of businesses under **Share Purchase Agreements**.
 - Acting for an employer defending a high court **bonus** claim brought by a managing director that was guilty of gross misconduct.
 - Dale continues to advise on high value **bonus and other financial incentive claims**. For example, he has recently been instructed to advise on a bonus claim of a Monaco-based employee who entered into contracts with different companies within the employer group, each based in different jurisdictions around the world. He has also recently acted in the Queen’s Bench division defending a claim for a very substantial alleged **‘guaranteed bonus’** brought by a director against Dale’s Indian software solutions client.
 - Many of Dale’s cases concern breaches of **fiduciary duty, inducement of breach of contract** and **conspiracy** not least his employee competition work, e.g. **QBE v. Dymoke** . The case resulted in the first known order for final springboard relief consequent upon breaches of employees’ duties of fidelity and breaches of fiduciary duty whilst in employment. For similar work in an injunctive context, see above.
 - **Mainline Private Hire Ltd v. Nolan** Court of Appeal matter concerning a breach of contract and conversion claim against a former employee and director arising out a directors’ and shareholders’ dispute, following on from an earlier unfair prejudice petition.
 - Dale acted in relation to a claim of **fraudulent misrepresentation arising out of a share purchase agreement**. The Purchaser alleged wholesale fabrication of financial data and obtained a **freezing injunction**.
 - Dale has acted for both shareholder/directors and members of LLPs alleging unfair prejudice and seeking a just and equitable winding up.
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Lectures & Seminars

Dale lectures across a wide range of issues and enjoys presentations to both solicitors and clients alike.

Examples of recent lecture topics are:

- Database rights;
 - Injunctions;
 - TUPE;
 - [Equal Pay](#)
 - Issues arising with actual or potential concurrent claims in the courts and in the employment tribunal.
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Memberships

- Employment Law Bar Association (ELBA)
 - Employment Lawyers' Association (ELA)
 - Commercial Bar Association (COMBAR)
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