

# 12

King's Bench Walk

## Joel C. T. Kendall

Call: 1993

kendall@12kbw.co.uk



### AREAS OF EXPERTISE

Personal Injury, Employment & Discrimination, Clinical Negligence, International & Travel, Insurance, Product Liability, Inquests, Aviation

Joel is one of a small number of senior juniors at 12KBW specialising in both personal injury and employment law. Within these specialisms, he has a wide-ranging practice, from catastrophic injury work to multi-day discrimination litigation. He enjoys working at the interface of personal injury and employment, in particular in the areas of workplace stress and harassment. He is regularly instructed by some of London's leading firms, as well as by public authorities and Trade Unions. He acts for both Claimants and Defendants/Respondents.

In addition Joel has a well-established Claimant clinical negligence practice.

He is known for his superb attention to detail and client care, and is adept at turning papers round efficiently. He will attend conferences at a location convenient to the client.

He gives regular lectures in both chambers and at solicitors' offices on a variety of employment and personal injury areas, including the operation of the Johnson exclusion area, a difficult and complex subject affecting both personal injury and employment litigation.

Outside the law Joel continues to suffer the anguish of supporting Wycombe Wanderers FC.

### Personal Injury

Joel continues to undertake high-value and complex personal injury work, acting for both Claimant and Defendant and specialising in the following areas:

- Workplace stress and harassment – following a number of fully contested High Court trials in 2014 (see “Interesting Cases”) he has continued to receive instructions to act for and against high-profile institutions and companies. He has achieved significant settlements for Claimants at JSMs
- Chronic pain/complex regional pain syndrome – Joel secured a substantial settlement for a Claimant in a chronic pain case part way through a trial earlier this year
- Brain injury (both traumatic and subtle) – Joel has acted for a number of clients over the past year where

capacity was in issue. At the approval hearing in relation to a substantial settlement for a brain-injured client, the DCJ approving the settlement described Joel's advice as one of the clearest and most helpful that he had ever seen

- Other catastrophic injury and fatal accidents – Joel is currently involved in tetraplegia and other spinal injury cases, and has settled a number of fatal accident claims at JSMs over the past year

In addition Joel does of course continue to practice in employers' liability and public liability work generally as well as in RTAs; he has appeared at all levels from county court to Court of Appeal. He is experienced in costs management, and is happy to accept instructions from both Claimant and Defendant solicitors to undertake all aspects of CCMCs.

## **Employment & Discrimination**

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Joel regularly appears in the Employment Appeal tribunal, and had acted in many high profile cases on behalf of both Claimants and Respondents. He has extensive experience of multi-day complex cases in the tribunals.

Recent EAT appearances include acting on a *pro bono* basis for the Appellant in [Enamejewa v British Gas Trading Ltd](#) (strike out) and representing the Appellant in [G4S Cash Solutions \(UK\) Ltd v Powell](#) (reasonable adjustments) – see "Interesting cases". Recent tribunal appearances have included multi-day discrimination cases (race and disability).

Joel has wide experience in all types of discrimination work (including harassment), cases involving TUPE, collective and individual redundancies, protected disclosure, working time cases, agency workers, breach of confidence and, of course, unfair dismissal.

He is a member of the EAT's ELAAS scheme

## **Clinical Negligence**

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Joel's experience in clinical negligence lies exclusively in acting for Claimants. He has undertaken a wide range of clinical negligence work, including claims against cosmetic surgeons, physiotherapists and dentists as well as GPs and NHS hospital trusts. His experience in this area extends to inquests

## **International & Travel**

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Joel acts frequently for cabin crew in personal injury claims against UK-based international airlines. In addition he has experience of passenger claims for personal injury under the Montreal Convention

## **Insurance**

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Joel's experience in this area includes:

- Motor insurance – declaration proceedings and related litigation
- Permanent health insurance – policy wording disputes

## **Product Liability**

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Joel has represented Claimants in product liability personal injury litigation, including in recent years claims arising out of defective fireworks, ladders and bicycles

## **Inquests**

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Joel appears regularly on multi-day inquests in the fields of both personal injury and clinical negligence

## **Aviation**

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Joel frequently acts in cabin crew and passenger claims for personal injury under the Montreal Convention.

## Qualifications & Awards

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Astbury Scholar of the Middle Temple (1993)

BA (Hons) Jurisprudence, Exeter College Oxford (1992)

## Memberships

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Personal Injuries Bar Association

Employment Law Bar Association

## Directories

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*Rapidly identifies the key issues in the case* – Legal 500, 2014

## Cases

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*G4S Cash Solutions (UK) Ltd v Powell* UKEAT/0243/15 – guidance on whether the duty to make reasonable adjustments encompassed pay protection when the employee is moved to a lesser role

*Enamejewa v British Gas Trading Ltd* UKEAT/0347/14 – the first authority on the proper interpretation and application of r.38 of the 2013 ET Rules relating to reinstatement of cases that have been struck out for non-compliance with unless orders

*Olulana v LB Southwark* [2014] EWHC 2707(QB) – workplace stress claim. Considered the jurisdiction of the High Court in relation to claims under the Equality Act 2010

*Boylin v The Christie Hospital* [2014] EWHC 3363 (QB) – workplace stress claim. Considered the principles underlying the Protection from Harassment Act 1997 and common law negligence in relation to psychiatric injury of employees

*Hodgson v Carr* November 2014 – 2 day High Court trial (Newcastle DR) on liability only in catastrophic injuries road traffic accident claim

*Burden v Stevenage Borough Council* UKEAT/0587/10/ZT – guidance on affirmation in constructive dismissal cases and drawing inferences of discrimination

*Veakins v Kier Islington Ltd* [2009] EWCA Civ 1288 – Guidance on the proper interpretation of the Protection of Harassment Act 1997.

*Sayers -v- Cambridgeshire CC* [2006] EWHC 2029 (QB), [2007] IRLR 29 – no justification for imposing cause of action for breach of statutory duty in respect of regulation 4 of the Working Time Regulations 1998.

*G4S Justice Services (UK) Ltd -v- Anstey & others* [2006] IRLR 588, EAT: retrospective operation of TUPE after transfer.

*Securicor Security Ltd -v- Toujani* [2005] All ER (D) 240 (Jull) – reverse burden of proof in discrimination cases.

*Pitt -v- Industrial Roofing Ltd* [2005] All ER (D) 392 (Apr) – interpretation of s.1(3)(b) of the Fatal Accidents Act 1976.

*Laing O'Rourke Group Services v Woolf & Jones* UKEAT/0038/05: strike out for non-compliance with tribunal orders.

*Securicor Custodial Services Ltd v Williams* UKEAT/0042/02: causation in discrimination case, race specific discrimination.

*Hockney & Marshall v DW Bennett & Sons (1), Johnson (2), Barton (3) CA 19.10.00, Lawtel AC9900060: apportionment of liability in road traffic accidents*