

Joel C. T. Kendall

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AREAS OF EXPERTISE

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

Joel specialises in personal injury, employment law and clinical negligence. He has extensive experience of 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 the leading claimant and defendant solicitors. In addition he is instructed by public authorities and Trade Unions.

Joel regularly provides lectures 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's interests include classical music, cinema and Wycombe Wanderers FC.

Employment & Discrimination

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.

A major part of his practice over the past 18 months has comprised the representation of the successful Claimant in Heslop v Oxford Said Business School Ltd, one of the largest whistleblowing claims of recent years. Following appearances for the Claimant on his own account in the employment tribunal at both the liability and remedy hearings, the claim was settled on a confidential basis subsequent to further success for the Claimant in the EAT where Joel was led by Jane Mulcahy QC – see “Cases”.

Other EAT appearances over the past few years 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 “Cases”.

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.

Qualifications & Awards

Astbury Scholar of the Middle Temple (1993)

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

Memberships

Personal Injuries Bar Association

Employment Law Bar Association

Directories

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

Cases

Oxford Said Business School Ltd v Heslop EA-2021-00268-VP (EAT), [2021] 11 WLUK 179 – an emphasis on the principles enunciated in *DPP Law Ltd v Greenberg*, that appellate tribunals should be slow to conclude that an employment tribunal has not applied applicable legal principles when they have been correctly stated

H v M (2021) – acted for Defendant at the JSM of a severe brain and orthopaedic injury case. Settlement achieved (led by Paul Russell QC)

R v MML (2021) – acting for the Claimant in a severe brain injury case. A substantial six figure sum was obtained at a JSM

L v S NHS Trust (2020) – acting for the Claimant in a catastrophic injury clinical negligence case. Following resolution of liability an eight figure sum was obtained at JSM (led by William Featherby QC)

Re PH (deceased) (2019) – acting for the family at the JSM and subsequent approval hearing in respect of a fatal accidents claim arising out of the Croydon tram crash in 2016

N v SMH NHS Trust (2019) – acting for the Claimant in a catastrophic above-knee amputation case where liability and causation were in dispute. A substantial seven figure sum was obtained at a JSM

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