



## Jacques Algazy QC

Year of Silk/Call: 2012/1980

Call Clerk on 020 7827 4000

### PRACTICE AREAS

Commercial Law | Discrimination & Equality | Employment | Human Rights |  
Regulatory | Sport and Entertainment

### HIGHLIGHTS

Jacques is joint head of Chambers. "He is meticulous in his preparation, charming with clients but manages their expectations very cautiously. He is masterful in cross-examination - he is particularly good at teasing out inconsistencies in evidence. **Chambers and Partners 2018**

### OVERVIEW

### EMPLOYMENT

Jacques is a tenacious and robust advocate in employment, commercial and public/EU law. He has been recommended by Chambers, Legal 500 and Legal Experts in Employment Law. He has appeared in Chambers & Partners as a leading practitioner for many years.

### International/Cross Border

Jacques is the first port of call for cases involving an international or cross border element. Since appearing in the House of Lords in the seminal case of *Lawson v Serco*, Jacques has acted in many cases and appeals where jurisdiction has been in issue. Most recently in *Olsen v Gearbulk* in the EAT. Jacques' expertise in this area extends to Tribunal work, High Court litigation and arbitrations, often involving the enforcement of post-termination restrictive covenants. Jacques also regularly appears in Northern Ireland and has advised in Channel Island Cases. Jacques frequently lectures on International Employment Law issues and has done for the ELA, ILS and the Council of Employment Judges.

### Contract/Bonuses/Covenants/Injunctions

Advising and appearing on Bonus/LTIP/ Stock Option claims, Jacques acts for both claimants and defendants in employment contract claims. Jacques also regularly acts in claims for injunctive and associated relief including breach of confidence, post-termination covenants, database protection as well as search orders and delivery-up claims. Recently advised on a complex international covenant jurisdiction claim. Jacques was also instructed in the Commercial Court to resist claims for injunctions against a number of former partners by one of the "big four" accountancy firms in Russia. Successfully acted for an employee in discharging a non- compete injunction in the automotive field. Jacques has also advised on creative forms of atypical covenants.

### Discrimination

Jacques acts in a broad range of discrimination cases at trial and appellate level. Successfully defended a National newspaper in a claim for Sexual Orientation discrimination (*Shenton v Sunday Express* ). Jacques also has particular expertise in acting for, and against, public

employers. Jacques successfully defended the Crown Prosecution Service in a long-running race discrimination claim (*Aziz v CPS*). He successfully acted for an NHS Trust in a 26 day discrimination claim (*Bashir v Sheffield NHS Trust*). Jacques has also been instructed by senior doctors bringing discrimination claims (e.g. *Bhattacharyya v Royal West Sussex NHS Trust*). Jacques acted for the Defendant in an associative disability discrimination claim in Northern Ireland in which the Claimant sought a reference to the Court of Justice of the European Union. Also in Northern Ireland, Jacques acted in the first case there of obesity disability discrimination.

### Whistleblowing

A spate of cases has seen Jacques successfully defend whistleblowing claims against a number of high-profile clients. These have included Microsoft (*Margetson v Microsoft Research Limited*) and Randox Laboratories Limited (*Wilson v Randox*). He was instructed by Norbrook Laboratories in an appeal in the EAT on the meaning of "protected disclosure" (*Shaw v Norbrook*); the substantive trial took place in April 2015 and all claims were dismissed.

### Flexible working/Maternity and Parental leave

Jacques has a particular interest in questions arising from the kind of conflicts that emerge in dealing with requests for flexible working and/or parental leave. Jacques acted for the Defendant in a test case in Northern Ireland (*Cushman v Norbrook Laboratories*), successfully resisting a claim for associative disability discrimination.

### Multi-jurisdictional litigation

Jacques frequently acts in cases which are simultaneously litigated both in the tribunal system and in the High Court. Questions of which proceedings, if any, should be stayed and issues of *res judicata* regularly feature.

### Minimum wage calculation/legitimate expectation

*VJE Employment v HMRC* was a test case involving the correct approach to calculating minimum wage as well as a challenge to a change of position by HMRC on grounds of legitimate expectation. The case settled before a hearing took place.

## TUPE

Jacques is regularly called upon to advise on issues arising from business transfers and service provision changes. Jacques led on an appeal in the EAT relating to the statutory construction of the regulations relating to service provision change. Jacques advised a number of local authorities on associated TUPE and equal pay issues arising from a proposed amalgamation of services. Jacques is instructed to appear in a two week trial later this year defending a TUPE claim consequent upon/ linked to a share transfer.

## DISCRIMINATION IN GOODS AND SERVICES

Jacques expertise in discrimination and commercial work means he is sought after in in cases involving discrimination in the provision of goods and services. He was instructed for the Defendant in a religious discrimination claim by the Orthodox Jewish lessees against the management company of an apartment block who sought to introduce motion sensor lighting in the common parts. The Claimants claimed a breach of their human rights as well as religious discrimination.

## COMMERCIAL

### International

Building on his international/EU expertise, Jacques is often instructed in general commercial litigation with an international dimension. He has been involved in such litigation in the High Court as well as in arbitrations and associated Commercial Court litigation.

### Commercial impropriety

In cases involving former employees, issues often arise that relate to breaches of fiduciary and/or director's duties. Jacques has acted in a number of such cases including cases where fraud has been alleged. In *Antoniou v. Antoniou*, which involved suing a former director/employee, Jacques succeeded in setting aside a transfer of shares on grounds of duress. Jacques acted for the Claimants in a ground-breaking case in which it was alleged that the purchasers of a minority shareholding in an internet business had concealed that they had a

back-to-back purchase lined-up at a substantial profit (*Anglos v Kent*). Novel arguments as to the imposition of fiduciary duties were successfully deployed. Instructed in a Mercantile court case to be heard later this year arising out of the sale of an Insurance business in which “willful concealment” is alleged against the vendors.

### Commercial agency

Jacques appeared in one of the first commercial agency cases (*AMB Imballagi*), concerning the definition of a commercial agent. He has since regularly been instructed in this technical area. Jacques recently successfully defended the principal in a case which involved a novel claim for damages beyond the contractual/statutory notice period as well as a claim for an indemnity (*Forrester v Gardman*). The case collapsed at half-time, after cross examination of the Claimant agent.

### PUBLIC/ REGULATORY/DISCIPLINARY

Recommended by Legal Experts for Administrative and Public Law. Jacques advised the British Association of Dermatologists on a potential Judicial Review in respect of the allocation of specific non-specialist duties to its members.

He has appeared as defence counsel before a number of professional disciplinary bodies including, the National Midwifery Council, the General Pharmaceutical Council and the Disciplinary Tribunal of the Institute of Chartered Accountants.

He acted for the Chief Executive of a Local Authority in statutory misconduct investigation.

He heard an appeal against dismissal as the “Appointed Person” under a University’s Charter

## REFERENCES

“A highly acclaimed advocate frequently sought out to act before both the High

Court and employment tribunals, who is praised by clients and peers for his impressive cross-examination skills. He has established himself as an expert in jurisdictional disputes and international employment matters, often advising on cross-border elements of restrictive covenant enforcements.

Strengths: "He is meticulous in his preparation, charming with clients but manages their expectations very cautiously. He is masterful in cross-examination - he is particularly good at teasing out inconsistencies in evidence." "He has a brilliant, tactical and forensic mind and he is not just a great barrister but a great winner of cases." - Chambers and Partners 2017.

"An extremely incisive barrister, he is known to be strong on his feet, and has an utterly charming style. His core expertise is in cases involving jurisdictional issues but his practice has a far broader scope and he is adept at advising on all aspects of employment law.

Strengths: "Very good on technical points of law and very good at understanding how to get around them." - Chambers and Partners 2015.

"A courteous assassin" Chambers and Partners 2011.

Chambers and Partners 2009 say "Clients are "thrilled to bits" with Jacques Algazy, who is "extremely responsive and user-friendly - he really gets to grips with a case and represents sensibly". Solicitors say: "His charm masks the steeliness and sharp thrust of his cross-examination".

Chambers UK 2008 say "Clients use Jacques Algazy for "aggressive, punch-up cases", and he impresses them by doing "a lovely job with slippery witnesses". He regularly acts for local authorities, individuals and trade unions, and multi-jurisdictional and cross-border litigation is a particular specialism".

"Jacques Algazy successfully represented Mr Lawson in the Serco case on overseas workers' employment rights." Legal 500 2006 edition.

"Jacques Algazy has a particular and profitable interest in the international aspects of employment law, especially the increasingly pertinent multi-jurisdictional enforcement of restrictive covenants and unfair dismissal in foreign British political enclaves. 'He's hot in this area,' clients noted, "and he

comes across as very thorough and commercially minded. "Chambers and Partners 2007.

## APPOINTMENTS AND MEMBERSHIPS

Jacques sits as a part-time Judge of Employment Tribunals.

Grays Inn and ELBA advocacy trainer.

ELBA

BEG

ELA

## PUBLICATIONS AND TRAINING

Jacques has published articles on EU law and employment law.

He is regularly invited to provide training and lectures in the UK and abroad. This includes sessions for the ELA and ILS on international employment matters; a talk to European Equality bodies in Budapest; delivering training in discrimination cases to European judges in Latvia; presenting a paper on English/EC discrimination law at a colloquium for judges and advocates in Brussels. Speaking at a colloquium in Miami and at Council of Employment Judges AGM.

Jacques was invited to deliver a paper on Witness Evidence to the Employment Lawyers Group in Northern Ireland.

## QUALIFICATIONS

LLB (Hons) - Reading University

## HIGHLIGHT CASES

### Employment

- *Shenton v Sunday Express (ET)*: Sexual Orientation claim and Unfair Dismissal claim successfully defended; freelance theatre critic held not to be an employee.
- *Bickerstaff v Randox (NIIT)*: Obesity disability discrimination claim brought notwithstanding fact that employer dismissed employees responsible for impugned conduct.
- *Cushnan v. Norbrook (NIIT)*: Claim for associative disability discrimination struck out.
- *Aziz v CPS (ET + EAT)*: long-running discrimination cases against the CPS dating back to 2001. Jacques was instructed by CPS in 2011. All claims were dismissed in a second claim heard in Leeds last year.

*Margetson v Microsoft Research Limited (ET)*: successful defence of a whistleblowing claim against Microsoft.

- *X v T and Ors (ET)*: acted for a named Respondent in claims of (amongst other claims) of sex discrimination and harassment against a major crime-fighting organisation.
- *National Federation of Sub-Postmasters v Singh & Another (Certification Officer)*: successfully defended a series of claims made against NFSP for breaches of "union rules".
- *Walker v Church Mission Society (EAT)*: acted for Church Mission Society in resisting a claim based on lack of territorial jurisdiction.
- *Bashir v Sheffield NHS Trust (ET and EAT)*: substantial multiple race claims against Trust employer. All claims against client trust dismissed.
- *Alexander v Leeds NHS Mental Trust (ET)*: unfair dismissal claim by consultant psychiatrist. Trust successfully defended.
- *Osborn v ICON (ET)*: whistleblowing claim against charity failed.

*Williams v University of Nottingham (EAT)*: Territorial jurisdiction of ET in discrimination cases.

- *Lawson v Serco (EAT, CA & HLS)*: territorial jurisdiction of ET relating to



employees overseas under the ERA.

- *McGarr v Ministry of Defence* (ET): EOC backed claim concerning sex discrimination in the Army Legal service.
- *Holodny v Norimet Ltd and another* (ET): Jurisdiction to sue aiders of discrimination abroad.

## Commercial/common law

- *Forrester v Gardman Limited* (Mercantile Court): commercial agency case involving substantial contractual claim as well as a claim for an indemnity. Successfully acted for principal in dismissing all claims.
- *Colebourne & Anor v KPMG* (Commercial Court/arbitration): restrictive covenant case involving territorial jurisdiction issues and impact of Russian law.
- *Antonio v Antonio* (HC) :Dispute between Shareholders; setting aside share transfer on grounds of duress; dismissal of Director and inducing breach of contract.
- *Anglos and Others v Kent and Brooks* (HCJ): Action by minority shareholders against majority; extent of fiduciary duties owed by joint venturers, agents and directors.
- *Simtel Communications v Rebak and Others* (HCJ): Breach of fiduciary duty by director and conspiracy to injure.
- *El Ajou v Stern & Dollarland* (HCJ & CA): international contract dispute.
- *Tigana v Decoro* (HCJ):guidance on compensation under commercial agency regulations.