



Nathaniel Caiden

Year of Call: 2009

Call Clerk on 020 7827 4000

PRACTICE AREAS

Arbitration & Mediation | Commercial Law | Discrimination & Equality |
Employment | Human Rights | Professional Discipline | Sport & Entertainment

HIGHLIGHTS

He is described by clients as being "*a great all rounder...always high ranking in our list of preferred barristers*" and someone who "*imparts a wisdom well beyond his call*".

"an excellent advocate who is across the detail and he is always willing to contribute to the strategy and find a commercial way forward in a case"

Chambers & Partners 2022

"A real gem who will go out of his way to help. Always seems to be available, and has superb analysis of complex claims" **Legal 500 2022**

OVERVIEW

Nathaniel Caiden's main areas of practice are employment, discrimination and equality. However he also works in other areas that involve good knowledge of contract law, tort law, EU law and human rights law, all of which he has developed from his predominant areas of practice.

His employment, discrimination and equality work covers the full range of claims, for both employers and employees, including: unfair dismissal, wrongful dismissal, sex discrimination, race discrimination, religious discrimination, age discrimination, disability discrimination, pregnancy dismissal/detriment, whistle-blowing, working time regulations, TUPE, minimum wage claims, unlawful deduction of wages, breach of contract (including restrictive covenants).

He has considerable appellate experience (see below for his reported cases) and is often instructed to advise and draft notices of appeal for the Employment Appeal Tribunal in cases where he has not acted at first instance.

Nathaniel's employment advisory work includes both Civil Court and Employment Tribunal work, and as part of this he has been instructed to draft pleadings and schedules of loss.

Additionally, Nathaniel is both a trained mediator and has appeared on behalf of participants in mediations. Further, he has also been involved in non-litigious internal hearings.

AWARDS

The James Crouch Award (Gray's Inn BVC Scholarship)

University of Nottingham Law Graduates' Association Moot Prize

Harold Wyatt Scholarship (2005-7)

The Harry Street Prize (Tort Prize)

The Oxford University Press Law Prize (First in Year: 2005-6)

REFERENCES

Chambers & Partners 2022 "His written work is well structured and concise, and he is particularly good on the intersection of employment with EU law. He is also an excellent advocate who is across the detail and he is always willing to contribute to strategy and find the commercial way forward in a case."

"Nathaniel is an incredibly helpful barrister, who is responsive and gets on top of legal claims quickly."

Legal 500 2022 "A real gem who will go out of his way to help. Always seems to be available, and has superb analysis of complex claims."

Jonathan Golden, Partner at Gunnercooke LLP: "Occasionally a barrister breaks on to the scene and is marked out as 'one to watch'. Nathaniel is such a lawyer, and has all the trademarks of a quick mind, ability to get to the core issues and turn around work with great speed and quality. He also has an ease and charm with clients, and imparts a wisdom well beyond his call."

Rebecca Lynch, Partner at Ince Gordon Dadds LLP: "Nathaniel's advice is prompt, accurate and commercial. He shows real compassion for lay clients and is able to quickly win their trust, which in turn leads to better results. He always goes the extra mile and responds same day to requests for assistance, even when he clearly has a very busy schedule. He is a great all rounder and all of these attributes combined means he is always high ranking in our list of preferred barristers."

APPOINTMENTS AND MEMBERSHIPS

Appointed as Fee-Paid Employment Judge (2021)

Industrial Law Society (ILS)

Employment Law Bar Association (ELBA)

Employment Lawyers Association (ELA)

Human Rights Lawyers Association (HRLA)

PUBLICATIONS AND TRAINING

Contributing author to “Termination of Employment” (Julian Yew ed, Bloomsbury Publishing); authored Chapter C2 “Procedures on Dismissal” (available as looseleaf and on PLC website).

Contributor to Emplaw Online (www.emplaw.co.uk)

Contributor to PLC Employment - “ET1 for race discrimination and unfair dismissal”, “ET3 for race discrimination and unfair dismissal” (Online resource)

Lexis Nexis Q&A Panel Author in Employment

QUALIFICATIONS

LLB (Hons) from the University of Nottingham

HIGHLIGHT CASES

Tabidi v BBC [2020] EWCA Civ; [2020] IRLR 702 - Court of Appeal case concerning the burden of proof, comparators and costs orders where Nathaniel was the advocate on behalf of the Respondent in the Court of Appeal and at all stages below.

Kocur v Royal Mail (no.2) [2020] IRLR 732 - EAT case concerning the meaning of 'agency worker' within the Agency Worker Regulations 2010.

Bessong v Pennine Care NHS Foundations Trust [2020] IRLR 4 junior to Karon Monaghan QC in an EAT case concerning the scope of third-party harassment and the interpretation of the Equality Act 2010 harassment provisions (having regard to the underlying EU directive). The case is cited in the IDS Employment Law Handbook on Discrimination at Work at ([18.101] and [29.29]).

Kocur v Royal Mail [2018] IRLR 388, [2018] ICR 1126; and [2019] EWCA Civ 1185, [2019] IRLR 933, [2020] ICR 170 - the first appellate case in which the EAT considered the central provision to the Agency Worker Regulations 2010, regulation 5, which provides that agency workers should have the same basic working and employment conditions (as defined by the regulations) as they would have if they were directly recruited. - Nathaniel appeared against leading counsel in the EAT and was led by Caspar Glyn QC in the Court of Appeal. The case is cited in IDS Employment Law Handbook on Atypical and Flexible Working (at [1.142]-[1.144], [1.134]-[1.137] and in Harvey on Industrial Relations & Employment Law (Division AI Categories of Workers at [210]).

Lancaster & Duke Ltd v Wileman [2019] ICR 125, [2019] IRLR 112 case in which EAT were concerned with s.86 Employment Rights Act 1996, right statutory minimum notice, and statutory provisions concerning the extensions of the effective date of termination. The EAT concluded that the statute should be interpreted to mean there is no extension to the effective date of termination where an employer is entitled to dismiss summarily. The case is cited in IDS Employment Law Handbook on Contracts of Employment (at [14.90]), Chitty on Contracts 33rd Edition (at [40-223]), and in Harvey on Industrial Relations & Employment Law (Division DI Unfair Dismissal at [746]).

Luton Borough Council v Haque [2018] ICR 1388 appellate case determining how extension of time is calculated following ACAS Early Conciliation under s.207B Employment Rights Act 1996 and 140B Equality Act 2010. The case is cited in Harvey on Industrial Relations & Employment Law (Division PI Practice and Procedure at [290.05]) and IDS Employment Law Handbook on Employment Tribunal Practice and Procedure (at [3.41]-[3.42] and [5.43]).

Pickwell and another v Pro Cam CP Ltd [2016] EWHC 1304 (QB); [2016] IRLR 761 junior to Jacques Algazy QC in High Court restrictive covenant case. The case is cited in Employment Covenants and Confidential Information: Law, Practice and Technique, as well as in Harvey on Industrial Relations & Employment Law (Division AII Contract of Employment at [196.01]).

ICTS UK Ltd v Mahdi [2016] ICR 274; [2016] IRLR 113 TUPE case in which EAT established that whilst intention as to whether a service provision change is a 'single event or task of short term duration' is determined at the time of the service provision change, this does not preclude a tribunal from considering evidence of matters after the change to help determine the

intention at the time. The case also considered how the burden of proof operates for the 'single event or task of short term duration' exception. The case is cited in Harvey on Industrial Relations & Employment Law (Division F Transfer of Undertaking at [26.07]) and in IDS Employment Law Handbook on Transfer of Undertakings (at [1.130]).

Salmon v Castlebeck Care [2015] ICR 735; [2015] IRLR 189 EAT case establishing that where an employer decides to allow an employee's appeal against dismissal that decision automatically revives the contract of employment without the need for either an express decision to 'reinstatement' or for communication of the decision (in contrast to the situation when dismissing an employee which requires communication). The case is cited in Harvey on Industrial Relations & Employment Law (Division DI Unfair Dismissal at [376]-[377]) and in IDS Employment Law Handbook on Contracts of Employment (at [14.77]-[14.78]) and on Transfer of Undertakings (at [2.124]).

Ladak v DRC Locums [2014] IRLR 851 appeal in the EAT concerning the definition of costs in employment tribunals; confirms that 'in-house' legal costs fall within definition of costs and are recoverable. The case is cited in Harvey on Industrial Relations & Employment Law (Division PI Practice and Procedure Continuity of Employment at [1046.01]) and IDS Employment Law Handbook on Employment Tribunal Practice and Procedure (at [20.7]).

Williams v Ministry of Defence [2013] EqLR 27 appeal in the EAT concerning the jurisdiction of tribunals to hear discrimination cases under ss.120-121 Equality Act 2010 which also included the issue of whether regulations relevant to the armed forces internal complaints procedure breached Article 6 of the European Convention on Human Rights 1950. The case is cited in Harvey on Industrial Relations & Employment Law (Division L Equal Opportunities at [738]) and IDS Employment Law Handbook on Discrimination at Work (at [35.7]).

Lemonious v Church Commissioners [2013] All ER (D) 199 (Jun) appeal and cross-appeal in the EAT concerning possibility of a finding of 100% contributory conduct and costs. The case is cited in Harvey on Industrial Relations & Employment Law (Division DI Unfair Dismissal at [2751]-[2760]) and IDS Employment Law Handbook on Unfair Dismissal (at [13.17]).

Birmingham City Council v Abdulla [2012] UKSC 47; [2012] ICR 1419; [2013] IRLR 38; [2012] EqLR 1147 junior to Paul Epstein QC and Louise Chudleigh in a Supreme Court appeal concerning the ability of the High Court to strike out equal pay claims brought in that forum. The case is cited in Harvey on Industrial Relations & Employment Law (Division K Equal Pay at [657]-[659] and Division PI Practice and Procedure at [75]) and IDS Employment Law Handbook on Equal Pay (at [9.10]-[9.15]).

Commission for Equality and Human Rights v Griffin [2010] EWHC 3343 (Admin); [2011] EqLR 290 junior to Robin Allen QC in the Commission's application for committal to prison of representatives of the BNP. The case is cited in Halsbury's Laws of England - Contempt of Court (Volume 22 (2012) 5th Edition at [85]).