



# Nathaniel Caiden

Year of Call: 2009

Call Clerk on 020 7827 4000

## PRACTICE AREAS

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

## HIGHLIGHTS

Since being called has averaged at least one reported case a year. He is described 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”

## OVERVIEW

Nathaniel'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

“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.” (Jonathan Golden, Partner at Golden Leaver 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.” (Rebecca Lynch, Partner at Gordon Dadds LLP)

## APPOINTMENTS AND MEMBERSHIPS

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](http://www.emplaw.co.uk))

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

Employment Law Association Briefing, July 2015, co-authored with Dee Masters "Taming sweeping discrimination claims: could a staged approach work?". The article can be found online here.

Personal Injury Law Journal, May 2015, Number 135, "Injury at work: old vicarious liability rekindled"

"Tribunal awards and apportionment - employers jointly and severally liable for discrimination of employees" - Lawtel Case Comment on Hackney LBC v Sivanadan (2011) (Online resource)

Discrimination Law Association Briefings, Volume 43, 599 "Validity of insurance premiums and benefits based on gender supported data - Association Belges des Consommateurs Test-Achats ASBL and others v Conseil des Ministres"

Seminar on Contributory negligence with Martin Seaward at Cloister's Annual Personal Injury Seminar series (2011) - "The Blame Game: Contributory Negligence". The paper for which can be found here

## QUALIFICATIONS

LLB (Hons) from the University of Nottingham

## HIGHLIGHT CASES

Kocur v Royal Mail [2018] IRLR 388 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. The case is cited in IDS Employment Law Handbook on Atypical and Flexible Working at [1.123] and [1.129].

Lancaster & Duke Ltd v Wileman UKEAT/0256/17/LA 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 summarised in Daniel Barnett's Employment Law Bulletin.

Luton Borough Council v Haque UKEAT/0180/17/JOJ 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 Q Statutes at [2292]) and IDS Employment Law Handbook on Employment Tribunal Practice and Procedure (at [3.30] and [5.37]).

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 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 'reinstate' 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 H Continuity of Employment at [335]-[346] and [486.02]) and in IDS Employment Law Handbook on Contracts of Employment (at [14.69]) 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 has been widely reported in the legal press (including the Law Society Gazette). The case is cited in Harvey on Industrial Relations & Employment Law (Division PI Practice and Procedure Continuity of Employment at [1046]) and IDS Employment Law Handbook on Employment Tribunal Practice and Procedure (at [20.8]).

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 [35.6]).

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. During the Employment Tribunal proceedings the case was widely reported in the press (including the Daily Mail) and the appeal before the EAT is summarised in Harvey on Industrial Relations & Employment Law Bulletin 418 (May 2013), and 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 [16.170]).

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 [651] and [657]-[659] and Division PI Practice and Procedure at [75]) and IDS Employment Law Handbook on Equal Pay (at [9.10]-[9.15]).

Eastman v Tesco Stores Ltd [2012] All ER (D) 264 (Nov) EAT case that establishes cases can be struck out for no reasonable prospect of success if evidence has been heard at a Pre-Hearing Review even where there is a central core dispute of facts. This case is cited in Harvey on Industrial Relations &

Employment Law (Division R Statutory Instruments at [2794]) and in IDS Employment Law Handbook on Employment Tribunal Practice and Procedure (at [11.124]).

*Adewole v Barking, Havering and Redbridge Uni Trust* [2011] ET religious discrimination claim by midwife that was widely reported in the national press including the Telegraph and as an early religious discrimination case academic articles.

*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]).