



## Paul Michell

Year of Call: 1991

Call Clerk on 020 7827 4000

### PRACTICE AREAS

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

### HIGHLIGHTS

Recommended as a leading employment junior: Chambers & Partners 2019, Legal 500 2019, Who's Who in the Law.

*"Simply brilliant in his advocacy." "A very thorough barrister who has great attention to detail."* **Chambers & Partners 2020**

*"He has comprehensive expertise on High Court injunctive procedures, encyclopaedic knowledge on disclosure, confidentiality, and data protection."*  
**Legal 500 2020**

## OVERVIEW

Paul Michell specialises in commercial and employment law.

He regularly advises and appears in:

- complex discrimination claims (employment and goods & services)
- equal pay claims
- whistleblowing claims
- TULRA and TUPE cases
- high profile claims for wrongful/unfair dismissal
- claims where breach of fiduciary duty/commercial wrongdoing (e.g. inducement; secret profits; breach of covenant; confidentiality; conspiracy; breach of database rights etc) is alleged and injunctive relief sought
- work-related stress/personal injury claims
- contract/commercial disputes, many relating to the workplace (e.g. bonus and good/bad leaver issues), sports and the media
- director/partner/company/shareholder disputes
- regulatory matters, such as disciplinary tribunals
- professional negligence disputes, primarily in relation to employment/discrimination issues

Paul has been appointed as a Designated Independent Person under SI 2001/3384 to investigate allegations of impropriety etc. by the most senior members of local authority personnel.

He has also acted as an independent adjudicator in hi-level and sensitive internal grievance disputes and disciplinary proceedings.

Recent clients include:

Asda, the BBC, BMW, Brewin Dolphin, the British Red Cross, BUPA, the Commonwealth Foundation, Danielle Lloyd, the EHRC, the Elders Foundation, the Football Association, the GMB, Trevor Horn CBE, HSBC, the Land Registry, the London School of Economics, the Open Society Foundation, the FA Premier League, the Professional Footballers' Association, the RNIB, the Royal Ballet School, Serco, Toshiba, the TUC, the University of the Arts, the University of

Durham, UCL, and a variety of other educational and financial institutions, as well as many individual claimants.

## AWARDS

- Lloyd Jacob Exhibition, Middle Temple
- Astbury Scholar, Middle Temple
- Lawyer of the Week, The Times

## REFERENCES

**Chambers & Partners 2020:** "Simply brilliant in his advocacy." "A very thorough barrister who has great attention to detail."

**Legal 500 2020:** "He has comprehensive expertise on High Court injunctive procedures, encyclopaedic knowledge on disclosure, confidentiality, and data protection."

**Chambers & Partners 2019:** "Vastly experienced in employment law matters, but particularly focuses on wrongful dismissal and discrimination cases, with knowledge of restraint of trade and injunctive relief matters. He acts for a range of clients but has particular expertise in the education and sports sectors." "He has great attention to detail and is very client-friendly." "He has a very quick mind and immediately gets to the nub of a case."

**Nicola Johnston, Pinsent Masons LLP:** "... A brilliantly skilled advocate, he is always on top of the facts, even at the early stages of litigation ... Paul's personality shines through and we are asked by clients to instruct him again and again. Having instructed Paul for many years, I could not recommend him more highly."

**Andy Williams, Charles Russell LLP:** "An impressive ability to immediately grasp the legal principles of any case, whilst not losing sight of any of the detail... extremely easy to get along with... tenacious on his feet. Definitely someone to have on your side, rather than opposing you."

**Elizabeth George, Leigh Day:** "Paul is first-rate. His advice is always clear, relevant and, inevitably, right. He is a pleasure to work with."

**Tom Cowling, Ecotricity Group Ltd:** "All the attributes of a top employment counsel: intelligent, immensely knowledgeable in his field, articulate and highly personable."

**Brian Palmer, Rossenblat Solicitors:** "Paul is diligent and personable and his advocacy is exceptional. He is also very adept at focusing clients on the commercial aspects of cases. I would far rather have Paul representing my clients than opposing them."

**Judicially commended** for "extremely able arguments... put forward ingeniously" (**Burton J**), and for submissions which are "elegant and economic" (**Laws LJ**) and "intelligent and measured" (**Underhill J**).

Leading Junior in **Chambers & Partners** for 2009-2017; **The Legal 500** for 2011-2017 (Employment), and **Who's Who in the Law 2017** (Labour Law and Employment).

**Chambers & Partners 2017:** "Has an incredibly quick mind, and is very persuasive and powerful in court...formidable forensic skills... vastly experienced... incredible intellect".

**Chambers & Partners 2016:** "Has a strong reputation in the market for handling sensitive and significant cases with aplomb... praised ...for exceptional levels of client service."

**Legal 500 2015:** "He has that rare balance of incredible intellect coupled with an ability to communicate effectively at any and every level."

**Chambers & Partners 2015:** "Particularly recommended for his work on restrictive covenants... a noted command of equality and discrimination law..."

regularly handles high-profile work."

**Chambers & Partners 2014:** "A discrimination specialist... praised for the practical and commercial manner he adopts with clients... exceptionally knowledgeable on discrimination issues... one of the barristers out there that clients return to the most often."

**Legal 500 2014:** "A star in the making."

**Chambers and Partners 2012:** Feisty tough and creative... very diligent and reassuring to clients."

**Legal 500 2012:** "Great eye for detail."

## APPOINTMENTS AND MEMBERSHIPS

- Fee-paid Judge of the First-Tier Tribunal (Immigration and Asylum Chamber) (2016-2017)
- Fee-paid Employment Judge (South East Region) (2013-)
- Visitor for Loughborough University (2013-)
- 'Designated Independent Person' under SI 2001/3384 (2012-)
- Industrial Law Society
- Employment Law Appeal Advice Scheme
- Bar Pro Bono Unit
- Administrative Law Bar Association
- Cloisters point of liaison for FRU

## PUBLICATIONS AND TRAINING

For ten years, Paul has drafted the 'Employment Tribunal' and 'Employment - Proceedings in the High Court and County Court' precedents in Bullen & Leake & Jacob's Precedents of Pleadings.

He contributes to Lawtel Employment Law Digest.

Paul carries out advocacy training / assessments at the College of Law.

He also does familiarisation training for individuals due to give evidence in High Court/tribunal claims.

## QUALIFICATIONS

- BA (Hons) & MA in English Literature, Downing College, Cambridge
- Dip. Law, City University

## HIGHLIGHT CASES

### DISCRIMINATION / WHISTLEBLOWING

- [Pytel v Ofgem \(2019\)](#) Tribunal / EAT - Paul (leading Rachel Barrett) successfully argued that words ought to be read into the Utilities Act 2000 to allow the Claimant to continue his whistleblowing claim against OFGEM, in circumstances where he would otherwise be committing a criminal offence. The tribunal held that, on the face of it, the 2000 Act effectively

criminalised the Claimant's claim and disclosure of key documents.

However, it accepted that because of the Claimant's rights under Article 6 (fair trial) and Art 10 (freedom of expression) of the European Convention on Human Rights, and the tribunal's obligation under the Human Rights Act to give effect to those rights where "possible", it was appropriate to interpolate words into the 2000 Act to exclude whistleblowing claims from criminal sanctions. The tribunal's decision was overturned by the EAT. Mr Pytel's appeal will be heard by the Court of Appeal in March 2020. Both the Government and Protect plan to intervene. For press coverage, [click here](#).

- X v Y (2017: Tribunal - Paul represented "X", a Chief Executive Officer at "Y", a leading commercial barristers' chambers, in an equal pay and sex discrimination claim in which she named the male senior clerk and senior members of chambers as protagonists. Prospective witnesses for "Y" included several QCs and two High Court judges. Matters were satisfactorily resolved.
- Taylor v Berks Healthcare NHS Trust (2017): Tribunal - Paul represented the Claimant, a mental health practitioner, who alleged that she was detrimentally treated and dismissed after making complaints about bullying and mistreatment of whistle-blowers. For press coverage, [click here](#).
- Lawton v Boots (2016): Tribunal - Paul represented Boots in this whistleblowing claim, where a former employer alleged detriment for raising serious concerns about work practises. The claim was satisfactorily resolved. For press coverage, [click here](#).
- Abraham v Football Association Premier League (2015): Tribunal - Paul was instructed by the FAPL in this very high profile whistleblowing and discrimination claim brought by a former worker who (amongst other things) alleged she was harassed by exposure to 'sexist emails' sent to/from the FAPL's Chief Executive, Richard Scudamore. For press coverage, [click here](#).
- Lokhova v Sberbank (2015): Tribunal - Paul acted for Svetlana Lokhova and advised her at various interlocutory stages in the sex discrimination claim she brought against Russian corporation, SberBank. Ms Lokhova, a former equity sales desk banker, was awarded £3.2m in damages after the tribunal found her career had been destroyed by sexual taunts and other unacceptable conduct by male work colleagues. For press coverage, [click here](#).
- Cassidy v Football Association (2014): Tribunal - Paul was instructed by the

Football Association in its successful defence of this claim brought by a referee coach, who alleged he was made redundant because of his wife's disability.

- *Hainsworth v MoD* (2014) Court of Appeal. Reported at [2014] IRLR 728. Paul acted for the intervenor, EHRC (leading Chris Milsom), in this case concerning whether or not an employer's duty to make reasonable adjustments extends under EU/domestic law to non-disabled employees acting as carers to disabled people. For press coverage, [click here](#).
- *X v Mid Sussex CAB* (2013): Supreme Court - Reported at [2010] 423 ICR, EAT, [2011] IRLR 335, CA, [2013] IRLR 146, SC. Paul successfully represented the CAB in the EAT, the Court of Appeal and the Supreme Court in this claim which had highly significant implications for the 100 million-strong voluntary sector across the EU. It concerns whether volunteers with no formal contract are protected under the "employment and occupation" provisions of Directive 2000/78/EC, and whether such protection can be read into domestic law. For press coverage, [click here](#).
- *Kulikauskas v Macduff Shellfish (Scotland) Ltd* (2012): EAT & CJEU - Reported at [2011] ICR 48, EAT. Was instructed by Mr Kulikauskas in this case which concerned whether or not Council Directive 2006/54/EC affords protection for persons treated less favourably because of their association with a pregnant woman. The Court of Session referred the issue to the CJEU, where Paul was instructed to appear (led by Brian Napier QC). In written observations, the Kingdom of Spain and the European Commission supported Mr Kulikauskas' case; the UK and Poland opposed it. The claim was settled prior to the CJEU hearing. The terms of reference can be seen [here](#).
- *EBR Attridge Law v Coleman (No.2)*: EAT - Reported at [2010] ICR 242, EAT. Successfully represented Ms Coleman in EBR Attridge's appeal against the tribunal's decision that the DDA could be interpreted so as to accord with Directive 2000/87/EC and the ECJ's decision in *Coleman v Attridge Law* (see below). Underhill P held that it was appropriate to read words into the DDA. The Wikipedia account of the case can be seen [here](#).
- *Coleman v Attridge Law*: EAT & CJEU - Reported at [2008] IRLR 722 ECJ; [2007] ICR 654 EAT. In this landmark case, Paul persuaded the tribunal to make a reference to the ECJ to determine whether or not Directive 2000/87/EC is intended to prohibit associative discrimination in the context of disability. Paul appeared at the ECJ hearing (led by Robin Allen QC), where the ECJ affirmed that the Directive's protection extends to



associative discrimination. Major changes were made to the draft Equality Act 2010 and to the law in other EU states as a result.

- *Masih v Awaz FM (2010-2011)*: EAT - This case concerned whether or not a volunteer who was allegedly discriminated against on grounds of religion was protected under EU law/the Employment Equality (Religion or Belief) Regulations 2003. The employment tribunal ordered that there should be a reference to the ECJ to determine the point. Awaz FM instructed Paul in its appeal to the Scottish EAT against the order for a reference. The Claimant later withdrew his claim, following the Court of Appeal's decision in *X v Mid Sussex CAB* (above).
- *Dizaei v The Commissioner of the Metropolitan Police & Dick Fedorcio (2013)*: Tribunal - Acted for Mr Fedorcio in his successful defence of this race/religious discrimination claim brought by Dr Ali Dizaei, a former Commander in London's Metropolitan Police Service, against Mr Fedorcio following evidence he gave at the Leveson Enquiry. The claim against Mr Fedorcio was struck out at a preliminary hearing. For press coverage, [click here](#).
- *Rajapakse v The Commonwealth Foundation*: Tribunal - Represented the Commonwealth Foundation in its successful defence of this high value whistleblowing claim, which received considerable media interest. For press coverage, [click here](#).
- *Nikki Sinclair v UKIP & Others*: Tribunal - Represented Ms. Sinclair, an MEP, in her claim of sexual orientation discrimination against UKIP. A satisfactory outcome was obtained. For press coverage, [click here](#).

## PRIVACY / CONFIDENTIALITY

- *Bains & Others v Moore, K2 & Bigazzi (2017)*: High Court - Paul represented Mr Moore in this high profile case in which the claimants alleged that Mr Moore was a corporate spy who had infiltrated anti-asbestos campaign groups and obtained confidential/private information. For press coverage, [click here](#).
- *Danielle Lloyd v Carphone Warehouse*: High Court - Paul represented the Claimant, a media celebrity, in this case involving breach of confidentiality. It arose after an employee of Carphone Warehouse took copies of sensitive photographic material from Ms Lloyd's mobile phone, and tried to sell the material to national newspapers. A satisfactory outcome was obtained. The case formed part of the BBC television series *See You In Court*, in which

Paul appeared. For press coverage, [click here](#).

## RESTRICTIVE COVENANTS

- Kintetsu World Express (UK) Ltd v JAS Forwarding (UK) Ltd (2016): High Court - Acted for KWE in complex team moves/breach of confidentiality case, in which allegations of widespread abuse of KWE's data were made and significant Wrotham Park damages were sought. A satisfactory outcome was obtained shortly before trial.
- Cathay Composites Ltd v Bancroft (2016): High Court - Acted for the Defendant in this claim involving allegations of repudiatory breach/client poaching/misuse of confidential information. A satisfactory outcome was obtained shortly before trial.
- Addison Lee Ltd v Hampshire (2014): High Court - Acted for Addison Lee in its application for injunctive relief against a former employee whom it alleged had removed database extracts with a view to competing with its business. A satisfactory outcome was obtained.
- Kaltenbach Ltd v Behringer Ltd & Smith (2014): High Court - Acted for the Defendants in this claim, which involved hotly contested allegations of client poaching, database infringement, & misuse of confidential information. A satisfactory outcome was obtained.
- UK Recruitment GB Ltd v Calver & Others: High Court - Represented the Claimant in this case, which involved senior employees allegedly setting up in competition and using the Claimant's confidential data. Following injunctive proceedings, a satisfactory outcome was obtained.
- SBR Design Consultants Ltd v Lumsden: High Court - Represented the Defendant in this claim, which involved alleged client poaching and exploitation of proprietary information. A satisfactory outcome was obtained.
- Euromoney v Gulf Financial Conferences & Others. High Court - Represented the Claimant in this case involving alleged breaches of restrictive covenants by way of client poaching. Following injunctive proceedings, a satisfactory outcome was obtained.
- Arthur J Gallagher v RFIB Group & Others: High Court - Acted for the Claimant -one of the largest insurance broking businesses in the world- in this case involving 'team moves', and allegations of conspiracy and employee poaching. A multi-million pound settlement was obtained.

## DISCIPLINARY PROCESS / INJUNCTIONS

- O'Neill v University of Birmingham: High Court - Paul acted for the University in its successful defence of an application by the Claimant, an academic member of staff, for an injunction to restrain the University from taking disciplinary proceedings against her.

## STRESS CLAIMS

- Richardson v Priory Healthcare: High Court/Tribunal - Paul acted for the Claimant in this high value disability discrimination/stress claim against the Priory chain of rehabilitation clinics. A satisfactory outcome was obtained.

## WRONGFUL DISMISSALS

- Rawsthorn v Easygroup: Tribunal - Acted for the Claimant in his wrongful and unfair dismissal claim. The Respondent's founder and owner, Sir Stelios Haji-Ioannou, gave evidence. The tribunal found for the Claimant. It was deeply critical of Sir Stelios, and held that "where there are matters of industrial relations which do not interest him, he will ignore normal employment practise, or elementary courtesy to employees, as he sees fit". Reports of the case can be found [here](#).
- Related High Court proceedings brought by Easygroup against the Claimant were abandoned, following the tribunal decision and the EAT's rejection of Easygroup's appeal.
- Black & Others v SPZ: Tribunal & High Court - Paul represented SPZ, the music company of Trevor Horn CBE (producer of bands such as ABC and Frankie Goes to Hollywood) in claims brought by former senior employees following the termination of their fixed term contracts. A satisfactory outcome was obtained.
- Ayers & Baigent v Brewin Dolphin Ltd: High Court - Paul represented the Defendant company (one of the largest UK independent private client investment managers) in its successful defence of a claim by two ex-employees to trail fees "in perpetuity" following the termination of their employment. For press coverage, [click here](#).

## TUPE

- Paul advised a major communications company on the impact of TUPE in the context of mass transfer of various services and employees.

- Wright & Others v Vizards Wyeth & Others: Tribunal - Paul represented the partners of Vizards Wyeth in this claim concerning whether or not a team move by the family law group constituted a "self made" TUPE transfer.
- GMB v Northumberland County Council: Tribunal - Paul represented the GMB in this multimillion pound claim involving alleged breaches of Reg. 13 of TUPE (consultation provisions), following the dissolution of six district and borough councils, and the transfer of the councils' employees to the new unitary council. A satisfactory resolution was obtained.

## SPORTS / MEDIA

- Football (2014-2018): Tribunal. Paul has been instructed in a number of cases for the Football Association/Football Association Premier League.

## REGULATORY

- UCL v Z (2018): Paul acted for the University in disciplinary proceedings brought under Statute against a lecturer for alleged sexual misconduct towards a female student. Z was duly dismissed.
- W NHS Hospital Trust v Z (2016): Paul represented Z, a consultant charged with several counts of serious misconduct, at the Trust's internal disciplinary hearing. Unusually, the Trust allowed Z to have legal representation at the hearing, in the light of Z's Article 6 rights and due to the gravity of the allegations Z faced. Z was given only a first stage warning at the conclusion of the case, and the most serious charges were dismissed.
- X NHS Trust v Y (2015): Paul represented Y, a consultant charged with 10 counts of serious misconduct. The majority of the charges against Y were withdrawn or dismissed, and Y was given only an oral warning.
- Disciplinary / Grievance Processes (2012-): Paul has adjudicated over numerous disciplinary/grievance processes in various sectors, including health, insurance, charity, education, finance and local authority.