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## DANIEL TATTON-BROWN

Call: 1994



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### Introduction

Having graduated with first class honours in PPE from the University of Oxford, Daniel was called to the Bar by Middle Temple in 1994. He has since specialised in all aspects of employment law. Described as a “clever all rounder” who is “admirably thorough and very dependable on his feet”, Daniel is said to offer “carefully thought-out advice and no-nonsense advocacy”: he has for many years won accolades as one of the leading juniors in his field from the Legal 500, Chambers and Partners, and Legal Experts. He was once described, possibly misleadingly, as “a bit of a bruiser”. Daniel’s practice now principally consists of employee competition litigation, high value discrimination and whistleblowing claims, and High Court employment related contractual disputes. He is also regularly instructed, with notable success, on appeals to the EAT and – less frequently - the Court of Appeal. In the latter he appeared he appeared in the leading CA case on employment tribunal costs orders, having secured for his client a costs order in excess of £90,000 against the investment banker claimant.

### Employee competition

Daniel is regularly instructed – both for anxious employers and departing employees - in cases involving restrictive covenants (in employment contracts and share sale agreements), garden leave, team moves, breach of fiduciary duties and misuse of confidential information. Most such cases settle before being reported, but Daniel acted for the employer in *SG & R Valuation Service Co LLC v Boudrais and others* [2008] IRLR 770, the leading High Court authority on garden leave injunctions in absence of a garden leave clause. His injunctive practice also extends to non employment disputes - e.g. the discharge of a world wide freezing order in *JSC BTA Bank v Ablyazov and others* - [2009] All ER (D) 160 (Nov).

### Discrimination and whistleblowing

Daniel acts for employers and employees in high value discrimination claims. He has for instance recently been instructed by a leading City law firm to defend race and sex discrimination claims brought against it by a senior solicitor, and currently acts for a full equity partner in her claims for discrimination against another City firm of solicitors. He acted for the Respondent in *J v DLA Piper LLP UK EAT/0263/09*, an Equality and Human Rights Commission backed appeal before the EAT President which addressed important aspects of the definition of “disability” for the purposes of the Disability Discrimination Act 1995, in the context of depression. He also frequently appears in whistleblowing cases: his most recent cases were against British Telecom Plc (which resulted in a substantial six figure settlement following cross examination of the employer’s witnesses), and successfully defending claims after a multi week hearing brought by two would be whistleblowers against a major educational institution.

### Employment related contractual disputes

Daniel is frequently instructed in employment related contractual disputes, typically concerning such matters as bonus claims, enhanced redundancy payments, PHI related claims, claims arising out of the implied duty of trust and confidence and shareholder disputes, often of high value. Examples of this work are *Silvey v Pendragon* [2001] IRLR 685, [2002] PLR 277 CA, which was a successful appeal in the CA on the assessment of damages for wrongful dismissal in the context of pension loss; and *Marlow v East Thames Housing Group Ltd* [2002] IRLR 798 a PHI claim in which the High Court considered the duty of an employer, as a facet of the implied duty of trust and confidence, to sue an insurance company which refuses to made PHI payments in respect of one of its employees. As well as substantive claims Daniel is highly experienced in employment related High Court applications – e.g. applications for pre-action disclosure under CPR Part 36.16.

## Appellate work

Daniel is frequently instructed to appear in the EAT. He less frequently appears in the CA. He has a notable record of success in both courts. His reported cases include:-

Adamson v Swansea University [2010] All ER (D) 38 – Daniel successfully represented the Respondent in an “appearance of bias” appeal which was dismissed following cross examination of the appellant, together with an order for costs.

McCarthy v Bradford & Bingley [2010] All ER (D) 46 (May) – correct approach to s.98(A)(2) of the Employment Rights Act 1996.

JSC BTA Bank v Ablyazov and others [2009] All ER (D) 160 – an application to discharge world wide freezing order for material non-disclosure.

Davies v DHL Exel Supply Chain Ltd - [2009] All ER (D) 218 (Jun) – successful challenge to tribunal’s finding that it was “not reasonably practicable” to present claim in time.

Distant v Hackney London Borough Council [2009] All ER (D) 18 (May) – successful appeal against a tribunal’s finding of race discrimination

Seddington v Virgin Media Ltd [2009] All ER (D) 23 (Apr) – successful appeal against the tribunal’s failure to make Polkey reduction and an excessive uplift for non-compliance with statutory procedures.

Aryeetey v Tuntum Housing Association - [2009] All ER (D) 118 (Apr) – tribunal’s approach to Polkey reduction upheld on appeal.

Dionissiou-Moussaoui v Dean & Dean (a firm) - [2008] All ER (D) 36 (Nov) – tribunal’s refusal to award costs upheld on appeal.

Chambers-Mills v Allied Bakers - [2008] All ER (D) 257 (Dec) – tribunal’s strike out of a DDA claim for failure to comply with relevant orders upheld on appeal.

SG & R Valuation Service Co Ltd v Boudrais and others [2008] IRLR 770 – leading High Court authority on garden leave injunctions in absence of garden leave clause

Software 2000 Ltd Andrews [2007] ICR 825, [2007] IRLR 568 EAT. Elias J gave guidance on the correct approach to be possible Polkey reductions, following a multi-claimant tribunal hearing.

McPherson v BNP Paribas [2004] IRLR 588. Probably the leading CA authority on costs orders by employment tribunals. Daniel acted for the employer who secured a costs order for £90k against the investment banker claimant.

DHL Air (UK) Ltd v Wells CA Times 14/11/03. A successful appeal in an employment related claim in deceit. The CA gave case management guidance.

Marlow v East Thames Housing Group Ltd [2002] IRLR 798. High Court PHI claim considering the duty of an employer, as a facet of the implied duty of trust and confidence, to sue an insurance company which refuses to made PHI payments in respect of one of its employees.

Silvey v Pendragon [2001] IRLR 685, [2002] PLR 277 CA: A successful appeal in the CA on the assessment of damages for wrongful dismissal in the context of pension loss.

Ojinnaka v Sheffield College EAT [2001] ICR Part 7. Daniel successfully resisted an appeal in a SDA case focussing on and revisiting the question of what is meant by a “detriment”.

Abbey National v Robinson EAT 20/11/00 New Law Online 5001110802. A constructive dismissal case in which EAT considering the inter-relationship of the “last straw” doctrine and the doctrine of waiver/affirmation.

Davenport v Taptonholm for Elderly People Ltd 914/1/99 EAT IDS Brief 638. The EAT considered the circumstances in which third party pressure to dismiss can amount to “some other substantial reason”.

## Personal, Education and Memberships

Daniel was educated at Winchester College, Hampshire, and Oriel College, Oxford University. He graduated from the latter with first class honours in PPE. He then completed a post graduate diploma in law at City University before being called to the Bar at Middle Temple in 1994. He was awarded the Diplock Scholarship by Middle Temple.

Daniel is a member of the Employment Lawyers Association, for whose Briefing Newsletter he is an occasional contributor. He is also a member of the ELAAS scheme under which advocates appear pro-bono to assist litigants in person with apparently hopeless appeals in the EAT

Daniel lives with his wife, a consultant clinical geneticist, and their three children in South London, within striking distance of Tooting Bec Lido. Although he once cycled to Istanbul, he rarely now finds time to pedal further a field than Richmond Park, normally with a child in toe.