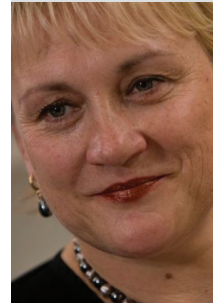

SHIRLEY BOTHROYD

Call: 1982



Overview

Recognised as a leading junior in employment and nicknamed by many of chambers instructing solicitors as the “queen of injunctions”, particularly, urgent injunctive relief. Shirley has been described by legal directories as a tenacious cross examiner. Shirley’s style is direct and down to earth. Clients appreciate her clear and approachable manner. Her advice is practical and commercially aware.

Chambers and Partners refer to her as “an expert on injunctions, acting in numerous High Court cases, as well as a wide range of other employment disputes”.

Practice Areas

Shirley practices and advises in all aspects of employment law in the High Court, particularly, breach of contract, restrictive covenants, wrongful dismissals and misuse of confidential information, often leading to speedy trials. Shirley has extensive experience in urgent injunctive relief, including restrictive covenants, garden leave, springboard/confidential information, freezing orders, search and seizure orders. Shirley has also secured injunctions to restrain harassment in the context of the working environment.

Shirley has extensive experience in the Employment Tribunals and Employment Appeal Tribunal (unfair dismissal, discrimination (race, sex, disability, religion, age, whistle-blowing, TUPE)).

Notable High Court Cases

- English v Thomas Sanderson Limited CA 2009

Claim under the Sexual Orientation Regulations concerning a male employee who alleged harassment by his work colleagues, who teased him about being homosexual (even though they knew he was not) because he lived in Brighton and went to public school. The case concerned whether the wording of the regulations imported the concept of causation into the act; hence, the Claimant had to show that the harassment was “by reason of sexual orientation”, not “related to..”. Argument revolved around EQUAL OPPORTUNITIES COMMISSION V SECRETARY OF STATE FOR TRADE AND INDUSTRY [2007] IRLR 327 where the High Court held that Section 4A(i)(a) of the Sex Discrimination Act does not correctly implement the revised Equal Treatment Directive 2002/73/EC and needs to be recast so as to eliminate the issue of causation. This decision also affects harassment of women and discrimination on grounds of pregnancy. This case went to the Court of Appeal and is now the leading case on sexual orientation and the interpretation of the legislation pertaining thereto.

- Pfizer v Norbrook (High Court, Queen’s Bench Division).

Injunction concerning post termination restraints seeking to prevent a sales rep from joining a competitor. Succeeded at trial in demonstrating that the post termination restraints were unenforceable as they constituted an unreasonable restraint of trade.

- A v B Solicitors (Chancery Division) (Confidentiality).

This involves a solicitor whose employment was terminated. He has brought a raft of claims in the ET alleging anti-semitic racism, whistle blowing, unfair dismissal. Injunction in the High Court, Chancery Division, to prevent him from using emails in support of his claim which he has accessed and copied without the permission and/or consent of his former employer.

- Northern Rock v Joe Macari Servicing Limited QB (Identity theft)

Identity of a customer of NR PLC stolen by an unknown third party. Victims' mortgage advance of £250,000 paid to Respondent as a deposit for £1,000,000 Ferrari Enzo. Application by NR PLC for delivery up of the Ferrari pursuant to CPR 25.1 together with ancillary relief to establish the key factual matrix leading to the fraud.

- Cohn & Wolfe Limited and Young & Rubicam Group Limited v McMillan and others (QB)(Team move).

Public relations company with a specialisation in the creation and execution of strategies for the promotion and marketing of new and existing drugs. Highly confidential information involved. A team of senior employees resigned together, whilst serving their notice they allegedly set up a competing business, formulated a strategy for their departure and misappropriated large volumes of documents and confidential information, primarily by the misuse of computer technology. Defending two of the directors consequent upon injunctive relief being obtained against them, ultimately negotiating compromise agreements.

- Waterman Structures Limited v Fitzpatrick and others (QB)

Claimant provides environmental and engineering consultancy services to clients in the property market. Two senior employees set up a secret company in competition with the claimant and systematically diverted maturing business opportunities whilst using Claimant's resources and confidential information. Extensive injunctive relief to protect confidential information, enforce post-termination restraints, and springboard injunction.

- A v B. (Queen's Bench Division)(Harassment injunction)

Injunction under the anti harassment legislation. The client terminated the employment of a senior executive. That executive has since embarked upon a hate campaign on the internet, setting up a web site containing defamatory material about his former employer which has now escalated into entitling himself "The Angel of Death" who is now going to murder the client, the managing director, and his family.

- Graff Diamonds Ltd v Michael Tyson (QB) (Freezing injunction)

Acted for Graff in a dispute concerning £400,000 of jewellery purchased by Mike Tyson from Graff diamonds. Breach of contract; freezing injunction.

- Associated Newspapers v Jonathon Cainer (QB) (Garden leave injunction)

Acted for Mr Cainer when he resigned from The Mail. Breach of contract; Garden leave injunction.

Notable Employment Appeal Tribunal Cases

- Dr M Easwaran v St George's Hospital Medical School (EAT) June 2010

University teaching hospital, specialising in medical and healthcare education. Dr E was employed as medical demonstrator whose duties involved preparing cadavers for the teaching of students and assisting with lectures. His main place of work was the hospital dissecting room. Claim under PEDA (Whistleblowing) asserting that his working conditions were in breach of Health and Safety regulations as the dissection room was too cold. The ET dismissed Dr E's claims. On appeal to the EAT Dr E applied to admit fresh evidence and for an order for disclosure of the Employment Judge's notes of evidence. Applications refused. The substantive appeal concerned whether Dr E had made a qualifying disclosure based upon a "reasonable belief" that his health and safety "had been or is likely to be endangered". The EAT dismissed Dr E's appeal

- Dr E C Kettle v Ministry of Defence (EAT)

Dentist engaged by MOD. Status: employed or self employed under terms of standard form MOD contract. Finding of ET that Dr Kettle was employed upheld.

Notable Employment Tribunal Cases

- Dr El-Habal v Hull & East Yorkshire NHS Trust : Hull ET

Defending NHS against a claim for unfair dismissal, race discrimination, whistle-blowing arising from dismissal for alleged gross misconduct.

- Dr Fiona Francis v Thames Water Utilities Ltd Reading ET

Refusal of jobshare in senior position after return from maternity leave Sex discrimination, constructive dismissal.

- Blanning v Restormal Borough Council

Defended the Council in respect of a claim by an in house solicitor for disability discrimination.

- Jean Stephenson v Thomas Sanderson: ET:

Disability discrimination, adjustments to the workplace; long term terminal illness; reasonableness.

- Ms Friday v South West Trains

Acted for South West Trains. Successfully defeated claims of sex discrimination, victimisation, and dismissal on grounds of Health & Safety activities.

- Chief Constable of North Yorkshire Police

Acted for Chief Constable in sex discrimination and harassment claims against female officer. Successfully defeated both claims.

- Sharon Sandhu v BBC

Institutionalised racism at the BBC. Case concerned discrimination in training and promotion opportunities at BBC.

- Janet Hope v Northamptonshire & Bedfordshire Fire & Rescue Service

Sex discrimination and sexual harassment of a female fire-fighter by male colleagues.

- Travel City TUPE.

Dispute over liability for transfer of employees of a travel business. Liability for outgoing employees.

- Dr Saiger v West Cumbria National Health Trust (Newcastle Employment Tribunal).

This case went to trial over several months. There were sixteen defendants and over two hundred allegations of race discrimination, sex discrimination, assault, unfair dismissal, exclusion from promotion. All claims were dismissed against fifteen of the Respondents. The Health Authority had findings made against it on about seven of the original allegations.