

## MOHINDERPAL SETHI

Call: 1996



Joint Head of the Employment Group, Mohinderpal is **"A hugely impressive junior, outstanding at every turn"** (Legal 500 2014). He *"has established himself as one of the leading employment juniors at the Bar"* (Chambers & Partners 2016).

His expertise spans the full range of commercial, employment, equality and partnership disputes in the High Court, employment tribunals and on appeal. He is a Registered Practitioner with full rights of audience in the DIFC Court of First Instance and Court of Appeal.

Mohinderpal was **shortlisted for Employment Junior of the Year** at the Chambers UK Bar Awards 2016. He is consistently ranked in **Band 1** (the top 10 leading juniors in the country) by both Chambers & Partners and Legal 500. In 2015 he was appointed by the Attorney-General as **Junior Counsel to the Crown (A Panel)** to undertake the highest profile Government work.

He *"frequently acts for some of the biggest clients in the financial services industry. He specialises in **complex international business protection litigation** in the context of restraint of trade and team moves. Very impressive, he is highly intelligent, quick, commercially astute and responsive to clients. He is very comfortable in dealing with clients and impresses them."* (Chambers & Partners 2017).

He has over 20 years' experience of acting for a wide spectrum of clients from multinational corporations, international banks and foreign governments to ultra-high net worth individuals, boardroom executives and equity partners in high value and commercially sensitive or politically charged matters.

A former Litigator for a FTSE 100 company, Mohinderpal is particularly attuned to working as part of a legal team providing strategic and cost-sensitive solutions to knotty legal problems.

His approach to both his lay and professional clients is reflected in independent market research conducted by the leading legal directories:

High Court commercial litigation: He *"has built a **strong, commercially focussed** practice and is regularly instructed on **asset and business protection cases**"* (Chambers & Partners 2015). *"Mohinderpal has a **growing City injunctions and bonus claims practice** and played a prominent role in the **high-profile Tullet Prebon case**, concerning a major City team move"* (Chambers & Partners 2012). *"**He is excellent on contractual disputes**"* (Chambers & Partners 2016).

Complex employment claims: Chambers & Partners 2014 describes Mohinderpal as **"A talented junior who often appears as lead counsel in high-profile employment disputes, particularly those involving clients in the financial services sector"**. Sources applaud his **"clever and insightful handling of complex whistleblowing matters"** (Chambers & Partners 2010). **"Mohinderpal is clear-sighted on discrimination issues"** (Chambers & Partners 2013). **"Clients note his clear understanding of trade union matters"** (Chambers & Partners 2008).

Outstanding trial and appellate advocacy: **"An impressive advocate with excellent ability"** (Legal 500 2017). **"A robust advocate, who is agile in his approach and able to handle unexpected developments smoothly."** (Legal 500 2016). He is praised for his **"effective and persuasive advocacy skills and excellent cross-examination"** (Legal 500 2009). Clients enthuse of **"his excellent submissions, for keeping a calm head during advocacy and his appellate skills"** (Chambers & Partners 2008). Mohinderpal is ranked in the Equal Opportunities Review of all-time IRLR appearances with numerous reported appellate cases (2014 EOR 244).

Technical excellence: **"He can cut through the thickest of facts and get to the issues quickly. He is meticulous in his review of the papers and connects with clients with ease."** (Chambers & Partners 2018). **"Highly bright"** (Chambers & Partners 2013). **"Clear and incisive legal mind"** (Legal 500 2009). **"Knowledgeable, experienced and pragmatic"** (Chambers & Partners 2009). He has particular expertise in high value claims having co-authored *Employment Tribunal Remedies* (4th Edition, Oxford University Press) which has received such accolades as **"definitely a 'must read'"** (ELA Briefing Vol 18 No 7 August 2011) and **"highly recommended"** (New Law Journal 2011 161 NLJ 1562).

Strategic, tactical and commercial acumen: **"A commercial operator who quickly wins the respect of clients"** (Legal 500 2015). **"He's able to be very creative and to think outside of the box. He dissects his cases so well"** (Chambers & Partners 2014). **"He looks at old problems in new and creative ways, sources say"** (Chambers & Partners 2013). **"His sharp legal analysis and understanding of the politics of the case is particularly appreciated"** (Chambers & Partners 2008).

A real team player: Mohinderpal is **"collaborative"** (Legal 500 2017), **"sharp, responsive and pragmatic"** (Legal 500 2013). **"Sources admire his calm demeanour and his keen eye for detail. He is also seen as being incredibly hard-working and responsive to the client"** (Chambers & Partners 2012). **"His pre-trial preparation is unbeatable. His friendly, hands-on approach goes down a treat with clients"** (Chambers & Partners 2011). Clients describe him as **"incredibly quick and user-friendly"** (Chambers & Partners 2009). He is direct access qualified.

## Injunctions

Mohinderpal has a strong practice in High Court injunctions and speedy trials to enforce directors' and fiduciaries' duties, restrictive covenants, trade secrets and confidentiality, database rights, garden leave and economic torts (often involving team moves). His City clients include investment banks, private equity firms, hedge funds, inter-dealer brokers, insurance brokers, senior executives and equity partners. He is co-author with Selwyn Bloch QC of *Springboard Injunctions* (PLC).

- **Team Move Injunction:** *Arthur J Gallagher Insurance Brokers Ltd & ors v Aston Scott Group Ltd & ors* [2016] EWHC QB - resisted insurance industry team move conspiracy injunction.

- **Garden leave injunction:** *Autoneum GB Ltd v Gilbert and HP Pelzer Holding GmbH* [2016] EWHC QB - successfully obtained international garden leave and restrictive covenant injunction.
- **Non-Compete Injunction:** *EG Solutions Ltd v Hughes and Nice Systems UK Ltd* [2016] EWHC QB - resisted non-competition, confidentiality and non-inducement injunction brought by AIM listed software company.
- **Springboard Injunction:** *Doncasters Limited v Smith & ors* [2016] EWHC QB - acted for a US industrial client in successfully obtaining a springboard injunction restricting, as part of a cross-border team move conspiracy, the alleged transfer of trade secrets of military application to a foreign superpower in breach of export controls.
- **Recruitment Industry Team Move:** *Search Consultancy Ltd v Kirk & ors* [2016] EWHC Ch - springboard and client non-solicitation injunction arising from a team move.
- **Breach of Director's and Fiduciary Duties:** *Livingstone Holdings Ltd & ors v Allaway & ors* [2016] EWHC QB - injunction to prevent breaches of fiduciary duties and team move conspiracy in the software industry.
- **International Restrictive Covenants:** *RFIB Group Limited v Willis Bermuda Limited & ors* [2015] EWHC QB - successfully obtained a cross-border non-competition and non-inducement injunction against a rival international specialist insurance and reinsurance broker arising from its recruitment in Bermuda of the President of RFIB's Bermuda domiciled subsidiary, one of RFIB's highest paid executives.
- **Large Team Move:** *Spark Response Ltd v Wigham and others* [2013] EWHC QB - account of profits claim arising from a 25 person team move and breaches of fiduciary duties and conspiracy.
- **Anti-Strike Injunction:** *Balfour Beatty Engineering Services Ltd v Unite the Union* [2012] EWHC 267 QB, [2012] ICR 452, [2012] IRLR 452 Eady J.
- **International Team Move:** *BGC Capital Markets (Switzerland) LLC v Tullett Prebon plc and others* [2011] EWHC 2009 QB Jack J - Injunction and multi-week High Court trial relating to high value claim for breach of international restrictive covenants, confidential information, and Wrotham Park damages under Swiss law and inducement under English law.

## Commercial Dispute Resolution

Mohinderpal has significant experience of the legal issues arising from high value senior executive rewards packages including bonus, share option, PHI, and pension schemes. He has acted in a wide range of disputes arising from domestic and international commercial contracts including partnership and LLP, vendor-purchaser, joint-venture and franchise agreements.

Mohinderpal is a member of the Commercial Bar Association and the Professional Negligence Bar Association.

- **Share Purchase Agreement:** *Miller 2015 Ltd v Clarkson* [2016] EWHC Ch - injunction to prevent breach of insurance industry share purchase agreement.
- **Private International Law:** *Powa (Jersey) Ltd (a company incorporated in Jersey) and others v Romney Investing Ltd (a company incorporated in the British Virgin Islands)* [2012] EWHC (Ch D) - £20 million claim for breach of contract, fiduciary duties, deceit, dishonest assistance, knowing receipt, and money had and received.
- **Commercial Contracts:** *Surecare Community Services Ltd v Lavender Support Services Ltd* [2010] EWHC ChD - commercial injunction restraining passing off, infringement of copyright, misuse of confidential information and inducement.

- **Bonuses and share options:** *GFI Holdings Ltd v various senior brokers at Tullett Prebon plc* [2009] EWHC (QB) – Mohinderpal “*appeared without a leading silk against Paul Goulding QC, acting for leading inter-dealer brokers in their USD10 million bonus claims*” (Chambers & Partners 2009).
- **City Bonus claim:** *GFI Holdings Ltd v Camm* [2008] IDS Emp L Brief 864/11 - high value bonus claim brought by Inter-Dealer Brokers.

## Employment

Mohinderpal is Joint Head of the Employment Group. Shortlisted for Employment Junior of the Year at the Chambers UK Bar Awards 2016, Mohinderpal has substantial experience of acting for and against international blue-chip companies and high profile public figures in multi-million pound breach of contract, whistleblowing, discrimination and TUPE claims often involving a considerable degree of market of political sensitivity. He has acted in numerous high profile employment disputes in UK domestic courts and tribunals as well as internationally (for example, the Dubai International Financial Centre Court). He has particular expertise in cross-border employment litigation often involving complex issues of jurisdiction and conflicts of laws.

Mohinderpal is the author of several leading publications including *Employment Tribunal Remedies* (4th Edition, Oxford University Press) and *Termination of Employment* (Bloomsbury Professional). He has twice been elected as the Representative of the Bar on the Management Committee of the Employment Lawyers Association and sits on the Editorial Board of *ELA Briefing*. He is the elected Treasurer of the Employment Law Bar Association.

- **Disciplinary Procedures:** *Holmes v Qinetiq Ltd* [2016] IRLR 664 EAT Simler P – leading authority on scope of Acas Code of Practice on disciplinary procedures.
- **Large Scale Group Litigation:** *Humphryes & ors v Lafarge, Amey, Ringway, Balfour Beatty* [2016] - appeals (to be heard in 2017) against the striking out of 1,000 claims and the making of a £1 million wasted costs order.
- **High Profile Whistle-blowing:** *Uppal v Homeserve Plc* [2014] Mohinderpal “*successfully defended Homeserve Plc in a significant whistle-blowing claim brought by a former senior executive, alleging deliberate mis-selling by call centre staff employed by the company*” (Chambers & Partners 2016).
- **Border Checks Scandal:** *Brodie Clark v Home Office* [2012] - Mohinderpal “*represented the former head of the UK Border Force in his High Court and employment tribunal claims against the Home Secretary*” (Chambers & Partners 2013).
- **Business Protection and Social Media:** *Crisp v Apple Retail UK Ltd* [2011] – Mohinderpal successfully protected the brand and business reputation of Apple in this high profile and commercially sensitive case involving the misuse of online social media.
- **TUPE Group Litigation:** *Communication Workers Union v Royal Mail Group Ltd* [2010] ICR 83, [2009] IRLR 1046 Court of Appeal. “*Recent notable cases include CWU v RMG, a multi-million pound class action in the Court of Appeal*” (Legal 500 2009).
- **High Profile Dismissal:** *ASLEF v Brady* [2006] IRLR 576 Elias J – a leading authority: Mohinderpal “*was successful in Aslef v Brady, otherwise known as ‘the battle of the barbecue case’ which involved the employer’s burden of proving the real reason for dismissal*” (Chambers & Partners 2008).

## Equality & Human Rights

Mohinderpal has appeared in some of the leading discrimination cases in the employment, education, goods and services and public law fields. He has extensive experience of long and complex equal pay, sex, race, disability,

sexual orientation, religion or belief and age discrimination claims, as well as claims by part-time workers and fixed-term employees. "He works extensively with a range of clients, from major corporations to high net worth individuals, and is skilled at handling discrimination disputes in particular" (Chambers & Partners 2016). Mohinderpal is ranked in the Equal Opportunities Review of all-time IRLR appearances with 14 reported appellate cases (2014 EOR 244).

- **Apparent Bias and Waiver:** *Bhardwaj v FDA & ors* [2016] IRLR 789 Court of Appeal (Arden, Jackson LJ and Sir Colin Rimer) – leading authority on the application of the article 6(1) right to an independent and impartial tribunal to cases involving the appearance of bias and the doctrine of waiver. Currently on appeal to the Supreme Court.
- **International Law, Human Rights and EU Law:** *Al-Malki v Reyes* [2014] ICR 135, [2013] IRLR 929 Langstaff J (P) -Mohinderpal successfully safeguarded the national interests of the Kingdom of Saudi Arabia under international law. "He is singled out for his high-profile work on state and diplomatic immunity and is widely viewed as an expert on cases involving these issues" (Chambers & Partners 2015).
- **Landmark Indirect Discrimination Case:** *Ministry of Defence v DeBique* [2010] IRLR 471 Cox J - Front page headline of the Daily Mail 13 April 2010 - first and leading authority on 'dual indirect' discrimination.
- **Landmark Compensation Appeal:** *Essa v Laing Ltd* [2004] ICR 746, [2003] IRLR 346 Court of Appeal. Leading authority on causation and foreseeability of loss.
- **High profile discrimination:** *Virdi v Commissioner of Police of the Metropolis* [2007] IRLR 24 (ET, EAT and Court of Appeal) - Mohinderpal "appeared in a number of high-profile cases over the past year, including representing Detective Sergeant Virdi in his successful victimisation claims against the Police Commissioner, Sir Ian Blair" (Chambers & Partners 2009).

## Partnership & LLP

Mohinderpal has extensive experience and expertise in disputes regarding partnership and LLP agreements, restrictive covenants and confidentiality, joining and leaving (including team moves), whistleblowing, discrimination, capital contributions, exclusions, termination, retirement provisions, and profit share.

His experience spans a wide range of professional and financial services sectors including hedge funds, lawyers, accountants, surveyors, architects, patent agents, dentists, doctors and limited partnerships. He has advised on the merger of professional firms and the conversion of traditional partnerships into LLPs.

He regularly represents both partnerships/LLPs as well as individuals or teams of partners/LLP members. This experience enables him to not only bring a balanced understanding of often highly charged matters involving career and reputational risk, but also enables him to anticipate the likely response to any issue. Much of his work in this area is highly sensitive and resolved confidentially. He has recently been involved in a number of very high level equity partner exits from 'magic circle' law firms in the City.

Mohinderpal is a member of the Association of Partnership Practitioners.

- **LLP Restrictive Covenants:** *Miller 2015 Ltd v Clarkson* [2016] EWHC Ch - injunction to prevent breach of LLP Agreement in the insurance industry.
- **LLP Restrictive Covenants:** *Re X LLP* [2015] – advising leading City solicitors' firm on conversion to LLP and enforceability of restrictive covenants and confidentiality
- **Partnership Arbitration:** *X v Y* [2014] - acting in a large arbitration concerning departing members of a



finance partnership

- **Partnership Team Move: *X LLP v Y*** and others [2014] EWHC (QB) - very high value team move claim involving equity and salaried members of a LLP in the financial services sector
- **Partnership Discrimination: *Giscombe v Griffins*** [2014] ET, EAT & Court of Appeal - complex multi-week discrimination trial involving insolvency partners
- **Whistleblowing in LLP: *X v Y LLP*** [2014] - acting for a leading firm of accountants in resisting seven figure whistleblowing claims
- **High Value Breach of LLP Agreement: *X v Y LLP*** [2013] EWHC QB - rights of senior equity partners in large US law firm. Extremely high value and sensitive claim settled on confidential terms

## Regulatory & Professional Discipline

Mohinderpal is experienced in advising on and appearing before a wide range of regulatory and professional disciplinary bodies, particularly those concerned with financial services, media and sport. He has particular expertise in advising on matters arising from the Libor and FX rate rigging scandals, US sanctions, mortgage-backed securities and the disciplinary and enforcement powers of the FCA. He has been entrusted to conduct a number of high level internal disciplinary and grievance investigations for various FTSE and S&P companies.

Mohinderpal is a member of the Association of Regulatory & Disciplinary Lawyers.

- **Landmark appeal: *Heath v Commissioner of Police of the Metropolis*** [2005] ICR 329, [2005] IRLR 270 Court of Appeal - the leading authority on the absolute immunity from suit of quasi-judicial disciplinary bodies regulated by statute.

## Awards, Publications & Appointments

### Education

- MA Jurisprudence (Wadham College, University of Oxford)
- Langdon Comprehensive School, East Ham, London Borough of Newham

### Awards, Scholarships & Prizes

- Chambers UK Bar Awards 2016: Shortlisted for Employment Junior of the Year
- Wadham College: Scholar
- Middle Temple: The Queen Mother's Scholar (the premier Inn scholarship)
- Middle Temple: The Malcolm Wright Prizewinner
- Middle Temple: Harmsworth Major Entrance Exhibitioner

### Publications

- Author of *Employment Tribunal Remedies* (Oxford University Press, 4th Edition)
- Editorial Board Member of *ELA Briefing* (the journal of the Employment Lawyers' Association)
- Co-author of *Termination of Employment* (Bloomsbury Publishing)
- Contributing author for *Practical Law*

### Appointments

- Joint Head of the Employment Group
- Junior Counsel to the Crown (A Panel)

- Former Treasurer and Current Secretary of the Employment Law Bar Association
- Registered Practitioner with full rights of audience in the DIFC Court of First Instance and Court of Appeal
- Equality & Human Rights Commission Panel of Preferred Counsel
- Former Elected Representative of the Bar for the Employment Lawyers' Association
- Former Judicial Assistant to senior New York State Supreme Court Justices (Civil Branch)

## Memberships

- Commercial Law Bar Association
- Professional Negligence Bar Association
- Association of Partnership Practitioners
- Association of Regulatory and Disciplinary Lawyers
- Employment Law Bar Association
- Employment Lawyers' Association
- Industrial Law Society