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## Daniel Stilitz KC

Daniel Stilitz KC has a wide-ranging practice including employment law, public law, partnership, commercial and sports law. His employment and partnership practice focusses on the financial and professional services sectors and on industrial relations. His public law practice includes commercial judicial review, health, human rights and local government.

Dan also regularly sits as a mediator and is a member of the FA's General Appeals Panel. In 2019, he was appointed Joint Head of Chambers at 11KBW.

Dan is recognised as a "thought leader" in employment law and rated as one of the most highly regarded silks at the employment bar in Who's Who Legal 2022.

*"an excellent and persuasive advocate"* **Chambers & Partners 2023**

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## Specialisms

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### Employment and Partnership

Dan's employment practice focuses in particular on the financial services and professional services sectors, as well as industrial relations, and includes High Court, appellate and tribunal advocacy, recently involving a number of lengthy trials and injunction applications.

Examples of his work in this field include:

#### **easyJet v easyJet European Works Council**

[2023] EWCA Civ 756

UK employers are obliged to continue to operate European Works Councils based in the UK, even following the departure of the UK from EU. Dan acted for easyJet plc in the Court of Appeal on this appeal from the CAC and EAT

#### **Mercer v Alternative Future Group Ltd**

[2022] ICR 1034

Employers are in principle able to sanction employees that take part in industrial action without breaching their Article 11 rights. Dan Stilitz appeared for BEIS, intervening, in the Court of Appeal

#### **Parr v MSR Partners LLP**

[2022] ICR 672

An equity partner's demotion to salaried partner was not a "continuing act" and he could not recover compensation for profit-generating events long after his de-equitisation. Dan acted for the successful LLP

#### **Lapinski v Triton Investments LLP**

(2023)

The Employment Tribunal found it had territorial and international jurisdiction to determine claims of disability discrimination brought by a former LLP member against individually-named respondents domiciled in Sweden. Dan acted for the successful Claimant.

#### **Niccolini v Algebris (UK) Ltd**

(2023)

Sex discrimination, harassment and victimization claim brought against an international asset manager by a former senior employee. Dan acted for the employer in substantially defeating the claims.



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### Professional Summary

Called 1992  
Appointed KC 2010

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### Contact Details

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**Clerk** Martin Pownall

**Clerk** Harry Farrow

**Clerk** Chloe King

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**Moore v Phoenix Produce Development Ltd**

[2021] UKEAT/0070/20/00

Dismissal by an employer without a right of appeal did not amount to unfair dismissal in circumstances where an appeal would have been futile. Dan acted for the Respondent.

**R (Independent Workers' Union of Great Britain) v Central Arbitration Committee**

[2019] EWHC 728 (Admin), HC (QBD), March 25 2019, [2019] IRLR 530

The Administrative Court dismissed an application for judicial review of two decisions of the Central Arbitration Committee rejecting claims for trade union recognition in respect of outsourced workers at the University of London. Daniel Stilitz appeared for the Secretary of State for Business, Energy and Industrial Strategy, intervening.

**Beatt v Croydon Health Services Trust**

[2017] EWCA Civ 401 CA, May 23 2017 [2017] IRLR 748

The EAT had been wrong to overturn an employment tribunal's finding that a consultant cardiologist had been dismissed because he made protected disclosures

**R (Boots Management Services Ltd) v Central Arbitration Committee**

[2017] EWCA Civ 66 [2017] IRLR 355

Intervening on behalf of the Secretary of State on claim for a declaration of incompatibility with Article 11 in relation to trade union derecognition provisions

**Carneiro v Chelsea FC & Mourinho**

(2016, ET)

Acting for Premier League Football Club and its former manager – sex discrimination and constructive dismissal – claim by former first team doctor

**Johnson v Fortress Investment Group**

(2016, ET)

Acting for hedge fund defending disability discrimination claim brought by former employee with Motor Neurone Disease

**R (BMA) v Secretary of State for Health**

(2016, High Court)

Acting for NHS Confederation, an interested party in judicial review brought against the alleged imposition of judicial doctors' contracts by the Secretary of State

**Yates v Orrick**

(2015, ET)

Resisting claims of age and disability discrimination brought by a former member of a US law firm LLP

**Smith v Carillion**

[2015] EWCA Civ 209 [2015] IRLR 467

Acting for the Secretary of State on appeal relating to adequacy of protection against blacklisting, employment status, retrospective application of the HRA and declarations of incompatibility

**Gregg v Troy Asset Management Ltd**

(2015, ET and EAT)

Resisting claims of sex, maternity and pregnancy dismissal brought by senior dealer against asset management company

**Duffy v TNS**

(2015, ET)

Acting for a research and media company resisting claims of sex discrimination and whistleblowing brought by a former CEO

**Pereiro-Mendez v Goldman Sachs**

(2015)

Acting on behalf of a global investment bank resisting claims of equal pay, sex discrimination and maternity discrimination brought by director in relation to salary, bonus and promotion

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## Public

Dan Stilitz's public law practice includes commercial judicial review, health, human rights and local government.

Examples of his work in this field include:

### **R (Aslef & others) v Secretary of State for Business & Trade**

[2023] EWHC 1787 (Admin)

Acting for the Secretary of State in judicial review proceedings brought by numerous unions alleging breach of a statutory duty to consult before repealing regulations which abolished the prohibition on employment agencies supplying staff to replace striking workers

### **R (Hexpress Healthcare Ltd) v Care Quality Commission**

[2023] EWCA Civ 238

Acting for the Care Quality Commission successfully resisting an application for judicial review in which it was alleged that factual accuracy checking process used in respect of an inspection report on an online GP service was unfair

### **Inclusion Housing Community Interest Company v Regulator of Social Housing**

[2020] EWHC 346 (Admin)

Dan acted for a major housing association in a challenge to the Regulator of Social Housing's decision that its was "non-compliant" with relevant regulatory standards

### **School Facility Management Ltd v Governing Body of Christ the King College and Isle of Wight Council**

[2020] EWHC 1118 (Comm), QBD (Comm), May 7 2020, [2020] PTSR 1913, [2020] 1WLR 4825

It was ultra vires for a college to enter into a contract for the construction and hire of a modular building and associated equipment

### **R (T & S King (a partnership)) v DEFRA**

[2016] EWHC 1692 (Admin)

Challenging a decision of DEFRA as to payment of agricultural subsidies under EU law

### **R (Boehringer-Ingelheim Ltd) v NHS England**

(2016, Administrative Court)

Resisting an application for permission to apply for judicial review of a decision of NHS England on the circumstances in which an end of life cancer treatment should be used

### **R (Keep Wythenshawe Special Ltd) v NHS Central Manchester CCG**

[2016] EWHC 17 (Admin)

Acting for NHS England, as an interested party, in a challenge to the reorganisation of hospital services in Greater Manchester

### **Akerman-Livingstone v Aster Communities Ltd**

[2015] UKSC 15 [2015] 2 WLR 721

Acting for a housing association resisting an appeal brought to the Supreme Court by a tenant to whom homelessness duties were owed – Equality Act 2010 defence to possession action – disability discrimination – summary jurisdiction

### **R (Islington Borough Council & others) v Mayor of London & others**

[2013] EWHC 4142 (Admin)

Acting for Inner London local authorities in challenge to Mayor of London's decision to close fire stations

### **R (Singh) v Post Office Ltd**

(2013, Administrative Court)

Acting for Post Office Ltd resisting claims for alleged breaches of Art 6 and Art 8 ECHR brought by a former sub-postmaster

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## Commercial

Examples of Daniel Stiltz's work in this field include:

**Former CEO/Team Principal v Leading F1 Team**

(2023)

Acting for a Formula 1 team resisting High Court claims in relation to constructive dismissal and shares brought by former CEO

**School Facility Management Ltd v Governing Body of Christ the King College and Isle of Wight Council**

[2020] EWHC 1118 (Comm), QBD (Comm), May 7 2020, [2020] PTSR 1913, [2020] 1WLR 4825

It was ultra vires for a college to enter into a contract for the construction and hire of a modular building and associated equipment

**Bartholomews Agri Food Ltd v Thornton**

[2016] EWHC 648 (QB), [2016] IRLR 432, QBD, March 23 2016

Restrictive covenant against agronomist was unenforceable.

**Arthur J Gallagher Ltd v Aston Scott Group**

[2017]

High Court: Claim against insurance company and executives for breaches of restrictive covenants and misuse of confidential information.

**Zerolight Ltd v Wolff**

[2016] EWHC 487 (QB)

Obtaining injunction for technology company whose senior employees had been poached by a competitor

**GCN (Scotland) Ltd v Palletways (UK) Limited**

(2013, Queen's Bench Division)

Acting for Scottish haulage company – dispute of contractual arrangements with distribution hub - injunctive relief obtained to restrain premature and unlawful termination of the agreement

**Mittell & others v PHD Technologies Inc**

(2011, Bristol Mercantile Court)

Acting of US technology company Dispute with former owners – Sale and Purchase Agreement – deferred consideration

**BTIG v Reiss**

(2011, Commercial Court)

Acting for firm of agency brokers Breach of contract – losses arising from unauthorised trading

**Nick Page & another v Barry Page & others**

(2011, Chancery Division)

Acting for minority shareholders in section 994 Companies Act petition – unfair prejudice to minority shareholders

**City Index Ltd v Gawler & others**

[2008] Ch 313 [2007] EWCA Civ 1382

Knowing receipt and the scope of the Civil Liability (Contribution) Act 1978

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## Sport

Dan regularly advises football clubs and managers regarding contractual and other disputes, and has also acted for teams in Formula 1 motor racing and cricket, as well as other elite sporting organisations. Examples of Dan's work in this field include:

**English Cricket Board v Yorkshire County Cricket Club**

(2023)

Dan acted for YCCC in relation to claims of race discrimination and bringing the game of cricket into disrepute arising from allegations made by Azeem Rafiq

### **Former CEO/Team Principal v Leading F1 Team:**

(2023)

Acting for a Formula 1 team resisting High Court claims in relation to constructive dismissal and shares brought by former CEO

### **Athlete X v Sporting Body Y**

(2020)

Successfully representing a British athlete before a sports arbitral body on appeal against her deselection from Team GB for the Tokyo Olympics

### **Carneiro v Chelsea FC & Mourinho**

(2016, ET)

Acting for Premier League Football Club and its former manager – sex discrimination and constructive dismissal – claim by former first team doctor

### **Nescar SL v Middlesbrough FC**

(2011, QBD)

Acting for Spanish sports services agency – agency agreement for transfer of professional footballer – breach of contract – implied terms

### **Gascoyne v Force India Ltd**

(2010, QBD)

Acting for Formula One motor racing team – gross underperformance of Chief Technical Officer – wrongful dismissal – loss of chance

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## **Mediation**

Daniel is a CEDR trained Mediator and has been accredited since 1997. He has mediated in more than 50 disputes.

His mediation experience is in the following fields:

- Commercial disputes
- Employment disputes
- Public law disputes

Recent cases successfully mediated include:

- A commercial dispute between a firm of headhunters and a law firm over fees payable following a team move. The case was settled through mediation prior to the issue of proceedings
- A dispute over the sale and purchase of a company owning a chain of clinics, involving issues of share ownership, misrepresentation and debt
- A £5 million sex discrimination claim brought by a senior banker against a major US investment bank
- A High Court action for alleged misuse of confidential information, poaching of staff and unlawful competition between financial advisers
- A sex discrimination claim brought by an associate solicitor against a leading law firm, settled prior to the hearing of an internal grievance
- A £2 million maternity leave discrimination claim brought by a banker against a Swiss bank
- A multi-party Chancery Division dispute over a share sale agreement in relation to a company engaged in the exhibitions business, including allegations of fraud and misrepresentation. Settlement included both financial and non-financial elements

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## **Recommendations**

“Dan is excellent. He is unbelievably responsive and has an encyclopedic knowledge of the law.”

### **Chambers & Partners**

“an excellent and persuasive advocate” **Chambers & Partners**

“Daniel Stilitz KC jumps to mind whenever I need a barrister to get behind some creative thinking on a knotty legal problem. He is also exceptionally user-friendly and he wins over clients and judges alike”

**Chambers & Partners**

“He is a great team player and he can see through all of the issues to get to the heart of the case pretty quickly, balancing that with commercial nous” **Chambers & Partners**

“His easy manner with clients establishes a great rapport and instils confidence” **Chambers & Partners**

“He is an exceptional advocate” **Chambers & Partners**

“He is a superstar. Incredibly clever, not afraid to take decisions, excellent on his feet, and a number one choice on any injunction matter without a doubt” **Legal 500**

“Daniel is very user friendly, has an excellent manner with clients and is absolutely first class as a trial advocate when on his feet – particularly during cross-examination” **Legal 500**

“Very easy to get on with – not imposing or intimidating despite being astronomically intelligent.”

**Chambers & Partners**

“A standout silk. Intelligent, hardworking and user-friendly.” **Legal 500**

“Fabulous manner with both clients and tribunals, and he is constructive and commercial.” **Legal 500**

“He has an air of authority that comes from his long experience. He’s very calm and is technically excellent.” **Chambers & Partners**

“A great all-round public law silk” who is “always a reliable choice.” **Chambers & Partners**

“Very clever, personable and a strong advocate – one of the best at the employment Bar.” **Legal 500**

“If I were in trouble he would be the person I would go to get me out of it ... very bright and a pleasure to work with” **Chambers & Partners**

“ ... a very good advocate who wins the court over ... He makes the court like his argument, like him and like the client” **Chambers & Partners**

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## Recent Cases

### **Public and Commercial Services Union v Secretary of State for Environment, Food and Rural Affairs**

[2024] UKSC 41, SC, November 20 2024, [2024] 3 WLR 1059

Term of collective agreement incorporated into contract of employment – Whether trade union entitled to enforce term in its own right.

### **easyJet v easyJet European Works Council**

[2023] EWCA Civ 756

UK employers may be obliged to continue to operate European Works Councils based in the UK, even following the departure of the UK from EU. Dan acted for easyJet plc in the Court of Appeal

### **R (Aslef & others) v Secretary of State for Business & Trade**

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### **Moore v Phoenix Produce Development Ltd**

[2021] UKEAT/0070/20/00

Dismissal by an employer without a right of appeal did not amount to unfair dismissal in circumstances where an appeal would have been futile. Dan acted for the Respondent.

### **R (Independent Workers' Union of Great Britain) v Secretary of State for Business, Energy and Industrial Strategy**

[2021] ICR 729, [2021] EWCA Civ 260, CA, February 26 2021, [2021] IRLR 363

A union's application to the Central Arbitration Committee for recognition for collective bargaining purposes was not admissible if there was already in force a collective agreement under which a union was recognised

### **School Facility Management Ltd v Governing Body of Christ the King College and Isle of Wight Council**

[2020] EWHC 1118 (Comm), QBD (Comm), May 7 2020, [2020] PTSR 1913, [2020] 1WLR 4825

It was ultra vires for a college to enter into a contract for the construction and hire of a modular building and associated equipment

### **R (Cotter) v National Institute for Health and Clinical Excellence (NICE)**

[2020] EWCA Civ 1037, CA, August 6 2020, (2020) 175 BMLR 89

NICE had not erred in deciding not to use its Highly Specialised Technology procedure to appraise a new drug

### **Secretary of State for Justice v Prison Officers Association**

[2019] UKSC 3553 (QB), QBD, December 19 2019, [2019] IRLR 196, [2020] ICR 1257

Injunction prohibiting the Prison Officers Association from inducing, authorizing or supporting any form of industrial action by prison officers did not breach ECHR art. 11

### **Gilham v Ministry of Justice**

[2019] UKSC 44 SC, October 16 2019 [2019] 1 WLR 5905, [2019] ICR 1655

Judicial office-holder making protected disclosure is covered by statutory protection for whistle-blowers. Dan appeared for Protect, intervening.

### **R (Ideal Carehomes (Number One Ltd)) v Care Quality Commission**

[2018] ACD 42, [2018] ACD 42, Admin Ct, January 19 2018

Care home provider's criticisms of a regulator's report, and of its rating of a care home as inadequate, did not demonstrate that the regulator had made any public law errors.

### **Air Products plc v Cockram**

[2018] EWCA Civ 346, [2018] IRLR 755, CA, March 2 2018

An employment tribunal had been entitled to find that discrimination caused by an employer increasing

its customary retirement age from 50 to 55 was objectively justified and was a proportionate means of achieving a legitimate aim.

### **Gilham v Ministry of Justice**

[2017] EWCA Civ 2220, CA, December 21 2017, Times, January 25 2018

District judge not covered by 'whistleblowing' provisions. Dan appeared for Public Concern at Work, intervening.

### **Ministry of Justice v Prison Officers' Association**

[2017] EWHC 1839 (QB), QBD, July 19 2017, Times, September 20 2017

Dan acted for the Ministry of Justice in obtaining a permanent injunction against the POA to prevent inducement of industrial action in the Prison Service. The statutory prohibition against inducing a prison officer withholding his services included inducing him not to perform voluntary tasks.

### **Wandsworth London Borough Council v Vining**

[2017] EWCA Civ 1092, CA, July 28 2017, Times, September 26 2017

The leading case on the employment status of parks police, in which the Court of Appeal held that they have a right to consultation on redundancies. Dan acted for the Secretary of State, intervening.

### **Beatt v Croydon Health Services NHS Trust**

[2017] EWCA Civ 401 CA, May 23 2017 [2017] IRLR 748

Dan acted for a consultant cardiologist before the Court of Appeal, which restored the finding of the Employment Tribunal that he had been dismissed on whistleblowing grounds, following him raising concerns about the circumstances of the death of patient during a procedure.

### **Carneiro v (1) Chelsea Football Club (2) Jose Mourinho**

(2016)

Dan acted for Chelsea Football Club and its former manager in resisting the much-publicised claims of sex discrimination and constructive dismissal brought against them by the club's former first team doctor. The case settled on the second day of trial.

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## **News, Articles & Publications**

Contributor to *Conduct and Pay In the Financial Services Industry: The Regulation of Individuals* (eds Ogg and Leiper). Informa Law from Routledge, 2017.

Contributor to *Tolley's Employment Handbook*, 30th Edition (Trade Unions and Industrial Action)

Contributor to *Tottel's Local Government Law* (Non-judicial control of local authorities)

Consultant Editor of Housing and Property Law Joint author (with Philip Sales) of 'Intentional Infliction of Harm by Unlawful Means' *Law Quarterly Review* (1999) 411

Joint author (with Michael Supperstone KC and Clive Sheldon) of 'ADR and Public Law' *Public Law* (2006) 299

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## **Education**

1987-1990: New College, Oxford University. BA (Hons) in Philosophy, Politics and Economics, First Class

1990-1992: City University. 1991: Diploma in Law (CPE) with Distinction

1992: MA in Law

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## **Other**

**CEDR Solve Accredited Mediator since 1997.** Regularly sits as a mediator in commercial, public law and employment disputes.

**1999:** Appointed to the Attorney General's 'B' Panel

**2006:** Appointed to the Attorney General's 'A' Panel

**Memberships:**

Member of COMBAR, ELBA, ALBA and ELA

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