Simon Devonshire KC



Silk: 2009 Call: 1988

E: Simon.Devonshire@11kbw.com
T: +44 (0)20 7632 8500

Simon was called in 1988 and took silk in 2009. He is a leading KC practicing in all areas of statutory and contractual/commercial employment law, but with a particular emphasis on (i) inter-business competition issues (including confidential information, restrictive covenants and the poaching of employees in unlawful team moves), (ii) employee/business owner fraud, (iii) the attempted diversion of business opportunities by employee fiduciaries, and (iv) whistle-blowing, discrimination and TUPE disputes. He also has considerable experience in the sports forum, in disputes between LLP members, in the management and control of repeated/vexatious litigation, and in the conduct of internal investigations.

> ***Brings his strong intellect to every detailed corner of a complex case***
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> CHAMBERS & PARTNERS

Expertise

Employment

In the High Court, Simon regularly acts in fraud, business diversion and employee competition disputes. He is described in the directories as a *"go-to silk for non-compete disputes"* and frequently acts (for both sides) in confidential information, restrictive covenant, team move and business diversion cases (in both the employment and the LLP settings). Other related areas of expertise include actions for injunctions to restrain or curtail domestic disciplinary proceedings (particularly in the NHS context) and the control of repeated litigation by disgruntled employees.

Recent reported and/or important cases include Red Bull -v- Fallows [2021] EWHC 3502 (QB) (disclosure necessary to test restraint of trade claims in the garden leave context); Capita -v- Darch {2017] IRLR 718 (threshold for interim injunctive relief in team move disputes); **Samara –v- MBI Partners** [2016] EWHC 441 (QB) (abuse of process arising out of recidivist litigation); **Dorma UK Ltd –v- Batemen** [2015] EWHC 4142 (QB) [2016] IRLR 616 (springboard relief arising out of an alleged team move); **Miller –v- Gardiner & Ors** [2015] EWHC 1712 (Ch) & [2015] EWHC 288 (Ch) (extended CRO against litigant repeatedly bringing misconceived claims); **Thomson Ecology –v- APEM** [2014] IRLR 184 (summary judgment and disclosure orders in team move cases); **CEF Holdings -v- Mundey & Ors** [2012] FSR 35 (the limits of springboard relief and the obligations of a party moving the court without notice); **BGC –v- Rees & Tullett Prebon** [2011] EWHC 2009 (QB) (Tullett did not procure Rees to breach his contract of employment with BGC when recruiting him); **Capital for Enterprise -v- Malik & Ors** [2010] EWHC 343 (Ch) (disclosure obligations and freezing injunctions); **Bezant –v- Rausing & Ors** [2007] EWHC 1118 (QB) (it was an abuse of process for a claimant, after his claims under employment law had failed, to seek to invoke the law of tort against directors and other professionals associated with his employment/dismissal, to seek to recover his alleged losses).

> ***Simon Devonshire is supremely bright and the person to go to for highly technical work.***
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> CHAMBERS AND PARTNERS

On the statutory front, Simon is noted in the directories for his strength *"in structuring his arguments in a way that finds favour with the Employment Tribunal, and in making persuasive submissions".* He frequently acts for banks and financial institutions in high value claims and continues to handle a large number of whistle-blowing disputes, arising particularly in the financial services sector. He also advises on contentious and no-contentious TUPE issues, particularly in respect of outsourcing and change of contractor disputes and on the TUPE implications of commercial transactions. He recently acted for the successful party in arguing that variations to personal terms agreed by employee/directors in anticipation of a transfer were void under TUPE. He has acted for a number of NHS bodies following the outsourcing of care to persons with learning disabilities, and successfully defended a firm of solicitors against a claim that it had inherited TUPE liabilities for the employees of one of its competitors.

Recent reported and/or important cases include: Ferguson -v- Astrea [2020] IRLR 550 (the first case to consider whether beneficial variations were void under TUPE and the application of the EU abuse of rights principle to TUPE claims); Sattar -v- Citibank [2020] IRLR 104 (procedural fairness in dismissal and disability contexts following the dismissal of Citi's Global Head of Treasury); **Allsop –v- Christiani & Nielsen Ltd** (in Administration) [2012] UKEAT/0241/11/JOJ (limitation and jurisdiction in Wages Act claims); **Royal Cornwall Hospital Trust –v- Watkinson** [2011] Med LR 636 (whistleblowing in an NHS trust); **Ward Hadaway –v- Love & Ors** [2010] UKEAT/0471/09/SM (the winning of a contract to provide legal services to the NMC did not constitute a service provision change within the meaning of TUPE 2006, and the successful tenderer did not assume liability for the dedicated team of lawyers retained by his predecessor); **New ISG –v- Vernon & Ors** [2008] ICR 319 (a purposive construction should be given to reg 4(7) of TUPE 2006, so as to accord with the fundamental freedom of the employee to choose who he works for, and to permit and recognise the effectiveness of a post transfer objection where the employee does not know of the identity of the transferee or of his right to object pre transfer. In consequence, the transferee could not enforce post termination restrictive covenants against 'objecting' employees); **Croke –v- Hydro** [2007] ICR 1303 (an individual providing services through his own limited company to an end user via an employment agency was a worker for the purposes of the whistle-blowing provisions); **Perkin –v- St George's NHS Trust** [2006] ICR 617 (awkward personality as the justification for the dismissal of a self-proclaimed whistleblower).

Achievements

News, Articles & Publications

For Simon's analysis of a number of the key recent cases, see the 11KBW Employment Law Blog. Copies of his papers and slides for the annual Chambers employment law conference are on the 11KBW website.

Garden Leave Injunctions in the Sporting Arena [2004] ISLR 15

Education

Kings School, Canterbury

Magdelen College, Oxford (BA, Jurisprudence)

Other

Professional memberships:

- Employment Law Bar Association
- Employment Lawyers Association
- London Commercial Law Bar Association

Simon has owned and raced the Thames Sailing Barge Marjorie since 1993, and holds an MCA/DTI Master's ticket. He has exhibited his own paintings with the Royal Society of Marine Artists on a number of occasions.

> ***... a go-to silk for non-compete disputes ... provides excellent client service – he is very responsive and happy to roll up his sleeves in a case.***
>
> CHAMBERS & PARTNERS

> ***An extremely hands-on barrister who gives excellent service.***
>
> CHAMBERS & PARTNERS

> ***... His advocacy skills were very good – he made mincemeat of his opponents and he did an extremely good job***
>
> CHAMBERS & PARTNERS

... He is extremely responsive and very good with clients – we feel that we are in safe hands

CHAMBERS & PARTNERS

... His advocacy ... robustness and tenacity always places the client in the strongest position

LEGAL 500

...a wonderfully pragmatic barrister who is a joy to work with

CHAMBERS & PARTNERS

...he has a quiet, confident, comfortable style

CHAMBERS & PARTNERS

... works incredibly hard on his preparation ... particularly strong in structuring his arguments in a way that finds favour with the Employment Tribunal, and in making persuasive submissions. A safe bet on every occasion.'

LEGAL 500

...is incredibly bright and hugely persuasive in court

LEGAL 500