

DANIEL MATOVU

Call 1985

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Practice Overview

Daniel is highly regarded as an impressive courtroom advocate. His style and approach inspire great confidence in clients, and makes them feel very well supported. He is an intellectually strong, versatile and committed trial fighter.

His main specialist practice area is employment and employment-related fields. He acts for claimants and respondents: NHS Trusts, local authorities, major blue chip companies, professional firms and small businesses including charitable organisations as well as private individuals. He further assists as an advocate at the Employment Appeal Tribunal under the ELAAS scheme and leads equality and diversity training sessions for the Bar and Inns of Court.

He has considerable experience of personal injury litigation including industrial disease, and health and safety prosecutions which complement his employment practice, with a niche specialism in cases involving negligent dispensing errors.

He has successfully represented clients in professional disciplinary hearings (GMC and HPC), and regularly sits on (and occasionally chairs) ICC panels.

Typical comments from clients include: *"your focus and support throughout this case and the last has been exceptional and your grasp of the case and presentation to the tribunal has ensured that we achieved a positive outcome."*

He accepts work on a direct access basis.

Practice areas

Disciplinary & Regulatory
Employment
Personal Injury
Negligent Dispensing Errors

Memberships

ELBA
ELA
ILA
PIBA
LCCLBA
Bar Pro Bono Unit
Lawyers Christian Fellowship

Qualifications

BA Hons (Oxon)

Education

Eton College (Oppidan Scholar)
New College, Oxford



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Disciplinary & Regulatory

Notable cases include successfully representing a paediatrician convicted of drink driving for which he received a custodial sentence due to devastating consequences for victim (left permanently paralysed from neck down) before GMC Fitness to Practise hearing (2011); successfully representing a hearing aid dispenser who had forged the signatures of seven elderly and vulnerable clients before the HPC Conduct & Competence Committee (2012), achieving the rare result that his client's fitness to practise was not even found to be impaired and no sanction was imposed.

Additionally, Daniel regularly sits on (occasionally chairing) ICC panels concerning serious misconduct cases referred by the Inns and adjudicating on fitness to practise at the Bar.

Employment

Daniel enjoys a good reputation especially for strong advocacy and good client handling skills, commended by the Court of Appeal for his "*impressive advocacy*" and "*excellent arguments*".

He has vast experience of a broad range of work in the employment field: unfair dismissal (express or constructive); unlawful discrimination (direct/indirect); all forms of disability discrimination (including dyslexic pupils in schools); harassment; victimisation; whistleblowing; unlawful deduction of wages; collective redundancy; transfer of undertakings, trade union membership/activities; working time; national minimum wage; holiday pay; bonuses; High Court injunctions regarding confidential information and enforcing restrictive covenants; breach of contract; equal pay.

Daniel has acted for a wide range of clients, predominantly respondents, in different sectors, such as railways (British Rail pre privatisation as well as several private rail companies post privatisation); airlines (Air 2000/First Choice); retail (John Lewis Partnership); health (several NHS Trusts and nursing care homes); local government (several local authorities); professional (law, patent attorney and accountancy firms); small businesses and charities.

He has also acted successfully for a number of individuals, particularly under the Bar Public Access Scheme, such as consultant neurologist, senior investment banking analyst, group marketing director and senior

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care worker; also for an NHS Trust medical director and manager of a golf club both sued in their personal capacities in high profile cases.

He has often been instructed in cases raising novel or difficult points.

Personal Injury

Daniel commenced his career at the Bar with a mixed civil and criminal practice (prosecuting and defending). When he gave up criminal work to specialise in civil work he continued to undertake health and safety prosecutions which naturally complemented his personal injury and employment practice. He undertakes personal injury work in relation to road traffic (including MIB claims) and industrial accidents, as well as industrial disease (asbestos exposure cases) and stress/ bullying and harassment claims.

Negligent Dispensing Errors

Daniel was initially asked to advise on the employment relationship between a locum pharmacist and pharmacy which has led to him being instructed to appear and advise in a number of negligent dispensing error cases.

Significant Cases

Lindsay v LSE [2013] EWCA Civ 500 – permission granted by CA for claimant to appeal from EAT decision in relation to racial discrimination and victimisation claims including time issue – full hearing still pending.

Edgington t/a Hassocks Pet Centre v Hawthorn UKEAT/0250/12 EAT 8.10.12 (Judge Hand QC) – successful appeal argued against P Oldham QC on novel point regarding composition of tribunal and whether ET judge entitled to hear case sitting alone.

Freedom Choice Care Ltd v Buchanan EAT 1.5.12 (Wilkie J) – appeal concerning serious irregularity in relation to composition of tribunal for remedies hearing where lay member on liability panel substituted by another lay member.

Re. L before HPC Conduct & Competence Committee (April 2012) – held that fitness to practise of hearing aid dispenser who had forged customers signatures not impaired and no sanction imposed.

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Dr Jameel v Surrey & Borders Partnership NHS Foundation Trust EAT 25.4.12 (Judge Serota QC) – apparent bias allegation dismissed in a case where it was discovered that employment judge may have known respondents non-executive director who sat as an ET lay member.

Fairbank v Care Management Group UKEAT/0139/12 – EAT 20.3.12 (Slade J) successful appeal against order requiring claimant to provide ET with a concise statement of claims with minimal statement of supporting facts not exceeding one side of A4 paper.

Wood v Hampshire CC and others (March 2012) Southampton ET – conclusion of long-running complex litigation involving four sets of proceedings commenced in 2008/2009 with multiple claims including ordinary unfair dismissal, automatic unfair dismissal for TUPE transfer connected reason, sex discrimination, victimisation including post termination victimisation, redundancy and equal pay – all claims successfully dismissed on behalf of respondent.

Gabriel v Peninsula Business Services UKEAT/0190/11 – EAT 23.2.12 (Judge Peter Clark) successful appeal on ground that at common law a contract of service could not be novated by substituting a new employer without the express or implied consent of the employee where no TUPE transfer had taken place.

Re. Dr M before GMC Fitness to practise hearing (January 2011) – successfully defended paediatrician in disciplinary proceedings having been convicted of drink driving with blood alcohol reading of 265 mg (victim left permanently paralysed) and having received custodial sentence.

Slingsby v Griffith Smith Solicitors EAT 10.2.09 (Judge Burke QC) [2009] All ER (D) 150; IDS Emp. Law Brief (May 2009) No. 876 pages 17-18 – successful appeal against Registrars decision to allow employers cross-appeal to be lodged one day out of time, thereby establishing that Abdelghafar principles applicable to extension of time for notice of appeal apply equally stringently to any cross-appeal.

Towergate London Market Ltd v Harris [2008] IRLR 536; [2008] ICR 1200 – CA by majority rejected employers appeal regarding whether automatic extension of time under Dispute Resolution Regs 2004 reg 15(2) triggered where claim presented well outside primary limitation period.

Wootton v J Doctor Ltd and another (2008) Birmingham CC 18.1.08 (HH Judge McKenna) – successfully defended pharmacy in action brought by claimant regarding an unwanted birth allegedly caused by taking wrong oral contraceptive pills.

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Brett v University of Reading [2007] EWCA Civ 88 – CA dismissed appeal of personal representative of deceased who had died of mesothelioma due to asbestos exposure where excessive exposure proven in one out of several different employments yet insufficient evidence to show that university had failed to take necessary steps to protect him.

Joyce v BAE Systems Avionics Ltd (2005) Stratford ET 21.7.05 – successfully persuaded Regional Employment Judge to grant review by reopening a consent judgment in exceptional circumstances after litigant in person complained he had been unfairly pressurised to consent to unfavourable terms of settlement on third day of hearing when not legally represented and in weak mental state.

Connex South Eastern Ltd v Bangs [2005] ICR 763; [2005] IRLR 389 CA – leading case on delay in delivering judgment following a hearing as to when that can be relied on as a ground of appeal; overruling *Kwamin v Abbey National plc* [2004] IRLR 516 EAT (in which Daniel also involved) – petition for leave to appeal to HL subsequently granted on 4.5.05 [2005] ICR 1161 but case settled before appeal heard.

Kent County Council v The HSE Sevenoaks Magistrates Court (June 2004) – five-day contested health and safety prosecution trial regarding contravention of reg 11(1)(a) of Provision and Use of Work Equipment Regulations 1998 when employee came into contact with power take-off shaft of post hole borer.

Kearney v Sonning Golf Club Ltd and Matera Reading ET (2004) – successfully defended manager of a golf club, unusually without calling him to give evidence, against complaint of sex discrimination harassment following breakdown in sexual relationship between himself and deputy manager.

Jenkins v Legoland Windsor Park Ltd EAT 3.7.03 (Judge Reid QC) – successful appeal regarding claim for disability-related discrimination arising from presentation of a personalised lego model to employee and claimant subsequently awarded £20,000; this case received significant media attention in national press.

Smith v Gatwick Airport Ltd [2003] EWHC 233 Admin (Harrison J.) 11.2.03 – successful appeal regarding health and safety prosecution in relation to accident involving serious degloving injury sustained when fire door closed on special needs passenger conveyed in a buggy.

South West Trains Ltd v Ireland EAT/0873/01 EAT 2.7.02 (Judge Levy QC) – successful appeal on behalf of respondent overturning decision that

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claimant was unfairly dismissed where ET wrongly substituted own decision for that of employer.

Watson v John Lewis plc (2001 ET) – successfully defended JL Partnership Dress Code in relation to complaint of sex discrimination by man challenging ban on beards in Waitrose branch.

Cootes v John Lewis plc EAT 27.2.01 (Judge Peter Clark) – successfully represented JL Partnership in appeal concerning complaint of sex discrimination regarding business dress uniform claimant was required to wear at work.

Pizzey v Ford Motor Company Ltd [1994] PIQR P15 CA – whether privilege waived in relation to unfavourable medical report which had been inadvertently disclosed.

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