



Jane Russell

Called 2004

Areas of Practice

Jane practises in Employment and Discrimination law. She has a particular focus on appellate work, complex or high-value claims. She acts for both Claimants and Respondents.

Jane has an interest in the “newer” discrimination strands and in the extension of the “older” strands to new areas. She has recently appeared, led by Sandhya Drew, in Court of Appeal proceedings in a sexual orientation case which is understood to be one of the first cases about “outing” (see [Grant v HM Land Registry](#)). She also appeared before the EAT in November 2009 in one of the first IVF pregnancy discrimination cases (see [Sahota v Home Office](#)).

She has experience of whistleblowing and restrictive covenants (either in employment contracts or in transaction documents) cases. She has recently won a whistleblowing case for an individual against the South Wales Police.

She is comfortable working in a City environment, having practised as a solicitor in the city for 6 years prior to coming to the Bar.

She is as interested in advising in policy-related employment matters as she is appearing in front of courts and tribunals. She is a regular speaker at the European Academy in Trier, which is a European Commission funded judicial training academy. In December 2008, she was selected by the United Nations Development Programme to review the gender equality laws of Armenia. In October 2008, she gave a lecture to the Bulgarian Commission for the Protection against Discrimination and members of the Bulgarian Judiciary about the probative value of statistics in discrimination claims.

Notable cases

Unfair Dismissal

Claimants v PLC (settled)

Jane acted for a PLC, led by Martin Griffiths QC, defending unfair dismissal proceedings from several claimant company directors who were dismissed for allegedly fiddling the company’s books with significant consequences for the PLC.

tooks chambers

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Sexual orientation discrimination

Grant v HM Land Registry (Appeal No 2010/1066) (per Elias LJ, Mummery LJ and Patten LJ)

Led by Sandhya Drew, Jane appeared for the Claimant in Court of Appeal proceedings in the context of this direct discrimination and harassment claim on grounds of sexual orientation. The Claimant argued that he had been less favourably treated and harassed when his line manager "outed" him at a new workplace. Jane also appeared for the Claimant at the Employment Appeal Tribunal.

Grimshaw v Griffin Signs and others (EAT/0299/2008)

Jane acted in this sexual orientation case, before the Employment Appeal Tribunal, where the issue was whether the environment dissipated merely because there were no further incidents.

Pregnancy discrimination

Sahota v (1) The Home Office (2) Pipkin (UKEAT/0342/09/LA) per Underhill J

Jane acted for the appellant, Mrs Sahota who argued that she was directly discriminated and harassed on the grounds of pregnancy because she was undergoing IVF treatment.

National Security

AB v Ministry of Defence (EA 0101/09) (per Underhill J)

Instructed by Imran Khan and leading Jude Bunting, Jane represented the Appellant, AB, before the Employment Appeal Tribunal, in a case which involved a serving member of the Royal Air Force who claimed he was subjected to racial discrimination and physical and verbal racial abuse from colleagues while serving in Afghanistan in 2007.

Sex discrimination

Queen Victoria Seaman's Rest v Ward (UKEATPA/0778/08/MAA (Justice Cox)

Jane successfully represented a woman, before the Employment Appeal Tribunal, whom the Tribunal found was discriminated against on the ground of her pregnancy and had been automatically unfairly dismissed because she was pregnant.

Race Discrimination

Famy v Hilton UK Hotels Limited (EAT/0639/2005) (Race Discrimination – Failure to Promote)

Disability Discrimination

Reynolds v Starwatch Limited (ET 1401129/2008 & 1401939/2008)
Successful Disability-Related and Reasonable Adjustments Discrimination claim. Claimant suffered from cancer and underwent chemotherapy.

Wynn v Multipulse Electronics Limited (ET 2301416/2007)

Jane successfully appeared for a claimant who was hearing impaired in his claim for Disability Discrimination – Direct, Disability-related and Reasonable Adjustments.

Kelly v Football Association (EAT 0015/2005)

Jane appeared for the appellant, who was a football coach, in his disability discrimination case against the Football Association. The point of law which arose was whether the Football Association, as an “other body” had discriminated against him.

Court of Appeal work

Grant v HM Land Registry (Appeal No 2010/1066) (per Elias LJ, Mummery LJ and Patten LJ)

(see above).

Afolayan v MRCS Ltd and anor, Court of Appeal, (Case No. A2/2008/2155) (Mummery LJ)

Jane was instructed by Webster Dixon and acted for the Respondent, MRCS Ltd before the Court of Appeal in relation to an appeal against the decision of the Employment Appeal Tribunal regarding costs.

Peters v Sat Katar Co Ltd CA [2003] IRLR 574 (Successful claim regarding the rules of procedure – institution of appeal – time limits)

Individual v Thames & Hudson

Jane has also acted for publishers, Thames & Hudson, in defending defamation proceedings brought by the family of a former partner of the artist Francis Bacon concerning alleged defamatory passages in a book written about the artist (successful).

High Court work

Claimant v Individuals and Companies

Jane acted for a Defendant in Committal proceedings before the High Court. The Committal proceedings arose out of an alleged breach of an injunction relating to an employee’s duty of confidentiality.

Claimants v a Major Talent Agency (HC Claim No: HQ08X01394 and HQ08X01257) (Restrictive Covenants)

Jane acted for the Claimants in this action against a talent agency. She was led by Martin Griffiths QC. The Claimants contended that restrictive covenants in their employment contracts and in a sale and purchase agreement were unreasonable because they were in restraint of trade. Of interest in this case was that the restrictions were unusual in that they operated as a drag or disincentive because they required the payment of commission. The matter settled.

Jane’s other high court experience involves:

- Acting for a large insurance company in injunction proceedings in relation to the enforcement of a restrictive covenant. Working as a junior to Alistair McGregor QC;
- Acting for a senior executive and Internet Service Provider, in defending injunctive proceedings to restrain the executive from breaching confidentiality obligations and notice period/garden

leave clauses in his contract of employment (including successfully appearing before Justice Hallet in a directions hearing opposite Paul Goulding QC);

- Acting for a couture fashion retailer, in defending proceedings brought by a senior executive for breach of contract and successfully settling this matter by way of a Part 36 payment (also combined with settlement of tribunal claim);
- Acting for a large courier company in prospective injunction proceedings in relation to the enforcement of a restrictive covenant. Working with Selwyn Bloch QC;
- Acting for a film-maker in pursuing defamation proceedings against Campaign concerning an article entitled "Who's Hot and Who's Not" in which the individual was not mentioned (settled) (working with Anthony Julius);
- Acting for an international airline computer reservation systems company, in obtaining and serving freezing injunction and search order against an ex-employee who had allegedly committed a multi-million pound fraud (settled); and
- Acting for United Norwest Cooperatives Limited, a major retailer, in bringing a multi-million pound fraud action against 10 defendants including trying to trace monies into offshore trust accounts (unsuccessful).

Professional Misconduct cases

Teacher v General Teaching Council (Unacceptable Professional Misconduct concerning allegations of seriously undermining colleagues and the school. An interesting feature of this case was that the teacher was very committed to equality issues and raised the issue of institutionalised racism at a parents' evening. The school alleged that this conduct formed part of an allegation of gross misconduct and dismissed her. The Tribunal proceedings settled and the GTC imposed the lowest sanction possible.

Speaking Events and Training, Seminars

- Jane is a regular speaker for the Employment Academy in Trier, the European Commission funded judicial training academy.
- Jane was invited by Michael Rubenstein to contribute to the LexisNexis Labour Law 2010 Conference in March 2010. She spoke about developments in whistleblowing law.
- Jane presented a Webinar for LexisNexis on "Whistleblowing Tactics" in March 2010.
- Jane was invited by the ELA to contribute to its Whistleblowing course in December 2009.

Other recent talks include:

- "The Probative Value of Statistics in Discrimination Claims" for the Bulgarian Commission for the Protection against Discrimination, Bulgaria

- “Indirect discrimination and statistics” for the European Academy in Trier, Germany
- Podcasts on sex discrimination and disability discrimination for Russell Jones & Walker Solicitors “The Law Report” educational website (www.thelawreport.co.uk)

Other topics have included:

- Burden of Proof;
- The 2004 Rules of Procedure;
- Part-time Worker Discrimination and Flexible Working;
- Use of Experts in Tribunals
- Human Rights and Employment Law
- The Working Time Regulations

What others say

“Captivating speaker, up’d the tempo of the afternoon!”

“Excellent talk, best one, most engaging with good tactical tips”.

Attendees at ELA’s Whistleblowing course

“Jane very much impressed our team with how quickly she got to grips with a complicated High Court case. She was tirelessly hard-working and great to have on board.”

Alex Mizzi and Richard Miskella - Employment department, Lewis Silkin

“Jane is meticulous, diligent and very client friendly. I have instructed her on many complex matters and not only does she comprehensively prepare and charm our clients, she also appears to charm the Respondents and Tribunal panel into acknowledging and accepting our arguments.”

Charlotte Moore, Employment department, Thompsons

“Jane impressed with her thoroughness of preparation. She is very pleasant to deal with and deeply committed to diversity issues.”

Samantha Mangwana, Employment department, Russell Jones & Walker

Societies

Discrimination Law Association

Employment Law Bar Association

Employment Lawyers Association

Honorary member of the American Bar Association’s Young Lawyers Division

Other relevant information

Background

Jane previously practised as a solicitor and solicitor-advocate for 6 years. She worked in the employment departments at Linklaters and Herbert Smith and, latterly, was Deputy Head of the Employment department at Fisher Meredith.

Television Appearances

2003 Jane appeared on the Legal Network Television programme regarding the Anti-Terrorism, Crime and Security Act 2001.

Languages

- French
- German (basic)