

3PB Barrister Profile



Mathew Gullick

Call 2003

Email: mathew.gullick@3pb.co.uk

Academic Qualifications

MA (Oxon)

Dip Law (City)

Employment

Mathew Gullick is regularly instructed to advise on and appear in Employment Tribunal proceedings throughout the country, in cases ranging from those listed for one day to several weeks. He acts for both Claimants and Respondents (private, public and third sector) across the range of employment areas, including unfair dismissal, constructive dismissal, wrongful dismissal, all types of discrimination, TUPE, equal pay, restrictive covenants, public interest disclosure, pensions, breach of contract and unlawful deductions from wages (including the non-payment of bonuses).

Recent cases at first instance have included:

- *Walsh v Tewkesbury Borough Council* (Bristol ET, September 2011) - Mathew acted for the Claimant, a former local authority manager, whose claim of direct age discrimination was upheld. The Tribunal found that the Respondent had made the Claimant redundant as part of a management restructure in September 2009, three months before his 50th birthday, in order to avoid paying a lump sum of £90,000 into the local government pension fund (to permit the Claimant to have early access to his retirement pension, which would have been allowed if he had been made redundant after reaching the age of 50). No consideration had been given to the case for delaying the Claimant's redundancy for a transitional period to oversee work in progress, as had been done with other employees affected by the restructure; the Tribunal found that had this been done then the Claimant would have been made redundant in March 2010 and so would have received his retirement pension early. It rejected the Respondent's alternative defence of justification and also found that the Claimant had been unfairly dismissed.
- *Adeniyiyan v Hewlett-Packard CDS Ltd* (Central London County Court, February 2011) - Mathew represented the Defendant employer in proceedings brought by the employee to enforce payment under a purported compromise agreement which had been sent to the employee pre-signed but with the wrong figure for compensation inserted in error, which was three times higher than had previously been offered to the Claimant in writing. The Court found that the Defendant had orally withdrawn the offer to settle for the erroneous figure prior to the agreement being signed by the Claimant, and that in any event even if that withdrawal had not been effective then the agreement would have been void for mistake.

- *Gibson v South London Healthcare NHS Trust* (Ashford ET, January 2011) - Mathew acted for the Claimant, a former Executive Director of the Respondent with 25 years' unblemished service in the NHS who had been summarily dismissed for gross misconduct for alleged misuse of the work email system. The dismissal took effect two weeks before the expiry of an existing redundancy notice period whereupon the Claimant would have received a substantial redundancy payment. The Tribunal found that the dismissal was both unfair and wrongful, concluding that no reasonable employer would have imposed anything more than a written warning and that the Respondent had failed to establish that the Claimant was guilty of gross misconduct. It further upheld the Claimant's claim of disability discrimination arising from the Respondent's failure to postpone the disciplinary hearing at which he was dismissed.

In the Employment Appeal Tribunal, Mathew appeared in the case of *Franco v Bowling & Co Solicitors* UKEAT/0280/09, Lawtel 17th February 2010, in which he successfully argued that an Employment Judge has no power at a Case Management Discussion to impose a limit on the extent of a claimant's pleaded allegations of discrimination. He represented the successful appellant in *Premier Groundworks Ltd v Jozsa*, UKEAT/0494/08, Lawtel 14th April 2009, which concerned the definition of "worker" in the Working Time Regulations 1998, and in particular the requirement to perform work personally under a contract for services. Mathew also appeared in *Butler v GR Carr (Essex) Ltd*, UKEAT/0128/07, Lawtel 17th January 2008, which dealt with the extent of the discretion of Employment Tribunals in awarding an uplift in compensation for failure to comply with the statutory dismissal procedure in the Employment Act 2002.

Mathew's employment practice also extends to advising on and appearing in High Court employment matters. He has been involved in several cases involving substantial six-figure damages claims, including for non-payment of bonuses and commission, wrongful dismissal and breach of a compromise agreement. He has also successfully struck out a libel claim brought by an employee against her former employer (a major PLC) in respect of correspondence sent at the time of her dismissal.

Mathew also has experience of advising in relation to the provision of references by employers and consequent negligent mis-statement proceedings. Mathew is a member of the Employment Law Bar Association. He was appointed to the Attorney-General's B Panel of Junior Counsel to the Crown in March 2012, following four years on the C Panel.

Professional Qualifications and Appointments

- Attorney-General's Junior Counsel to the Crown (B Panel)

Professional Bodies

- Constitutional and Administrative Law Bar Association (ALBA)
- Employment Law Bar Association (ELBA)
- Employment Lawyers Association
- London Common Law and Commercial Bar Association
- Proceeds of Crime Lawyers Association