

3PB Barrister Profile



Michael Paulin

Call 2007

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Academic Qualifications

BA Hons (Leeds) Philosophy, (First Class with Distinction, 1st in Year)

MPhil Philosophy, King's College London, (Arts & Humanities Research Council Scholar)

Diploma in Law, City University (Inner Temple Major Scholar)

Bar Vocational Course, Inns of Court School of Law (Inner Temple Major Scholar)

LLM (Tax Law), Centre for Commercial Law Studies, Queen Mary College, University of London, (Merit, Distinction for dissertation "Constitutionality and Judicial Review")

Michael's practice is in employment law and public and administrative law. He has acquired experience in a range of courts and tribunals, including county courts, employment tribunals, professional disciplinary tribunals, the Court of Appeal and the House of Lords.

Michael is a specialist Employment lawyer, with particular experience acting for both Claimants and Respondents in cases involving:

- Dismissals for Gross Misconduct
- Redundancy dismissals
- Age, Race, Sex, and Disability Discrimination
- Whistleblowing

Michael also has experience of non-contentious advisory work, and has in the past advised small and medium sized enterprises on:

- Collective grievances
- Risk management
- Litigation avoidance

Recent work has included:

- Applying for Claimant's ET1 to be amended on first day of 2 day full merits hearing to include claims for s.47B detriment due to whistleblowing: Claimant's claim amended and hearing re-listed for 3 days

- Defending a claim for unfair constructive dismissal and whistleblowing: claim dismissed
- Applying for claim for disability discrimination to be struck out at PHR prior to full merits hearing: claim struck out, Claimant ordered to pay a deposit in order to proceed with remaining claim.

Before coming to the independent bar Michael worked in local government as an employed barrister specialising in employment law. Michael advised departmental heads on long standing discrimination cases, TUPE, and unfair dismissal.

Other relevant experience

Court of Appeal: October 2009 - March 2010 Judicial Assistant to Sir John Dyson, Supreme Court Justice (as he now is); March 2010 to August 2010 Judicial Assistant to Lord Neuberger of Abbotsbury, Master of the Rolls.

Michael spent a year as a judicial assistant at the Court of Appeal. During his secondment Michael wrote opinions on the merits in over 70 cases, including the following:

For Sir John Dyson SCJ:

- *Orobator v HMP Holloway & Anor* [2010] EWHC 58 (Admin) (20 January 2010): Whether the Claimant's trial in Laos constituted a 'flagrant denial' of Article 6 such that her continued incarceration in Holloway Prison, to which she was transferred under a bilateral prisoner transfer treaty between the UK and Laos, constituted a violation of her Article 5 right to liberty. I wrote three separate opinions on various aspects of this case.
- *Royal Bank of Scotland Group Plc v Allen* [2009] EWCA Civ 1213 (20 November 2009): whether a retail bank had fulfilled its statutory obligation under the Disability Discrimination Act 1995 to make reasonable adjustments to the physical features of its premises in order to accommodate disabled persons.
- *R (on the application of Davies & Gaines Cooper) v HM Revenue & Customs* [2010] EWCA Civ 83 (16 February 2010): Whether the Appellant taxpayers had a legitimate expectation that HMRC would apply the policies within its guidance document, *IR20*, in determining whether taxpayers were resident and ordinarily resident in the UK for tax purposes.
- *Grace v HM Revenue and Customs* [2009] EWCA Civ 1082 (28 October 2009): whether the Appellant, who was an airline pilot, was resident and ordinarily resident in the UK for tax purposes during the tax years from 1997/8 to 2002/3.
- *The Queen (on the Application of Adams) v Secretary of State for Justice* [2009] EWCA Civ 1291: An appeal from the Divisional Court's decision to dismiss the Appellant's claim for judicial review of the Secretary of State's decision that the Appellant was not entitled to compensation for having suffered a miscarriage of justice under section 133(1) of the Criminal Justice Act 1998. Michael wrote three separate opinions on this landmark case, which is to be heard (with another linked case) by the Supreme Court in October.
- *London Strategic Health Authority v Whiston* [2010] EWCA Civ 195 (05 March 2010): An appeal and cross-appeal in a medical negligence case concerning the definitions of 'actual' and 'constructive' knowledge under the Limitation Act 1980.

For Lord Neuberger of Abbotsbury, Master of the Rolls:

- *Imerman v Tchenguiz*: An appeal and cross-appeal in a high-value divorce case in which the wife's brother was alleged to have stolen documents that allegedly revealed that the husband had £200m of assets/capital which he had attempted to conceal. The Appeal concerned the following: (1) what is the common law's approach to the admissibility of evidence that has been obtained unlawfully?; (2) how should the Family Division and QBD deal with cases in which a spouse has unlawfully obtained evidence of the other spouse's true financial status in light of Section 25 Matrimonial Causes Act 1973? (3) What sanction should the wife's tortious and/or criminal conduct attract in family proceedings, if any? (4) Have the 'Hildebrand rules' been superseded by the Data Protection and Computer Misuse Acts?
- *Sugar v BBC*: An appeal in a case that had already reached the House of Lords on a point concerning the Information Tribunal's jurisdiction. The appeal before the MR, Moses and Munby LLJ concerned the meaning and scope of Part VI of Schedule 1 to the Freedom of Information Act 2000, which lists the BBC's status as a public authority under the Act as being 'in respect of information held for purposes other than those of journalism, art or literature'. The fundamental question was how the statutory term 'journalism' ought to be interpreted.
- *Ladele v London Borough of Islington* [2009] EWCA Civ 1357 (15 December 2009): A landmark case on whether a Christian registrar, who was opposed to same-sex civil unions, could object to presiding over such civil ceremonies on the grounds of her religious beliefs under

Article 9 ECHR and the Employment Equality (Religion or Belief) Regulations 2003, SI 2003/1660.

- *AN (Pakistan v Secretary of State for the Home Department*: Whether a Senior Immigration Judge erred in law in his approach (1) to the definition of domestic violence, and (2) to the correct test for establishing whether there was a real risk of suicide in the context of Articles 3 and 8 ECHR.
- *Flood v Times Newspapers Ltd*: A three day appeal and cross-appeal on: (i) the nature of Reynolds privilege in the context of online publications, and; (ii) the scope of journalistic discretion in cases involving alleged high-level police corruption which have been investigated by the Metropolitan Police's Directorate of Professional Standards.
- *In the matter of Lehman Brothers International (Europe) (in administration) v CRC Credit Fund Limited & Ors*: The case concerned whether the statutory trust takes effect upon receipt, or only on segregation, of client money. The core issues concerned how to identify both client money in the pool for distribution and the basis upon which client money is to be distributed among clients. There were 10 parties to the appeal (Lehman Brothers Finance AG, Lehman Brothers Holdings Inc, GLG Investments plc, Hong Leong Bank Berhad, CRC Credit Fund Limited).
- *R v Chaytor & Ors*: An appeal from the decision of a Crown Court judge to the Court of Appeal Criminal Division (Sir Anthony May (President), Lord Judge (Lord Chief Justice) Lord Neuberger (Master of the Rolls)) on whether 3 Members of the House of Commons and 1 Member of the House of Lords were immune from prosecution, having been indicted for false accounting contrary to section 17 of the Theft Act 1968. The case was a legal first on the meaning of Article 9 of the Bill of Rights 1689 and the nature and extent of Parliamentary privilege.

International

Michael is currently advising in a Privy Council appeal against conviction case from Jamaica.

Michael has worked with a number of legal charities. Before pupillage he spent a period in San Francisco working for the Centre for Justice and Accountability, a legal charity that specialises in international human rights law.

Publications / Conference Papers

- *How to avoid the penalty provision under subsection 214(4) of the Housing Act 2004?*, *Forthcoming*, *Landlord & Tenant Review*, 9th September 2010
- *The Importance of Fleming (Trading as Bodycraft?) & Conde Nast v HMRC?*: *The EC Tax Journal*, Volume 10, Issue 2, February 2010, pp.1 - 8.
- *Self-Defence is no Defence?*, [The Guardian](#), 21st January 2009
- *The Ethics of War and Self-Defence: A Unified Proposal?* (in the International Laws in the 21st Century stream), The Socio-Legal Studies Association Annual Conference, The University of Kent at Canterbury, 3rd April 2007
- *The Right of National-Defence and Ethics of War?*. The Society for Applied Philosophy's Annual Conference: St Anne's College, Oxford, 2nd June 2005