



## Samuel Nicholls

Year of Call: 2006



Sam is a specialist in Employment Law Litigation, including high value discrimination, whistleblowing, employee competition and business protection claims. In employment cases involving significant personal injury claims Sam brings to bear his considerable experience in Personal Injury Law. He receives instructions from both respondents and claimants in cases involving both complex legal and factual issues.

Sam has appeared at all levels of courts, up to and including the Privy Council. His skills in cross examination are particularly well regarded, which were recently described by a judge as having left witnesses “dazzled in the headlights”.

He has experience in international Employment Law Litigation having practiced in the Turks and Caicos Islands (“TCI”), at Misick & Stanbrook (the leading firm on the Islands), and Sam remains called to the Bar in that jurisdiction. Typically Sam represented the business interest of a number of ultra-high-net-worth European and American individuals in the Islands, including a globally acclaimed American recording artist.

### Recommendations

**'His advocacy is strong, without being unnecessarily combative, and his cross examination appropriately piercing but not prolix: it focuses on what really matters.'** - Employment, Legal 500 2024

**'Sam is a master of detail and has a great memory, which combined with his tenacity make him a misleadingly amiable, but effective, advocate. Sam has an unshowy style, but one that reassures clients and inspires confidence.'** - Employment, Legal 500 2023

**"Sam is a technically superb and responsive barrister who genuinely adds value. He is very approachable, great with clients and gets to the heart of the claim quickly. His cross-examination is flawless, systematically taking people to pieces and getting the ear of the Tribunal. His calm manner is reassuring to clients and inspires great confidence."** - David Carmichael (Partner), Field Fisher

**"Fantastic advocate, with a great eye for detail and really good with clients. He was instructed on a high profile sexual harassment case and was immense"** - Suzanne McKie KC, Farore Law.

**"Sam is a leading expert in his field, and highly recommended for his expertise – a superb tactician, cuts straight to the crux of the case and has the ultimate advocacy skills. Indisputably one of the best barristers I have had the pleasure of working with. Sam has clear focus and identifies the winning points in a case and pursues. He is a great source of support and strength for any client, advises succinctly and gets to know the client well."** *Director of a global financial institution*

**"Once again, a total superstar."** *Director of a multinational financial company*

**"Sam is very good at getting to the nub of an issue quickly. He is very approachable and provides practical advice to clients in a friendly way. Clients are always impressed with his cross examination skills, as his careful and considered questioning often befuddles even the most prepared witnesses."** - Alexandria Quigley, Senior Solicitor, Lupton Fawcett, Leeds.

**"Sam is calm under pressure and provides excellent support to those instructing him. He is extremely client focused, pragmatic and commercial. In the case we worked on together, Sam showed particular skill in handling a challenging lay claimant and providing support to our witnesses."** - Leading Associate in a top City firm.

## Employment

Sam is well regarded by those that instruct him for his eye for detail, cross examination skills and overall expertise. He has significant experience representing clients at the Employment Tribunal, including multiple-day hearings involving sexual misconduct and discrimination claims, and EAT.

His respondent clients include: well-known financial institutions, blue-chip companies, City recruitment agencies, utility companies, public authorities and NHS Trusts and associated organisations. Sam has an in-depth understanding of the financial markets as a result of his work in the TCI on many banking related disputes.

Whilst he acts for both respondents and claimants, Sam has developed a practice in representing claimants in cases involving allegations of sexual misconduct and abuse. These cases are often high profile and reported in the media. One particularly recent example is the case of *A v Mike Hill MP* (2021), which was widely reported in the press (read the Devereux news item here). This involved allegations of sex harassment and discrimination, victimisation, disability discrimination and whistleblowing (decision awaited from London Central Employment Tribunal). The Claimant was awarded in excess of £430,000.

In January 2022 Sam successfully represented British Gas Services Limited in the first case arising out of the business modernisation exercise (widely reported in the media as a "fire and rehire") which resulted in the dismissal of over 400 engineers: *Fisher and O'Donnell v British Gas Services Limited*.

Throughout 2023, Sam has been instructed in a number of disability discrimination cases (for both Respondents and Claimants) involving long-covid. He therefore has in-depth knowledge of the issues that can arise in this emerging area.

Sam (led by Suzanne Mckie KC) also recently represented the Claimant in a case involving very serious allegations of sexual misconduct, by a senior manager, against a City financial institution and achieved a large settlement.

Sam has also recently advised on apprenticeship law, equal pay claims, and employee competition issues and restrictive covenants. He has experience of acting in all areas of discrimination law, unlawful deduction of wages, TUPE and whistleblowing cases.

## Appellate Employment Work

**At appellate level in the UK Sam has acted in the following cases:**

- *Olubodun v Total Stay Group Ltd* (UKEAT/0204/09/DA): an appeal against a Tribunal's decision on victimisation.
- *Hensman v MOD* (UKEAT/0067/14/DM): Sam was instructed at the EAT stage and represented the Claimant in the EAT on an appeal by the Respondent on all aspects of the Tribunal's decision. The case is an important authority on the issue of justification in disability discrimination.

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- *Atanda v Royal College of Pediatrics and Child Health (UKEAT/0272/17/JOJ)*: Sam represented the Claimant in this appeal arising from allegations of sex discrimination.
  - *Rakova v London North West Healthcare NHS Trust (UKEAT/0043/19/LA)*: Sam was instructed by the Respondent in an appeal involve reasonable adjustments.
  - *Singh v Metroline West Limited [2022] EAT 80* (see below).
  - *Clarke Willaims v Greater Manchester Police (r3.10 hearing)*: Sam successfully represented the Appellant (GMP) at this preliminary hearing – the unusual aspect of this case is that it is an appeal against the Tribunal's use of broad discretion in using its case management powers.
  - *Grayling v Wolsley*: (June 2023): Sam successfully represented the Respondent, before Eady J, in defending the appeal against the Tribunal's finding on reasonable adjustments in the context of alternative employment.

**Recent highlights of Sam's work include:**

- *Fekete v A Financial Institution (2023)*: Sam represented the Respondent in this case which generated widespread publicity.
- *Miller v Tesco Stores Ltd (2023)*: Sam successfully acted for the Respondent in this complex whistleblowing (involving allegations and detriment and automatic unfair dismissal) and disability discrimination claim.
- *Singh v Metroline West Limited [2022] EAT 80*: Sam successfully represented the Claimant in his appeal against the finding by the Tribunal that there was no fundamental breach of contract and therefore no constructive dismissal.
- *Meloy v University of Leeds (2022)*: Sam represented the Respondent in this health and safety, and whistleblowing detriment case.
- *Bone v West Hertfordshire Teaching Hospitals NHS Trust(2022)*: Sam represented the Trust in this claim of unfair dismissal, disability and race discrimination (decision awaited).
- *Burns v Mace (2021)*: Sam successfully represented the Respondent in this claim of unfair dismissal (redundancy arising from economic consequences of the pandemic) direct disability discrimination, harassment and failure to make reasonable adjustments.
- *Headley v Morgan Sindall Group*: Sam successfully represented the Respondent in this 5 day disability discrimination case.
- *Dozie v Moorfields Eye Hospital NHS Foundation Trust (2020)*: Sam successfully represented the First Respondent in this claim for race and disability discrimination.
- *Grayling v Wolseley UK Ltd & Others (2021)*: Sam successfully represented the Respondents in a 8 day case involving allegations of disability discrimination and harassment.
- *G v London Ambulance Service NHS Trust (2021)*: Sam successfully acted in this complex 10 day discrimination case.
- *Remmer v Primark*: Sam represented the Respondent in this 5 day disability discrimination claim (decision awaited).
- *Amaglo v Emcor Group Plc*: Sam represented the Respondent in the whistleblowing claim, including successfully defending an application for interim relief.
- *A v Mike Hill MP*: (see above for full details).
- *Dr M Abdollahi v University Hospital of Southampton Foundation Trust*: Sam represented the Trust in this

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unfair dismissal claim by a doctor.

- GLP v East London Foundation Trust: a 9 day unfair dismissal and disability discrimination claim (decision pending).
- A multi-day preliminary-hearing on privilege – led by Suzanne Mckie QC.

### **Legal Privilege**

Sam has acted in a number of cases before the Employment Tribunals which involve complex points of legal privilege and is readily able to advise in this potentially difficult area.

### **Investigations**

Sam is experienced in conducting workplace investigations, including those with a crossborder dimension. He has also provided comprehensive training in this area to a number of solicitors firms.

### **Privacy Issues**

Sam has particular expertise in dealing with high-profile cases involving the whole range of privacy orders available in the Employment Tribunals.

### **Protection from Harassment Act 1997 claims**

Sam has also been instructed in a number of claims under the PHA 1997 in the civil courts.

### **General**

In addition to his extensive experience in Employment Law matters, Sam has considerable experience of both General Medical Council and Nursing and Midwifery Council prosecutions whilst working for Field Fisher Waterhouse in their Professional Regulatory Department. Sam therefore also accepts instructions in this area, defending medical and other professionals who have been prosecuted by their regulatory bodies.

Sam has acted in employment related Judicial Review proceedings in the High Court as sole counsel: Kirk & Ors, R (on the app'n of) v Action for Children [2010] IRLR 699, in which he successfully defended an application for an injunction.

In 2012, Sam was junior to Suzanne McKie QC in the High Court case of Gelpack v Nexpack, an expedited final hearing, concerning enforceability of non-compete, nondealing and non-solicitation clauses; resisting a springboard injunction.

### **Commercial Litigation**

Sam has significant commercial experience, gained largely from his time in the TCI.

#### **This includes:**

- Sam was junior to Ariel Misick QC on a cross border (USA, UK and TCI) contractual dispute involving and on behalf of a well-known international recording artist. The action was worth circa USD\$20 million.
- Successfully acted (as sole counsel) for the Securities and Exchange Commission on a cross border fraud

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related to a Ponzi scheme which defrauded investors of circa USD\$600 million. The case involved asset tracing through multiple bank accounts in the US and through a Cook Islands' Trust and eventually into real estate in the TCI worth millions of dollars.

- Sam acted in a Supreme Court (TCI) commercial matter involving an international hotel brand against whom a claim had been brought by 60 claimants. The claim is said to be worth in excess of USD\$8million.
- Junior to Ariel Misick QC on a cross border Mareva injunction.
- Obtaining an emergency injunction preventing the issuing of a winding up petition against the largest company in the TCI and a global international brand, following an adverse judgment pending appeal.
- Sole counsel defending an action brought by a developer against a home owner for breach of contract (the home owner was an executive with a New York bank).
- Acted against a utilities provider in an action involving the alleged over-charging.
- Acted for the regulator against a number of financial organisations in relation to money held in bank accounts.
- Advised in a contractual dispute relating to the development of commercial property.
- Instructed to advise on a complex matter revolving around the construction of a contract of insurance as to the meaning of the word "accident". (UK)
- Instructed in a multi-million-pound insurance case in the High Court (Colin Edelman KC and Richard Harrison instructed). (UK).
- Involved in a number of disputes in which allegations of breach of fiduciary duties were at the fore. Most recently before the Privy Council in the case of: Akita Holdings Limited v The Honourable Attorney General of The Turks and Caicos Islands. (Turks and Caicos Islands).

## **Professional Negligence**

Sam was instructed in a multi-million-pound insurance case in the High Court (Colin Edelman KC and Richard Harrison instructed).

Sam is ideally suited to instructions involving employment related negligence given his expertise in both Employment and Professional Negligence Law.

He has represented a defendant builder in a professional negligence action.

Sam has advised in a contractual dispute relating to the development of commercial property.

## **Memberships and Associations**

Industrial Law Society

Employment Lawyers Association

Personal Injury Bar Association

Direct Access Qualified

### **Awards and Scholarships**

Faculty of Law Prize for Top First Class degree in year

Victoria Chambers Prize for Top First in Evidence Examination

Inner Temple Scholarship

### **Academic**

LLB First Class (top First in year)

LLM, Queen's Cambridge (Upper Second)

### **Appointments**

Attorney General's C Panel (from 1st September 2023)