



Joseph England

Year of Call: 2011

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Commercial

Joseph is an experienced practitioner in Commercial and Business Law. He provides practical and accurate solutions and is an accomplished trial advocate, developing key experience in his other complementary area of Employment. His Commercial and Business work focuses on matters of Company and Partnership Law, Insolvency and Trading and Financing, outlined below.

Company and Partnership Law

Joseph's knowledge of Business and Commercial Law complements his Employment practice and he is often instructed in cases involving an overlap between the two, such as matters involving Director disputes, TUPE transfers or civil claims for matters arising out of employment. Examples include:

- Claims to enforce restrictive covenants and/or claim damages following a breach. Cases frequently involve the finance and manufacturing sectors and involve confidential information and trade secrets. Examples of cases include defending an application for damages brought by an accountancy firm against an ex-employee for the use of confidential data used to poach clients and the drafting of an application for an injunction to prevent a football agent from poaching players.
- Disputes between directors and shareholders. Examples include advising an ex-director and sole shareholder as to his rights over money paid pursuant to a 'loan note' for a company once he was no longer a director or shareholder, and advising the remaining director on methods to control a disruptive ex-director following redundancy.
- Defending an employer from claims of Harassment, Deceit and Negligence brought by their dismissed in-house Counsel.
- Defending a claim by a contractor against an outsourcing company for profits between the outsourcing company and end user, leading to successful strike out following Joseph's drafting of an application.
- Disputes over bonuses, commission, wages, pensions, references and a number of cases involving commission payments relating to agency work.

Insolvency and Bankruptcy

Strengthening his experience in Company Law, Joseph has extensive knowledge of Insolvency Law, having appeared in a wide range of hearings in both the High Court and County Court, including:

- Advising Directors in numerous cases about their rights and those of employees upon the insolvency of companies, including issues such as Director's duties, TUPE obligations and the validity of late remuneration.
- Successfully obtaining High Court Injunctions to prevent the presentation of winding up certificates.
- Applications for a vesting order to enable trustees to realise the sale of a bankrupt's investment property.
- Applications to wind up companies, take carriage of winding up petitions, rescind winding up orders, make bankruptcy orders and annul bankruptcy orders.

- Making and resisting applications to set aside statutory demands.
- Charging and possession order applications, including for an extension of time to register a charge and commercial property.
- Restoring companies to the Register for the purposes of future litigation
- Cases involving an overlap with Joseph's Employment practice, for example those involving TUPE transfers and questions over the implications of employees.

Trading and Business Financing

Joseph's solid grasp of contract and tort law has meant that he frequently appears in commercial trials, covering the full range from small to multi-track, at appellate level and first instance and in consumer contracts and between businesses. Joseph has a particular strength in cases of professional negligence. Examples include:

- Numerous professional negligence disputes, including cases involving legal advice (often overlapping with Joseph's Employment Law expertise), building work, surveyors, architects, tax advisers, vets and even boat repairers.
- Representing national utility companies in a variety of contractual claims, often leading to strike out following summary judgment. This work has included appearances to resist applications for warrants under the Rights of Entry Act 1954.
- Advising a national hair care company on the enforceability of a contract for a 'salon loan' of over £500,000.
- Myriad interim applications, including for summary judgment, the attachment of penal notices to aid enforcement, third party disclosure orders, security for costs, costs applications (including within the tax tribunal *Starmill UK Ltd v Revenue & Customs* [2013] UKFTT 681), appeals and setting aside summary judgments.

Articles

'Unreasonableness': costs applications in the Small Claims Court by Joe England. In what circumstance should a Court determine that a Party to proceedings has behaved unreasonably, for the purpose of awarding Costs in small claims court?

Joe England analyses the important decision from The Court of Appeal in *Dammermann v Lanyon Bowdler LLP* [2017] EWCA Civ 269, which provides guidance on the meaning of 'unreasonableness', in the context of costs applications in the Small Claims Court, and more general guidance on when costs on that track should be awarded.

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Commercial update: 'Avoided loss' in the Supreme Court – *Lowick Rose v. Swynson* – an analysis by Joe England. When can a claimant ask the Court to disregard a 'collateral' benefit, when assessing his damages? If he cannot, can he claim for a loss that has been suffered by somebody else?

Joe England analyses the important Supreme Court decision in *Lowick Rose LLP (in liquidation) v. Swynson Ltd* [2017] UKSC 32, which grappled with these recurring problems in the assessment of damages.

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Recommendations

Joseph England has a wealth of experience in complex employment disputes, including before the Employment Appeal Tribunal and the Court of Appeal. He specialises in whistle-blowing matters alongside a wide range of claims for discrimination and unfair dismissal.

Strengths: "He impresses with his authority over the documents and evidence in a case."

"He exerts confidence and has a very good knowledge of the background of the claims he assists on."

Chambers UK 2024/Employment/Western Bar

Strengths: "Joseph has a good manner in court and is well liked."

Chambers UK 2023/Employment/Western Bar

"Our client emailed me about the court hearing and her opponent's performance to say you "made mincemeat of her without even breaking a sweat."

"I would like to mention that I found Barrister Joe England extremely meticulous and organised. I've rarely witnessed such a presence-of-mind, alertness, intuition and effective communication. He was in complete grip of the case throughout. The claimant was clever and tried his best to manipulate all possible loose ends but Joe did not let go a single one."

"Joseph England is a gifted barrister with a fantastic work ethic and attention to detail, which were invaluable in preparing and conducting my case. We were successful because he left no stone unturned and held important complex facts and issues at his fingertips. Joseph's passion and commitment to justice is matched by his warmth and friendly approach. His unmistakable ability to readily grasp intricate details, compose a compelling argument, and instinctive compassion, make Joseph a most reliable, very likeable and great advocate."

"I would just to say that Joseph England is brilliant and it has been a real pleasure setting next to him for 4 days grilling the other witnesses."

"As an aside, I had a call from [client] earlier about the conference. He was really happy with all the advice that you gave him and he told me that last night was the first night he had slept properly since all this began."

"I was so impressed with the professional way he acted in every aspect, including his attention to detail and the standard of preparation. His respect and politeness to the judge and the wing members was excellent, and I noticed on many occasions the judge acknowledged his manner. On meeting Joseph for the first time on the first day of the tribunal, from the outset he treated me with care and consideration. Although I had been very nervous about the up-coming tribunal, Joseph's calmness and his explanation of how the tribunal works helped me greatly. My wife was with me the whole time, giving her continuing support, and Joseph was just as charming and considerate to her questions...although at this time I am not sure whether my case will be successful or not, I just want to say I felt honoured and privileged and so lucky that Joseph was my barrister."

"One moment I particularly liked, Joseph had made a point, which the Judge wanted to pass over, so he complied, but at an appropriate moment, he made sure he explained why he'd wanted to go in "that" direction, and made sure he was heard. I was delighted with this, and I think the Judge will have been impressed, too! He was clearly so well prepared, there was nothing that wasn't vital to the whole situation."

"That is a huge shame that you are not able to act for us again. I had felt quite confident in your hands."

Witness Handling

Reflecting the scholarships and achievements gained prior to the Bar, Joseph is a very effective trial advocate and is particularly adept at witness handling in long, complex trials through an ability to identify and organise the important facts. The following are examples of tribunals' assessments of witnesses exposed under Joseph's cross-examination in such trials:

"Mrs X's account was disjointed and lacking in detail. We were also influenced in our judgment by our general view that her evidence overall was unreliable...Mrs X's evidence was generally unclear and confused...we found this evidence extremely unsatisfactory and came to the conclusion that it was totally unreliable" – concerning the dismissing officer in a complex 3 day trial involving protected disclosures and unfair dismissal.

"The Tribunal unanimously found the Claimant to be evasive in answering questions. She preferred to avoid direct questions...this is another example of the Claimant twisting matters...an example of the Claimant attempting to make mischief from every day circumstances." – judicial assessment of a Claimant in a complex 7 day discrimination claim

"Professor Y came across as quite arrogant...we concluded that he did not engage with the role of Case Manager properly. It was put to him in cross-examination that he had made a number of errors as Case Manager. Professor Y refused to accept that was the case, even in relation to errors which were apparent...we did not accept that he approached his role as case manager impartially or with independence...we concluded that Professor Y's approach to the [allegations] was flawed and

that he failed in his responsibilities as case manager.” – concerning the Professor acting as the Case Manager in the unfair dismissal of Dr Mattu (above).

Pro Bono

Joseph supports various pro bono activities and recognises the benefits of gaining valuable and varied experience. His expertise in employment law has previously led him to become a researcher for Unlock, researching the employment law implications for those with criminal convictions, and he volunteered previously as a specialist Employment researcher at a busy CAB as well as gained experience with FRU.

Building on his whistleblowing expertise, he currently provides ad hoc support to Protect, the whistleblowing charity. He undertakes pro bono cases through the Bar Pro Bono Unit and is an active participant of the ELIPS and ELAAS scheme at the EAT and Court of Appeal. Outside of law, he undertakes mentoring through organisations including the Black Lawyers Directory and Bromley Youth Partnership.

Academic qualifications

- First Class, BA (Hons) English Literature, University of Warwick

Scholarships

- Best Advocate Award, Kaplan Law School (highest overall grade in Civil Advocacy, Cross Examination and Examination in Chief)
- Lord Bowen Scholarship, Levitt Scholarship, Buchanan Award and Hardwicke Award from Lincoln’s Inn
- BPP Law School Mooting Championship Finalist
- Warwick University Mooting Championship Finalist (whilst a non-law student)
- Essex Court Mooting Championship Finalist (researcher)
- Lincoln’s Inn Debating Team, National Mace Competition

Professional qualifications & appointments

- Outstanding, BPTC, Kaplan Law School
- Commendation, GDL, BPP
- First Class, BA (Hons) English Literature, University of Warwick

Professional bodies

- Employment Law Association (ELA)
- Industrial Law Society (ILS)
- Employment Law Bar Association (ELBA)