

## Benjamin Uduje

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## Introduction

*"An excellent advocate, with extensive knowledge of employment law and practice, and he puts clients and witnesses at ease."* Legal 500 2021



Benjamin provides high quality legal advice, representation and dispute resolutions for corporate clients, government departments, agencies and individuals on a comprehensive range of problems that arises in the course of business and/or employment.

Benjamin is a dual qualified legal practitioner. He maintains a practice in UK and Nigeria. He is an accredited Mediator and an Arbitrator. He is therefore able to offer his clients a distinctive blend of domestic and international practice and adjudicatory experience.

His approach to litigation or ADR is clear, concise, and informed. He identifies the key issues at an early stage and works collaboratively with his client (or parties) to achieve the desired outcome. He has particular experience of dealing with cases in the public domain and handling of sensitive issues.

Clients find Benjamin responsive, commercially minded and willing to work as part of a team. He is an excellent communicator, and able to effectively convert high-level legal skills into valuable commercial advice for clients.

## Areas of Practice

- International and Domestic Labour & Employment Law
- International and Domestic Human Rights & Equality Law
- International and Domestic Dispute Resolution

- Professional Regulatory and Disciplinary
- Civil and Commercial Litigation

In the area of Employment Labour and Industrial Law, Benjamin acts for both employers and employees in every area of labour law – breach of contract, restrictive covenants, wrongful dismissal, whistle-blowing, trade union and industrial disputes and unlawful discrimination. He also has an interest in the law relating to injuries sustained at work, and claims arising out of work-related stress.

Benjamin's Commercial Litigation experience includes disputes involving commercial contracts dealing with matters such as agency relationships, business sale agreements, franchise agreements, insurance policies, joint venture agreements, sale of goods, supply of goods and services, share sale agreements and other business to business relationships giving rise to liabilities in contract or tort.

As a natural extension of his experience and expertise in commercial and labour law, Benjamin is very well placed to handle professional regulatory matters in a variety of contexts. In this regard he has extensive experience of acting on behalf of a wide range of National Health Providers as well as medical professionals.

## Alternative Dispute Resolution (ADR)

Benjamin also has wide experience of Alternative Dispute Resolution, and is both an ADR Group accredited mediator and a qualified arbitrator (MCI Arb).

### ADR Experience

Benjamin has a particular understanding of the issues that arise in workplace and discrimination disputes, or those involving commercial transactions, but has considerable competence to enable him to mediate across a range of subject matters.

Recent Mediations include:

- a civil dispute between neighbours arising from approved use of residential premises as business premises.
- a complex disability discrimination claim involving a military veteran against a local government body responsible for the transport system in Greater London.
- a high value business and property dispute following the breakdown of personal relationship.

## Accreditations

- *"An excellent advocate, with extensive knowledge of employment law and practice, and he puts clients and witnesses at ease."* Legal 500 2021
- *'I have instructed Ben for over 15 years and recommend him, particularly for complex discrimination and/or whistleblowing claims. Ben always works in partnership with me to ensure we achieve the best result for our clients. He is an excellent advocate and always seeks to gain the confidence of clients and witnesses (whether junior or senior) to ensure that they can present themselves in the best light at Tribunal.'* Paul

McFarlane, Partner at Capsticks LLP



## Appointment

- Legally Qualified Chair of Police Misconduct Panels (2021 - )

## Professional memberships

- Employment law Bar Association
- Employment Lawyers Association
- Association of Regulatory and Disciplinary Lawyers
- Accredited Civil and Commercial Mediator (ADR Group)
- Accredited Workplace Mediator (ADR Group)
- Associate of the Chartered Institute of Arbitrators,
- Rolls of the Supreme Court of Nigeria
- British Nigeria Legal Forum
- National Association of Legally Qualified Chairs: member & regional

## Selected cases

In over 25 years at the Bar of England & Wales, Ben has been involved in many complex and legally challenging cases including but not limited to the following –

**Kapasi v Royal Borough of Kensington & Chelsea [2020]** represented the claimant, an experienced Educational Psychologist in a factual and legally complex and high value multiday disability discrimination claim: liability judgement awaited.

**Looi v Bard Pharmaceuticals [2020]** successfully represented the Respondent in a disability discrimination claim, by challenging her disability status, following her dismissing for poor performance, even though R had treated C as a disabled person during her employment (reasonable adjustments were made to the disciplinary process on basis of alleged mental impairment).

**Yaffa v Intergreon Managed Solutions [2020]** successfully represented the Respondent at a hearing to determine the Claimant's employment status. C brought a claim against R (a recruitment agency for lawyers) as an employee, alternatively relying on the extended definition of "worker" under s43K Employment Rights Act 1996.

**Highsmith v Dans Le Noir Ltd [2020]** successfully represented a blind claimant in an employment status/unfair dismissal claim at a PH, leading to a satisfactory settlement. The Claimant worked as a waiter for the Respondent, a restaurant offering a unique dining experience (dining in total darkness) and claimed that he was effectively dismissed for acting a waiter in a pop-up restaurant at World Economic Forum in Davos. The respondent argued that he was self-employed and on zero-hour contract.

**Strothm v NHS Blood & Transplant [2019]** successfully represented the respondent in a high value constructive dismissal claim by a senior manager, against a backdrop of ineffective handling of a sexual harassment allegation against him. A myriad of legal issues, including HR overreach and 6-figure pension loss implication.

**Sutton v British Telecommunications Plc [2017]** successfully represented a telecoms engineer in a disability discrimination claim. The respondent's defence unravelled during forensic cross-examination.

**Worth v Trackaphone Ltd [2017]** advising a company director who was removed as a director following a successful appearance on the popular television programme – Dragon's Den, as an 'advocate' for a company in which was an investor.

**Tiffin v Chief Constable of Surrey [2017]** Benjamin was instructed on behalf of the Chief Constable in a 2 weeks multiple discrimination and highly contested claims, which attracted considerable national media attention. <http://www.dailymail.co.uk/news/article-4997256/Overweight-officer-quit-bleep-test-loses-case.html>

**Korshunova v Eiger Securities LLP [2015]** acted for the Respondent in a complex whistleblowing claim, dealing with amongst others the distinction between guidance and legal obligation; whether the same legal test applied to section 47B as well as section 103A claims.

**Dr. Aranmolate v General Medical Council [2015]** advised Dr. A on his restoration application and subsequently represented him before GMC panel.

**Groves v Moorfields Eye Hospital NHS Foundation Trust [2012]** Benjamin was instructed by the Respondent, against a serial litigant who alleged that closing a vacancy once sufficient applications was received, amounted to unlawful discrimination on grounds of his disability which allegedly made it difficult for him comply with the closing deadline.

**Bampoe v Tower Hamlets Primary Care Trust [2011]** represented a senior NHS executive in a four weeks complex equality rights and race discrimination claim, against a leading silk.

**Ethos Communication Solutions (Services) Ltd v Mediadisc Ltd [2010]** successfully acted for the defendant in the County Court resisting a claim for breach of contract and substantial damage. A 60 months maintenance contract terminated after 9 months for breach of warranties.

**Tower Hamlets Primary Care Trust v Ugiagbe [2010] UKEAT 0068\_09\_1305** acted for the Respondent on appeal on grounds of failure to explain why inferences of discrimination could be drawn from facts found proved. The PCT was represented by a leading silk.

**Stewart v British Transport Police [2010] ET**, Benjamin successfully represented the British Transport Police in a five weeks, complex multi-discrimination claim (35 substantive claims of sex, sexual orientation, disability discrimination and 'whistleblowing') by a serving Police Sergeant. Given the issues involved and high profile



nature of those involved, the case attracted national media coverage, and was heard over 5 weeks in the Employment Tribunal, and on appeal to the EAT

**Lodwick v London Borough of Southwark (2004) ICR 884 CA**, Times Law Report 09/04/04. Benjamin represented the Respondent from the employment tribunal to the Court of Appeal. This case is widely reported authority for the proposition that where bias is alleged; an appeal tribunal was obliged, first, to test the tribunal's decision as to recusal by considering whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased, but also to consider the proceedings as a whole and decide whether a perception of bias had arisen; the chairman, as the legally qualified and presiding member of a tribunal of three, had an important position and any apparent bias on his part would not be nullified by the presence of two lay members who might outvote him

**London Borough of Southwark v Bartholomew (2004) ICR 358 EAT** Review of tribunal's decision – authority for the proposition that it was impermissible for an employment tribunal to record that it was unusual for a party not to attend a hearing and yet not take any steps to find out whether there had been an oversight, particularly where contact details were stated on a document before them; that, even if, having done so, there was no attendance by the party concerned, the tribunal might deal with liability, and possibly compensation, but it was wholly inappropriate to make a reinstatement order without proper consideration of the matters contemplated by section 116 of the Employment Rights Act 1996, including whether it would be just to order reinstatement where the applicant might have caused or contributed to some extent to his dismissal

**Royal Mail Plc v Burkett (2003) CA** Reasonable Investigation – authority for the proposition that tribunals, when deciding whether an employer had reasonable grounds for its belief in misconduct, must set out and analyse the facts as found by the employer at the time of the dismissal (assuming the employer undertook a reasonable investigation) and that it is an error of law to set out facts as found by the tribunal, unless a clear distinction is drawn between what the tribunal decides occurred, and what the tribunal decides the employer thought occurred.

**Dr Reza v General Medical Council (1998)**; on Inference – in this case Benjamin acted for the Applicant. The case is authority for the proposition that in the absence of explanation from the GMC's Professional Conduct Committee on primary facts of discrimination, Employment Tribunal is entitled to conclude that decision was not on racial grounds because discovery of similar cases from disclosed documents overcame Committee's lack of reason.

**John Cornelius v London Borough of Southwark (1998) EWCA Civ 225** on Contract – Benjamin acting for the local authority in a case that established the position that a teacher's dismissal is sustainable even where it arose out of a failure to comply with statutory regime for such dismissal.

## Education

- 1991 LLB (Hons) University of East London, United Kingdom
- 1992 Inns of Court School of Law, London, United Kingdom
- 2015 Nigerian Law School, Abuja, Nigeria

## Jurisdictions

- 1992 Admitted to Bar of England & Wales by the Honourable Society of the Middle Temple

- 2016 Admitted as a Barrister & Solicitor, Supreme Court of Nigeria

## Other information

Benjamin attended Western Boys High School, Benin-City, Nigeria and the South Thames College, Wandsworth, London. He read law at the University of East London from where he graduated in 1991. Ben was subsequently admitted to the Bar of England Wales by the Honourable Society of the Middle Temple in 1992 and as a Barrister and Solicitor of the Supreme Court of Nigeria in 2016. Benjamin joined Charles Anthony LLP as a Partner in March 2017.

Benjamin is a member of various professional associations including, the Chartered Institute of Arbitrators, the Employment Lawyers Bar Association, the Employment Lawyers Association, the Industrial Law Society and the Pro Bono Unit of the Bar of England and Wales and the Nigerian Bar Association – Section on Business Law.

Ben has supported Tottenham Hotspurs Football Club since his youth but as a recent convert to rugby and basketball (through his sons' participation) and now follows the fortune of Harlequins RFC, and Boston Celtic avidly.