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NETWORKING
LIKE A
BOSS



Date for the Diary: Thursday 26th October 2017

Edinburgh Drinks & Networking Event

Snakes, ladders and sliding doors – driving your own career

Strategies for career progression, effectiveness and well-being at work. Offering a practical tour of the latest thinking around developing careers, Coretta talks about what we can do to maximise potential.

18:00 to 21:00

The Refinery,
St Andrews Square



TRIBUNAL FEES

HOLIDAY PAY

Where are we now?

- All workers in the U.K. entitled to 4 weeks' annual leave under EU Law ('Euro Leave') and an extra 1.6 weeks' annual leave ('UK Leave').
- Workers historically paid only 'basic pay' for all holidays.
- However, the combined result of holiday pay litigation is that workers **should now receive 'normal pay'** in respect of their Euro Leave.

□ Dudley Metropolitan Borough Council v Willetts and others EAT/0334/16

EAT rules that holiday pay **should** include entirely voluntary overtime.

Lock v British Gas Trading Ltd

Performance related commission **must be included**
when calculating holiday pay.

DISCRIMINATION

Religious discrimination

❑ **Achbita v G4S Secure Solutions NV**

A company rule prohibiting the wearing of visible signs of political, philosophical or religious belief is not directly discriminatory.

❑ **Bougnaoui and anor v Micropole SA**

An employer's reliance on a customer's objections to being served by an employee wearing an Islamic headscarf as a reason for dismissal is discriminatory treatment.

Disability discrimination

Donelin v Liberata UK Ltd

Failure to make reasonable adjustments - Constructive knowledge of the disability.

Gallop v Newport City Council

When should knowledge of disability be imputed to the employer to establish direct disability discrimination?

G4S Cash Solutions (UK) Ltd v Powell

Is ring-fencing pay a ‘reasonable adjustment’?

Indirect Discrimination

Essop v Home Office; Naem v Secretary of State for Justice

- To succeed with an indirect discrimination claim, is it necessary to establish the reason for the particular disadvantage?

Burden of proof

□ **Efobi v Royal Mail Group**

Does the ball start in the Claimant's court?

EMPLOYMENT STATUS

Gig Economy

- ❑ Aslam v Uber BV
- ❑ Dewhurst v CitySprint UK Ltd

What is the **reality** of the entire working relationship?

‘Worker’ status

☐ Pimlico Plumbers Ltd & Anor v Smith

Self-employed plumber: entitled to ‘worker’ rights.

DISMISSAL

Wrongful dismissal

❑ **Adesokan v Sainsbury's Supermarkets Ltd**

Can gross negligence constitute gross misconduct?

❑ **O'Brien v Bolton St Catherine's Academy**

Long-term sick leave dismissal – when is it fair?

SUSPENSION

Suspension

□ **Agoreyo v London Borough of Lambeth**

When is suspension a breach of trust and confidence?

WHISTLEBLOWING

Whistleblowing

☐ Chesterton Global Ltd & Anor v Nurmohamed

When is a protected disclosure **‘in the public interest’**?

EQUAL PAY

Equal pay for equal value

Brierley and others v Asda Stores Ltd

Largest ever equal pay claim against a private sector employer expected this year.

LEGISLATION UPDATE

Gender Pay Gap

Tax Update

Brexit

GENDER PAY GAP

Gender Pay Gap Reporting

- Gender pay reporting legislation requires employers with 250 or more employees to publish statutory calculations every year showing how large the pay gap is between their male and female employees.
- The rules apply to:
 - Any private or voluntary sector employer with more than 250 employees
 - Employees ordinarily working in the UK
 - Contract governed by UK employment law

Key Dates

- **5 April 2017**: First 'snapshot' date – gender pay gap calculations are based on relevant employees' pay during the pay period within which this snapshot date falls each year.
- **6 April 2017**: Regulations come into force.
- **4 April 2018**: Last date for publication of gender pay gap report following 2017 'snapshot'.



TAXATION

IR35 'intermediaries legislation' system

- ❑ From 6 April 2017 – **employers/agencies** responsible for ensuring intermediaries pay the correct tax.
- ❑ Changes apply to thousands of workers who **supply their services on a self-employed basis to public-sector employers.**

Changes to the taxation of termination payments

Apprenticeship levy

Tax-free childcare scheme

BREXIT

- ❑ Article 50 triggered 29 March 2017
- ❑ Great Repeal Bill

What does this mean for employment law in the UK?



FUTURE LEGISLATION

Future legislation

- Tribunal fees
- Taylor Review
- Immigration Bill
- Pay gap reporting – race
- E-balloting
- Grandparental leave

~~Q A~~

Keep the Tribunal Onside

- What kind of person becomes an Employment Judge?
- Create the path of least resistance.
- Reduce your case to one sentence.
- It's complicated...
- 1000 facts means 1000 findings.

SIBLING SQUABBLES

Don't pick unnecessary fights.

Equipped for Success

- You need the right material to prove your story.
- Witnesses who can speak from their *own* knowledge about the issues.
- Contemporaneous documentation is your next best tool.

DISMANTLING THE OTHER SIDE'S CASE

Exposing Contradictions

1. Evidence contradicts a contemporaneous written record;
2. Evidence contradicts other evidence by the same witness;
3. Evidence contradicts evidence by another witness;
or
4. Evidence contradicts common sense.

SETTLEMENT STRATEGY

Sophisticated Settlement

- The first myth.
- The second myth.
- The right questions in the right order:
 - Can we afford to lose this case?
 - Can we afford to win this case?
 - What are the prospects of success?

IN PREPARATION LIES
SUCCESS

Preparing for Tribunal

- Your statement is your friend...
- Advantages to preparation:
 - The story is straight long before it's subject to challenge;
 - Opportunity to think things through results in clear and logical evidence;
 - No surprises on the day from documents;
 - The evidence is yours and yours alone; and
 - Areas of concern are identified and addressed pre-hearing.

GIVING EVIDENCE

Giving Evidence: The Golden Rule

- Tell the truth
- Tell the truth
- Tell the truth
- No really, tell the truth.

Giving Evidence: Common Issues

- The infinitesimal possibility
- Filling memory gaps
- Creating memory gaps
- Mea culpa

Giving Evidence: Common Issues

- Hypothetical Scenarios become reality.
- Opening up the closed question.
- Passing the memory test.
- Do. Not. Fence.
- The cracked record.

~~Q A~~



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REMINDER.....

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accountable