Lena Amartey

YEAR OF CALL 2008

Email: empcom@9sjs.com

AREAS OF EXPERTISE

Employment



Employment CV

Lena is a skilled, client friendly and tenacious advocate practicing exclusively in the employment law jurisdiction. Lena is recognised for her ability to quickly get to grips with complex issues and her outstanding advocacy. She has a straightforward approach, consistently demonstrating strategic and commercial thinking. Her preparation is meticulous, her delivery clever, confident and comprehensive.

AREAS OF EXPERTISE

Lena appears in both the Employment Tribunal and Employment Appeal Tribunal acting for both Claimants and Respondents. Her practice covers all types of employment disputes with a particular focus on complex multi-day discrimination complaints, whistleblowing, constructive unfair dismissal and breach of contract.

Lena has a wealth of experience in conducting employment Tribunal litigation on behalf of public sector clients particularly NHS Trusts, Universities and Local Authorities. Lena is regularly instructed by multinational corporations and regulatory bodies, particularly the General Medical Council and British Dental Association.

Lena also provides advisory and drafting services in respect of all types of employment disputes including advice on prospects, quantum, procedure and appealing first instance decisions. Lena has a particular strength in dealing with evidential and tactical matters. Lena also frequently delivers seminars to Solicitors on a variety of topics, including most recently, Disability & Pregnancy Discrimination, remedies and costs in the Employment Tribunal, A practical guide to redundancy dismissals and TUPE.

CASES

Recent instructions include:

- <u>Waterworth v Central Manchester Hospital</u> - Lena represented the Respondent in a 15-day trial against a vulnerable Claimant bringing 48 discrimination and whistleblowing complaints. In this case Lena showcased her ability to absorb vast material (3000-page bundle and over 250 pages of witness statements). Lena's careful and detailed planning of cross-examination resulted in numerous concessions by the Claimant. Lena suggested a strike out application mid trial, resulting in a further 15 claims being struck out. Lena also successfully defended the Respondent in a connected claim of breach of data protection rights brought in the County Court.

- Alex Hay v AFC Flyde Limited Lena successfully represented the football club in this hearing on employment status of a former footballer turned support staff which had implications for multiple prospective claimants and the club's relationship with existing staff.
- Williamson & Hewitt v Airedale Catering Equipment Ltd & Ors Lena represented the Respondent in this TUPE case regarding a service provision change from a company which had entered creditors voluntary liquidation (CVL). The case centred upon the circumstances in which the protections afforded by TUPE are excluded and particularly on when insolvency proceedings are said to have been initiated. Since there is no definitive authority on this question in the context of CVL, the legal arguments presented by Lena involved interpretation of European legislation, particularly Article 5(1) of the Acquired Rights Directive, European jurisprudence and Insolvency Act 1986.
- <u>Mellor v The MFG Academies Trust</u> Lena represented the Respondent in this test case in which the Claimant sought to argue that subsections of the Equality Act were incompatible with recast Equality Treatment Directive and European caselaw. The case involved complex legal argument regarding the supremacy of European legislation as well as the scope of the Pregnancy Workers Directive and its interaction with the Equal Treatment Directive.
- <u>Bishweka v Lifeways Community Care Limited</u> Lena represented the Respondent in this complex 9-day race and age discrimination complaint involving 3 combined claims with 40 separate allegations of direct discrimination, harassment and victimisation. The case turned largely on the credibility of the Claimant and particularly the authenticity of numerous documents which the Claimant had produced in support of his claim. Lena successfully defended all the claims and persuaded the Tribunal that the documents relied upon by the Claimant were fabricated.
- Herron v Royal London Mutual Insurance Society Ltd Lena successful represented the Claimants in this group action for breach of contract arising out of non-payment of bonus by the Co-operative Banking Group. The case involved detailed analysis of contractual principles and particularly the circumstances in which a discretionary bonus becomes contractual. As well having a complex factual background the case considered the principles of irrationality and perversity and the impact of an FSA decision on payments of bonus.

With regard to appellate work, examples of Lena's instructions include:

- <u>Keppel Seghers UK Limited v Mr. Mark Hinds</u> [2014] IRLR 754 appeal against Tribunal's judgement that the Claimant was a worker within the meaning of the extended definition for the purposes of whistleblowing complaints. Particularly, focussing on the application of the extended definition of a worker where there is no contractual relationship between the parties.
- Merchandising Sales Force Limited v Dawson (UKEATPA/1762/11/RN) appeal against the Tribunal's judgement in a claim for unlawful deduction from wages. This appeal was concerned with the authorities on the interpretation of the exclusion of deductions permitted by a signed document or contract.
- <u>Montracon Limited v Mr. Ernest Francis Hardcastle</u> (UKEAT/0307/12/JOJ) appeal against the Tribunal's judgement on remedy in an unfair dismissal claim where the Tribunal made a reduction to the compensatory award on the grounds of conduct prior to dismissal without making a similar reduction to the basic award.
- <u>Espie v Balfour Beatty Engineering Services Limited</u> (UKEAT/0321/12) appeal against a Tribunal's judgement on the pool of selection in a redundancy exercise and the application and interpretation of section 15 Equality Act 2010 (disability related discrimination).

Lena also represents clients in the County Court combining her knowledge of the Civil Procedure Rules and employment law to the advantage of her clients. Lena has a particular interest in matters of contractual construction in the employment context and restrictive covenants.

Lena was appointed to the approved list of Counsel for the Equality & Human Rights Commission in 2011 and has completed a secondment with the Commission's Legal Enforcement Team. During her time at the Commission Lena provided advisory services focusing on race discrimination and the provision of public service and functions, particularly members associations. Having studied Human Rights during her Masters, Lena has a particular interest in the area of discrimination both within and outside the employment context.

Lena is accredited by the Bar Council to undertake direct public access work.



Quotes

Employment: Band 2"Lena is very experienced and is our go-to when counsel is required on complex matters.""Lena assisted in a multi-claim action and was great with witnesses. She was responsive and was able to provide strategic commercial advice to senior management.""Lena does not waste words. She is short, sharp, and to the point. She was deadly when I was against her."

- Chambers and Partners 2024

Employment:"Lena is exceptionally good with detail and can cut through masses of detail and focus the tribunal s mind on the pertinent matter. Her advocacy is persuasive and skilful, she approaches vulnerable witnesses with sensitivity, and her lines of questioning are always well-thought out, but she is also adaptable in the face of unpredictability."

- Legal 500 2024

Employment: "Lena is great with clients and witnesses and helps guide them through the tribunal process. She is always ultra prepared for conferences and hearings and she is often instructed to advise ahead of the hearing as part of the strategy discussions. She is a great advocate and very impressive on her feet. She is confident and strategic and really takes the time to understand the client's businesses. She is a go-to barrister on all claims."

- Legal 500 2023

Employment (Northern Bar): "She is absolutely top notch, she has gravitas in front of the tribunal and is an impressive character who instils confidence and encouragement into clients and witnesses." "I was very impressed with how quickly and thoroughly she read into papers; she is very commercial and I would recommend her to a colleague in a heartbeat." "She is very good with clients, technically savvy and very well prepared."

- Chambers and Partners 2022

Employment: "Tenacious in hearings, well-prepared, practical and easy to work with, agile thinker."

- Legal 500 2022

Employment (Northern Bar): "She is very client-friendly and determined."

- Chambers and Partners 2021

Employment: Leading Junior Band 2 "Robust in cross-examination and always well-prepared."

- Legal 500 2020

Employment Northern (Bar): Leading Junior Band 4 "An impressive and robust advocate who is not afraid to give an early view on merits and strategy. Clients warm easily to Lena, trusting that she has a good understanding of their business and will really get behind their case."

- Chambers and Partners 2020

Employment Northern Bar: Leading Barrister (Up and Coming) "She's got gravitas and is technically excellent." "Robust at cross-examination and always thorough with client preparation."

- Chambers and Partners UK Bar 2019

'A feisty advocate with a practice beyond her years of call. '

- Legal 500, 2017

A real star; she is technically very competent and exceptionally good with clients.

- Legal 500, 2016

"More than able to hold her own against senior counsel; a rising star."



- Legal 500 2015

"Gets to grips with instructions quickly."

- Legal 500 2014

"demonstrates considerable talent"

- Legal 500 2013