

Spencer Keen

CALL: 1998

Email Clerk: SJones@oldsquare.co.uk

Telephone Clerk: 020 7269 0307



Overview

Spencer Keen is an advocate with a broad practice. His main specialisms are employment, commercial law and European law. He appears regularly in the High Court, Employment Tribunal and appellate courts and tribunals.

Discrimination, Employment & Human Rights Law

Spencer is recognised by both *Chambers & Partners UK* and *The Legal 500* as a leading discrimination barrister who has expertise in disability discrimination. Both directories list his expertise in disability discrimination as "second to none".

He has appeared in several leading discrimination disputes and is sought after for his ability to deal with complex cases and high-profile clients. He has advised a large group of judges on their pension rights, city law firms in respect of internal partnership and disciplinary matters, a part-time judge in an unfair dismissal claim and several chief executives in their personal capacities as well as respondent companies of all sizes.

Because of his expertise, Spencer's advice is often sought in areas outside employment, such as discrimination in the provision of services.

In 2009, Oxford University Press published Spencer's book, *Disability Discrimination in Employment*, and he continues to contribute articles to the *New Law Journal*.

Find out more about Spencer's [employment cases](#).

EU Law, Jurisdiction & Worker status

Spencer has particular expertise representing clients in areas affected by EU law and has dealt with EU law issues at all levels of the Court hierarchy including the Supreme Court. He has significant experience in international and domestic territorial jurisdiction disputes (for example he has represented a number of EU international missions and other clients based outside the jurisdiction).

He also has considerable experience in litigation over the domestic scope of the Equality Act 2010 (for example whether volunteers are covered by the Framework Directive; the correct interpretation of "qualifications body" and the boundaries of associative discrimination) and has litigated the meaning of both the domestic and EU definition of worker in cases concerning judges, academics, foster carers, partners and other atypical workers.

Contract Disputes

As a commercial barrister, Spencer appears regularly in general contract and commercial disputes in the High Court and County Court.

For example, he has dealt with disputes:

- Concerning the supply of organic foodstuffs
- Between shareholders
- Over the liability of an information society service

Expertise

- Commercial Law
- Education & Safeguarding
- Employment & Discrimination
- Finance
- Health
- Insurance
- Investigations
- Judicial Review
- Media and Entertainment
- Professional Regulatory & Discipline
- Public Law
- Retail and Consumer
- Travel

Recommendations

"He is good at getting to the heart of the matter and will cut through to what is relevant. He produces comprehensive and strategic advice that is accessible and understandable to business." *Chambers & Partners 2024*

"A very methodical and responsive advocate, who is very good at putting clients at ease." *The Legal 500 2024*

"Spencer's submissions are superb and he is extremely responsive and commercial. He goes above and beyond to ensure that the client is getting the best advice." "He is a tenacious and fantastically well-prepared barrister." *Chambers & Partners 2023*

"Spencer's advice is clear and concise. He is also very personable with clients and witnesses." "Spencer has an encyclopaedic knowledge of disability discrimination law. He is extremely personable and a persuasive advocate." *The Legal 500 2023*

Key contacts

Samantha Jones

Deputy Senior Clerk

Phone: 020 7269 0307

Email: sjones@oldsquare.co.uk

- About the delivery of satellite TV services
- Over search engine optimisation (SEO) services

Employee Competition & Injunctions

Spencer is regularly instructed in interim and final injunction cases and has advised and represented clients at very short notice. Much of his injunction work concerns employee competition cases in which he is instructed to enforce or dispute various types of terms in employment contracts such as:

- The implied duty of fidelity
- Non-competition covenants
- Non-solicitation covenants
- Non-dealing covenants
- Non-poaching covenants
- Indirect restraints, such as financial incentives not to compete.

He is also instructed in other types of injunctions. He has acted for a member of parliament seeking an injunction under the Representation of the People Act before a general election, and for a client seeking to prevent a television company broadcasting a programme in which he appeared. He has also helped clients seek protection from internet abuse under the Protection from Harassment Act and for clients defending freeing injunctions.

Recent and current work

- *Bamieh v European Union Rule of Law Mission in Kosovo* [2017] EAT. Whether an international organisation has personality for the purposes of domestic law and the effect of Article 10 ECHR on the territorial jurisdiction of an English Employment Tribunal.
- *Smith v London Borough of Bromley* [2017]. Lengthy tribunal hearing considering whether the Council had allowed the claimant sufficient time off for trade union duties under s.168 TULRCA or had afforded her a detriment under s.146 TULRCA.
- *Unison v Lord Chancellor* [2017] Supreme Court. The judicial review concerning Employment Tribunal fees. Instructed by the intervener, the Equality and Human Rights Commission, led by [Michael Ford KC](#).
- *Hayden Leigh v Channel Four* [2017] EWHC. Interim injunction to prevent broadcast of television programme.
- *Zavahir v Shankleman & Ors* [2016] EWHC. Derivative claim alleging an unlawful distribution contrary to s.830 of the Companies Act 2006 and breach of fiduciary duty.
- *Wicksteed Leisure v Kompan* [2016] EWHC. Injunction to restrain an alleged theft of confidential information.
- *Decorus v Penfold & Ors* [2016] EWHC. Injunction to restrain an alleged theft of confidential information and breach of covenant.
- *Central Europe Business Development Ltd v Property Transfer Co-ordination Ltd* [2016] EWHC. Proprietary and freezing injunctions.
- *Boothe v Governing Body of Toynbee School* [2015] EAT: Whether the tribunal was correct to continue in the appellant's absence and whether Article 6 ECHR was engaged.
- *Edwin v Avante Partnership* [2015] EAT. Whether a constructive dismissal required an express acceptance of a repudiatory breach.
- *Re-Use Collections v Sendall* [2014] EWHC. Claim for damages and an injunction rising out of an alleged breach of restrictive covenants and the duty of good faith.
- *Hamilton College London Ltd and another v Ahmad & Anor* [2013] EWHC. Case concerning a disputed transfer of a single issued share in the claimant company.
- *X v Mid Sussex Citizen's Advice Bureau & Anor* [2012] UKSC 59 (Supreme Court). The leading case on whether a volunteer was protected from discrimination under domestic and EC law.
- *King v Health Professions Council* [2012] EAT. Whether an employment tribunal had jurisdiction to hear a claim brought by a person applying for a qualification as a health professional.
- *Shea v Micros Fidelio* [2011] EAT. This case deals with how far a tribunal can intervene to assist a litigant in person.
- *Lisboa v Realpubs* [2011] EAT. Whether the new owners of a famous gay pub had discriminated against a barman on the grounds of sexual orientation when trying to re-brand so that persons of all sexualities were welcome.
- *Gill v Humanware Europe* [2010] EWCA. The correct approach to awarding wasted costs against an advocate.
- *Power v Greater Manchester Police* [2010] ET and EAT. Whether a belief that one could communicate with persons after death was a belief protected by the discrimination legislation.
- *Gill v Humanware Europe* [2009] EAT. Spencer appeared for the successful appellant who was alleged that a tribunal judge was biased.

Jordan Bater

Team Leader Assistant

Phone: 020 7269 0300

Email: bater@oldsquare.co.uk

Lee Jennings

Team Leader

Phone: 0207 269 0303

Email: jennings@oldsquare.co.uk

Notable Cases

- [Meaker v Cyxtera Technology UK Ltd \[2023\] EAT 17 \(21 February 2023\)](#)
- [Imperial College Healthcare NHS Trust & Anor v Matar \(Age discrimination – less favourable treatment because of age – section 13 Equality Act 2010 – remedy – NHS Appointment of Consultants Regulations 1996\) \[2023\] EAT 1 \(24 January 2023\)](#)
- [Plymouth City Council v ABC \[2022\] EWHC 2426 \(Ch\) \(30 September 2022\)](#)
- [Plymouth City Council v ABC \[2022\] EWHC 1670 \(Ch\) \(06 July 2022\)](#)
- [Warburton v Northamptonshire Police \(Whistleblowing, Protected Disclosures & Victimisation\) \[2022\] EAT 42 \(14 March 2022\)](#)
- [Bennett v Mitac Europe Ltd \(DISABILITY DISCRIMINATION\) \[2021\] UKEAT 2020-000349 \(20 October 2021\)](#)
- [Cumming v British Airways Plc \[2021\] UKEAT 0337_19_2201 \(22 January 2021\)](#)
- [University College London v Brown \(formal oral warning, “sole or main purpose”\) \[2020\] UKEAT 0084_19_1712 \(17 December 2020\)](#)
- [ABC v Shulmans LLP \[2019\] EWHC 2458 \(Comm\) \(25 September 2019\)](#)
- [Barrasso v New Look Retailers Ltd \[2019\] UKEAT 0079_19_2208 \(22 August 2019\)](#)
- [Foreign and Commonwealth Office & Ors v Bamieh \[2019\] EWCA Civ 803 \(09 May 2019\)](#)
- [Uwhubetine & Anor v NHS Commission Board England & Ors \(PRACTICE AND PROCEDURE – Striking-out/dismissal\) \(Rev 1\) \[2019\] UKEAT 0264_18_2304 \(23 April 2019\)](#)
- [Bamieh v Eulex \(Kosovo\) & Ors \[2018\] UKEAT 0268_16_0119 \(19 January 2018\)](#)
- [UNISON, R \(on the application of\) v Lord Chancellor \[2017\] UKSC 51 \(26 July 2017\)](#)
- [Decorus Ltd v Penfold & Anor \[2016\] EWHC 1421 \(QB\) \(20 June 2016\)](#)
- [Cousins v The Forum@greenwich \(Sex Discrimination: Direct\) \[2016\] UKEAT 0183_15_0102 \(01 February 2016\)](#)
- [Boothe v The Governing Body Of Toynbee School \(Practice and Procedure : New evidence on appeal\) \[2015\] UKEAT 0135_15_2508 \(25 August 2015\)](#)
- [Unison \(No. 2\), R \(on the application of\) v The Lord Chancellor \[2014\] EWHC 4198 \(Admin\) \(17 December 2014\)](#)
- [Re-Use Collections Ltd v Sendall & Anor \[2014\] EWHC 3852 \(QB\) \(19 November 2014\)](#)
- [Taiwo v Department for Education \(Disability Discrimination : Reasonable adjustments\) \[2013\] UKEAT 1802_11_2905 \(29 May 2013\)](#)
- [X v Mid Sussex Citizens Advice Bureau & Anor \[2012\] UKSC 59 \(12 December 2012\)](#)
- [King v Health Professions Council \(Race Discrimination : Discrimination by other bodies\) \[2012\] UKEAT 0169_11_1307 \(13 July 2012\)](#)
- [X v Mid Sussex Citizens Advice Bureau & Ors \[2011\] EWCA Civ 28 \(26 January 2011\)](#)
- [Lisboa v Realpubs Ltd & Ors \(Sexual Orientation Discrimination or Transsexualism\) \[2011\] UKEAT 0224_10_1101 \(11 January 2011\)](#)
- [Power v. Greater Manchester Police Authority \[2010\] UKEAT 0087_10_0810 \(8 October 2010\)](#)
- [Gill v Humanware Europe Plc \[2010\] EWCA Civ 799 \(03 February 2010\)](#)
- [X v Mid Sussex Citizens Advice Bureau & Anor \[2009\] UKEAT 0220_08_3010 \(30 October 2009\)](#)
- [Raggett v The Society of Jesus Trust 1929 for Roman Catholic Purposes & Anor \[2009\] EWHC 909 \(QB\) \(05 May 2009\)](#)
- [Gill v. Humanware Europe Ltd \[2009\] UKEAT 0312_08_2702 \(27 February 2009\)](#)
- [P.J Drain v. Pinguin Foods UK Limited \[2005\] UKEAT 0329_04_1803 \(18 March 2005\)](#)
- [**The Queen on the Application of UNISON v. The Lord Chancellor and EHRC \(Intervener\)**](#)

The High Court (Moses LJ, Irwin J) today delivered judgment in the important judicial review proceedings brought by UNISON to challenge the fees regime introduced in the employment tribunal and...

- [**Hamilton College London Ltd and another v. Ahmad and another**](#)

Company Shares. In the course of proceedings between the parties, a preliminary issue arose for consideration namely, whether an alleged transfer a single issue share in the first claimant company...