

ELAINE BANTON

Year of call
1996



Elaine acts for employees and employers in all areas of employment law, focusing on complex and protracted litigation at all levels. Often appearing in high profile matters her practice includes long running multi-characteristic discrimination matters and advises global and national businesses.

Elaine appears in all discrimination claims including public functions and services matters. Elaine's practice also includes disciplinary, regulatory, sports law, human rights, harassment and stress at work claims including health and safety and Covid-19 related matters.

A seasoned appellate advocate, recent appeals include;

Chevalier-Firescu v HSBC Bank Plc [2024] EAT 6 Claims involving protracted litigation regarding alleged post termination victimisation/discrimination and the practice of "blacklisting" post settlement in the City. Succeeding on all four grounds, the detailed judgment provides guidance traversing the vexed field of OPH "mini trials" and strike outs of discrimination claims. The Court of Appeal's judgment, *HSBC Bank Plc v Chevalier-Firescu* [2025] IRLR 268; [2024] EWCA Civ 1550, dismissed HSBC's appeal, see the Reuters report [here](#).

Mr Rowe v Ashmore Group Plc [2023] EAT 172 Successful expedited interlocutory appeal, entirely revoking deposit orders that had been imposed by the ET's own motion, sporadically across all claims. When considering a Deposit Order the focus should be on the case or the arguments relied upon by the party facing the Order.

Bennett v London Borough of Islington [2024] EAT 118 Practice and procedure, postponement. The tribunal erred by failing to consider the full potential implications for the claimant, of the loss of her representative and failed to consider the option of a short postponement to allow the claimant to obtain further medical evidence about her own ability to represent herself. That would have been a viable option in this case in particular given the length of the listing.

Appearing in high profile, impactful cases and exemplifying her Senior Executive/City practice, Elaine was [The Times Lawyer of the Week in March 2023](#) as a result of the pre dismissal remedy judgment of £300k in the long-running litigation involving a retrial of sex discrimination, harassment and maternity claims in [Rajput v Commerzbank AG](#). The case is a continuation of [Commerzbank AG v Rajput \[2019\] ICR 1613](#). See the ET remedy judgment [here](#), FT report [here](#), and the Reuters report [here](#).

Elaine is featured in the Lawyer's Hot 100 Lawyers of 2024, [here](#).

Elaine was featured as [The Lawyer's Barrister of the Week](#) in November 2021 following a widely reported direct discrimination case, [Tesfagiorgis v Aspinalls Club Ltd](#).

Her success in the landmark Court of Appeal judgment in [O'Brien v Bolton St Catherine's Academy \[2017\] ICR 737 CA, \[2017\] IRLR 547, The Times, May 8, 2017](#) resulted in guidance on s15 EqA claims.

In 2022, Elaine obtained a finding of disability by way of menopausal symptoms in the ongoing matter of [Maria Rooney v LCC ET 2600242/19](#) in the ET (previously remitted from the EAT). International work includes acting for Smith in the substantial \$1.4 billion sex discrimination group action [Smith & Ors v Dresdner Kleinwort Wasserstein](#).

Lead Counsel for the family of former key worker [Belly Mujinga](#) in the workplace inquest. Recent expertise in equality law includes [The King \(on the application of Trevor Donald\)-v-SSHD-and-\(1\) BEO \(2\) Unison \(3\) Speaker of the House of Commons \[2024\] EWHC 1492](#) succeeding as junior Counsel for the Claimant, in a substantial Judicial review, which found failures to implement [Windrush recommendations](#) 9 and 10, indirectly discriminated against Windrush victims, was in breach of Article 14 ECHR read in conjunction with Article 8 ECHR, and a breach of the PSD. As both junior Counsel (in Modules 2,3,5 and 7) and also Co-Lead Counsel for Module 4 on Vaccines for the [Federation of Ethnic Minority Healthcare Organisations \(FEMHO\)](#), a Core Participant, in the Covid-19 Public Inquiry. Additionally in a [High Court, Unfair Prejudice](#) appeal.

Elaine has considerable experience encompassing cross-territorial complex and wide ranging investigations and domestic reviews of employment practice and procedure. Elaine also Chairs internal disciplinary and complaints panels.

Elaine is a CEDR Accredited Mediator. Experienced in complex conflict and dispute resolutions both pre and post litigation.

Elaine frequently appears as an advocate in mediations (including international matters) of all description acting for various parties in all types of complex employment and discrimination disputes. Elaine has extensive experience in professional disciplinary cases before various regulatory bodies. More information may be found in the Regulatory and Professional section below.

Elaine was invited to open the oral evidence in Parliament, giving evidence to the Joint Committee on Human Rights (Select Committee) to the Inquiry on Human Rights at Work in June 2023.

Elaine speaks, writes and broadcasts regularly on her specialist areas of the law for various practice publications. She is a contributor for Harvey Industrial Relations and Employment Law, co-author of Division J Family Matters and co-author of the chapter on Human Rights and Employment Law for Tolley's Employment

Law.

An active member of the Discrimination Law Association, she was Treasurer of the DLA for 6 years. In 2009 Elaine was named a 'Pro Bono Hero for 2009' by the Attorney General's Office. From 2011 to 2014 Elaine was a Barrister member of the Bar Standards Board's Complaints Committee. Accepted onto the delegation as a UN Women UK delegate to the United Nations Commission on the Status of Women (CSW67), in 2023. Elaine is featured in the September 2023 edition of [Counsel Magazine](#).

Winner of the Legal 500 ESG Ethnicity Champion of the Year 2024 for initiatives to improve racial and ethnic diversity at the Bar.

Finalist in the Women and Diversity in Law Awards 2023 in 3 categories; Advocate of the Year, Mentor of the Year and DE&I Champion of the Year in a Legal Role.

Elaine is a member of ELA, DLA, ELBA, ILS, CLA, and Justice.

Appointed by the Legal Services Board (LSB) to the Board of the Office for Legal Complaints (OLC) – Board of the Legal Ombudsman (LeO).

Elaine is the Co-Chair of the Bar Council's EDSM Committee (stepping down in 2024) and is an elected member on the Bar Council's GMC.

Elaine is a member of the Committee for the Inns of Court Alliance for Women.

Harmsworth Major Scholar recipient and elected Bencher in March 2019.

Member of Middle Temple's Appointment Committee and Bencher Selection Committee and Former Co-Chair of Middle Temple's Race Equality, Inclusion and Anti-Racism Working Group.

Elaine is a former head of 7BR's Employment Team having led it twice over a number of years.

Member of Sadler's Wells Development Council.

Chair of the Board of Talawa Theatre.

Finalist for Barrister of the Year 2022, Next 100 Years, Inspirational Women In Law Awards.

Elaine was Finalist for the 'First 100 Years Inspirational Woman of the Year Award', Barrister of the Year 2019.

Elaine featured on BBC One's Panorama episode "Belly Mujinga: Searching for the Truth" on 12th October 2020. She discussed the importance of the Employer's responsibility during the COVID -19 pandemic. You can view the episode [here](#).

LEGAL EXPERTISE

Employment

Elaine Banton is an experienced, highly regarded barrister practising across the whole range of employment, equality and discrimination law matters appearing regularly at all levels of tribunals and courts including the High Court and Court of Appeal. Further information relating to her extensive appellate experience may be found [here](#).

Elaine acts for employees and employers in all areas of employment law in long running multi-strand discrimination matters and advises international and national businesses, charities and public bodies on high level strategic/policy matters such as the TUPE consequences of various contracting arrangements, whistleblowing and on equality issues such as equal pay/harmonisation. She is regularly instructed in high value and complex trials. Her client base includes the arts, media, global financial institutions and high net worth individuals as well as group claims. She also has experience of executive termination, restrictive covenants and injunctions.

Elaine appears in all discrimination claims including public functions and services matters. Elaine's practice also includes disciplinary, regulatory, sports law, human rights, harassment and stress at work claims including health and safety and Covid-19 related matters.

Selected Cases

[Rowe v Ashmore Group PLC & Ors \(PRACTICE AND PROCEDURE\) \[2023\] EAT 172 \(November 2023\)](#)

Successful expedited interlocutory appeal, entirely revoking deposit orders that had been imposed by the ET's own motion, sporadically across all claims. When considering a Deposit Order the focus should be on the case or the arguments relied upon by the party facing the Order.

[Chevalier-Firescu v HSBC Bank PLC \(PRACTICE AND PROCEDURE\) \[2024\] EAT 6 \(09 February 2024\)](#)

Protracted litigation regarding alleged post-termination victimisation and the practice of blacklisting post settlement in the City. Succeeding on all four grounds of appeal, the detailed judgment provides guidance traversing the vexed field of OPH "mini trials" and strike outs of discrimination claims.

[Bennett v London Borough of Islington \[2024\] EAT 118](#)

Practice and procedure, postponement. The tribunal erred by failing to consider the full potential implications for the claimant, of the loss of her representative and failed to consider the option of a short postponement to allow the claimant to obtain further medical evidence about her own ability to represent herself. That would have been a viable option in this case in particular given the length of the listing.

Ms J Rajput v Commerzbank AG [2023]

Pre dismissal remedy judgment of £300k in the long-running litigation involving a retrial of sex discrimination, harassment and maternity claims.

Ms J Rajput v Commerzbank AG [2022]

Succeeded in remitted retrial in protracted multiday sex discrimination and harassment claims.

Lily Properties Nominees Ltd & Ors v William Stonebridge & Ors [2022] EWHC 76 (Ch)

Unfair prejudice appeal with race discrimination aspect regarding s172 and s994 Companies Act 2006. Pending consideration of appeal to the Court of Appeal.

Source Bioscience UK Ltd & Ors v Wheatcroft & Anor [2021] EWHC 2909 (QB) (27 August 2021)

High Court Injunction, Restrictive Covenants, Undertakings, Trade secrets, Covid-19 testing technology.

Ms S Tesfagiorgis v Aspinalls Club T/a Crown London Aspinalls and others: 2202256/2020

High-profile, multi-day, intensive media attention. Successful direct race discrimination claim involving the substitution of a black female for a white female at request of a wealthy client. First case of its kind in the Casino industry.

Buckle v Ashford And St Peter's Hospital NHS Trust & Anor (PRACTICE AND PROCEDURE) [2021] UKEAT 0054_20_1806 (18 June 2021)

Race discrimination claim. Appellant midwife severely impacted by racial incident at work. Incapacitated and unable to work again.

Shah v TIAA [2020] UKEAT/0180/19 [2020] 1 WLUK 82

Disability discrimination, unfair dismissal and long service; Harassment; Reasonable adjustments.

Kilraine v Lion Academy Trust [2020] EWCA Civ 551

Fixed-term contract, expiry, notice and termination of employment. Collective agreements (Teachers, Burgundy Book). Pending appeal to the UK Supreme Court.

Park Chinois Ltd v Ozkara & Cakir [2019] UKEAT/0224/18/DA, UKEAT/0225/18/DA, UKEAT/0017/19/DA, [2019] 7 WLUK 600

Extension of time just and equitable, reinstatement, breach of contract.

Commerzbank AG v Ms J Rajput [2019] UKEAT/0164/18, [2019] ICR 1631, [2019] IRLR 772, [2019]

[6 WLUK 468 \[2019\] All ER \(D\) 55 \(Jul\)](#)

Stereotypes in sex discrimination and maternity discrimination.

[Wood v Durham County Council \[2018\] UKEAT/0099/18/OO](#)

Disability discrimination involving claimant's "tendency to steal" excluded condition.

[Kilraine v Lion Academy Trust \[2018\] UKEAT/0194/17/BA](#)

Successful cross appeal and defence of appeal. Fixed-term contract and protected disclosures.

[O'Brien v Bolton St Catherine's Academy \[2017\] EWCA Civ 145, \[2017\] 3 WLUK 386, \[2017\] ICR 737, IRLR 547 CA S15 EA 2010 Times, May 8, 2017](#)

s15 EA 2010 Disability discrimination dismissal claim dealing with long term sickness absence of more than 14 months. Guidance provided.

[Look Ahead Housing & Care Ltd v Chetty \[2015\] ICR 375 EAT](#)

Race discrimination remedy and ET fees.

[Chawla v Hewlett Packard \[2015\] IRLR 356 EAT](#)

Disability discrimination compensation 10% uplift *Simmons v Castle*.

[O'Brien v Bolton St Catherine's Academy \[2015\] UKEAT 0051](#)

Disability discrimination arising from disability, unfair dismissal long absence. Case listed in the Court of Appeal.

[A v The Chief Constable of West Midlands Police \[2015\] UKEAT 0313/14](#)

Sexual harassment practice and procedure.

[Mruke v Khan \[2014\] UKEAT 0241/13](#)

Forced labour trafficking employment case. Constructive dismissal ruling. Claim in Court of Appeal and race claim possibly Supreme Court.

[Podkowka v Kensington and Chelsea RBC \[2014\] UKEAT 0433/12](#)

Practice and procedure. Bias, misconduct and procedural irregularity.

Plymouth CC v White [2013] UKEAT 0333/13

Practice and Procedure. Guidelines for disclosure disputes on confidentiality.

Kapoor v Barnhill Community High School Governing Body [2013] UKEAT 0352/13

Practice and procedure. Striking out or dismissal.

Dr Bijlani v 4 New Square Chambers (2009-2010)

Five week Employment Tribunal hearing. Successfully represented the Respondent, New Square Chambers, in this widely reported £30m discrimination claim, and complex case and the first of its kind involving an established barrister claiming race and disability discrimination against former Heads of Chambers and Senior Clerk.

Katherine Smith & Others v Dresdner Kleinwort Wasserstein [2006]

In [litigation](#) based in England and the USA, represented the Claimant in \$1.4bn sex discrimination group action.

Ibekwe & Others v Transport & General Workers Union [2001] EWCA Civ 432

Represented a group of Claimants in CC and successfully in Court of Appeal in breach of contract/procurement to commit breach of contract claim.

Equality and Human Rights

Selected Cases

The King (on the application of Trevor Donald)-v-SSHD-and-(1) BEO (2) Unison (3) Speaker of the House of Commons [2024] EWHC 1492

Succeeding as junior Counsel for the Claimant, in a substantial Judicial Review, which found failures to implement [Windrush recommendations](#) 9 and 10, indirectly discriminated against Windrush victims, was in breach of Article 14 ECHR read in conjunction with Article 8 ECHR, and a breach of the PSED.

UK Covid-19 Inquiry

As both junior Counsel (in Modules 2,3,5 and 7) and also Lead Counsel for Module 4 on Vaccines for the [Federation of Ethnic Minority Healthcare Organisations](#) (FEMHO), a Core Participant, in the Covid-19 Public Inquiry.

Regulatory & Professional Discipline

Elaine has an established background encompassing advice and litigation relating to the regulation of professionals including police officers, teachers, social workers, medics and sports professionals. Elaine also has considerable experience of appearing on behalf of dentists and medics in respect of fitness to practice and disciplinary matters. In the case of police officers Elaine has acted for senior police officers at both Misconduct Hearings and Police Appeal Tribunals (PAT). Elaine's practice also includes judicial review.

Elaine served as a Barrister member of the Bar Standard's Boards' Complaints Committee from 2011-2014 and has been a School Governor including Vice-Chair at various schools for over 12 years.

Financial Services Regulation & Enforcement

Elaine has experience in advising and appearing in a wide range of financial services regulatory matters. Elaine has carried out training for the IFA (Institute of Financial Accountants). Elaine also sits as a Legal Assessor for the IFA.

Sports Law

Elaine's practice covers a variety of aspects of sports law encompassing the interests of sports organisations, coaches, teachers and managers in addition to individual sportsmen and women. Elaine has a particular interest in football and athletics and in issues involving all forms of discrimination and harassment. Such as advising and training Kick It Out, football's lead in equality and diversity inclusion issues.

Regulatory & Disciplinary In Sport

Elaine appears in various sports regulatory and disciplinary matters including safeguarding for both individuals and regulatory bodies at all levels.

Memberships

- Employment Law Bar Association (ELBA)
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- International Bar Association; Employment and Industrial Relations Law Committee (IBA)
- International Forum of Senior Executive Advisers (IFSEA)
- Discrimination Law Association (DLA)
- American Bar Association, Labor and International Law