



Practice Areas

EMPLOYMENT LAW
CHANCERY
COMMERCIAL

News

[5 Essex Court is rated highly in its specialist fields in Chambers and Partners 2013](#)

[5 Essex Court welcomes four new members](#)

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Background:

Melvyn was called to the Bar by Lincoln's Inn in 1997 after a long and successful career in business spanning 25 years.

Melvyn is qualified to accept Public Access work.

He read Law at Middlesex University from 1993 to 1996, obtaining the only first class LLB degree in his year in addition to seven prizes. After accepting a tenancy at 7 New Square in April 1999 he was later elected Deputy Head of Chambers and Treasurer.

Melvyn joined 5 Essex Court in April 2010 and specialises in employment law matters. Because of his business experience he has real personal knowledge of what it means to be an employer. He fully understands how issues arise in the workplace and what needs to be done practically to resolve them.

Employment:

Melvyn advises and represents both Claimants and Respondents. He regularly appears in Employment Tribunals and the EAT. He deals with all aspects of employment law including unfair dismissal, TUPE, advising on and drafting employment contracts, and has a particular interest in discrimination issues.

Chancery and Commercial:

Melvyn's work in both Chancery and Commercial law covers a wide range and includes partnership, probate, property, and a wealth of commercial matters including disputes and advising on and drafting terms and conditions of contracts.

Lectures:

Melvyn regularly provides CPD lectures for solicitors and HR managers on all aspects of employment law.

Interests:

Melvyn enjoys tennis, skiing and travel.

Significant work and cases

Employment

[SNR Denton UK LLP V Kirwan](#)

This case is reported at [\[2012\] IRLR 966](#), [\[2012\] AllER \(D\) 215 Oct](#)), and in IDS Brief 962 December 2012.

In October 2011 Melvyn was successful in persuading an employment judge at a pre-hearing review that there had been a Service Provision Change under TUPE. This was in the case of an employee who was a legally qualified solicitor and a senior executive of a company engaged in PFI work that went into administration and who was dismissed shortly afterwards.

Prior to the administration the main part of the employee's work was concerned with the disposal of PFI contracts to raise finance for the company. Over a period of months during the administration, the remainder of the PFI contracts were either disposed of or cancelled. The legal work for that was carried out by one of the country's leading firms of solicitors.

Melvyn submitted, and the employment judge agreed, that she could distinguish between the activities that were previously carried out by the employee and were then carried out by the firm of solicitors. It was agreed that the other work the solicitors did for the administrators that had no connection to the disposal of the PFI contracts. The judge also agreed that the exception for a single specific event or task of short term duration did not apply and that the client was the company in administration.

The appeal of the firm of solicitors was heard and determined by the EAT in July 2012 where they were represented by a QC. Three grounds of errors of law were put forward:

- 1) that the employment judge was wrong in deciding that the activities could be separated ("the activities ground"
- 2) that she was wrong as regards her decision about the single specific event or task of short term duration ("the time ground"), and that
- 3) she was wrong in deciding that the "client" in the relevant section of TUPE was the same ("the client ground").

The EAT dismissed the activities ground as there were omissions and errors in relation to the employment judge's findings of fact on the time ground such that they could not stand. It upheld the client ground on the basis of cases that had been decided after the employment tribunal's decision by the Court of Appeal. The EAT therefore decided that the time by which the employee must apply for permission to appeal should be extended to sometime after the Court of Appeal decided those cases in late Autumn 2012, when the Court of Appeal confirmed that, in order for there to be a service provision change, "the client" must remain the same.

In 2010 Melvyn successfully obtained an award of £150,000 for a 61 year old lay client in an unfair dismissal claim. The Employment Tribunal accepted that the client was unlikely to obtain work before his retirement age and his award reflected this.

In 2008 Melvyn successfully represented a low paid part-time disabled Claimant in an unfair dismissal and disability discrimination claim. It was against a Respondent charity that assisted carers of disabled persons. Melvyn obtained judgment in his lay client's favour and successfully negotiated a settlement before the remedies hearing approaching £100,000. The case was cited in "Focus on Disability", a feature in the June 2009 issue of IDS Employment Law Brief.