

ma

tr

ix

TRIBUNAL REMEDIES

Paul Nicholls QC

Nathan Roberts

TIMIS V OSIPOV

- Right of employee to sue co-workers who reach decision to dismiss in protected disclosure cases
- Decision to dismiss identifiable as detriment by co-worker
- Claim of detriment not precluded by s 47B(2)
- Advantages for claimant
 - different causation test
 - ability to recover damages for injury to feeling

THE 'COUNTER FACTUAL'

- Determining loss by assessing the consequences of the wrong – what would have happened if the wrong had not occurred
- Parker v Chief Constable of Essex as an example
- Separation of liability for wrong-doing and loss
- Examples in the employment sphere: Brown v Baxter UKEAT/0354/09
- Advantages of raising range of allegations in dismissal cases to avoid arguments based on counterfactual in which dismissal would still have occurred

DISMISSAL AND DETRIMENT

- Where a detriment is relied on for the purposes of constructive dismissal, may a freestanding claim be brought on the basis of the detriment
- Roberts v Wilsons Solicitors [2018] IRLR 1042
- Ability to bring claim for pre-dismissal detriments even if dismissal claims are not available

LIMITS TO DAMAGES FOR DISMISSAL

- Distinction between dismissal and pre-dismissal actions
- Extent to which damages for pre-dismissal conduct recoverable in a dismissal claim: GAB Robins v Triggs [2008] ICR 529

INJURY TO FEELING



PERSONAL INJURY



AGGRAVATED DAMAGES



EXEMPLARY DAMAGES



ma
tr
ix

PAUL NICHOLLS QC
NATHAN ROBERTS

PracticeTeamM@matrixlaw.co.uk

Griffin Building, Gray's Inn
London WC1R 5LN
DX400 Chancery Lane, London