

YOUR WEEKLY BULLETIN OF WIT AND WONDER



JAWS V

This time it's marine biological



TOOTHY TEST CASE

Will a dropped dentist succeed in her claim after proving worker status?



PROJECT PAUSE

Why you *should* have a few minutes of buffering

WORRY ABOUT THIS!

It's hard to find any kind of news this week which doesn't involve something we should fear. So I've given up trying.

MASSIVE SHARKS! MASSIVE SHARKS! SO VERY MASSIVE IT'S INSANE!

Yes! Be afraid! Great whites and tiger sharks are doing so well in protected waters they are now growing into MEGASHARKS with some females as long as 20ft.

Did I mention that the sharks are INSANELY MASSIVE?



After encountering a sizeable female tiger shark she has named Kamakai, marine biologist and professional shark diver Kori Burkhardt told National Geographic: "The waters around French Polynesia have transformed into a big tiger paradise - a safe haven, where a shark like Kamakai can birth a new generation of mega tiger sharks."

Of course, taken out of context, it looks like Kori is HAPPY about the thriving sharks. Which surely can't be right, can it?

Doesn't she even KNOW, like the reporter of the article I read on Yahoo!, that these sharks are INSANELY MASSIVE? And very probably MASSIVELY INSANE?

Feel free to put this new and unexpected chunk of dread into your carousel of fears. Because if we're going to lie awake at 3am, fearing the worst, we might at least have some variety.

Remember, I do this research so you don't have to.

TEMPORARY FILLING

And speaking of fears brings to the topic of dentists, and the case of *Mrs N Sejpal v Rodericks Dental Ltd 2022*, in which an Employment Appeal Tribunal considered whether a dentist's employment status was that of a worker or self-employed contractor following an Employment Tribunal's decision.

Mrs Sejpal had worked as a dentist at Rodericks Dental Practice in Kensington since 2010. A clause in her contract with Rodericks stated that she was required to provide a locum dentist after 14 days if she failed to use the practice's facilities. In 2018, Mrs Sejpal went on maternity leave and shortly after, Rodericks announced that it would be closing its Kensington branch.

Following this announcement, Mrs Sejpal's colleagues were informed that they would be redeployed to other branches, however Mrs Sejpal's contract was terminated. In response to this, Mrs Sejpal brought a discrimination claim where she alleged that her contract had been terminated because of pregnancy and maternity (a Protected Characteristic under the Equality Act).

In order to bring such a claim, Mrs Sejpal needed to satisfy the statutory requirement of being a worker.

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Rodericks maintained that Mrs Sejpal was not a worker, citing the locum requirement in her contract meant that she was not under a requirement to personally perform dentistry services at the practice.

The ET held that Mrs Sejpal was not a worker under the statutory definition, as she was not employed under a contract to personally perform services as a worker (opposed to providing services through a business or being a client or customer of Rodericks). This resulted in the ET dismissing her claims.

Upon accepting Ms Sejpal's appeal, the EAT explained that the ET's approach to addressing her claims had not been satisfactory. In the EAT's analysis of Mrs Sejpal's case it considered the statutory test which is used by tribunals and employment lawyers to determine worker status.

The statutory test involved examining whether there was a contract between Rodericks and Mrs Sejpal, and whether there was a requirement for Mrs Sejpal to personally perform services as a dentist for Rodericks.

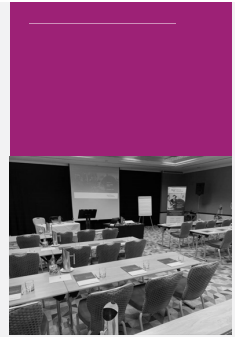
The EAT found that the first two requirements of a contract and personal service were satisfied. However, it concluded that the ET had failed to consider whether Mrs Sejpal provided services through a business and whether Rodericks were a client or customer of hers.

As a result, the EAT has remitted Mrs Sejpal's case to a new ET who will consider the two remaining questions. If the new ET rules that Mrs Sejpal is a worker then she will be able to continue with her discrimination claim relating to pregnancy and maternity.

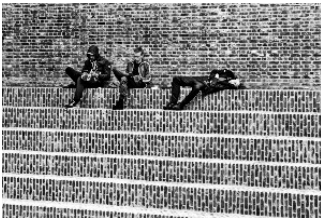
If Mrs Sejpal was to be successful in her discrimination claim, a remedy of compensation has the potential to cause Rodericks significant monetary damage as there is no limit in compensation amounts for discrimination claims.

This case demonstrates the need for employers to be satisfied that their staff are under a contract that reflects the parties' intentions and what is happening in practice. Following the landmark *Uber* case it is has been well established that tribunals can depart from contractual terms if they do not reflect the day-to-day duties of individuals, which highlights the importance of employers ensuring that their contracts are correct.

The decision in the new ET regarding Mrs Sejpal's employment status has the potential to cause significant implications to the law on determining worker status, and for practising dentists' employment relationships.



STOP RIGHT THERE



This week it's about micro breaks and how important it is to just st

♪♪ Theme from A Summer Place plays for three minutes♪♪

Stop what you're doing. Have a little break. Three minutes is good. Apparently we perform better if we do this a few times across the working day. So if you are caught staring into space - or just snoozing - tell your boss you're diligently increasing your productivity and cite *Dr Moseley as back up.

Dr Michael Moseley - the Mr Kipling of medical wisdom - has exceedingly good advice to dispense on his regular BBC Radio 4 podcast - Just One Thing.

*NOT me! Dr Moseley!

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