

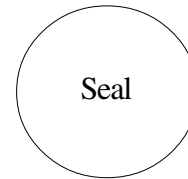
Appellant's Notice



In the

Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.

For Court use only	
Appeal Court Reference No.	
Date filed	



Section 1

Details of the claim or case

Name of court

Case or claim number

Names of claimants/
applicants/
petitioner

Names of defendants/
respondents

In the case or claim, were you the
(tick appropriate box)

☐ claimant

☐ applicant

☐ petitioner

☐ defendant

☐ respondent

☐ other (please specify) _____

Section 2

Your (appellant's) name and address

Your (appellant's) name _____

Your solicitor's name _____ (if you are legally represented)

Your (your solicitor's) address

reference or
contact name

contact telephone
number

DX number

Section 3**Respondent's name and address**

Respondent's name _____

Solicitor's name _____ *(if the respondent is legally represented)*

Respondent's (solicitor's) contact address

reference or
contact namecontact telephone
number

DX number

Details of other respondents are attached ☐ Yes ☐ No**Section 4****Time estimate for appeal hearing****Do not complete if appealing to the Court of Appeal**

How long do you estimate it will take to put your appeal to the appeal court at the hearing?

Days Hours Minutes

--	--	--

Who will represent you at the appeal hearing?

☐ Yourself☐ Solicitor☐ Counsel**Section 5****Details of the order(s) or part(s) of order(s) you want to appeal**Was the order you are appealing made as the result of a previous appeal? Yes ☐ No ☐

Name of Judge

Date of order(s)

If only part of an order is appealed, write out that part (or those parts)

Was the case allocated to a track? Yes ☐ No ☐If Yes, which track was the case allocated to? ☐ small claims track ☐ fast track ☐ multi-trackIs the order you are appealing a case management order? Yes ☐ No ☐

Section 6

Permission to Appeal

Has permission to appeal been granted?

Yes ☐ complete box **A**

No ☐ complete box **B**
*if you are asking for
 permission or it is not
 required*

A

Date of order granting permission _____

Name of judge _____

Name of court _____

B

☐ I do not need permission

☐ I _____
 appellant('s solicitor) seek permission to appeal the
 order(s) at **section 5** above.

Are you making any other applications? Yes ☐ No ☐
 If Yes, complete section 10

Is the appellant in receipt of legal aid certificate or a
 community legal service fund (CLSF) certificate? Yes ☐ No ☐

Does your appeal include any issues arising from the Human Rights Act 1998? Yes ☐ No ☐

Section 7

Grounds for appeal

I (the appellant) appeal(s) the order(s) at **section 5** because:

Between:- Dr. Yuan (Appellant) v Birkbeck College (Respondent)

GROUND FOR APPEAL

1. This is an appeal from the order of the Employment Appeal Tribunal (EAT) promulgated on 21 March 2005 that the EAT dismissed almost all grounds of the appeal in last amended Notice of Appeal (dated 3 January 2005), i.e. the perversity and procedural grounds including the one regarding the Employment Tribunal (ET)'s cost order, except for a single issue in relation to the claim for the loss of last three months of Appellant's probation period.
2. The reason for such refusal is, as explained by the judge at the preliminary hearing, that Judge Burton at the first Rule 3(10) hearing dismissed those grounds.
3. The order promulgated on 21 March 2005 to dismiss those grounds was wrong and unjust:
 - 1) Judge Burton at the first Rule 3(10) hearing on 19 May 2004 questioned the lack of the recorded reason for the ET's decisions, i.e. "the contractual entitlement of the Respondent to dismiss", and ordered to stay the appeal, without allowing nor rejecting any grounds in the Notice of Appeal, until ET's providing the reason pursuant to the EAT's order promulgated on 20 May 2004. Therefore, it is incorrect to say that Judge Burton dismissed any grounds of the appeal at the first hearing.
 - 2) Upon restoring the appeal, Judge Burton in another Rule 3(10) hearing on 27 July 2004 made another order (promulgated on 17 August to allow a tribunal at a preliminary hearing to determine whether the grounds in the Notice of Appeal gives the appeal a reasonable prospect of success at a full hearing. Therefore, the reason that the tribunal used to dismiss those grounds is contrary to this order.
 - 3) The tribunal of the preliminary hearing on 24 November 2004 allowed the Appellant to amend the Notice of Appeal, as stated in the order promulgated on 14 December 2004, "in accordance with the matter raised at the hearing." Pursuant to this order of the EAT, the Appellant lodged the amended Notice of Appeal on 3 January 2005 that added those grounds as argued by Appellant's Advocate at the preliminary hearing.
 - 4) The EAT accepted this version of the amended Notice of Appeal and served it on the Respondent. The Respondent failed to make its Answer to this appeal at all in contrast to its active Answer to the previous version of the Notice of Appeal (dated 16 February 2004), therefore suggesting that the appeal with those grounds in last amended Notice of Appeal is neither hopeless nor impermissible rather seems to be an overwhelming case. It would be unreasonable without proper reason to dismiss those grounds that had been allowed by the EAT and proven to support such promising grounds.
 - 5) Just because of such failure by the Respondent to resist this appeal, the EAT decided to let the same tribunal to re-evaluate last amended Notice of Appeal on another preliminary hearing on 16 March 2005. It would be contrary to the "just and equitable" principle for this tribunal to reverse the course and dismiss those grounds in last amended Notice of Appeal by using improper reason.
 - 6) Besides, it would be also be unjust, without a proper reason, for the EAT to reserve the same Notice of Appeal to the Respondent and order to repeat the procedures that have been complied by both parties for the full hearing.

My skeleton argument is:-

☐ set out below

☐ attached

☐ will follow within 14 days of filing this notice

I (the appellant) will rely on the following arguments at the hearing of the appeal:-

I (the appellant) am (is) asking that:-

(tick appropriate box)

- ☐ the order(s) at **section 5** be set aside
- ☐ the order(s) at **section 5** be varied and the following order(s) substituted :-

- ☐ a new trial be ordered
- ☐ the appeal court makes the following additional orders :-

I wish to make an application for additional orders

☐ in this section

☐ in the Part 23 application
form (N244) attached

Part A

I apply (the appellant applies) for an order (a draft of which is attached) that :-

because :-

Part B

I (we) wish to rely on :

☐ evidence in Part C

☐ witness statement (affidavit)

Part C

I (we) wish to rely on the following evidence in support of this application:-

Statement of Truth

I believe (the appellant believes) that the facts stated in Section 10 are true.

Full name _____

Name of appellant's solicitor's firm _____

signed _____ position or office held _____

Appellant ('s solicitor) (if signing on behalf of firm or company)



If you do not yet have a document that you intend to use to support your appeal, identify it, give the date when you expect it to be available and give the reasons why it is not currently available in the box below.

Please tick the papers you are filing with this notice and any you will be filing later.

- ☐ Your skeleton argument (*if separate*)
- ☐ A copy of the order being appealed
- ☐ A copy of any order giving or refusing permission to appeal together with a copy of the reasons for that decision
- ☐ Any witness statements or affidavits in support of any application included in this appellant's notice
- ☐ A copy of the legal aid or CLSF certificate (*if legally represented*)
- ☐ A bundle of documents for the appeal hearing containing copies of your appellant's notice and all the papers listed above and the following:-

- ☐ a suitable record of the reasons for the judgment of the lower court;
- ☐ any statements of case;
- ☐ any other affidavit or witness statement filed in support of your appeal;
- ☐ any relevant transcript or note of evidence;
- ☐ any relevant application notices or case management documents;
- ☐ any skeleton arguments relied on by the lower court;
relevant affidavits, witness statements, summaries, experts' reports and exhibits;
- ☐ any other documents ordered by the court; (give details)

-
- ☐ in a second appeal, the original order appealed, the reasons given for making that order and the appellant's notice appealing that original (first) order
 - ☐ if the appeal is from a decision of a Tribunal, the Tribunal's reasons for that decision, the original decision reviewed by the Tribunal and the reasons for that original decision

Reasons why you have not supplied a document and date when you expect it to be available:-

Signed _____ Appellant ('s Solicitor)