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For further
information contact:

Judith Ellery
jellery@metcalfes.co.uk
0117 9453080

Angelina Rigby
arigby@metcalfes.co.uk
0117 9453022

Bethan Southcombe
bsouthcombe@metcalfes.co.uk
0117 9453084

BANK HOLIDAYS AND PART-TIME WORKERS – THE DECISION IS IN

There has been much debate and confusion with regard to bank holidays and part-time working – however, this matter has now been cleared up in the recent case of McMenemy v Capita Business Services Ltd.

It was held that an employer who does not give a part-time employee pro rata days off work to reflect Monday bank holidays is not discriminating under the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000.

Mr McMenemy worked on Wednesdays, Thursdays and Fridays. His employer allowed people to have bank holidays off, but only if they actually worked on the bank holiday. Mr McMenemy claimed that amounted to less favourable treatment on grounds of his part-time status, as most bank holidays fall on a Monday.

The Court held that the treatment must be solely on grounds of the worker's part-time status. It held that because the employer would have treated a full-time worker who did not work on a Monday in the same way, Mr McMenemy had failed to establish causation. His appeal was therefore dismissed.

For further information, please contact Bethan Southcombe on 0117 945 3084 or e-mail employment@metcalfes.co.uk