



[Home](#) ♦ [Our People](#) ♦ [Claire Thompson](#)

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♦ [Back](#)



Year of Call: 2014

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Clerk: Justin Emmett

PRACTICE AREAS

Property

Insolvency & Restructuring

Banking and Finance

Wills, Trusts and Probate

Commercial

Company Directors Disqualification

Mediation and ADR

PROFILE

Claire spent her first three years practicing from Chambers' London branch but has recently re-located to Chambers' Bristol branch. Claire continues to regularly appear in London, as well as now having an emphasis on work in Bristol and South Wales.

Since starting practice Claire has developed a broad commercial chancery practice in the above areas

with a particular emphasis on any matter which involves a property or insolvency element allowing her to draw on her experience and expertise in these other areas.

She frequently appears in the County Court, the First-tier Tribunal and the High Court, on all manner of property cases (including possession proceedings, easements/restrictive covenants, adverse possession and service charges), insolvency matters (covering all manner of both personal and corporate, directors' duties and other insolvency processes) and bank recovery proceedings (charges, mortgages, guarantees and indemnities).

Claire has extensive experience representing clients at mediation. She is also a CEDR accredited mediator and accepts instructions to act as mediator in disputes in any of the above practice areas.

PRACTICE AREAS

Property

Claire's practice focuses on property litigation. She represents clients across a broad spectrum of property work including landlord and tenant (residential and commercial possession claims, business lease renewals, breach of covenant, dilapidations, service charge disputes), easements and restrictive covenants, adverse possession claims.

Claire's recent property experience includes:

- Successfully representing a landlord in obtaining possession against a Rent Act protected tenant;
- Successfully representing a social housing landlord in committal proceedings against a tenant for breach of an anti-social behaviour injunction;
- Advising on rights of way and claims for adverse possession in relation to both registered and unregistered land, including drafting grounds of opposition for the Land Registry;
- Advising in relation to a claim in respect of breach of a restrictive covenant in a parking deed;
- Obtaining an interim injunction to prevent sale of a property where an interest in the property was being claimed on the basis of proprietary estoppel;
- Successfully acting for a landlord in proceedings in the First Tier Tribunal in relation to the tenant's liability to pay service charges where the tenant alleged that they were unreasonable and incorrectly demanded where it was necessary to argue estoppel by convention on the part of the landlord;
- Advising a landlord on their rights to bring forfeiture proceedings where the company has gone into administration;
- Acting for a landlord in recovering rent arrears and defending a counterclaim in misrepresentation in relation to the energy costs of the property based upon the energy performance certificate.

Insolvency & Restructuring

Claire acts for both insolvency practitioners and debtors in both the corporate and individual sphere and does a complete range of work in this area. She has a particular emphasis on insolvency work where there is also a property element such as tenants going into liquidation, administration or entering into a CVA. Claire's company practice generally involves a cross over with her insolvency practice. She regularly acts in matters involving breach of directors' duties on behalf of insolvency practitioners and directors alike where the

company has subsequently gone into liquidation.

Claire's recent insolvency experience includes:

- Successfully representing a trustee in bankruptcy in a possession and sale application disputed on the grounds of an interest by virtue of proprietary estoppel/a common intention constructive trust;
- Successfully representing a liquidator of a company in an application against a director for misfeasance and breach of fiduciary duty;
- Obtaining an order that sums paid into court in advance of an ultimately unsuccessful annulment application could be claimed as after acquired property where the money had not been loaned for a specific purpose;
- Obtaining an order appointing interim managers pending the final hearing of an administration application where the administration order would trigger the forfeiture clause under the lease;
- Acting in Proceed of Crime Act proceedings for a bankrupt on the issue of whether compensation payable where the Bankrupt was a cause of action which vested in the trustee in bankruptcy.
- Successfully representing a liquidator in obtaining an order against a director for breach of their duties under the Companies Act 2006 where the director sought to rely upon s.1157 of the Companies Act 2006;
- Obtaining an order for permission to act whilst disqualified as director of a Company;
- Obtaining an order for permission to use a company name prohibited under s.216 of the Insolvency Act 1986.

Banking and Finance

Claire acts predominantly for lenders, advising and representing at all stages. She frequently appears and acts in relation to the enforcement of charges, mortgages, guarantees, LPA receivership cases. She has a particular interest in cases which cross over into the insolvency or property sphere.

Her recent cases include:

- Successfully representing a lender at a summary judgment hearing where the defendant guarantor was relying upon a provision in a CVA prohibiting enforcement action against the director whilst the CVA was in force, where the principal debtor had gone into liquidation
- Advising receivers in relation to how to deal with unregistered tenancies of longer than 3 years, rent act tenancies, and assured tenants in HMOS granted by a mortgagee;
- Obtaining an order against a guarantor where the guarantor was running a number of defences including non-compliance with the new debt pre-action protocol.
- Representing a secured lender in protecting their priority in Proceeds of Crime Act proceedings in the Crown Court, and varying a restraint order to reflect this.

Wills, Trusts and Probate

Claire accepts instructions in relation to all aspects of this areas, but has particular expertise in relation to advising both executors and prospective claimants in relation to claims under the Inheritance Act 1975. She is frequently instructed to advise on both the merits and quantum of such claims.

Claire's recent experience includes:

- Successfully obtaining an order on behalf of co-execturices for the removal of a caveat in the Principal Registry of the Family Division;
- Representing a protected party at mediation in obtaining a settlement and subsequently obtaining court approval of that settlement and with the impact of connected issues of power of attorney and the appointment of deputies in the Court of Protection;
- Acting for an executor of an estate in successfully resisting a claim under the Inheritance Act 1975;
- Acting for an adult child in a claim for reasonable financial provision under the Inheritance Act 1975.

Commercial

Claire also accepts instructions in general commercial matters and has acted on all manner of construction, general contractual and sale of goods disputes.

Her recent experience includes:

- Representing a commercial construction client in reducing a claim for unpaid invoices below the small claims threshold and then obtaining an adverse costs order against the claimant despite having received a small judgment in their favour;
- Advising a freeholder as to limitation under the Latent Defects Act 1986 a claim against a construction company for sub-standard structural works;
- Acting for a leading clothing retailer in successfully defending a number of claims made by customers for a refund of purchase price under the Consumer Rights Act 2015;
- Successfully defending a car hire company in a claim for parking charges, involving a dispute over the construction of the hire agreement clauses and paragraph 13 of Schedule 4 of the Protection of Freedoms Act 2012.

Company Directors Disqualification

Claire's insolvency and re-structuring practice also has a substantial cross-over with her work in relation to Company and Company Director's Disqualification. She regularly acts in matters involving breach of directors' duties on behalf of insolvency practitioners and directors alike where the company has subsequently gone into liquidation and has significant expertise in Company Director's Disqualification matters.

Her recent experience includes:

- Successfully representing a liquidator in obtaining an order against a director for breach of their duties under the Companies Act 2006 where the director sought to rely upon s.1157 of the Companies Act 2006;
- Obtaining an order for permission to act whilst disqualified as director of a Company;
- Obtaining an order for permission to use a company name prohibited under s.216 of the Insolvency Act 1986.

Mediation and ADR

CAREER AND ASSOCIATIONS

2008-2012: LLB (Hons) First Class, Law and French, University of Bristol

2013 – 2014: Bar Professional Training Course (Outstanding)

2014-2015: LLM in Legal Practice (Company Law), Cardiff University (Distinction)

2015: CEDR accredited mediator

2016: James Hunt Advocacy Prize (best performance at the pupil trial exercise), Gray's Inn:

2013: Prince of Wales Scholar, Gray's Inn

Member of the Chancery Bar Association

Member of the Property Bar Association

Member of the Agricultural Lawyers Association

PUBLICATIONS

Dealing with Insolvent Tenants

Can't pay but should they get to stay: tenants in administration originally published by Practical Law Property Litigation in April 2019

Think before you speak: when do threats by a landlord constitute harassment originally published by Practical Law Property Litigation in August 2018

Professional Negligence Update: Orientfield Holdings Ltd v Bird & Bird LLP [2015] EWHC 1963 (Ch); [2015] 6 Costs L.O. 667 Estates Gazette Q&A, March 2018 written in conjunction with Robert Highmore at Charles Russell Speechlys LLP

Proceeds of Crime Act 2002 in property cases Estates Gazette Q&A, June 2017 written in conjunction with Rachel Morrish at Charles Russell Speechlys LLP



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