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## Fiona Todd

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**Year of Call:** 2014

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**Clerk:** Joanne Caunt

**Clerk:** Ellen McInall

### PRACTICE AREAS

Property

Wills, Trusts and Probate

Insolvency & Restructuring

Commercial

### PROFILE

Fiona has a busy commercial chancery practice focussed on property, contentious probate, insolvency and commercial disputes. She has particular interests in international succession and insolvent estates.

With a wealth of experience, Fiona is a skilled advocate who frequently stands as sole counsel in the High Court, First-tier Tribunal, and County Court.

Fiona provides pragmatic and strategic legal guidance. Her clientele spans a diverse spectrum,

encompassing banks, lenders, professionals, corporations, and individuals navigating litigation for the first time.

Fiona's current and recent case load includes:

- Acting in a high profile contentious probate claim in the High Court involving issues of domicile, Belgian and Russian laws of succession and validity of a will
- Advising in prospective injunctive proceedings against a supermarket
- Drafting a defence in a boundary dispute
- Acting for an insolvency practitioner in a long running application for an order for possession and sale of a bankrupt's property
- Acting for a lender at trial and advising in possession proceedings which involved securitisation
- Advising a business owner on challenging liability orders obtained in respect of unpaid NNDR

## PRACTICE AREAS

### Property

Fiona has experience in a number of areas of in real property including easements, adverse possession, boundary disputes, land registration, nuisance, trusts of land and co-ownership issues, and landlord and tenant work.

Fiona particularly enjoys property insolvency work, including issues of forfeiture and insolvent tenants, and disclaimer.

#### Examples of her recent work include:

- Successfully acting for a service charge company in a complex service charge dispute against a litigant in person in the First-tier Tribunal
- Acting for the Applicant in an on-going adverse possession application in the First-tier Tribunal in circumstances where the Respondent died during the proceedings
- Advising and drafting a defence in a neighbour dispute arising out of flooding and encroachment
- Successfully acting for and advising a lender in a possession claim where the Defendants were relying on securitisation as a defence
- Advising a social club in relation to interference with their parking easement by a supermarket
- Successfully representing a property owner in a nuisance claim arising out of Japanese knotweed.

### Wills, Trusts and Probate

Fiona has established an impressive probate practice. She is well-versed in Inheritance Act claims, the construction and rectification of wills, the validity of wills, and removal of personal representatives. In addition, she has a particular interest disputes involving issues of domicile and international succession.

#### Examples of Fiona's recent work include:

- Acting in the *Morina v Scherbakova* litigation. This was a trial before Mrs Justice Bacon in the High Court spanning 3 weeks. The dispute concerned the estate, estimated at a value of £100 million, of Vladimir Scherbakov, a Russian businessman who died in Belgium in 2017. The issues included the domicile of the deceased, the applicable laws of succession governing his worldwide moveable estate (Russian, English or Belgium), the validity and revocation of a will dated October 2015 and the suppression of the original copy of that will by the deceased's ex-wife and adult children.
- Representing executors who sought a declaration from the High Court on the construction of a will which left a substantial sum to either a political party or a charity.
- Providing an opinion on settlement for the court in connection with an infant approval.
- Advising on whether *inter vivos* gifts made by the deceased were challengeable by reason of lack of capacity or undue influence.

## Insolvency & Restructuring

Fiona acts for and against liquidators, trustees in bankruptcy, receivers and administrators in connection with a wide range of insolvency matters. She regularly appears as sole counsel at trials and applications, but equally has a busy paper practice.

Fiona has substantial experience of winding up proceedings, including injunctions to restrain presentation/advertisement of petitions, rescission of winding up orders and disputed debts. Her in-depth familiarity with local court practices proves invaluable to her clients, particularly in cases requiring swift action.

In addition, Fiona is well-versed in bankruptcy proceedings, including applications to set aside statutory demands and annulments.

She has experience at appellate level, recently dealing with an appeal against the dismissal of a bankruptcy petition in circumstances where the District Judge had failed to apply the correct test as to whether there was a genuine triable issue of duress.

Fiona also has particular expertise in the insolvent estates of deceased persons.

### Examples of her recent work include:

- A successful application by an administrative receiver to defer the date of dissolution of a company where the office holder was in negotiations with a Dutch trustee regarding dividends due from a number of SPVs
- Advising Joint Liquidators on the validity of their appointment in light of section 318 of the Companies Act 2006
- Successfully obtaining an order for possession and sale of a bankrupt's property where the Respondents contended the property was held on trust
- Advising on an alleged set-off said to arise in respect of debts and dealings between the company and a former director

## Commercial

Fiona acts in a broad range of commercial disputes where her pragmatism and commercial approach are particularly valued by her clients. Particular areas of emphasis include contractual disputes of all kinds ranging from building disputes to unjust enrichment claims, sale of goods and consumer credit.

Fiona is adept at dealing with procedural issues. She recently achieved success representing the Respondent

in an application to set aside an order made of the court's own initiative, which was presided over by Fancourt J.

### Recent examples of Fiona's work include:

- Acting for the successful Claimants in a 3 day trial for delivery up of goods under the Torts (Interference with Goods) Act 1977
- Drafting particulars of claim in a dispute arising from the installation of a renewable heating system under the Domestic Heat Incentive Scheme Regulations 2014
- Advising and successfully representing Defendants in a claim for specific performance of a contract of sale where the Claimant had applied for default judgment and the Defendants made a cross application for relief from sanction
- Drafting proceedings for a local authority seeking an Enforcement Order under the Enterprise Act 2002 in respect of a local hotel
- Advising in a potential claim under section 75 of the Consumer Credit Act 1974

## CAREER AND ASSOCIATIONS

Bar Professional Training Course (Outstanding): 2013 – 2014

Trinity Chambers Prize for Best Overall Student on the BPTC: 2014

Parklane Plowden Prize for Excellence in Advocacy: 2014

Dean's Award Scholarship for the BPTC: 2013 - 2014

Graduate Diploma in Law: 2012 – 2013 – Edinburgh University

Law (LLB) Hons, University of Edinburgh: 2007 - 2011

Member of the Chancery Bar Association

Member of the Property Bar Association

Member of R3: Association of Business Recovery Professionals

Member of Women in Property

## PUBLICATIONS

Contributor to Bailey and Groves: Corporate Insolvency

Contributor to Westlaw Insight

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