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## Kavan Gunaratna

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**Year of Call:** 2004

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**Clerk:** Duane Hitchman

**Clerk:** Kenya Mendoza

### PRACTICE AREAS

Insolvency & Restructuring

Property

Commercial

Company

Banking and Finance

Partnership and LLP

Professional Negligence and Disciplinary

### PROFILE

Kavan represents clients in disputes across the full spectrum of commercial-chancery litigation. He is ranked by the legal directories as a leading junior in several disciplines, reflecting his strength and expertise across the board, including in the fields of: insolvency and restructuring; property/ real estate

disputes; and chancery-commercial litigation, where he is described as “unfailingly brilliant” and “one of the best barristers in the area” (see below). Kavan’s work is exclusively contentious and he is often on his feet, appearing in the Business and Property Courts of the High Court, in the specialist County Court lists, in Tribunals, and in the Appellate Courts in all of his fields of practice.

Kavan was nominated by Chambers & Partners as Company/Insolvency junior of the year.

The quotations below are all from the Chambers UK, Chambers Global, and Legal 500 guides.

## PRACTICE AREAS

### Insolvency & Restructuring

Kavan deals with all aspects of corporate and personal insolvency.

His experience includes, all aspects of company, LLP, partnership and individual insolvency. His experience ranges from applications to set aside statutory demands, injunctions, bankruptcy petitions, administration applications, antecedent transaction claims (misfeasance, TUVs, preferences, s.423 IA 1986), unlawful dividends and distributions, wrongful trading and all other areas of insolvency.

### Property

Kavan covers all types of real estate litigation, commercial landlord and tenant disputes, and residential lease and tenancy disputes

### Commercial

All aspects of general commercial litigation and banking litigation, including commercial fraud, asset recovery, guarantees, secured lending and contractual disputes

### Company

All types of company law, including directors’ disqualification, directors’ duties and shareholder’s disputes

### Banking and Finance

Kavan has dealt with a range of banking enforcement matters such as guarantees and mortgages acting for both banks and sureties,

## Partnership and LLP

Kavan has regularly advised and acted in partnership and LLP disputes. His assistance is often sought in the context of disputes among partners/members of professional partnerships/LLPs.

His multi-disciplinary expertise enables him to give complete advice on other aspects which regularly arise in partnership/LLP disputes, such as contract, insolvency, professional negligence, civil fraud, insurance and commercial property.

## Professional Negligence and Disciplinary

As well as acting in cases involving alleged breaches of duties of care and skill by company directors and banks, Kavan regularly acts in professional negligence claims against solicitors, accountants, financial advisers and insolvency practitioners

## SIGNIFICANT CASES

### **Mond v Insolvency Lawyers' Association [2023]**

EWHC 477 (Ch)

Whether the test for determining the nature and extent of waiver of legal professional privilege is the same in cases of express waiver and implied waiver and whether, in professional disciplinary proceedings, waiver by a person for the purpose of establishing that they had not received a fair trial (due to the absence of independent representation) extended to the retrial

### **RE: A Company [2021]**

EWHC 2905 (Ch)

Dismissal of winding up petition on application of Coronavirus test in Schedule 10 CIGA 2020 and considering relevant date for assessment of test.

### **Mond, R (On the Application Of) v Insolvency Practitioners' Association [2021]**

EWHC 3325 (Admin)

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Claim by Insolvency Practitioner to quash decision of regulatory tribunal for wrongly ordering IP to pay costs of disciplinary proceedings, where the findings in such proceedings had been found to be unsafe and the orders made declared to be void. Led by Stephen Davies QC.

**Re: Marc (Greenhouse) Limited [2020] EWHC 1178 (Ch)**

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Chancery Division, Morgan J. – tenant insolvency – contested administration application regarding well-known two Michelin star Mayfair restaurant, following service of break notice by former landlord and forfeiture of lease.

**Siddiqi v Tapariz Ltd [2019] EWHC 417 (Ch)**

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The first reported decision on the provisions of the 2018 Practice Direction: Insolvency Proceedings regarding the restricted jurisdiction of certain courts to determine opposed insolvency petitions. Led by Stephen Davies QC.

**Riverview Ltd & Balfour Beatty v Persons Unknown [2018] EWHC 3561**

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Chancery Division– urgent injunction proceedings in aid of repairs to the River Thames Flood Defence Wall on behalf of the Environment Agency, to prevent flooding and shut-down of the London Underground network.

**Ve Vegas Investors IV LLC v Shinnars [2018] EWHC 186 (Ch); [2019] BPIR 438**

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Led by Marcia Shekerdeman QC, proceedings for removal of administrators following pre-pack sale of insolvent tech. business, claimed to have been worth in excess of £1bn.

**Okon v London Borough of Lewisham - Court of Appeal: [2017] 10 WLUK 716**

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Appeal following decision of High Court Chancery Division clarifying law on bankruptcy proceedings by local authorities and appeals to valuation tribunals.

**Okon v London Borough of Lewisham - High Court, Chancery Division [2016] EWHC 864 (Ch); [2016] BPIR 958**

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Appeal following decision of High Court Chancery Division clarifying law on bankruptcy proceedings by local authorities and appeals to valuation tribunals.

**Okon v London Borough of Lewisham - High Court, Administrative Court [2017] EWHC 1933 (Admin); [2017] BPIR 1568; [2018] R.V.R. 158**

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Separate appeal from finding of sham tenancies, considering court's jurisdiction to entertain appeal on grounds of alleged fraud or misconduct of tribunals and for alleged perversity of findings of fact, and principles of res judicata in tribunals.

**Zelouf v Khanna [2016] EWHC 205 (Ch); [2016] BPIR 1288**

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Proceedings by creditor to challenge voluntary arrangement on grounds of unfair prejudice and material irregularity, and considering whether statements by chairman of creditors' meeting gave rise to independent causes of action.

**Salt v Stratstone Specialist Ltd [2015] EWCA Civ 745; [2015] 2 CLC 269**

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Decision of Court of Appeal establishing restriction on court's ability under the Misrepresentation Act 1967 to award damages in lieu of rescission of a contract where rescission no longer possible; considering availability of rescission after lapse of time; and principles of restitutio in integrum.

**Re Arrowfield Services Ltd, Pearse v Lord [2015] EWHC 3046 (Ch)**

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Proceedings concerning private examination of director under section 236 Insolvency Act 1986 and incidence of costs.

**Tailby v HSBC Bank Plc [2015] BPIR 143**

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First reported decision in this jurisdiction on whether the giving of a company director's personal guarantee would amount to a voidable transaction at undervalue under the Insolvency Act 1986.

**ABN Amro Commercial Finance plc v McGinn [2014] EWHC 1674 (Comm); [2014] 2 Lloyd's Rep. 333; [2014] 2 CLC 184**

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Proceedings for recovery of £9m claimed under invoice discounting facility and directors' personal guarantees,

considering ability of banks to self-certify sums due from debtors, in reliance on contractual 'conclusive evidence clauses' (permission to appeal to the Court of Appeal granted immediately before settlement of case).

#### **Begley v Taylor [2014] EWHC 1180**

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Chancery Division – rights of way and easements to park over private land acquired by lost modern grant and under the Prescription Act 1832.

#### **Thompson v London Borough of Redbridge [2013] EWCA Civ 984**

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Appeal to Court of Appeal against Judge's refusal to permit an appeal to be brought substantially out of time.

#### **Bevin v Datum Finance Ltd [2011] EWHC 3542 (Ch)**

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Challenge to multi-million pound facility agreements granted to property developer on grounds of alleged unfair commercial relationship, and concerning statutory demands to enforce such debts.

#### **White v Davenham Trust Ltd [2011] EWCA Civ 747; [2011] Bus. L.R. 1443; [2012] 1 BCLC 123; [2011] BPIR 1187**

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Court of Appeal decision establishing entitlement of creditor to petition for bankruptcy of a guarantor even if that creditor was precluded from petitioning against the principal debtor for the same guaranteed debt.

#### **London Borough of Redbridge v Mustafa [2010] EWHC 1105 (Ch); [2010] BPIR 893**

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Decision of the Chancellor of the High Court establishing principles for payment of the costs and expenses of a bankruptcy following annulment and inherent jurisdiction to provide for those of the relevant insolvency practitioner.

## **CAREER AND ASSOCIATIONS**

Kavan read law at Trinity Hall, Cambridge, before being called to the Bar with an 'Outstanding' classification



(ranking in the top 10 of over 500 pupils in his year at bar school), and was awarded Lord Mansfield, Sir Robert Megarry and Hardwicke scholarships from Lincoln's Inn as well as its Buchanan prize as the top scholar at his call.

Member of the Chancery Bar Association

Member of Commercial Bar Association

Member of the Property Bar Association

Member of the Insolvency Lawyers' Association

Member of the Association of Business Recovery Professionals (R3)

Member of INSOL International

## PUBLICATIONS

Contributor to Butterworth's Property Insolvency

Contributor to The Annotated Guide to Insolvency Legislation (Lexis Nexis)

Contributor to The Landlord & Tenant Factbook

Contributor to The Rural Law Notebook

Contributor to numerous articles in the Estates Gazette (Q&A section)

Contributor to PLC's Property Litigation Blog

Contributor to Butterworths Journal of International Banking and Financial Law



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