

Mairi Innes

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Year of Call: 2017

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PRACTICE AREAS

Insolvency & Restructuring

Commercial

Property

Company

Banking and Finance

Offshore and International

Wills, Trusts and Probate

PROFILE

Mairi has a strong commercial chancery practice, with particular focus on commercial disputes, insolvency and civil fraud. Mairi has significant experience in group actions arising from failed property investment schemes. Mairi is ranked as Up and Coming by Chambers and Partners in the field of Restructuring/Insolvency, where she is described as *“a very safe pair of hands indeed”* and *“absolutely on top of the details”*.

Recent cases in which Mairi has been involved include:

- Representing (led by Stephen Davies KC) defendant directors to a complex breach of duty claim

arising from an employee benefit trust scheme.

- Representing (as sole counsel) two companies defending public interest winding up petitions presented by the Secretary of State.
- Successfully representing (led by Simon Johnson) claimants in a group action worth £14 million against negligent solicitors and their insurers, arising from a failed property investment scheme.
- Successfully representing (led by Niall McCulloch) the claimant liquidators of a bridge lending company in the 5-week trial of their claim in fraudulent trading and breach of duty against the company's former directors. Judgment was obtained on 13 December 2023 (*Bouchier v Booth* [2023] EWHC 3195 (Ch)) resulting in a judgment against the directors of approximately £30 million.
- Representing (led by Simon Johnson) defendants to a claim worth £50 million brought by a large group of individuals alleging fraudulent misrepresentation relating to the sale and purchase of holiday and student properties. Among other things, Mairi appeared as junior counsel on the 3-day application to discharge a worldwide freezing order: *4VVV Ltd v Spence* [2023] EWHC 1 (Comm).
- Acting (led by Niall McCulloch) for the petitioner and provisional liquidators of a company suspected of involvement in a substantial and complex labour supply fraud with an international element. A winding up order was successfully obtained on 24 October 2023: *Parrot Pay Ltd (In Liquidation) v Goddington Pierce Ltd (in Provisional Liquidation)* [2023] EWHC 2774 (Ch).

Mairi's practice is exclusively contentious and she regularly appears, both as sole counsel and as part of a counsel team, in the High Court and the County Court. Her practice also involves a wide range of advisory work. She accepts instructions in all of Chambers' main practice areas.

Mairi has been appointed by the Attorney General to the London C Panel of Junior Counsel to the Crown, commencing on 1 September 2024 for 5 years.

PRACTICE AREAS

Insolvency & Restructuring

Insolvency work forms a major part of Mairi's practice. Mairi accepts instructions in all aspects of insolvency work, including both personal and corporate insolvency and insolvency with an international aspect.

Mairi is particularly interested in the intersection between civil fraud and insolvency law. She has been involved in a number of cases involving the misappropriation of company funds and allegations of fraudulent activity on the part of company directors. She has also acted for trustees in bankruptcy in cases where the bankrupt's conduct is in question, such as where there was a wrongful sale of the bankruptcy assets and where there was suspicion that the bankrupt had forged documents to defraud creditors.

Recent cases include:

- Successfully representing (led by Niall McCulloch) the claimant liquidators of a bridge lending company in the 5-week trial of their claim in fraudulent trading and breach of duty against the company's former directors. Judgment was obtained on 13 December 2023 (*Bouchier v Booth* [2023] EWHC 3195 (Ch)) resulting in a judgment against the directors of approximately £30 million.
- Acting (led by Niall McCulloch) for the petitioner and provisional liquidators of a company suspected of involvement in a substantial and complex labour supply fraud with an international element. A winding up order was successfully obtained on 24 October 2023: *Parrot Pay Ltd (In Liquidation) v Goddington Pierce Ltd (in Provisional Liquidation)* [2023] EWHC 2774 (Ch).
- Acting (led by Stephen Davies KC) for defendants to a multi-million pound claim in respect of alleged breach of duty arising from their directorship of a company in liquidation and in particular the company's

entry into an employee benefit trust scheme

- Successfully obtaining a without notice freezing injunction for a liquidator of a company against the former sole director of that company in support of an application against the director under ss 212 and 238 of the Insolvency Act 1986
- Acting for a trustee in bankruptcy in relation to a complex dispute arising from disputed proofs of debt: *Advanced Industrial Technology Corp Ltd v Brooker* [2024] EWHC 1186 (Ch)
- Acting for the successful appellant trustees in bankruptcy in *Re Hussain* [2021] EWHC 3276 (Ch), in which the High Court made significant observations regarding the form of proceedings under the Insolvency Act 1986 and held that the trustees had acted appropriately in issuing proceedings for possession and sale using an Insolvency Act Application Notice
- Acting for a trustee in bankruptcy responding to a bankrupt's application for permission to make an application challenging the trustee's conduct under section 304 of the Insolvency Act 1986 and successfully obtaining dismissal of that application: *Cassanova v Cockerton* [2021] EWHC 1688 (Ch)
- Acting for a public house which successfully applied to strike out a winding-up petition on the basis that the petition debt was disputed: *Re JR Taverns (Cardiff) Ltd* [2021] 1 WLUK 37
- Acting for the successful appellant petitioning creditor in overturning the dismissal of a bankruptcy petition for non-attendance of the petitioning creditor: *Javeri v Zorab* [2020] EWHC 621 (Ch)
- Successfully obtaining an order for possession and sale of a bankrupt's properties after trial and resisting the argument of the bankrupt's former partner that she had acquired an enhanced interest in those properties
- Successfully obtaining recognition of an Australian bankruptcy
- Successfully obtaining an order permitting service of a winding up petition out of the jurisdiction on a company registered in the Marshall Islands
- Successfully obtaining a retrospective administration order where an extension to the original administration was found to be invalid

Commercial

Commercial work forms a major part of Mairi's practice. Mairi accepts instructions in a wide range of commercial disputes, including construction of contracts and contractual disputes, sale of goods, guarantees and civil fraud claims. Mairi has experience in acting for both applicants and respondents to freezing injunctions.

Mairi has significant experience and a particular interest in group actions arising from failed property investment schemes.

Recent cases include:

- Acting (led by Simon Johnson) for a defendant to a claim worth £50 million brought by a large group of individuals alleging fraudulent misrepresentation relating to the sale and purchase of holiday and student properties
- Acting (led by Simon Johnson) for a group of 91 individuals bringing a claim in professional negligence against solicitors and, ultimately, their insurers, arising from the collapse of a care home investment scheme
- Acting for a group of individuals bringing a claim in professional negligence against solicitors and, ultimately, their insurers, arising from the collapse of a large property development in Salford
- Successfully obtaining a Bankers Trust order in respect of funds misappropriated by a company employee
- Successfully resisting an application to set aside default judgment in a high-value contractual claim
- Acting for a well-known rapper defending a claim for payment for a music video, where it was alleged that

the music video was not of the quality promised

- Advising and acting for a defendant to an arbitration action brought in relation to a property development contract worth over £4 million
- Acting for a haulage company bringing a claim in conversion and restitution against a company which used its vehicles without permission
- Advising a leading clothing retailer in relation to a contract for the provision of web services on matters of limitation of liability and contractual extensions

Property

Property work forms a major part of Mairi's practice. Mairi accepts instructions in all aspects of property work, including commercial and residential landlord and tenant, mortgages, easements and trusts of land.

Mairi is frequently instructed in technical and complex aspects of property litigation, and has considerable experience given her work on the Land Registration team at the Law Commission prior to joining Chambers. She is particularly interested in cases which involve an element of insolvency or civil fraud.

Recent cases include:

- Successfully acting for a landlord in forfeiture proceedings of a high-value commercial lease
- Successfully applying for committal of a tenant in breach of a landlord's injunction
- Advising in respect of two complex property transactions and the potential impact of various easements on those transactions
- Acting in a trial in the First-Tier Tribunal relating to prescription of an easement
- Acting in a trial advancing a defence of proprietary estoppel to possession proceedings
- Acting for a Mosque opposing an injunction for re-entry sought by a purported tenant of one of its rooms
- Acting in a trial of an application for a declaration under the Trusts of Land and Appointment of Trustees Act 1996
- Advising a group of tenants as to a claim for collective enfranchisement under the Leasehold Reform, Housing and Urban Development Act 1993
- Advising a tenant in relation to a dispute as to the terms of a renewed commercial lease under the Landlord and Tenant Act 1954

Company

Mairi accepts instructions in all areas of company law. Mairi is particularly interested in company law cases with an element of insolvency.

Recent cases include:

- Advising a trustee in bankruptcy with a minority shareholding in a company on the options available to them, including presenting an unfair prejudice petition under section 994 of the Companies Act 2006
- Advising a liquidator in respect of a potential claim against a company director for breach of their director's duties
- Advising a company in respect of a potential fiduciary duty claim arising from the compulsory purchase of

farmland

- Acting for the executor of an estate applying to rectify the register of members of a company on an urgent basis, where the company's sole director and shareholder had died
- Advising the beneficiaries of an estate as to the transmission of shares in a company and their potential realisation
- Acting for a company applying to extend time to register a company charge

Banking and Finance

Mairi frequently acts in disputes involving banking and finance law, including:

Recent cases include:

- Acting in relation to mortgages, charges, debentures and guarantees
- Acting on claims under the Consumer Credit Act 1974
- Advising and acting in relation to regulated activities under the Financial Services and Markets Act 2000

Offshore and International

Mairi is developing an international practice, including recently acting as part of a team for corporate claimants affected by the Samarco Dam collapse in Brazil, issued in the High Court in Liverpool with a value of approximately £5 billion.

Wills, Trusts and Probate

Mairi accepts instructions in all areas of wills, trusts and probate, including testamentary capacity, claims under the 1975 Act and disputes involving trusts.

The law of wills and probate is of particular interest to Mairi following her work on the Wills project at the Law Commission prior to joining Chambers.

Recent cases include:

- Acting for the respondent to an application under the Inheritance (Provision for Family and Dependents) Act 1975
- Acting in a challenge to the validity of a gift given in a will by asserting an equitable interest in the deceased's property
- Acting in a claim to remove executors from an estate
- Advising a beneficiary of an estate as to whether a property passed pursuant to a will or outside of the estate by virtue of the doctrine of survivorship
- Advising the beneficiaries of an estate as to the transmission of shares in a company and their potential realisation

- Advising a former administrator of an estate in relation to allegations of mismanagement of the estate
- Advising a potential claimant as to the merits of challenging a will on the basis of lack of capacity, lack of knowledge and approval and undue influence

SIGNIFICANT CASES

Bouchier v Booth; Re Tiuta International Limited [2023]

EWHC 3195 (Ch)

Judgment for £28.8m in fraudulent bridge lending case, the former directors of the Company are held to have carried on the business of the Company fraudulently (under section 213 of the Insolvency Act 1986), defrauding a regulated investment fund, and to have acted in fraudulent breach of their fiduciary duties to the Company, using a subsidiary of a Plc to refinance a toxic debt portfolio during the financial crisis of 2008.

4VVV Ltd & Ors -v- Spence & Ors [2023]

EWHC 1 (Comm)

Represented the third defendant in a £50 million fraudulent misrepresentation and conspiracy claim brought by 430 individuals

RE: Jakir Hussain (In Bankruptcy) [2021]

EWHC 3276 (Ch) [2022] CPIR 393

The Judge on appeal made significant observations regarding the form in which proceedings under the Insolvency Act 1986 are to be commenced and the underlying statutory purpose of Insolvency Act applications. The decision is authority for the proper form of an application under section 335A of the Insolvency Act 1986. It was held that it was entirely correct for the trustees in bankruptcy to have initiated that application by way of Insolvency Act application notice under rule 1.35 of the Insolvency Rules 2016. The Deputy District Judge below was wrong to have dismissed the application because it was not made by way of Part 8 claim. To view the Judgment click [here](#).

Cassanova v Cockerton [2021]

EWHC 1688 (Ch); [2021] BPIR 1216; [2021] All ER (D) 23

Acted for a trustee in bankruptcy responding to a bankrupt's application for permission to make an application challenging the trustee's conduct under section 304 of the Insolvency Act 1986 and successfully obtaining dismissal of that application. Successfully argued that section 303 should not be used to circumvent the permission requirement in section 304. The decision sets out the criteria to be applied under section 304(2).

Javeri v Zorab [2020]
EWHC 621 (Ch)

Acted for the successful appellant petitioning creditor in overturning the dismissal of a bankruptcy petition for non-attendance of the petitioning creditor.

CAREER AND ASSOCIATIONS

Appointed by the Attorney General to the London C Panel of Junior Counsel to the Crown.

Elected to the Chancery Bar Association Committee

Bar Professional Training Course: 2016-2017

Denning and Hardwicke Scholar, Lincoln's Inn: 2016-2017

Property, Family and Trust Team, Law Commission: 2015-2016

Pembroke College, Cambridge (BA Law, First Class): 2012-2015

Awarded the Willoughby Prize for Private Law, the Foundation Scholarship, the Squire Scholarship and the Pembroke College Prize

Member of the Chancery Bar Association

Member of the Property Bar Association

PUBLICATIONS

Gore-Brown on Companies, Chapter 52: Administration

Landlord and Tenant Factbook, Chapter 2: Rent Review

Enforcement of Possession Orders in Residential Premises During the Pandemic, Practical Law Property Litigation Column, February 2021

Bankruptcy Petitions Founded on Foreign Judgments: Points to Consider, Touchpoint Newsletter (INSOL), July 2020

MEES Regulations, EPCs and Residential Tenancies from April 2020, Practical Law Property Litigation Column, May 2020

Restate or Update: When Will the Court Insert New Terms in a Commercial Lease Renewal, Practical Law Property Litigation Column, September 2019

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