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PRACTICE AREAS

Insolvency & Restructuring

Banking and Finance

Company Directors Disqualification

PROFILE

Stephen Davies KC is widely recognised as one of the most experienced litigators of issues relating to the law and practice of insolvency, also ranging into banking and finance and the disqualification of directors.

A standout silk who has published widely on insolvency law and practice. In addition to corporate and personal insolvency, he has a particular expertise in asset recovery and directors' liability. He has extensive experience assisting trustees in bankruptcy and private individuals with complex, high-value claims surrounding personal insolvency.

A highly regarded KC whose banking practice is informed by his specialism in restructuring and insolvency. He has additional expertise in relation to allegations of the manipulation of financial benchmarks, and has appeared in high-profile cases concerning fraudulent Libor manipulation.

A perfect choice for banking and insolvency disputes. Sources commend his lengthy experience practising litigation and reveal his impressive reputation in the market. His expertise includes misrepresentation, breach of duty and Libor manipulation.

PRACTICE AREAS

Insolvency & Restructuring

Stephen advises and acts for various stakeholders in litigation relating to all forms of the law and practice of insolvency, in respect of which he has appeared in over 100 reported cases. He has advised in relation to many high-profile insolvencies, including Lehmans, Madoff, AIB, Rangers FC, Carillion, Shlosberg, Maud, Asil Nadir and Wind Hellas.

In 2019 he has been instructed in cases relating to the artificial distressing of corporate customers by their bankers, Berkeley Applegate orders, negligence of insolvency professionals, sports insolvencies, the removal of insolvency office-holders and pursuing or defending a range of clawback claims.

Recent Case

Kireeva v Bedzhamov [2021] EWHC 2281 (Ch)

Whether the English court can grant assistance to a Russian bankruptcy trustee in respect of immovable property situate in England and whether a Russian bankrupt can oppose recognition of his bankruptcy order on the grounds that he wishes to re-litigate in England the question whether the petitioning creditor's Russian judgment debt was obtained by fraud

Banking and Finance

During 2013 and 2014 Stephen was lead counsel acting for Graiseley Properties Limited in its test case in the Commercial Court (Mr Justice Flaux) against Barclays Bank plc alleging that the bank's admitted manipulation of LIBOR submissions and also its knowledge of dishonest LIBOR submissions were grounds for rescinding swap transactions which used LIBOR as their reference rate.

The case involved disclosure of c200,000 documents relating to Barclays' LIBOR submissions during the period of its admitted manipulations. After a series of contested case management conferences and a pre-trial review, the litigation settled shortly before trial in late April 2014.

Thereafter he has been instructed in numerous similar cases, in all of which a settlement has been achieved, including Criterion, Wall, Holgate, Rhino and Wingate. He is currently representing Ventra Properties Limited (In liquidation) against Bank of Scotland Plc, the trial of which is scheduled to start in January 2020.

Company Directors Disqualification

Stephen has appeared in the majority of reported cases concerning “fairness” in directors’ disqualification litigation and is one of the most experienced barristers in the UK appearing in directors’ disqualification trials.

He has been instructed in a significant number of high-profile disqualification applications that have led to early termination by withdrawal or settlement.

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

Ryan v HSBC UK Bank PLC and Mar City PLC [2023] EWHC 90 (Ch)

Whether to recuse a judge on the grounds of apparent bias and to set aside a judgment (giving reasons for dismissing the claimant’s application for permission to bring a derivative claim on behalf of MCPLC against HSBC based on alleged misuse of HSBC’s position as provider to MCPLC of recovery finance) in circumstances where the judge’s family company had received recovery finance from HSBC in the months leading up to the hearing and there were alleged departures from judicial method at the hearing and in the judgment.

Hyde v King [2023] GCA/001; [2022] GSC 6 and 17

Whether to grant the application of the trustees in bankruptcy in Gibraltar’s largest bankruptcy to postpone the automatic discharge of the bankrupt and whether to award indemnity costs to the bankrupt as a result of the litigation conduct of the trustees in bankruptcy and whether to grant a stay pending the trustees’ appeal of the operation of the court’s order dismissing a non-discharge application

Aston Lloyd & Partners International Limited; Rosler v Shah [2022] EWHC 3006 (Ch)

Whether a liquidator owed to the court a duty of full disclosure when seeking Berkeley Applegate relief and, if so, the consequences for previous orders of the court of having failed to do so; whether to award indemnity costs in favour of former administrators who had come to court to assert the statutory charge in respect of their unpaid remuneration and expenses.

Kireeva v Bedzhamov [2022]

EWHC 2676 (Ch)

In proceedings remitted by the Court of Appeal to the High Court, whether a foreign bankrupt had established that his foreign bankruptcy order had been procured by fraud such that the status of his bankruptcy trustee should not be accorded recognition at common law in England.

Kireeva v Bedzhamov [2022]

EWHC 2511 (Ch)

Whether permission should be given to a Russian bankruptcy trustee to rely on hearsay evidence contained in three witness statements of a former employee of a Russian bank in circumstances where the witness had decided shortly before trial not to attend for cross-examination

Schofield v Smith; Rhino Enterprises Properties Ltd v Clyde & Co LLP [2022]

EWCA Civ 824

Whether misfeasance proceedings against joint administrators and their former solicitors should be disposed of summarily as having been compromised by a settlement agreement between the claimants and a third party

Vneshprombank LLC v Bedzhamov [2022]

EWHC 1166 (Ch) [2022] BPIR 1314

Whether a foreign bankruptcy trustee had an arguable proprietary claim to immovable property or its proceeds in England and whether the bankrupt should be permitted in principle to meet his legal fees and living expenses out of the same under an existing freezing order regime operating in fraud proceedings brought against him in England by a Russian bank

Kireeva v Bedzhamov [2022]

EWHC 1047 (Ch), [2022] Costs LR 935, [2022] BPIR 1217

Whether the threshold conditions for security for costs under CPR Part 25 had been satisfied against a foreign bankruptcy trustee seeking recognition at common law of her status as such

Re: Bedzhamov [2022]

EWCA Civ 35

Whether the English court can grant assistance to a Russian bankruptcy trustee in respect of immovable property situate in England and whether a Russian bankrupt can oppose recognition of his bankruptcy order on the grounds that he wishes to re-litigate in England the question whether the petitioning creditor's Russian judgment debt was obtained by fraud

Mond, R (On the Application Of) v Insolvency Practitioners' Association [2021]
EWHC 3325 (Admin)

Whether a disciplinary appeal tribunal of a recognised professional body had acted within its powers and/or unfairly when upholding an order for costs made against a member despite its determination that the underlying disciplinary findings to which the costs order related had been unsafe and should be set aside

Re Debenhams PLC (29 September 2021)

Whether a claims release deed by which insolvency office-holders required a contributory/creditor to act in a certain way and to refrain from various acts of support for an investigation into the affairs of Debenhams Plc was unenforceable on grounds of illegality or abuse of power

Schofield v Smith; Rhino Enterprise Properties Ltd v Clyde & Co LLP [2021]
EWHC 2533 (Ch)

Whether a settlement agreement reached between a bank and a client compromising litigation between them had the effect of releasing insolvency office-holders and their solicitors from liability to the same client and the applicability of the rule in ex parte James

Kireeva v Bedzhamov [2021]
EWHC 2281 (Ch)

Whether a Russian trustee in bankruptcy should be recognised at common law by the English court (including whether the bankrupt had submitted to the bankruptcy jurisdiction in Russia and whether there were bars to recognition) and, if recognised, whether the court has power at common law to give assistance to the trustee in respect of immovable property in England

Brake v Lowes; Brake v Swift [2020]
EWCA Civ 1491

Whether discharged bankrupts have standing to challenge transactions entered into by their trustee in bankruptcy on grounds that they were unlawful and without authority and whether bidders in a bidding competition conducted by liquidators as officers of the court have standing to challenge the resulting sale on

grounds that the bidding was rigged and the process was unfair

Re Blue Co London LLP (formerly Ince & Co LLP) [2020]
EWHC 2385 (Ch)

Whether the court should give directions to administrators sanctioning their proposed application for a stay of French proceedings brought by creditors against them personally and/or direct that they should have a prospective indemnity as to their costs of making the application

Schofield v Smith; Re Rhino Enterprise Properties Ltd [2020]
EWHC 2370 (Ch); [2021] BPIR 144

Whether contributories should be given permission to commence misfeasance proceedings against former administrators of the company notwithstanding releases of the administrators from liability contained in an approved CVA

Hunt and Goldfarb v Down and Harding [2020]
LTL 28/5/2020, [2020] 4 WLUK 474

Whether an insolvency office-holder had standing to acquire a hostile transfer of appointments under the block transfer procedure

Brake v Guy [2020]
EWHC 1484 (Ch)

Whether claimants should be directed to provide security for costs on the grounds that they had taken steps in relation to their assets that would make it difficult to enforce an order for costs against them within the meaning of CPR 25.13(2)(g)

Brake v Chedington Court Estate Ltd [2020]
EWHC 1810 (Ch)

Whether a property was the principal residence of bankrupts at the date of their respective bankruptcies and whether partnership property vested in the trustee in bankruptcy of two of the partners

Brake v Swift [2020]

EWHC 1156 (Ch) [2020] 5 WLUK 119

Whether a judge should recuse himself from trying a case when the controlling mind and will of the only active defendant had been a school friend of the judge

In The Matter Of Brake [2020]

EWHC 537 (Ch); [2020] BPIR 466

Whether bankrupts had standing to apply to set aside transactions entered into by their trustee in bankruptcy (appeal listed on 13/14 October 2020)

In The Matter Of Stay In Style [2020]

EWHC 538 (Ch); [2020] BPIR 445

Whether bidders in a competitive bidding process supervised by liquidators of an unlimited partnership had standing to challenge the fairness of the process (appeal listed on 13/14 October 2020) and whether the threshold conditions for varying an extended disclosure order under CPR PD 51U para 18 had been met

Brake v Guy [2019]

EWHC 3332 (Ch); [2020] BPIR 445

Applications within insolvency proceedings relating to the ownership of emails, raising questions of confidentiality and privacy rights.

Dickinson -v- NAL Realisations (Staffordshire) Ltd [2019]

EWCA Civ 2146; [2020] 1 WLR 1122

Liquidator claiming recovery of assets on the basis that they were not properly authorised and/or transferred away from the company in anticipation of an adverse outcome of environmental claims against it.

Guardian Care Homes (West) Ltd [2019]

EWHC 2994 (Ch); [2019] 7 WLUK 526

Whether there had been a transaction at an undervalue in a business restructuring

Ventra Investments Limited v Bank of Scotland [2019]

EWHC 2058 (Comm)

Acted for the Claimant in a claim arising from the sale of complex interest rate derivatives to a property management company, including a claim for misrepresentation in relation to LIBOR rigging.

Holgate v Addleshaw Goddard (Scotland) LLP [2019]

EWHC 1793; [2019] PNL 32

Whether Scotland has exclusive jurisdiction over claims that solicitors based in Scotland acted in breach of fiduciary duty when employed by English administrators of an English company to assess English causes of action.

Siddiqi v Tappariss [2019]

EWHC 417 (Ch); [2019] BPIR 1025

Whether a bankruptcy order should be set aside in the “black cab” case on the grounds that the court had contravened settled practice of the bankruptcy court when faced with a disputed petition on the first return date.

Hellard & Anor v Graiseley Investments Ltd & Ors [2018]

EWHC 2664 (Ch)

Whether accounting journal entries constituted/evidenced a transaction at an undervalue and whether a witness statement of the applicant liquidator had any evidential status at trial.

Secretary of State for Business etc v Walsh; Re NRG2 Limited [2018]

EWHC 2160

Whether directors who conducted an informal liquidation without making adequate provision for all creditors were guilty of conduct which made them unfit to be a director of a company.

Hosking & Anor v Apax Partners LLP & Ors [2018]

EWHC 2732 (Ch) [2019] 1 WLR 3347

Whether an assessment of costs on the indemnity basis should be directed after discontinuance at trial of a claim under s.423 of the Insolvency Act 1986.

Davey v Money & Anor [2018]
EWHC 766 (Ch) [2018] Bus LR 1903

Whether administrators or their appointing bank breached duties owed to the company's creditor, shareholder and guarantor by selling a development property in London's Canary Wharf at an undervalue.

Re Hellas Telecommunications (Luxembourg) II SCA [2017]
EWHC 3465 (Ch)

Whether and if so and to what extent claimant liquidators should be directed to identify their funders and other related information and, if so, on what terms.

Ventra Investments Ltd v Bank of Scotland Plc [2017]
EWHC 199 (Comm)

Whether and to what extent a corporate customer should be permitted to plead that its bankers were responsible for artificially distressing it.

Henry v Horton [2017]
1 WLR 391 (C.A.)

Whether the right of a bankrupt to exercise rights to draw down lump sum or other payments from his pension could be brought into account on an application for an income payments order.

Baker v LSREF III Wight Ltd - [2016]
All ER (D) 254 (Feb)

Whether director guarantors of their company's debt to its bankers could resist bankruptcy proceedings on the grounds that the bank had entered a joint venture with the company and breached duties owed to the company in that capacity.

In the matter of Glenn Maud (in Bankruptcy) [2015]
EWHC 2220 & 3681 (Ch); [2016] BPIR 227 & 803

Whether and, if so, to what extent, the UK bankruptcy court should allow a bidding process within a court-supervised liquidation plan in Spain to influence UK bankruptcy proceedings.

Hosking v APAX Partners LLP [2016]
EWHC 1986 (Ch)

Whether there should be a case management stay of English insolvency proceedings pending determination of proceedings relating to the same subject matter in New York.

Hellas Telecommunications (Luxembourg) II SCA, Joint Liquidators of v Slaughter and May (a firm) [2016]
Bus LR 1219 (C.A.)

Whether liquidators could assess bills of solicitors employed by administrators and whether administrators had the power to agree such bills after they had ceased to be in office.

Davey v Croxson & Others [2015]
EWHC 2372 (Ch)

Application to remove joint administrators of a group of companies on grounds of conflicts or duty and interest and the management of such conflicts.

Stevensdrake v Hunt [2015] EWHC 1527 (Ch) [2015] 4 Costs LR 639; [2015]
BPIR 1462; [2015] PNLR 31

Whether a conditional fee agreement provided that a company liquidator was personally liable for fees due in respect of work carried out on behalf of the company or whether liability was not dependent on receipt of sums recovered.

The Co-Operative Bank Plc v Phillips [2014] EWHC 2862 (Ch); [2014]
5 Costs LR 830; [2014] BPIR 1430; [2015] 1 P & CR DG7

Whether a mortgagee who had discontinued possession proceedings (i) could set off its liability for the mortgagor's costs of the proceedings against sums owed to it by the mortgagor; (ii) could add its own costs or its liability for adverse costs to the mortgage; and (iii) should be liable for costs on the indemnity basis by reference to its purpose in bringing the proceedings.

R (on the application of Peter Roy Hollis) v Association of Chartered Certified Accountants) [2014]
EWHC 2572 (Admin); [2014] BPIR 1317

Whether findings in previous High Court proceedings should stand as prima facie evidence against an insolvency practitioner in subsequent professional disciplinary proceedings in circumstances where the

insolvency practitioner had not attended the previous hearing and claimed to have had no notice that his conduct would be in issue.

SRJ v D&Co [2014]

EWHC 2293 (QB) (Sir David Eady)

Whether solicitors should be ordered to disclose the identity of their client in aid of execution of a default judgment for delivery up of confidential information obtained by a litigation counter-party.

Re Wind Hellas Telecommunications (Luxembourg) II SCA; Hosking v Slaughter & May (a firm) [2014]

EWHC 1390 (Ch)

A dispute about the ability of a liquidator to have assessed by the court the legal fees incurred and paid by administrators as predecessor office-holders, raising issues as to the construction of the Insolvency Rules and the extent of the inherent jurisdiction of the court over an insolvent estate.

In the matter of TPL Holdings Limited, sub nom Hurd v TPL Holdings Limited Companies court (A G Bompas QC) [2014]

Whether an unfair prejudice and just and equitable winding-up petition should be struck out where the primary conduct complained of had been remedied.

In the Matter of Hotel Company 42 The Calls Ltd, sub nom Whitfield v Al Jaber [2013]

EWHC 3925 (Ch); [2014] BCC 13

The nature and effect of the statutory charge on assets to secure payment of administrators' remuneration and expenses and whether the administrators should be permitted to execute a debenture in their favour over the assets of the company.

Simon Carves Limited (in liquidation); Carillion Construction Ltd v Hussain & Hunt [2013]

EWHC 685 (Ch); [2013] 2 BCLC 100

Whether a creditor of a subsidiary company should have permission to commence proceedings to allege that a withdrawal of a letter of support given by its parent company to the board of the subsidiary constituted a transaction defrauding creditors within the meaning of s.423 of the insolvency act 1986.

Wright Hassall LLP v Morris [2012]

EWCA Civ 1472; [2012] BPIR 1310; [2013] BCC 192

Whether an administrator against whom summary judgment had been entered to pay legal costs under CFA agreements into which he entered as administrator of 2 companies was personally liable under the judgment in the event of insufficiency of assets in the insolvent estates to pay expenses.

Williams v Taylor [2012]

EWCA Civ 1443; [2013] BPIR 133

A dispute as to whether a transaction had been entered into for the statutory purpose under section 423 of the insolvency act 1986 (transactions defrauding creditors).

The Commissioners for Her Majesty's Revenue & Customs v Rochdale Drinks Distributors Limited [2012]

1 BCLC 748 (CA)

Guidance from the Court of Appeal as to the test and relevant criteria required to satisfy the court that it is appropriate to appoint a provisional liquidator over a company at the outset of winding up proceedings.

Brook v Reed [2012] 1 WLR 419; [2012]

1 BCLC 379 (C.A.)

The first case to reach the Court of Appeal on the principles applicable when assessing the remuneration of insolvency office-holders and general guidance given on the practice statement (Ch D: fixing and approval of remuneration of appointees) [2004] BCC 912.

Anglo Irish Bank Corp Ltd v Flannery [2012]

EWHC 4090 (Ch); [2013] BPIR 165

Whether a petitioning bank had made out an arguable case that the statutory preconditions for presenting a bankruptcy petition in section 265(1)(c)(iii) of the insolvency act 1986 had been satisfied.

Revenue & Customs v Cozens [2012]

STC 420; [2012] Lloyd's Rep FC 86 (Floyd J)

Excise duty inward diversion fraud. In considering whether to continue a world-wide freezing order, the circumstances in which the court will infer a risk of dissipation from underlying allegations of fraud where there is limited solid evidence that the defendant has assets.

Secretary of State for Business, Innovation and Skills v Chohan and others [2011]

EWHC 1350 (Ch) (David Richards J); [2012] 1 BCLC 138

CDDA. Whether the Claimant in director disqualification proceedings should be required to clarify allegations relating to a defendant's involvement in an unauthorised collective investment scheme which the Claimant alleged was unlawful pursuant to the Financial Services Act.

Polymer Vision R & D Ltd v Van Dooren [2011]

EWHC 2951 (Comm)

Whether the Judgments Regulation or the Insolvency Regulation applied to a claim for damages issued in the English court against a Dutch bankruptcy trustee and whether the English court was forum non conveniens.

Kimberly Scott Services Ltd; Beattie v Smailes [2011]

EWHC 1563 (Ch) (Norris J); [2012] BCC 205; [2012] BPIR 135

Whether it was appropriate to remove liquidators from their appointment as liquidators to one of two associated companies due to an alleged conflict of duties owed to each of those companies.

Stoneham v Ramrattan [2011]

EWCA Civ 119 [2011] 1 WLR 1617

Acting for a trustee in bankruptcy in a second appeal concerning the meaning and effect of the “use it or lose it” provisions in s.283A of the Insolvency Act 1986.

Roberts v Frohlich [2011]

EWHC 257 (Ch); [2011] 2 BCLC 625

Acting for a liquidator in a wrongful trading and misfeasance trial involving a failed property development.

In the matter of Energy Holdings No3 Ltd [2010]

EWHC 788 (Ch); [2011] 1 BCLC 84

Whether English office-holders should await the outcome of foreign proceedings before adjudicating upon a proof of debt.

Lewis v Metropolitan Property Realisations Ltd [2010]
Ch 148 (C.A)

Acting for a bankrupt and his wife seeking to have their matrimonial home re-vested in them in a test case about the operation of the “use it or lose it” rule.

Mond v MBNA Europe Bank Ltd [2010]
EWHC 1710 (Ch); [2010] BPIR 1167; [2011] Bus LR 513

IVA Providers' claim to determine the meaning and effect of the IVA Protocol, raising issues of justiciability and the question whether institutional creditors were bound to vote in favour of protocol-compliant IVAs in certain circumstances.

Equitas Ltd v Horace Holman Ltd and Company [2009]
1 BCLC 662 (Andrew Smith J)

An application for a non-party costs order against a director of a company sued by Equitas during an informal insolvency insurance run-off.

In the matter of the Estate of Rene Rivkin (Deceased) [2009]
Bus LR 500

Application for disclosure by trustee opposed on grounds of breach of Art 8 of ECHR.

French v Barcham [2009]
1 All ER 145

Whether the ability of a trustee in bankruptcy to claim occupation rent based on equitable principles survived the passing of the Trusts of Land and Appointment of Trustees Act 1996 and the decision of the HL in *Stack v Dowden*.

Energy Holdings (No 3) (in liquidation), (1) James Robert Tucker (2) Jeremy Spratt v Gold Fields Mining LLC [2009]
EWCA Civ 173

Construction of a time-bar clause in a CVA.

Official Receiver v Watson [2008]

EWHC 64 (Ch); LTL 4/2/2008

CDDA - Culpability of director for collapse of The Accident Group; corporate governance issues; competence of finance director; unlawful dividends.

Re Football Association Rule K Arbitration; Leeds United 2007 Ltd v The Football League Ltd [2008]

BCC 701

An arbitration arising out of the football creditors rule as it affected Leeds United FC and the ability of the Football League to impose a 15 playing points deduction by reference to the football creditors rule.

Avis v Turner [2007]

EWCA Civ 748; The Times, August 22 2007 [2008] 2 WLR 1; [2007] 4 All ER 1103

Whether a trustee in bankruptcy was prevented from applying for possession and sale of the matrimonial home prior to the happening of any of the events stipulated in a pre-bankruptcy order of the divorce court postponing sale.

Hawkes v Cuddy & Others [2007]

EWHC 1935 (Ch) sub nom. Re Neath Rugby Limited; The Times, August 14 2007 [2007] BCC 271; [2008] 1 BCLC 527

Concerning the nature and effect of the provisions restricting the use of company names in sections 216 and 217 of the Insolvency Act 1986 and the ability of a petitioner to found a petition under section 459 of the Companies Act 1985 based on breaches of section 216.

Governor and the Company of the Bank of Scotland v Neath Port Talbot County Borough Council [2006]

2276 EWHC (Ch); [2008] BCC 376; David Richards J

Application by local authority to sell PFI assets pending trial of a claim by the funder of a failed PFI project of a right to remove and sell them notwithstanding a PFI vesting clause on contractor default.

Hill (as trustee in bankruptcy of Nurkowski) v Spread Trustee Company Ltd [2006]

EWCA Civ 542; [2007] Bus LR 1213; [2007] 1 All ER 1106; [2006] BCC 646; [2006] BPIR 789

Nature and extent of court's jurisdiction to strike down transactions defrauding creditors and limitation period within which to do so.

Neville (as administrator of Unigreg Ltd) v Krikorian [2006]

EWCA Civ 943; The Times, July 21, 2006; Independent, July 11; [2006] BCC 937, 2006

Circumstances in which directors may be jointly and severally liable for unlawful loans made by each other to their company.

Re Buildlead; Quickson (South and West) Limited v Katz [2004]

EWHC 2443 (Ch), 24 August 2004 (Etherton J); [2006] 1 BCLC 9; [2005] BCC 138; [2004] BPIR 1139

Whether fixed or floating charge over credit balances; Whether cause shown for removal of liquidators.

Secretary of State for Trade & Industry v Cockayne and Dixon HHJ Norris QC 11 April 2005

LTL 23/11/2005 AC0109494

Amendment to a rule 3 statement in support of directors' disqualification proceedings ought to be allowed so as to bring the real issues before the court if that could be achieved without substantial prejudice to the defendant - however, such amendment would only be allowed subject to a sanction in costs including an interim award of costs of £50,000 to the Defendants.

Reid v Ramlort (No 2) [2005]

BCLC 331

Whether declaration of trust of life policy a transaction at an undervalue.

Sisu Capital Fund Limited v Tucker & Others; Re Energy Holdings (No 3) Limited [2005] EWHC 2170 (Ch)

Warren J. 9 September 2005; [2006] BCC 463; [2006] BPIR 154

Whether unfair prejudice or material irregularities affecting CVAs, conflicts of interest affecting office-holders in group insolvency.

Sisu Capital Fund Limited v Tucker and others; Re Energy Holdings (No 3) Limited (No. 2) [2005] EWHC 2321 (Ch)

Warren J. 28 September 2005; The Times, November 4 2005; [2006] 1 All ER

Whether time costs and remuneration of insolvency practitioner as officeholder were recoverable as litigation costs.

Mond v ACCA [2005]

EWCA 1414 (Admin) 28 July 2005; [2006] BPIR 94

Judicial review of disciplinary proceedings against licensed insolvency practitioner, whether fair process.

MHMH Ltd v Carwood Barker Holdings PLC [2004]

EWHC 3174 (Ch); [2006] 1 BCLC 279; [2005] BCC 536

Effect of insolvency clause, whether to appoint provisional liquidator, length of proposed provisional liquidation.

Secretary of State for Trade & Industry v Swan and others (No. 2) [2005]

EWHC 603 (Ch); [2005] BCC 596, 12 April 2005

Class 1 transaction, extent of duties of CEO to ensure compliance with Listing Rules; whether CEO ought to have discovered cheque kiting, duties of non-executive director to investigate alleged whistleblower complaints.

Hill v Spread Trustee Company Ltd, Re Nurkowski [2005]

EWHC 336 (Ch), 11 February 2005; [2005] BPIR 845

Nature and extent of court's jurisdiction to strike down transactions defrauding creditors and limitation period within which to do so.

Secretary of State for Trade & Industry v Gill & Ors [2004]

EWHC 933 (Ch. D.) (Manchester) 30 April 2004; [2006] BCC 725

Test case on customer deposits. Application by SoS for directors' disqualification order alleging unfitness in that the directors had continued trading without taking adequate steps to protect deposits of cash paying customers of World of Leather furniture business. Directors continued trading with reasonable prospect of achieving a corporate solution and thereby avoiding insolvent liquidation and with the benefit of professional advice. Application dismissed.

Secretary of State for Trade & Industry v Gill & Ors [2005]

BCC 24

The defendant directors to disqualification proceedings were entitled to have the case against them at trial strictly limited to the complaint as clarified in a letter from the Secretary of State.

Inland Revenue Commissioners v The Wimbledon Football Club Ltd [2004]

BCC 638, [2005] 1 BCLC 66

Operation of the "football creditors" rule, whether Wimbledon's CVA was unlawful.

In re Unigreg Ltd (in administration) [2005]

BPIR 220 (ChD)

Repatriation of intellectual property rights transferred by insolvent English company to nominee companies.

In re Buildlead Ltd (No 2) [2006]

1 BCLC 9; [2005] BCC 138

Removal of joint liquidators - appropriate test - construction of debenture - fixed or floating charge.

Re Imperial Board Products Ltd; Official Receiver v Jones, [2004]

EWHC 2096 (Ch)

Whether directors' disqualification proceedings justifiable.

Secretary of State for Trade & Industry v Frid (HL) 13 May 2004; [2004]

BCC 525

Nature and extent of insolvency set off.

Exeter City AFC Ltd v Football Conference & Anor [2004]

1 WLR 2910, [2004] 4 All ER 1179, [2004] BCC 498, [2005] 1 BCLC 238

The Court declined to stay a s459 petition for arbitration on the grounds that the court was the proper tribunal to decide the petition and related issues.

In re Finelist Ltd [2004]

BCC 877

Correct procedure where the evidence in the affirmation did not support the gravity of the allegations. Pre-issue conduct of Secretary of State, duty of fairness and failure to interview director.

Inland Revenue Commissioners v Exeter City AFC Ltd (HC) LTR 12 May 2004 [2004]

BCC 519

Whether the Inland Revenue should disclose documents relating to its conduct in other football insolvencies.

Re Uno plc and World of Leather plc (HC) [2004]

EWHC 933, [2006] BCC 725

Test case on taking consumer deposits whilst insolvent.

Mulkerrins v PricewaterhouseCoopers (HL) [2003]

1 WLR 1937, [2003] 4 All ER 1, [2004] PNL 69

Whether a bankrupt could pursue a claim for professional negligence.

In re Buildlead Ltd (No 1) [2003]

4 All ER 864, [2004] 1 BCLC 83

Whether the liquidators were entitled to security for costs on an application to remove them from their posts under s108.

Re Industrial Services Group Ltd (No 2) [2003]

BPIR 597

Whether expert evidence of best practice admissible on application to remove liquidator.

Re Industrial Services Group Ltd (No 1) [2003]

BPIR 392

Misfeasance, fraudulent trading, freezing order, calculation of limit.

Re Far East Abrasives Ltd [2003]

BPIR 375

Administration petition - whether purpose of more advantageous realisation of the company's assets likely to be achieved.

County Bookshops Ltd v Grove [2003]

1 BCLC 479, [2002] BPIR 772

Approach to construction of CVAs and meaning of "contingent creditor".

Secretary of State for Trade and Industry v Lewis [2003]

BCC 611

Whether trading whilst insolvent and non-payment of Crown Debts amounted to unfit conduct of directors.

Walker v W A Personnel Ltd [2002]

BPIR 621

Transaction at an undervalue - whether monetary compensation appropriate - grant of injunction and appointment of receiver pending speedy trial.

Strongmaster Ltd v Stephen Kaye [2002]

BPIR 1259

Individual Voluntary Arrangement - fixed duration - effect of failure to extend within the fixed period.

Re Carter Commercial Developments Ltd [2002]

BCC 803 (ChD)

Administration - whether solicitors should be given leave to retain title deeds of a client company in administration.

Re Gunningham [2002]
BPIR 302

Effect of non-compliance with Insolvency Rules and Practice Direction.

Re Pantmaenog Timber Co Limited [2002]
2 WLR 20; [2001] 2 BCLC 555

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BCC 115

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Ch 57; [2003] 3 WLR 1304; [2000] BCC 653 (CA)

Whether Environment Agency needed leave / consent to commence criminal proceedings.

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2 BCLC 561; [1999] BCC 836

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1 BCLC 174; [1999] BCC 157

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BPIR 132

Bankruptcy - approach of court to bankrupt's appeal out of time.

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1 All ER 628; [1998] BPIR 655

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BCC 472

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Smith v Lock [1998]

BPIR 786

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BCC 163

Voluntary liquidation; application of VAT charged on asset sale.

CVL - whether liquidator accountable.

Keenan [1998]

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BC 282

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BBC184

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BCC 744

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2 BCLC 63; [1995] BCC 161

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Barclays Bank v Eustice [1995]
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1 WLR 1294

Statutory demand in foreign currency.

DKG Contractors [1990]
BCC 903

Wrongful trading, misfeasance and preference claim.

CAREER AND ASSOCIATIONS

Stephen was educated at the L.S.E. and Cambridge. From March 2009 to March 2010, he was the President of the Insolvency Lawyers' Association. He is a member of the Chancery Bar Association and R3. In 2007 he was elected a Bencher as Gray's Inn.

PUBLICATIONS

Stephen co-founded in 1996 and co-edited the Bankruptcy and Personal Insolvency Reports, of which he remains a consultant editor. He was managing editor of and contributor to a book on Part X of the Enterprise Act 2002 and has co-written various other books and articles on insolvency and is a former contributor to Mithani on Directors' Disqualification (Butterworths).



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