

## Dawn McCambley

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Dawn specialises in commercial/chancery litigation and advisory work, with particular emphasis on company and insolvency law. With reference to the later she has a wide range of experience of both corporate and personal insolvency and undertakes work for private individuals and office holders. She regularly appears on commercial matters in the High Court and County Courts.

Dawn was also appointed Junior Counsel to the BIS (formerly, the BERR) for Directors' Disqualification Directions hearings, between 2006 and 2009.

Together with other members of Chambers' Insolvency team Dawn contributes monthly case law updates to Corporate Rescue and Insolvency, published by Lexis Nexis. She currently provides the regular feature 'Recent case summaries' for *Recovery*, the magazine published by R3.

Dawn was awarded first place in the Lincoln's Inn Gluckstein Advocacy Competition and was the winner of the ICSL Mooting Competition. She was also awarded the Denning, Sunley and Hardwicke Scholarships from Lincoln's Inn.

## Insolvency

Dawn has experience of both corporate and personal insolvency. Regarding corporate insolvency, Dawn is frequently instructed by administrators, liquidators and supervisors. In particular, Dawn's practice has seen an increase in instructions to advise on and appear in cases involving transactions at an undervalue, preferences, as well as claims against directors for misfeasance and/or breach of fiduciary duty claims and wrongful trading claims. Dawn also regularly advises on and appears in winding-up petitions and connected matters such as injunctions to restrain the presentation and advertisement of petitions, obtaining validation orders, intervening applications for company voluntary arrangements or administrations, and applications for and against liquidators.

Dawn's personal insolvency practice includes instructions by both trustees in bankruptcy and individuals on various matters, including annulments and applications by trustees for determination of relevant beneficial interests and consequent orders for possession and sale. She is also regularly instructed in applications to set aside statutory demands, disputed petitions and public/private examinations.

Together with other members of Chambers' Insolvency team Dawn contributes monthly case law updates to Corporate Rescue and Insolvency, published by Lexis Nexis.

Dawn will also be speaking at the Association of Business Recovery Professionals (R3) conference in November 2010.

## Cases of interest:

- Appeared in the Court of Appeal on behalf of the respondent creditor, regarding an appeal against the discharge of an injunction prohibiting the respondent from advertising a winding-up petition. The decision at first instance was successfully upheld and a winding up order was ultimately made against the appellant company.

- Instructed by a liquidator in a two day Multi-track trial in a claim concerning recovery of significant book debts from an alleged joint venture vehicle, controlled by the former directors of the company. In consequence, misfeasance and breach of fiduciary duty proceedings were issued against the former directors.
- Various instructions to advise and subsequently appear in applications concerning transactions at an undervalue, preferences and transactions defrauding creditors.
- Advising on the correct location of a debtor's Centre of Main Interests (COMI) as at the commencement of insolvency proceedings, and whether the court in England and Wales had jurisdiction to open such proceedings.
- Advising joint administrators regarding issues of set-off arising on a contractual basis and under rule 4.90 of the Insolvency Rules 1986.

## Company

Dawn's practice includes all aspects of Companies Court work such as disputes between directors and shareholders, minority shareholder relief and directors' disqualification. Regarding the latter, Dawn was appointed Junior Counsel to the BIS (formerly, the BERR) for Directors' Disqualification Directions hearings, between 2006 and 2009. She also appears in other company related applications, including company restorations and time extensions for registering charges.

### Cases of interest:

- As Junior (with Max Mallin) in a £4 million claim against company directors, concerning various allegations of breach of fiduciary duty, conspiracy and procuring breach of contract. The case was settled on favourable terms shortly before trial. The details of the case remain confidential.
- Instructed by a liquidator in a fast track trial regarding unpaid calls for shares, and the construction of the defendant's contractual obligations to pay for shares it had subscribed to.
- As Junior Counsel to the BIS, Dawn was regularly instructed to appear in the Companies Court regarding applications by disqualified directors seeking leave to act, uncontested disposals and specific disclosure applications arising out of disqualification proceedings.
- Instructed to advise on and seek a disqualification order against a former director under CDDA concerning allegations of trading to the detriment of the Crown and the failure to maintain, preserve and/or deliver up adequate accounting records.

## Commercial Litigation

Dawn's commercial practice covers a broad spectrum, including contractual disputes, sale of goods and consumer credit claims and claims for accounts of profits. Dawn is regularly instructed to appear in the High Court and County Courts and she has been involved in a number of fast track and multi-track commercial disputes.

### Cases of interest:

- Instructed as Junior (with Jane Giret QC) in a dispute arising out of the liquidation of the respondent company, as to the construction and meaning of an asset sale agreement and the assignment of certain causes of action by the liquidator to the applicant company.
- Instructed as Junior (with Alan Gourgey QC) regarding applications arising out of a commercial dispute relating to a tax avoidance scheme, the legitimacy of a factoring agreement and various allegations of fraud and misrepresentation.
- Instructed as Junior (with Michael Beckman QC) regarding a Referral Notice to the Financial Services and Markets Tribunal against an FSA decision for the withdrawal of individual approval for a director, together with a total prohibition order. The FSA was not satisfied the director was a fit and proper person to perform the functions for which he had been approved. Settlement achieved prior to the hearing before the Tribunal.
- Appeal against the making of a 'Registration Order' declaring that a foreign judgment granted against the appellant company in proceedings in Germany for breach of an agency agreement, be registered for enforcement in England and Wales, pursuant to Council Regulation (EC) No. 44/2001. Instructed by the respondent company and successfully upheld first instance decision.

- Instructed on behalf of an advertising company in a two day Fast track trial concerning allegations of misrepresentation.
- Instructed on behalf of the claimant company in a two day Multi-track debt recovery claim, which gave rise to a counterclaim for damages of £150,000 for negligence.
- Instructed on behalf of a company in a two day Fast track trial concerning the validity and scope of a Profit Sharing Agreement.

## Memberships

COMBAR

The Chancery Bar Association