

Sarah Clarke

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Sarah focuses on both commercial and insolvency litigation and advisory work. She has developed a solid practice across all areas of business law including contractual disputes, commercial fraud, consumer credit, sale of goods and guarantees. Her experience of corporate and personal insolvency covers all aspects of administrations, bankruptcy and winding up petitions, CVAs and IVAs, asset recovery and misfeasance.

She contributes to the Cases Alerter reports published by *Corporate Rescue and Insolvency* and has given talks in her area of expertise (e.g. bankruptcy procedure and tactics; winding up petitions) to Lawnet and solicitors.

She is a member of the Chancery Bar Association and is actively involved with the PILARS committee. As part of the Bar Pro Bono Unit, PILARS (Personal Insolvency Litigation Advice and Representation Service) offers free representation in the High Court to clients who are not entitled to public funding.

Insolvency

Sarah has extensive experience of practice and procedure of insolvency courts, in particular applications concerning administrations, liquidations, voluntary arrangements, bankruptcy and asset realisation and recovery.

Selected cases of interest:

- Advised the directors of a Company facing public interest winding up proceedings in respect of an alleged tax umbrella scheme. These were sensitive proceedings given the level of hostility the directors faced from former clients. (2010).
- Acted for Debtor resisting bankruptcy petition on grounds of jurisdiction under EC Regulation (2010 – petition was withdrawn before final hearing).
- Acting for Petitioner, a county council, in an annulment application based on the Debtor’s mental capacity at the time of the bankruptcy order and underlying liability orders (2010 – ongoing).
- Represented the Liquidator in proceedings by an individual claiming to be creditor alleging misconduct and seeking varied relief (2010/11 – settled).
- **Goel v Pick [2006] EWHC 833 (Ch); [2007] 1 All ER 982, [2006] BPIR 827**: an appeal against a finding in favour of a trustee in bankruptcy on his application that the transfer of a distinctive vehicle registration mark was void or was a preference pursuant to s.340 of the Insolvency Act 1986. Ferris J held: a vehicle registration mark is not a proprietary interest capable of being assigned. The transfer of the mark had been ineffective, but if it was effective it would have constituted a preference as the recipient of the mark would have been advantaged by the ability to utilise the rights of retention and/or nomination.

Commercial

Sarah practises a range of commercial litigation and advisory work, including disputes regarding partnerships, company and contractual disputes, consumer credit claims and guarantees.

Selected cases of interest:

- Advised a Company as to the entitlement to terminate a consultancy agreement connected to a share purchase agreement in the face of threatened injunctive relief (2010).
- Acted for **the Independent Living Fund**, an Executive Non-Departmental Public Body of the Department for Work and Pensions. Involved in various sets of proceedings for the recovery of payments made by the ILF on grounds of misrepresentation, deceit, negligence, constructive trust and unjust enrichment. (2010/11)
- Successfully represented the Claimant, a former Director, in a contractual claim based on a share purchase agreement and a counterclaim alleging misrepresentation.

Other cases of interest

- Acting for the Appellant in appeal against an order registering a judgment of a Spanish Court for the purpose of enforcement pursuant to Part 74 of the CPR. Case raises interesting issues of jurisdiction and procedure in the enforcement of foreign judgments (2010 - ongoing).
- **One TV Plc v Erdam** [2009] All ER (D) 46 (Mar) [2008] All ER (D) 159 (Dec): successfully represented the respondent to an application to set aside default judgment which was dismissed on grounds that it had not been made promptly.
- **R (on the application of Sangha) v Stratford Magistrates' Court** [2008] EWHC 2979 (Admin): successfully represented a local authority in judicial review proceedings to challenge a decision of the Magistrates Court in refusing to set aside a series of liability orders. The application was dismissed.