

Iain Pester

Call: 1999
 Education: BA (Oxon) First Class Honours; BCL First Class Honours
 Languages: Fluent French; good knowledge of German and Russian
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Iain's practice covers both general commercial and chancery litigation and advisory work, with a particular focus on the following:

- all aspects of civil fraud, including obtaining and responding to interim injunctions (freezing injunctions, search orders and orders preserving information in electronic form), and claims based on tracing, knowing receipt, dishonest assistance, breach of fiduciary duty, deceit and conspiracy to defraud
- all aspects of corporate and personal insolvency (including director disqualification proceedings)
- shareholder, partnership and joint venture disputes
- professional negligence (solicitors, accountants and financial advisors)
- disputes relating to the conflict of laws

He is the author of two chapters in *Commercial Litigation: Pre-Emptive Remedies* (4th ed, looseleaf) (Sweet & Maxwell): one on provisional liquidators and the other on injunctions in insolvency proceedings.

We have listed a selection of Iain's most interesting and/or reported cases below.

Commercial litigation

- **Vama Contractors & Kitchen Suppliers Limited** (2011): contested winding up petition presented on just and equitable ground; matter settled on the first day of what was to have been a four day high court trial.
- **Rowles-Davies v Call 24-7 Ltd** [2010] EWHC 1695 (Ch); (2010) 160 NLJ 1043: effect of a Part 36 offer made by a defendant, where the claimant at trial subsequently improved on the offer by less than £50,000; Court ultimately awards successful claimant only 60% of his costs (for earlier proceedings, see [2010] EWHC 1443 (Ch)).
- **Cadogan Petroleum plc v Tolley and others** [2010] EWHC 1107 (Ch): disclosure of a settlement agreement which contained confidentiality provisions; the settlement agreement was partially disclosed.
- **Agbaje v Ogunsanya** (2010), Central London County Court: a partnership dispute involving general medical practitioners which had expelled one of their members; the expelled partner challenged his expulsion; expulsion upheld, after a hotly contested seven day trial, with numerous legal and factual disputes.

Civil fraud

- **Abbey Forwarding Limited, in provisional liquidation** (2009 – 2010): successfully advising the directors of this company in respect of claims by a provisional liquidator against them for breach of fiduciary duty, in connection with an alleged VAT and excise duty fraud.
- **New ISG Ltd v Benjamin John Vernon & others** [2007] EWHC 2665 (Ch); *the Times*, Dec 12 2007; [2008] ICR 319; [2008] IRLR 115: without notice injunctions to recover confidential information which the Respondents had removed from their employer's premises and were using on behalf of competitor; also, effect of the restrictive covenant under the Transfer of Undertakings (Protection of Employment) Regulations 2006.

- **Richmond v Burch [2007] 1 All ER 658**: jurisdiction of the master to vary or discharge injunction and application of CPR PD 2B, para. 2.2 (for earlier proceedings, see *Richmond v Burch* [2004] 4 All ER (D) 148).
- **Watford Petroleum Ltd v Interoil Trading SA [2005] All ER (D)**: powers of the Court to order the cross-examination of a deponent on an interim basis before trial, in the absence of a freezing order or search order (led by Anthony Trace QC of Maitland Chambers).
- Joint venture dispute relating to **Ukrainian oil refinery**; major nine week trial in Chancery Division; the matter settled.

Bankruptcy and Insolvency

- Advising the administrators of **Checkprice (UK) Limited** (2009 – 2011) in relation to an alleged excise duty fraud.
- **Fagan v Papanicola [2009] BPIR 320**: successfully representing the respondent wife in a claim brought by her husband's trustee for bankruptcy under ss. 339 (transaction at an undervalue) and s. 423 (transaction defrauding creditors) of the Insolvency Act 1986.
- **Brown v Rice/Patel [2007] BPIR 305; also [2008] FSR 3**: exceptions to the "without prejudice" rule in the context of a mediation.
- **Skycat Group Ltd, Re [2007] EWHC 3116 (Ch)**: whether appropriate to place company into administration where company's shareholders divided as to appropriateness and desirability of the administration procedure.

What others say

Iain has been recommended as a leading junior for commercial chancery, civil fraud and insolvency by Chambers & Partners and for both insolvency and fraud by Legal 500 for a number of years.

Iain Pester comes highly recommended for his strong work across the spectrum of commercial chancery. His work takes in contract, shareholder, partnership and joint venture disputes, as well as insolvency and fraud actions. His good working knowledge of German and Russian are appreciated by clients from CEE. (*Commercial Chancery - Chambers UK 2012*)

... also commended Iain Pester, who recently advised the claimant in *Abbey Forwarding v Hone*. His Russian language skills are particularly welcome in this era of Russian and CIS-dominated litigation, and he is universally regarded as "an accomplished and impressive performer." (*Civil Fraud - Chambers UK 2012*)

Iain Pester impresses as being "fantastic on intellectually gritty matters." His wide-ranging practice caters to all aspects of corporate and personal insolvency. (*Insolvency - Chambers UK 2012*)

Iain Pester is ranked as a leading junior in the areas of Insolvency and Civil Fraud in *Legal 500 2011*.

Iain Pester "gives considerable strategic thought to his drafting and advice", ... (*Civil Fraud - Legal 500 2011*)

Others at Cohen's set include the "utterly professional" Iain Pester, who "adds a dash of inspiration to proceedings" and produces "thorough, well-prepared statements." Well capable of dealing with a broad range of issues, he is as happy handling civil fraud and insolvency work as he is partnership law and professional negligence. (*Commercial Chancery - Chambers UK 2011*)

Iain Pester has fast become a favourite amongst clients in Ukraine and Russia for fraud-related work. This "confident, approachable and professional" was also instructed in the *Abbey Forwarding* case concerning alleged excise duty fraud. (*Civil Fraud - Chambers UK 2011*)

Iain Pester is praised for his "complicated forensic investigation work." He is "very approachable and grasps the important issues quickly." He is currently acting for the administrators of Checkprice (UK) in relation to allegations of excise duty fraud. (*Insolvency - Chambers UK 2011*)

Iain Pester combines general commercial and chancery litigation with advisory work and impresses sources with his specific expertise in fraud, insolvency and partnership-based cases. (*Commercial - Chambers UK 2010*)

Iain Pester continues to impress interviewees as "industrious and multitalented". He has particular experience advising on the intersection of fraud and insolvency. (*Insolvency - Chambers UK 2010*)

Iain Pester's skill belies the relatively short time he has been at the Bar. He is a favoured junior counsel in many fraud matters, and has recently obtained a freezing injunction in a matter that involved cheque fraud. (*Civil Fraud - Chambers UK 2010*)

Iain Pester's "fluency in Russian has proved helpful in recent fraud cases". (*Civil Fraud - Legal 500 2009*)

Iain Pester has recently been acting for the defendant in a large-scale fraud case in the Commercial Court where the claimants are claiming USD69 million. Interviewees commend him for his "ability to explain potentially complicated matters with clarity". Despite being only eight years' call, he is said to be "developing into a well-rounded chancery barrister who's prepared to roll up his sleeves and get involved". His cross-examination skills are of particular note, as they are of "a quality more usually seen in barristers of much greater experience." (*Civil Fraud - Chambers UK 2009*)

A new entry to the tables this year, Iain Pester is "bright and thorough." "Firm but not flashy," he is an engaging performer who is applauded for presenting his cases attractively. Pester has particular experience of the private international law aspects of insolvency, including the application of the EU Regulation on insolvency Proceedings. (*Insolvency - Chambers UK 2009*)

Memberships

Chancery Bar Association
COMBAR
The Commercial Fraud Lawyers Association