

Iain Pester

Call: 1999
 Education: BA (Oxon) First Class Honours; BCL First Class Honours
 Languages: Fluent French, Good German & Russian
 Email: pester@11sb.com
 Telephone: 020 7831 6381



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); and
- 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.

Iain is recommended as a leading junior for Commercial Chancery, Civil Fraud and Insolvency in *Chambers & Partners* 2009 and for fraud in *Legal 500* 2008.

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." (*Chambers & Partners* 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. (*Chambers & Partners* 2009)

Also praised here is Iain Pester, who has built up a decent fraud, insolvency and partnership-based chancery practice: "a thorough performer, he is able to explain potentially complicated matters to clients with clarity." (*Chambers & Partners* 2009)

Debuting in this year's *Chambers* tables is Iain Pester, who is described as being a "fantastic junior who has skills well beyond his call year." (*Chambers & Partners* 2008)

Memberships: Chancery Bar Association, COMBAR, and the Commercial Fraud Lawyers Association

Cases for Iain include:

Fagan v Papanicola, 20/11/08, Judge Raynor QC (sitting as a deputy High Court Judge)

Bankruptcy - Transaction at an Undervalue

Iain successfully represented 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. The Court was satisfied that, on the facts, neither claim was made out.

New ISG Ltd v Benjamin John Vernon & others [2007] EWHC 2665 (Ch); the Times, Dec 12 2007

Confidential Information- Restrictive Covenants - TUPE

Iain acted for the Claimant employer against five Respondent employees to recover confidential information which the Respondents had removed from the Claimant's premises and were using on behalf of one of the Claimant's competitors. Initially, an application was obtained on a without notice basis, and the Court ordered delivery up of documents, and granted an injunction to enforce a duty of confidence and breaches of restrictive covenants. The order for delivery up and the breach of confidence injunction were maintained at the on notice hearing.

However, the Respondents sought to challenge the continuation of the restrictive covenant injunctions on the basis of a novel construction of the Transfer of Undertakings (Protection of Employment) Regulations 2006. After a full day's argument, the restrictive covenant injunction was discharged, but Iain obtained permission to appeal against this part of the decision.

Brown v Rice/Patel [2007] BPIR 305:

Insolvency - Civil Procedure

Exceptions to the "without prejudice" rule in the context of a mediation.

Richmond v Burch [2007] 1 All ER 658:

Civil Procedure - Injunctions

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)

Re Shine Styling Ltd [2005] All ER (D) 34:

Company - Civil Procedure

Disclosure and winding up petitions on the "just and equitable" ground

Watford Petroleum Ltd v Interoil Trading SA [2005] All ER (D) (led by Anthony Trace QC of Maitland):

Civil Procedure

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.

Tatnall v Longley, Central London County Court, HHJ Hallgarten QC, October 15 2003:

Security for Costs

Jurisdiction to award security for costs under CPR Part 25, r. 25.13(2)(a) where claimant had two residences, one within a Convention country and one without; discussed in the White Book, vol. 1.

Settled/anonymised

- Recently acted in two applications to set aside statutory demands, both in excess of £4million
- Acted in major nine week trial in the Chancery Division involving a joint venture dispute relating to a Ukrainian oil refinery