

Kevin Pettican

Year of Call: 1994
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Insolvency and bankruptcy

Insolvency & restructuring

Kevin Pettican is regularly instructed in disputes arising in the personal and corporate insolvency context. His experience includes:

- Applications to set aside statutory demands
- Applications to restrain the presentation/advertisement of winding up petitions
- Contested bankruptcy and winding up petitions
- Matters arising during the insolvency process, including resisting applications by office holders to conduct private examinations under s236 and s366 of the Insolvency Act 1986, as well as representing individuals in such examinations
- Issues concerning the appointment of administrators and their powers
- Transaction avoidance claims by office holders
- Claims by trustees in bankruptcy
- Claims by office holders against former directors for fraudulent and/or wrongful trading and misfeasance
- Directors disqualification proceedings

Reported cases

Re: JD Group Ltd [2023]: Acting for a former director in a substantial claim by a liquidator alleging fraudulent trading and misfeasance in the context of an alleged MTIC fraud.

Hira v Kanzai Securities Ltd [2017] EWHC 2213 (Ch): Successful defence of an appeal against an order refusing to set aside a statutory demand where the debtor was arguing that his liability under the personal guarantee did not give rise to a liquidated debt.

The Law Society v Beller [2014] EWHC 3923 (Ch); [2014] BPIR 1480: Successful defence of a claim by the Law Society to recover a fund representing the work in progress of a solicitor's former practice. The case raised complex issues concerning the relationship between an IVA entered by the former solicitor and the statutory trust that arose following the Law Society's intervention in his practice.

Re: Legal & Equitable Securities plc. (in Liquidation) [2012] EWHC 910 (Ch); (2012) 109 (24) L.S.G 22: A successful challenge to a liquidator's refusal to admit the applicant as a contingent creditor based on a contractual indemnity. The case is significant in terms of the meaning of a contingent liability for the purposes of Rule 13.12 of the Insolvency Rules 1986.

Re: RC Realisations (2011) Ltd: Acting for an Italian company in proceedings arising from the decision of the administrators of RC Realisations to refuse to admit a substantial claim. The case (which settled) concerned the impact of the EU sanctions regime against Iran on two international trade agreements.

Beller v Valentine [2011] EWHC 2397; [2012] BPIR 15: Acting for a former solicitor in a claim for outstanding fees against a liquidator in the context of a third-party funding arrangement. The case is significant in terms of its consideration of the potential liability of an office holder who instructs solicitors in reliance on third party funding.

Civil fraud & asset recovery

Kevin is frequently instructed in commercial cases in which fraud is alleged or which involve the recovery of assets.

Reported cases

Re: JD Group Ltd [2023]: Acting for a former director in a substantial claim by a liquidator alleging fraudulent trading and misfeasance in the context of an alleged MTIC fraud.

Winter v Hockley Mint Ltd [2019] 1 WLR 1617: The litigation involved claims of deceit and conspiracy in the context of office equipment leases. Kevin acted for the successful appellant and the decision of the Court of Appeal is a leading authority on the circumstances in which a principal is vicariously liable for the fraud of his agent.

Szepietowski v The National Crime Agency [2014] 1 AC 338: A successful appeal to the Supreme Court (together with Romie Tager KC) in what is now the leading case on the equitable doctrine of marshalling. The case raised complex issues arising from a settlement of asset recovery proceedings that was originally brought against Kevin's client by the National Crime Agency.

Kinch v Rosling & Ors [2019] EWHC 286: Successful claim on behalf of Leicestershire businessman Gilbert Kinch who had been the victim of an advanced fee fraud in connection with a failed bid to acquire Leicester City Football Club.

Al Baho & Ors v Meerza [2011] EWHC 2984: Acting for a Kuwaiti national, a member of the ruling family of Kuwait and a former English solicitor in litigation arising from the sale of a London property in which it was alleged that the purchaser had paid a bribe and a secret commission had been received. The dispute gave rise to proceedings in the Chancery Division, the Queen's Bench Division (for defamation), as well as proceedings in Kuwait.

Academic qualifications

- BA (First Class Honours), Christ Church, University of Oxford
- Bachelor of Civil Law (BCL), Christ Church, University of Oxford
- BPTC, Inns of Court School of Law

Scholarships

- Major Scholarship, Inner Temple
- Duke of Edinburgh Scholarship, Inner Temple

Professional bodies

- Inner Temple

Direct Access

Kevin Pettican is qualified to accept instructions directly from members of the public and professional clients under the Direct Public Access scheme.