

# Matthew Winn-Smith



Matthew has a broad general commercial and common law practice covering many areas in which chambers specialises. He enjoys the advisory side of his practice but particularly relishes court room advocacy. Matthew prides himself on his practical and user friendly approach. He accepts instructions on a Direct Access basis.

## Further information

### Qualifications

2003: Called to the Bar (Lincoln's Inn)

2002: Inns of Court School of Law, Bar Vocational Course

2001: University of Oxford (Regent's Park College); MA (Jurisprudence)

### Memberships

- Chancery Bar Association
- COMBAR
- Property Bar Association

### Interests

Triathlon, extreme endurance challenges (preferably not work related) and good food.



### Commercial

Matthew has a general commercial practice dealing with all contractually based claims, guarantees, supply of goods and services, finance and credit transactions, company and partnership disputes, employment and insolvency.

### Reported cases of interest

Munim v Rahman [2022] EWHC 2870 (Ch) – The successful defence of a petition seeking to challenge the status of stock transfer forms and making various allegations of breach of fiduciary duty following the re-



**Year of Call: 2003**

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registration of a private limited company as a public limited company (together with a consolidated intellectual property claim).

Fattal v Fattal [2022] EWHC 950 (Ch) – A case concerning the beneficial interests in a property which was found to have been transferred by a businessman in the mistaken belief that his brother had paid £400,000 to him another pursuant to an oral agreement. Interesting legal questions relating to unjust enrichment and the need for an equitable account.

Singh v Ark & Co Ltd [2019] EWHC 3728 (Ch) – Application for extension of time to make an application for permission to appeal against an earlier judgment.

Singh v Ark & Co Ltd [2019] EWHC 3655 (Ch) – Permission to appeal hearing considering the weighing up of factors relevant to a relief from sanctions application

Rahbarpoor v Suliman [2019] EWHC 1348 (Ch) – A procedural application relating to amendment of pleadings and costs.

De Mota v ADR Network & Co-Operative Group Ltd [2018] ICR D6; UKEAT/0305/16/DA – A successful appeal considering the application of early conciliation requirements and deciding that employment judges are not to look behind early conciliation certificates.

SQR Security Solutions Ltd v Badu (2016) UKEAT/0329/15/DA – Successful appeal requiring a reconsideration of damages following new evidence provided by the employer potentially casting doubt on the employee's mitigation of loss.

Hills v Niksun [2016] EWCA Civ 115 (CA) – An appeal examining the determination of an employee's commission payable pursuant to his contract in circumstances where the trial judge substituted the employer's exercise of discretion for his own assessment.

Birdi v Specsavers Optical Group Ltd & others [2015] EWHC 2870 (Ch) — 4 week trial of issues within s.994 petition.

Barclays Bank v Mukhtar-Zahid (2012) — Professional negligence claims against various valuers, surveyors and solicitors for about £14m plus a £2m claim pursuant to a personal guarantee.

Barons Bridging Finance Plc v Nnadiokwe [2012] EWHC 4078 (QB) — Set aside on basis of procedural irregularity.

Birdi v Dartford Visionplus Ltd (2012) UKEAT/0289/12/JOJ — Successful appeal against a refusal to adjourn on grounds of ill-health.



Bluestone ARM Ltd v Eastham [2012] EWHC 2750 (Ch) — Partnership dispute / appeal out of time.

Trad Hire & Sales Ltd v Holbrook Investments Ltd [2010] EWHC 90 (Ch) — Interim injunction.

CIDA v LB of Barnet (2009) — Breach of arbitration clause.

Macleish Littlestone Cowan v Hajibassi [2006] EWHC 1587 (Ch) — Freezing injunction.

Re J S Gill [2004] EWHC 883 (Ch); [2005] BPIR 129 — Annulling bankruptcy.

## **Property**

Matthew is instructed in a wide range of property disputes including landlord & tenant (residential and commercial), disrepair and dilapidations, mortgages, co-ownership disputes, public sector housing and nuisance.

## **Related cases of interest**

Fattal v Fattal [2022] EWHC 950 (Ch) – A case concerning the beneficial interests in a property which was found to have been transferred by a businessman in the mistaken belief that his brother had paid £400,000 to him another pursuant to an oral agreement.

Surer v Driver [2021] EWHC 737 (TCC) – An application for an injunction in the TCC to enable urgent repair work to be carried out to a potentially dangerous residential property.

Rubin v Purim — Multi-jurisdictional (Israel and England) family property dispute involving beneficial interests in several properties.

Guthrie v Nicholson — Dispute re alleged misrepresentations as to flooding.

Ali & Islam v Tyley — Forfeiture / insurance dispute.

Kelleher v Enterprise Inns — Tree root subsidence / nuisance dispute.

L'aimable v Peri-Bay Restaurants Ltd — Disrepair claim with interesting factual and causation complexity.

Kainth v Mal — Building dispute.

## **Insolvency**

Matthew regularly appears in the Insolvency and Companies List of the Business and Property Courts. He has been dealing with insolvency cases since his call in 2003, his first reported case being Re J S Gill [2004] EWHC 883 (Ch); [2005] BPIR 129 which dealt with



annulling a bankruptcy where creditors were no longer traceable. Matthew receives instructions from insolvency practitioners, companies and individuals. He is happy to receive instructions on a Direct Access basis in appropriate cases.

### **Examples of recent insolvency work**

- An ongoing series of linked insolvency applications (including disclaimer and vesting order applications) where the debtor alleges his longstanding bankruptcy order is the result of his impersonation by a fraudster
- Advising a company incorporated in the Netherlands Antilles in respect of jurisdiction issues in commencing insolvency proceedings against a BVI company
- Application to annul bankruptcy pursuant to s.282 IA 1986
- Chapper v Fox [2016] EWHC 2609 (Ch) – An appeal before Henry Carr J dealing with the consequences of highly unusual orders made pursuant to s.333 IA 1986 (which prevented a bankrupt from contacting various individuals)
- Acting for bankrupt facing claims by his trustee in bankruptcy pursuant to s.339 (transactions at an undervalue), s.340 (preferences) and s.423 (transactions defrauding creditors) IA 1986
- Advising and acting (on both sides) in numerous winding-up and bankruptcy petitions and applications for rescission and set aside

### **Seminars/Training**

Matthew is very happy to deliver seminars and training to solicitors on a variety of insolvency and commercial topics.

