

## Oliver Hyams

Called to the Bar 2012

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Oliver is an experienced commercial barrister who specialises in insolvency, civil fraud and asset recovery, and cases relating to companies, joint ventures and trusts. He is recommended for Restructuring/Insolvency in Chambers UK and for Insolvency and Civil Fraud in The Legal 500.

Oliver has particular expertise in cases involving allegations of wrongdoing and dishonesty by directors, trustees and other fiduciaries as well as high value, international shareholder disputes.

Oliver is a formidable advocate who appears regularly in the High Court and the Court of Appeal, both on his own account and as part of large legal teams. He has recently appeared as a junior in two complex commercial appeals in the Court of Appeal: LA Micro [2023] EWCA Civ 214 and Floreat [2023] EWCA Civ 440. He prides himself on providing clear, practical and commercial advice.

Oliver was appointed as a member of the Insolvency Rules Committee in October 2022 and has recently been involved in reviewing new special administration rules for the nuclear sector.

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## Insolvency

Insolvency work plays a key role in Oliver's practice and he is instructed in high value and complex insolvency disputes as well as commercial disputes with an insolvency angle. He also has expertise in relation to insolvent estates and trusts.

Oliver acts for office-holders, companies and individuals. His recent clients include a leading third-party funder, a major airline and an international bank, as well as a major overseas insurer and high net worth individuals.

He is regularly instructed in office-holder claims (such as claims relating to preferences, transactions at an undervalue, misfeasance and also wrongful trading claims), claims about transactions defrauding creditors, as well as many other types of insolvency application, such as applications for an injunction to restrain the presentation or the giving notice of a winding up petition.

He is familiar with the Corporate Governance and Insolvency Act 2020, including the moratorium procedure, and its application by the courts, in addition to the restructuring plan provisions of the Act.

Oliver has extensive experience of high-value bankruptcy proceedings, and also has experience of inquiries into the bankrupt's dealings and property.

Recent work includes:

- Re Lehman Brothers (PTG) Ltd [2023] EWHC 3084 (Ch): Hildyard J gave guidance for

administration extension applications.

- *Steel v Spencer Road LLP (t/a The Omerta Group)* [2023] EWHC 2492 (Ch): Bacon J decided that, in general terms, bonus clawback clauses do not engage the restraint of trade doctrine.
- *Bridger & Co Ltd v Specialist Lending Ltd (t/a Duologi)* [2023] EWHC 2562 (Ch): Deputy ICC Judge Curl KC confirmed that a secured creditor can present a winding-up petition.
- *Williams & Anor v Alter Domus Trustees (UK) Ltd & Ors (Rev1)* [2023] EWHC 1820 (Ch) (18 July 2023): Miles J determined that a purchaser's equitable lien is coextensive with the subject matter of the purchase contract.
- *Re Umbrella Care Ltd*: Oliver acts for liquidators in a complex asset recovery exercise, where a fraudster has sought to put assets beyond the reach of creditors. One case concerns the priority of equitable interests. Led by Brie Stevens-Hoare KC.
- Advised a well-known group in relation to the declaration and payment of a dividend of £130m+ at a time of doubtful solvency. Led by Lesley Anderson KC.
- *Atkinson and Mummery & Anr v Varma & Ors* [2021] EWHC 2027 (Ch): Oliver acted for the successful fourth defendant against a claim by joint liquidators seeking to recover £ multi-million which had been invested in a fraudulent property development scheme. Led by James Ramsden KC.
- *Vald Nielsen Holding A/S & Newwatch Limited v (1) Baldorino (2) Bennett (3) Mantell*: Multi-party litigation in which Oliver advised the claimant in relation to the proposal that a judgment debt of £16m+ should be paid by way of some of the highest value and most complex IVAs yet made under the current rules which would release funds from offshore investments and trusts, and involve collateral agreements with family members. Oliver also acted successfully in a contested bankruptcy petition and advised on potential applications against third parties arising out of their failure to liquidate assets.
- Acted for the debtor, who owed £42m to a Russian bank, in bankruptcy proceedings.
- Acted for the joint supervisors of a failed IVA in their successful petition to bankrupt a former England footballer.
- Successfully opposed a winding-up petition for a football club.

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## Civil Fraud

Oliver specialises in high value, complex commercial fraud cases and cross-border disputes, making full use of his related expertise in commercial litigation, insolvency, and disputes involving companies, joint ventures and trusts.

He has considerable experience of worldwide freezing orders, choice of law and jurisdiction disputes, and applications to serve out of the jurisdiction. His cases often involve without notice applications for interim relief, contested injunction applications, cross-examination on asset disclosure, and contempt of court applications, in addition to passport delivery up and travel restriction orders.

Oliver regularly appears in commercial claims involving allegations of dishonesty, deceit, conspiracy, inducing breach of contract, and unjust enrichment. He also handles cases concerning fraud in relation to the management of trusts. He has particular experience in claims involving misappropriation by fiduciaries, including directors and trustees.

Asset recovery forms a significant part of his practice and is an area in which his expertise in

insolvency, company and trusts law are a significant advantage.

Recent work:

- Floreat Investment Management Limited v (1) Churchill & Ors [2023] EWCA Civ 440: a \$ multi-million claim in deceit, breach of fiduciary duty, conspiracy, dishonest assistance and knowing receipt involving three fund managers who allegedly misappropriated interest payments on a loan to Reading Football Club and failed to demand payments due to the fund. Led by Nigel Jones KC.
- Davies v Caddick & Naylor: a deceit and conspiracy claim against the directors of an offshore hedge fund, involving issues of foreign law and expert evidence. Obtained worldwide freezing orders and other disclosure orders; advised on overseas enforcement (leading to a property arrest in the Netherlands; a liquidation in Gibraltar; and asset tracing in Spain).
- Atkinson and Mummery & Anr v Varma & Ors [2021] EWHC 2027 (Ch): Oliver acted for the successful fourth defendant against a claim by joint liquidators seeking to recover £ multi-million which had been invested in a fraudulent property development scheme. Led by James Ramsden KC.
- Galmarley Ltd (t/a Bullionvault.com) v (1) Kitover (2) Haller [2021] EWHC 809 (Ch): an extraordinary stakeholder claim which required the claimants to prove they were one and the same person in order to withdraw bullion deposited in vaults in Switzerland and Singapore under what turned out to be a false name.
- Yalcinkaya v Hassan [2021] EWHC 723 (Ch): an application to discharge a freezing order and proprietary injunction for breach of the duty of fair presentation.
- Wolff v Trinity Logistics USA Inc [2019] 1 WLR 3997 (led by Michael Collett KC): Oliver acted for a director facing claims in deceit, unlawful means conspiracy and procuring breach of contract. The appeal and cross-appeal concerned the elements of the economic torts; whether the court has the power to make a declaration of indemnity; and the circumstances in which a respondent requires permission to cross-appeal.
- Hughes Jarvis Ltd v Searle [2019] 1 WLR 2934: an appeal concerning committal for contempt in the face of the court. Oliver also appeared in Hughes Jarvis Ltd v Searle [2018] EWHC 2018 (Ch): an application to stay enforcement of a payment on account of costs pending appeal.
- The Universal Wealth litigation: Oliver represented 29 claimants in their claim against a professional trustee and his associates, who had misappropriated up to £25m of trust money from around 200 clients and had persuaded thousands of people to transfer ownership of their properties into his name. He (led by Brie Stevens-Hoare KC) obtained worldwide freezing and proprietary injunctions; money judgments for £4.5m; and associated relief under the Trustee Act 1925. Oliver was subsequently involved in a global asset tracing exercise.
- Reynolds v Long [2018] EWHC 3535 (Ch): Oliver was sole counsel for the successful applicants in a contested application to commit a professional trustee for breach of his disclosure obligations under several freezing orders. He was sentenced to 8 months' imprisonment.

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## Commercial Litigation

In addition to the civil fraud, insolvency and company expertise outlined in the other parts of his profile, Oliver handles a wide variety of commercial matters, both domestically and internationally.

These claims range from general breach of contract disputes to breach of warranty claims and

claims under guarantees, indemnities and legal charges.

Oliver appears regularly in the High Court, Commercial Court and appellate courts.

Recent work:

- Floreat Investment Management Limited v (1) Churchill & Ors [2023] EWCA Civ 440: a \$ multi-million claim in deceit, breach of fiduciary duty, conspiracy, dishonest assistance and knowing receipt involving three fund managers who allegedly misappropriated interest payments on a loan to Reading Football Club and failed to demand payments due to the fund. Led by Nigel Jones KC.
- LA Micro Group (UK) Ltd & Anr v LA Micro Group, Inc. & Ors [2023] EWCA Civ 214: case about the beneficial ownership of the shares in a computer wholesale business, focusing on arguments around abuse of process, disclaimer, contractual surrender, laches and proprietary estoppel. Oliver appealed for the successful parties at trial (twice) and on appeal (twice). The opposing parties have applied for permission to appeal to the Supreme Court. Led by Andrew Twigger KC.
- General Insurance Brokers (UK) plc v Bupa Insurance Ltd: a claim in the Commercial Court for breach of contract by an insurance intermediary specialising in health insurance for oil workers in Libya. led by Michael Collett KC.
- Bibby Financial Services Ltd & Ors v Moraes & Anr: a claim under guarantees, indemnities and a legal charge arising out of the failure of a fashion company.
- Wolff v Trinity Logistics USA Inc [2019] 1 WLR 3997: Oliver acted for a director facing claims in deceit, unlawful means conspiracy and procuring breach of contract. The appeal and cross-appeal concerned the elements of the economic torts; whether the court has the power to make a declaration of indemnity; and the circumstances in which a respondent requires permission to cross-appeal. Led by Michael Collett KC.

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## Company

Oliver has particular experience of disputes involving companies and joint ventures. Many of these cases include allegations of fraud, dishonesty or impropriety.

Oliver has extensive experience of shareholders' disputes, including unfair prejudice petitions under s.994 of the Companies Act 2006, petitions on the just and equitable ground and claims in relation to the beneficial ownership of companies.

Oliver is regularly instructed in disputes relating to breaches of duty by directors, particularly in the context of broader disputes between parties, or by office-holders in insolvencies.

He is commonly involved in disputes where the parties have issued, or have threatened to bring, several connected claims, often in different jurisdictions.

Recent work:

- LA Micro Group (UK) Ltd & Anr v LA Micro Group, Inc. & Ors [2023] EWCA Civ 214: case about the beneficial ownership of the shares in a computer wholesale business, focusing on arguments around abuse of process, disclaimer, contractual surrender, laches and proprietary

estoppel. Oliver appealed for the successful parties at trial (twice) and on appeal (twice). The opposing parties have applied for permission to appeal to the Supreme Court. Led by Andrew Twigger KC.

- An unfair prejudice petition concerning an engineering company which keeps water infrastructure operational. The case is topical as there are allegations of mismanagement during the pandemic.
- Stone Futures Ltd v PJ Mullan & Sons Ltd & Anr: a claim for an account arising out of a failed joint venture for the redevelopment of a milk depot.
- Re Pre-War Car Parts Ltd: a winding-up petition on the just and equitable ground concerning a classic car restoration business, and a cross-claim for declaratory relief as to the beneficial ownership of the shareholding in the company.
- Re Astha Ltd: an unfair prejudice petition (and two related claims) in relation to a care home business.
- A claim for a specific performance of an agreement to grant an option over valuable shares in an artificial intelligence start-up targeting 'unicorn' status.
- A claim arising out of a failed recycling plant project where investors alleged breaches of a shareholders' agreement and misfeasance by the directors.

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## Trusts & Property

Oliver is experienced in handling disputes relating to trusts and property, including claims for breach of trust and in relation to the formation and operation of implied, resulting and constructive trusts.

Recent cases include:

- Re Signature Living Residential Ltd: Oliver acts for an insurer which provided deposit bonds to purchasers of off-plan apartments. The development failed. The administrators, insurer, lenders and other creditors cannot agree where the loss should fall. A trial, concerning the scope of equitable liens, took place in June 2023. Led by Andrew Twigger KC.
  - Re Umbrella Care Ltd: Oliver acts for liquidators in a complex asset recovery exercise, where a fraudster has sought to put assets beyond the reach of creditors. One case concerns the priority of equitable interests. Led by Brie Stevens-Hoare KC.
  - Yalcinkaya v Hassan: a case concerning the abandonment of beneficial interests in trust property.
  - The Universal Wealth litigation: Oliver represented 29 claimants in their claim against a professional trustee and his associates, who had misappropriated up to £25m of trust money from around 200 clients and had persuaded thousands of people to transfer ownership of their properties into his name.
  - He (led by Brie Stevens-Hoare KC) obtained worldwide freezing and proprietary injunctions; money judgments for £4.5m; and associated relief under the Trustee Act 1925. Oliver was subsequently involved in a global asset tracing exercise.
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## Pro Bono

Oliver co-founded Pro Bono Community, a charity that works to improve the availability and quality of pro bono legal advice by providing lawyers with training in different areas social welfare law, before placing them in legal advice clinics.

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## Awards and Recommendations

Oliver is recommended by The Legal 500 for Insolvency:

“Clear advice. Very responsive and user-friendly. Extremely knowledgeable on insolvency law.”

(The Legal 500, 2023)

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## Memberships

- Chancery Bar Association
  - COMBAR
  - ConTrA
  - R3 Associate Member
  - INSOL International
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## Prizes and Scholarships

- 2013 Levitt Scholarship, Lincoln's Inn
  - 2012 Brussels Internship Scholarship, Lincoln's Inn
  - 2011 Hardwicke Entrance Scholarship, Lincoln's Inn
  - 2011 The City Law School BPTC Scholarship
  - 2010 Lord Haldane Scholarship, Lincoln's Inn
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## Education and Qualifications

- City Law School, BPTC (Very Competent)
- City Law School, GDL (Commendation)
- University College London, Human Rights (MA)
- University of Durham, Philosophy, Politics and Economics, BA (Hons)