



## Clare Hoffmann - Associate

Year of Call: 1990

*“is also highly motivated and very committed”  
and “analytically very able”*

*“well regarded ...”*

Legal 500

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### Practice Overview

Clare Hoffmann used to be a full member of Serle Court but no longer practices as a barrister. She remains an associate member.

Her main areas of work were:-

General commercial and chancery litigation including:

- Fiduciaries
- Corporate and individual insolvency
- Contentious trust
- Commercial disputes
- Professional negligence
- Mortgages
- Contentious probate

### Cases of Note:

*J.D.Wetherspoon Plc v Van de Berg and others*: [2009] EWHC 639 (Ch) Clare acted for a defendant director in the two month trial of Wetherspoon's £4 million claim that the director of a commercial property agency owed personal fiduciary duties directly to Wetherspoon as principal. That claim failed but Wetherspoon succeeded in its claim that the director had dishonestly assisted in the agent's breach of fiduciary duty of loyalty (notwithstanding that there was no wrongful disposal of assets impressed with any kind of trust).

*J.D.Wetherspoon Plc v Van de Berg and others* [2007] EWHC 1044 (Ch). Interim application on limitation issues relating to fiduciaries.

*In re Jaiswal* [2006] JLR N [13]; *Jaiswal v Jaiswal* : [2007] JLR 69. The Jersey Court of Appeal. Whether the proper forum for a dispute as to the validity of a will and the grant of probate is the forum where probate must be granted or the forum of the laws that govern validity (the domicile of the deceased). Both forums being non-convention countries, India and Jersey. Dispute over a testate estate valued at over £20 million.

*Morphites v Bernasconi* [February 2003] EWCA Civ 289 (Court of Appeal) - A fraudulent misrepresentation in the course of trading that did not increase the deficiency of assets available to creditors did not amount to fraudulent trading for the purposes of section 213 of the Insolvency Act 1986. The Court does not have jurisdiction under section 213 of the Insolvency Act to make an award of punitive damages.

*Re Alpha Club (UK) Ltd* [2002] EWHC 884 (Ch) Ch D: Winding up order made on the Secretary of State's public interest petition despite the fact of subsisting voluntary liquidation and the absence of a claim by the Secretary of State that there was a need to investigate the company's affairs, there having already been a 10 month investigation under section 447 of the Companies Act 1985.

*Secretary of State for Trade and Industry v Deverell* (Court of Appeal) [2001] Ch 340; [2002] AllER 365; [2000] BCC 1057; [2000] 2 BCLC 133: The meaning of "shadow director" within section 22(5) of the Company Directors Disqualification Act 1986.

*ANC v Clark Goldring Page Limited* (Court of Appeal); Times 31 May 2000; 2000 WL 664405: The extent of a liquidator's exemption from champerty and maintenance. Assignment of fruits of an action within the liquidator's power to sell property of the Company but not within the exemption from champerty and maintenance because equitable assignment of future proceeds of action does not assign the right to conduct of the action which consequently can only be transferred by a champertous agreement to maintain the action.

*Royal Bank of Scotland v Etridge* [1997] 3 All ER 628 (CA) Whether mortgagee's duty to advise surety to take independent advice is capable of being discharged by mortgagee's solicitors.

*Watkins v A.J. Wright (Electrical) Ltd* [1996] 3 All ER 31; Contempt of court for disclosure of material obtained on discovery.

*Re Pearl Maintenance Services* [1995] BCC 657: Concurrent appointment of Receiver and Liquidator. Debenture as created was floating charge. Receiver's duties to preferential creditors under Section 40 of the Insolvency Act 1986 did not cease when debenture holder had been paid in full.

*Calor Gas v Piercy* [1994] BCC 69; voting rights of secured creditors in company voluntary arrangements.

*Re Telomatic* [1993] BCC 404; Priority of charges upon late registration of company charge.

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## Areas of Expertise

### Education & Qualifications

Dip Law: City University, London

LLB (part 1) University of the Witwatersrand, Johannesburg

BA Hons Camberwell School of Arts and Crafts

### Memberships

Chancery Bar Association

Commercial Bar Association

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