



## Adrian Pay

Call: 1999

✉ [adrian.pay@newsquarechambers.co.uk](mailto:adrian.pay@newsquarechambers.co.uk)

☎ +44 (0) 20 7419 8000

<https://www.linkedin.com/pub/adrian-pay/30/15a/b7b>

*"Always extremely thorough and prepared. Good in court; good broad range of knowledge."*

### **Legal 500 UK Bar 2020**

*"An excellent junior who provides considered, robust advice."*

### **Legal 500 UK Bar 2019**

## **Practice Overview**

Adrian is a tenacious chancery litigator who excels in the exhaustive preparation and clear presentation of complex cases. Clients comment *"He is excellent on the detail, very reliable and committed to the client."* (Chambers Global Commercial Dispute Resolution) and *"he is very measured in court, but packs an unexpected bite which is very effective"* (Chambers UK Bar, Commercial Chancery).

Adrian's practice covers all aspects of modern chancery, including commercial fraud, company and insolvency and contractual disputes.

Recent high profile cases include:

- ▣ *Caldero v Beppler & Jacobson Ltd* [2013] EWHC 2191 (Ch), [2014] EWCA Civ 935 (led by Robin Hollington QC - acting for the successful petitioner in a shareholders' dispute over two prestigious hotels in Montenegro); -
- ▣ *Weaving Macro Fixed Income Fund Limited (in liquidation)* (instructed with James Thom QC and Anna Littler - a claim against auditors arising out of the collapse of a Cayman fund following a large-scale fraud by the fund's founder); and
- ▣ *Re Dragon Capital Ltd* (BVI HC (Com) 2014/0171) (led by Robin Hollington QC - an unfair prejudice claim concerning a large Vietnamese investment fund).

Adrian also has an extensive property litigation practice. He appeared for the successful party, leading Thomas Fletcher in the Supreme Court in *R (TRF) v Tilbury Dorset CC* [2015] UKSC 18.

## **Commercial Litigation**

Adrian's practice comprises in large part, high-value commercial litigation, litigated in the High Court in this jurisdiction and offshore: (e.g., *Caldero v Beppler & Jacobson Ltd* [2013] EWHC 2191 (Ch), [2014] EWCA Civ 935, *Weaving Macro Fixed Income Fund Limited (in liquidation)* (Cayman Islands) and *Re Dragon Capital Ltd* (BVI HC (Com) 2014/0171) (see above)). He is instructed in commercial fraud cases (e.g. *Weaving Macro Fixed Income Fund Limited (in liquidation)*).

Adrian has expertise in many aspects of modern commercial litigation (e.g. large-scale e-discovery exercises, asset preservation interim relief, computer forensic evidence, conflict of laws, acting in foreign jurisdictions).

Recent directory acknowledgements include:

*"Totally on top of the material, and you can have complete confidence in the drafts he produces."* Chancery: Commercial - Chambers UK Bar 2017

*"He is one of the most diligent counsel that I've worked with and he's very good at homing in on the detail of a case."* Chancery: Commercial - Chambers UK Bar 2016

## Company & Partnership

Adrian has wide experience in company matters, with particular expertise in shareholders' disputes (e.g. *Caldero v Beppler & Jacobson Ltd* [2013] EWHC 2191 (Ch), [2014] EWCA Civ 935, a high-profile shareholders' dispute, over two prestigious hotels in Montenegro; *Re Dragon Capital Ltd* (BVI HC (Com) 2014/0171), an unfair prejudice claim concerning a large Vietnamese investment fund). He is also instructed in, for example, claims against directors and disputes relating to share sale agreements.

*"He can be relied upon to provide incisive advice and presents his arguments very well."* Company - Legal 500 2017

## Insolvency

Adrian is instructed in insolvency matters, for example, claims against directors and claims to set aside transactions in an insolvency context.

## Offshore

Adrian acts both in cases litigated in foreign jurisdictions (e.g. the British Virgin Islands - *Re Dragon Capital Ltd* (BVI HC (Com) 2014/0171), the Cayman Islands - *Weaving Macro Fixed Income Fund Limited (in liquidation)*) and in cases litigated in this jurisdiction with a foreign element (e.g. *Caldero v Beppler & Jacobson Ltd* [2013] EWHC 2191 (Ch), [2014] EWCA Civ 935, a petition involving hotels in Montenegro, against a Russian respondent), *TOC Investments Ltd v Beppler & Jacobson Limited* [2016] EWHC 20 (Ch), related proceedings, in which Adrian, led by Robin Hollington QC, are instructed by a subsidiary of the former TNK-BP, the Anglo-Russian oil venture).

Adrian has been called to the bar of the British Virgin Islands.

## Property

Adrian is recommended as a leading individual for property litigation, being *"able to present complex intellectual arguments in a very clear manner, both on paper and in court"* (Legal 500 2016) and *"a well-regarded barrister with a broad property litigation practice"* and one who *"who covers all the angles"* (Legal 500).

The property work which Adrian undertakes includes disputes in relation to property developments (e.g. *Buxton Country Homes Limited v Surfbuild Limited* [2008] EWHC 1475 (Ch) (led by James Thom QC)); matters arising out of defective conveyancing; boundary disputes; rights of way disputes; claims based on proprietary estoppel / constructive trusts; commercial landlord and tenant.

Adrian appeared for the successful parties in a series of important cases relating to solicitors' undertakings in conveyancing transactions:

- *Angel Solicitors (A Firm) v Jenkins O'Dowd & Barth (A Firm)* [2009] 1 WLR 1220
- *Clark & another v Lucas Solicitors LLP* [2010] 2 All ER 955
- *Thames Valley Housing Association Limited & Others v Elegant Homes (Guernsey) Limited and Others* [2009] EWHC 2647 (Ch).

## Public Rights of Way

Adrian frequently acts in relation to public rights of way issues, cases include:

- *Kind v Northumberland County Council* [2013] 1 WLR 743
- *TRF v Powys CC* [2013] EWHC 3144 (Admin)
- *TRF v Peak District National Park Authority* [2012] EWHC 3359 (Admin)
- *Wilson v Yorkshire Dale National Park Authority* [2009] EWHC 1425 (Admin)

Adrian appeared for the successful party in the Supreme Court in *R (TRF) v Tilbury Dorset CC* [2015] UKSC 18 (against George Laurence QC), having '*presented his arguments very well*' according to Lord Neuberger's judgment.

## Additional Information

### Qualifications / Education

Classics, MA Oxon (Balliol)  
Diploma in Law, London

### Memberships

Chancery Bar Association  
Commercial Bar Association

### Languages

French

### Professional Appointments

Called: 1999 (England and Wales), 2015 (British Virgin Islands)

## Cases

### Robin Hollington Q.C. and Adrian Pay acted for the successful respondents in *Vollin Holdings Ltd & Ors v Faulkner & 69 ORS* (2020)

#### Reference:

Date: 15 Jun 2020

#### Court:

#### Judge:

#### Practice Area:

### Re *Dragon Capital Ltd (Shrimpton and anr v Scriven and ors)*

Reference: BVI HC (COM) 2014/0171

Date: 15 Jun 2016

Court: High Court, British Virgin Islands

Robin Hollington QC and Adrian Pay are instructed for the Petitioners in a claim under section 184I BVI Business Companies Act 2004 to have their shares in Dragon Capital Ltd ('the Company') bought. The Company is a large Vietnamese investment fund, of which Mr Shrimpton, the First Petitioner, was the co-founder. Mr Shrimpton owns approximately 35% of the issued shares (personally and through a company, the Second Petitioner). Mr Shrimpton claims, inter alia, that he was unfairly excluded from management.

Mr Shrimpton claims that the Company was, from its inception, a quasi-partnership between him and Mr Scrivener, the co-founder, subject to equitable understandings, including a right to participate in management. A number of Vietnamese individuals subsequently became partners, but with their shareholdings held indirectly by Mr Shrimpton and Mr Scrivener.

Some time thereafter, the International Finance Corporation (part of the World Bank) ('IFC') and Promotion et Participation pour la Cooperation Economique ('Proparco') acquired shareholdings, at which time formal shareholders' agreements were executed. The Vietnamese partners did not execute the shareholders' agreements.

The Company, which had taken an active stance in the proceedings and filed a Defence which inter alia denied the existence of a quasi-partnership, applied for declarations (1) that the Company had been and remained entitled to be an active defendant in the proceedings; and (2) to sanction the costs already incurred and to be incurred by the Company in defending the proceedings.

The Judge examined the authorities on participation by a company in unfair prejudice proceedings, including, in particular, *Re A Company* [1994] 2 BCLC 146, *Power v Ekstein* [2010] NSCWC 137, *Trojan Equity Ltd v CMI Ltd* (2011) 87

ACSR 144 and *Annuity & Life Re & or v Full Apex (Holdings) Ltd* [2012] SC (Bda) 73 Com.

The Judge dismissed the application, ordering the Company to pay the Petitioners' costs. As to the Company's entitlement to participate, there had been no application by the Petitioners to restrain it from doing so. The Company was free to participate if it chose to do so. As to the sanction of costs incurred or to be incurred, that was an issue for trial: it was quite impossible at this stage to determine whether historic and proposed participation by the Company would amount to a misfeasance on the part of the directors causing it do so. Click [here](#) to view judgment

**Judge:** Judge Sir Bernard Eder QC (Ag)  
Offshore

**Practice Area:** Commercial Litigation  
Company & Partnership

### **Re Dragon Capital Ltd (Shrimpton and anr v Scriven and ors)**

**Reference:** BVI HC (COM) 2014/0171

**Date:** 02 Jun 2016

**Court:** High Court, British Virgin Islands

Robin Hollington QC and Adrian Pay are instructed for the Petitioners in a claim under section 184I BVI Business Companies Act 2004 to have their shares in Dragon Capital Ltd bought. Dragon Capital Ltd is a large Vietnamese investment fund, of which Mr Shrimpton, the First Petitioner, was the co-founder. Mr Shrimpton owns approximately 35% of the issued shares (personally and through a company, the Second Petitioner). Mr Shrimpton claims, inter alia, that he was unfairly excluded from management.

Mr Shrimpton claims that Dragon Capital Ltd was, from its inception, a quasi-partnership between him and Mr Scrivener, the co-founder, subject to equitable understandings, including a right to participate in management. A number of Vietnamese individuals subsequently became partners, but with their shareholdings held indirectly by Mr Shrimpton and Mr Scrivener.

Some time thereafter, the International Finance Corporation (part of the World Bank) ('IFC') and Promotion et Participation pour la Cooperation Economique ('Proparco') acquired shareholdings, at which time formal shareholders' agreements were executed. The Vietnamese partners did not execute the shareholders' agreements.

Mr Scrivener and Mr Pasikowski, the First and Second Respondents, applied for summary judgment on the issue of whether Dragon Capital Ltd was a quasi-partnership and/or whether the quasi-partners were bound by equitable understandings. They relied upon two principal arguments (1) the allegation of the existence of a quasi-partnership was so weak as to have no real prospect of success; and (2) in any event, the Petitioners had no real prospect of showing that the quasi-partnership survived the execution of the shareholders' agreements.

The application was dismissed, the judge ordering the applicants to pay the Petitioners' costs. As to the first ground, the Judge held that the question of whether a quasi-partnership existed was highly fact-sensitive and unsuitable for summary disposal and that there was ample evidence to suggest that Dragon Capital Ltd was a quasi-partnership. As to the second ground, there was a real prospect that, looking at the shareholders' agreement in its proper context, the quasi-partnership survived the execution of the shareholders' agreements (or that it revived, thereafter). The Judge commented '[6] *This application for summary judgment... is a particularly good example of how such an application can delay and derail proceedings as they progress towards trial and how such an application can increase costs.*'

Click [here](#) to view judgment

**Judge:** Judge Jules Sher QC (Ag)  
Commercial Litigation

**Practice Area:** Company & Partnership  
Offshore

### **TOC Investments Ltd v Beppler & Jacobson Limited and ors**

**Reference:** [2016] EWHC 20 (Ch)

**Date:** 08 Jan 2016

**Court:** High Court  
**Judge:**  
**Practice Area:** Commercial Litigation  
Company & Partnership

**R (on the application of Trail Riders Fellowship and another) (Respondents) v Dorset County Council (Appellant)**

**Reference:** [2015] UKSC 18  
**Date:** 18 Mar 2015  
**Court:** Supreme Court  
**Judge:**  
**Practice Area:** Property

**New Square Chambers**

12 New Square  
Lincoln's Inn  
London  
WC2A 3SW

DX: 1056 London/Chancery Lane

**Contact**

+44 (0) 20 7419 8000  
[clerks@newsquarechambers.co.uk](mailto:clerks@newsquarechambers.co.uk)