



## Marcia Shekerdemian QC

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QC: 2015

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## Practice Managers' Details

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## Memberships

- Insolvency Lawyers' Association
- Chancery Bar Association
- INSOL International
- IWIRC (the International Women's Insolvency and Restructuring Federation)

*"A star of the senior insolvency Bar"*

The Legal 500 UK, 2020

*"Ferociously bright while very user friendly and proactive."*

The Legal 500 UK, 2020

## Qualifications

- Trinity Hall, University of Cambridge, MA
- Deputy Judge of the Insolvency and Companies Court
- Chair of Chancery Bar Association Equality and Diversity Sub-Committee
- Member of the Barristers' Complaints Advisory Service (providing pro bono advice and representation to members of the Bar)
- Member of the Lexis Nexis Editorial Panel for Insolvency

## Publications

- Kerr & Hunter on Receivers and Administrators (Sweet & Maxwell, 20th Edition)
- Administrators: Conflicts of Interest and Removal (International Corporate Rescue, Chase Cumbria - 2019)
- Trustees in bankruptcy and privilege—a spanner in the works? (LexisNexis Randi Blog - 2016)

## Practice Overview

Marcia is a leading practitioner in all aspects of contentious and non-contentious insolvency, company and partnership law as well as commercial litigation. Her work encompasses both domestic and international matters. She has appeared in the Grand Court of the Cayman Islands and in the Isle of Man.

Consistently praised for *"her user friendliness and robust advice"*, she is said to be *"brilliant"* and to give *"robust, first-class advice"*. *"A quality professional"*, she is also *"highly rated for her intelligent and committed approach"* and for being a *"punchy advocate"*.

Chambers UK and The Legal 500 have recommended her for many years in commercial litigation, company and insolvency. Chambers UK also ranks her for commercial chancery work, noting in addition her expertise in property related litigation.

### Recent directory quotes include:

*"What stands out is that Marcia gets straight to the heart of a matter, and she's very easy to deal with, which is huge."* (Chambers and Partners, 2020)

*"She is user-friendly, a great team player and an excellent strategist. She is also extremely bright and has intellectual rigour and technical expertise, tempered by a commercial, pragmatic approach and great instincts. Her written and oral advocacy is tip-top."*  
*"Marcia is fantastic to work with – she is approachable and very reliable. Not only does she have the intellectual firepower that you expect from a QC, but she doesn't shy away from having difficult conversations with clients and is brilliant in court."* (Chambers and Partners, 2020)

*"Her technical knowledge is second to none, and she's user-friendly."* *"She gets straight to the heart of a matter, is very good at picking out things that really matter, and really works as part of the team."* (Chambers and Partners, 2020)

*"Ferociously bright while very user friendly and proactive."* *"A star of the senior insolvency Bar; has an enormous capacity for work and never phased, and always great with the client."* (The Legal 500, 2020)

*"She is very knowledgeable and is a real fighter in court. She is someone who is very good to have on your side."* *"She has an excellent depth of knowledge in relation to personal insolvency and provides very commercial, straightforward advice."* (Chambers and Partners, 2019)

*"Incredibly committed and client-friendly, she has good technical skills and delivers incredible value and insight."* (Chambers and Partners, 2019)



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## Practice overview continued

*"A strong advocate and an absolute delight to instruct and work with."* (The Legal 500, 2019)

*"She is totally forthright but supremely in control, technically brilliant and very user-friendly." "She's very client-friendly, very bright and there's no ambiguity in her advice."* (Chambers & Partners, 2018)

*"Marcia's got a real gift for getting to the root of an issue." "She has an excellent command of the law, practice and procedure."* (Chambers & Partners, 2018)

*"Extremely good with clients and a very good lawyer." "Formidable both in court and in negotiation, she's really impressive in the way that she fights her corner without being aggressive."* (Chambers & Partners, 2018)

*"She is absolutely first-rate and a go-to silk for complex matters."* (The Legal 500, 2017)

*"She goes above and beyond to call of duty and gets to the root of the problem very quickly."* (The Legal 500, 2017)

*"A powerhouse" who "is fair, knowledgeable and very practical in terms of understanding the outcomes rather than being esoteric about the law." "A tenacious adviser who punches well above her weight."* (Chambers and Partners, 2017)

She also sits in the High Court as a Deputy Insolvency and Companies Judge.

Marcia is an active provider of talks and seminars and sits on the editorial board of Lexis PSL for insolvency.

Marcia is a contributing editor to Kerr & Hunter "Receivers and Administrators" (Sweet & Maxwell, 20th Edition).

## Commercial

Marcia also has an established reputation in the fields of commercial dispute resolution and fraud.

### Significant cases:

- ***In the matter of an LCIA Arbitration.*** Marcia is representing the Respondent in this dispute over a £10 million liability under an insurance agency agreement between CIS providers.
- ***Re Jabac Finance Ltd.*** Marcia is representing the company and the majority shareholders in these combined proceedings for breach of statutory duty, breach of fiduciary duty and unfair prejudice under section 994 of the Companies Act 2006.
- ***Zavarco Plc*** (2016) Marcia represented a major shareholder (holder of 360,000,000 shares) in an ongoing dispute over his voting rights in this PLC which controls a Malaysian telecoms network. The issues involve the construction of Section 594 of the Companies Act 2006 within the framework of share swap.
- ***Mortgage Express v Batra and others*** (2016). Marcia represented the claimants in proceedings for the appointment of a receiver by way of equitable execution over 3 trading hotels and 71 individual hotel rooms in central London, with freeholds held by BVI companies.
- ***Re X Ltd*** [2015] (anonymised following a confidential settlement). Marcia represented the Defendants in proceedings for the recovery of £7million following the sale of a group of oil companies and the assignment of mining rights to an oilfield in Tunisia.
- ***NGM Sustainable Developments Ltd V Philip Wallis & others*** [2014] EWHC 2375 (Ch) (led by [Lexa Hilliard QC](#)); representing the claimant in this multi-million pound claim for damages for fraudulent misrepresentation and conspiracy.
- ***Barclays Pharmaceuticals Ltd and ors v Waypharm LP, Antoine Mekni and ors*** [2013] EWHC 503 (Comm); the judgment in this case has become a key authority on the question whether the court's permission is needed before a court appointed receiver can be sued for negligence/breach of duty. Marcia represented the receiver.



## Commercial continued

- *Re Ultraclass Ltd, sub nom Michael v Assemakis & Evans* (2012). Marcia acted for the liquidator in this multi-million pound fraud proceedings arising out of a 'land banking' scam. Obtained freezing injunctions and their continuation without a requirement that the limited cross-undertaking in damages be fortified.
- *Trade Storage Ltd v Papanicola* [2011] BCC 503. Marcia acted for the successful defendant. The issue for the Court was whether a defendant with a potential counterclaim could seek security for costs against an impecunious claimant.

## Insolvency

Marcia specialises in all aspects of personal and corporate insolvency and company law, including bankruptcy, administrations, receiverships, liquidations, voluntary arrangements, shareholders' disputes, wrongful trading, misfeasance, disqualification of directors, directors' duties, derivative claims and security and priority issues. She has a particular interest in cross-border insolvency.

Marcia acts for office holders, individuals, directors and insolvent companies.

### Some of her recent insolvency/company cases include:

- *Re Viiaj Mallya* [ongoing]. Marcia is representing a consortium of Indian banks (led by the State Bank of India) in bankruptcy proceedings involving guarantee liabilities of over \$1 billion.
- *Paylor and others v Bowers and Others* [2018] EWHC 2244 (Ch), representing the liquidator and trustees in bankruptcy of the perpetrators of a Forex and teak Ponzi scheme resisting proceedings to discharge a WFO.
- *Re: Fairhold Securitisation Ltd* [2018] 8 WLUK 114. In this matter, Marcia acted for the office holders, Michael Howell and Dermot Coakley, who without their knowledge or consent, were purportedly appointed as administrators of the company. Giving judgment, the judge described the conduct of the would-be appointor, Clifden IOM (No.1) Ltd as "an unprincipled asset grab" and declared that the appointment was void, awarding Marcia's clients their costs on an indemnity basis.
- *Zinc Hotels (Investment) Limited and Top Zinc Ltd v Beveridge and others* [2018] EWHC 1936 (Ch), appearing on behalf of the Security Agent and the Security Trustee.
- *Re ARM Asset Backed Securities Ltd* (in provisional liquidation) (2017). Marcia represented the Non-Pending Bondholder group following the widely reported collapse of this Luxembourg registered investment company after the issuer of £127 million so-called "death bonds".
- *Leeds v Lemos* [2017] EWHC 1825 (Ch) [2018] Ch 81. Marcia acted for the bankrupt's wife in this landmark judgment on the right to assert privilege in respect of asset documents, the scope of the Avonwick decision and the application of the Crescent Farm principle.
- *Central A1 Ltd* [2017] EWHC 220 (Ch). Marcia acted for the Respondent liquidators in proceedings brought against them by reporting accounts for the determination of the status and quantum of pre-appointment fees following the liquidations of over 1700 associated payroll companies.
- *Re Onix Capital SA* (2016). Marcia is acting for the Chilean Liquidator following the collapse of this Chile investment company with debts of over \$200 million amidst allegations of a widespread international "Ponzi" type fraud, perpetrated within the Group Arcano Group, in Chile, the US and the BVI. Marcia obtained recognition of the Chilean liquidation in the UK (thought to be the first such order ever to be obtained in respect of a Chilean insolvency) the BVI and the US.
- *Mortgage Express v Batra and others* (2016). Marcia represented the claimants in proceedings for the appointment of a receiver by way of equitable execution over 3 trading hotels and 71 individual hotel rooms in central London, with freeholds held by BVI companies.



## Insolvency continued

- **Re Black Ant Co. Ltd** [2016] EWCA Civ. 30, [2014] EWHC Ch 1161. Marcia successfully represented the administrators at first instance and in the Court of Appeal in this dispute over priorities between chargeholders, tacking and variation of facilities.
- **Re an Insurance Company** (2016). Marcia advised and acted for the purchasers of the business of an insurance company in obtaining a waiver from the Financial Conduct Authority of the CASS 5 client money rules following the insolvent liquidation of the vendor company.
- **Re Craig Whyte** (2016) BPIR 1314. This high profile bankruptcy concerns the former Chairmen of Rangers Football club who is currently being investigated for fraud. Marcia was instructed by Mr Whyte's trustee in bankruptcy, Louise Brittain in proceedings against the Scottish Prosecuting Authorities to determine the status of property owned by Mr Whyte but frozen by the prosecutions, the question being whether and at what stage that property could be seized by Ms Brittain.
- **Bell v ICAEW** [2016], Marcia successfully represented the office-holder in his appeal against the 2-year suspension of his license.
- **Orb a.r.l** Marcia acted for the secured creditor and litigation funder of this Jersey company in the framework of a multi-million pound litigation funding arrangement following the collapse of the Orb v Ruhan proceedings, amongst other things providing advice for the Royal Courts of Jersey in connection with intended administration proceedings.
- **Re Stadler** (November 2015) Marcia successfully represented the Respondents in defeating the trustee in bankruptcy's attempt to enforce a declaration of trust over a property in Mallorca, running the defence of non est factum.
- **Timothy Darren Baker** (sub. nom *Wood v Baker*) [2015] BPIR 1524. Marcia has been representing the trustee in bankruptcy for 5 years in this complex and long running bankruptcy of a convicted fraudster. Most recently, Marcia obtained freezing orders and proprietary freezing orders in the context of a payroll fraud. The proceedings concern the ambit of section 307 of the Insolvency Act 1986 and piercing the corporate veil in order to claim corporate assets as the Bankrupt's own.
- **OGX Petroleo e Gas SA** (August 2015) Marcia represented the Respondent company in anti-suit proceedings following the recognition under the Cross Border Insolvency Regulations 2006 of the court supervised re-structuring of a Brazilian oil company.
- **Re Wolverton Investments Ltd** (April 2015) (Chief Registrar Baister). Six day misfeasance trial in which Marcia successfully represented the Defendant directors, obtaining indemnity costs.
- **The Black Ant Company Ltd** [2014] EWCH 1161 (Ch) [2016] EWCA Civ. Marcia represented the Joint Administrators in this £15 million dispute involving the priority between competing charges over a property portfolio. The issues include the construction of variations to facility letters and their effect and questions of "tacking".
- **Re Vladimir Abramovich Kekhman** [2014] BPIR 959, [2015] EWHC 396 (led by Alan Gourgey QC at first instance and on appeal). Marcia acted for the JSC Bank of Moscow in its challenge of to the UK bankruptcy of a Russian oligarch on the grounds of forum shopping.
- **Re Bernard McNamara**. Marcia advised and represented Mr McNamara (who was then thought to be Ireland's biggest bankruptcy "tourist" with debts of €2 billion) in his opposition to the suspension of his automatic discharge from bankruptcy (2014).
- **Re Glascon Ltd** (2014 - 2015, settled). Marcia acted for the liquidators of the UK paying agent of the Czech based Bohemia Crystal Group in £13m misfeasance proceedings against the former directors.
- **Re Infinitum Consulting Group Ltd** (2014 and ongoing, trial in October 2015). Marcia is representing the liquidator in this £2m misfeasance/preference/transaction at an undervalue claim.



## Insolvency continued

- **Re Sixty** (UK) Ltd. Marcia represented the liquidators in £15m negligence proceedings against the former Supervisors of the Company's now notorious failed CVA (2013-2017).
- **Hellard and Hunt v Todd**. Marcia successfully represented the Trustees in Bankruptcy at trial. The Court held that an agreement to grant a lease was a sham and accordingly set it aside (2013).
- **Re Legal & Equitable Securities Plc** [2012] EWHC 910 (Ch). Marcia acted for the liquidator in what has become a key authority on the nature of indemnity rights and whether they are provable as contingent liabilities. A particular unusual feature of this case was that it involved a members' voluntary liquidation.
- **Re Ultraclass Ltd, sub nom Michael v Assemakis & Evans** (2012). Marcia (leading Philip Hinks) acted for the liquidator in this multimillion pound fraud proceedings arising out of a 'land banking' scam. Obtained freezing injunctions and their continuation without a requirement that the limited cross-undertaking in damages be fortified.
- **Re Avocet Hardware Taiwan Ltd** (2012). Marcia represented the joint administrators on their application for a winding up order of a UK company whose principal assets and liabilities were in Taiwan and China, persuading the Court that the administrators were not under a duty to commence parallel insolvency proceedings or other enforcement proceedings in Taiwan (2012)
- **New Oxford Street Property Ltd**. Marcia successfully represented the minority shareholders on a contested administration application. Marcia was brought into the case to argue discrete issues on behalf of the shareholders as to the terms of the underlying shareholders' agreement and their impact on the ability of one shareholder group to apply for an administration order without the consent of the other shareholder group (2012).
- **Re MF Global Ltd** (2012) Marcia advised significant investors in the first "Special Administration" on the status of funds held in segregated and non-segregated accounts.
- **Re Sustainable Growth Group Ltd**. Marcia acted for the Proceeds of Crime Receiver in four inter-linked applications in which she successfully applied for administration orders in respect of four companies alleged to have been the vehicle for a £33 million Ponzi fraud (2012).
- **Re Autogas** (Europe) Ltd. Marcia represented the liquidators on behalf of the claimant in fraud proceedings against the directors and others involved in a €5 million MTIC fraud, appearing in court both in the UK and the Isle of Man (2012).
- **Re Minmar** (929) Ltd [2011] EWHC 1159. Marcia represented the administrator in this important decision on defective administration appointments by directors.
- **Re Awal Bank BSC** [2009] (and ongoing). Marcia represented the External Administrators of this Bahrain registered bank in cross-border recognition proceedings both in the High Court and in the Cayman Islands following the collapse of the Saad Group of companies with debts of in excess of \$8 billion. She continues to advise the External Administrators in particular with regard to their dealings with the Central Bank of Bahrain and the repeated extensions of the administration.
- **Thorniley v HMRC** [2008] 1 WLR 1516. This was a test case, brought by Marcia's clients, the company administrators, against HMRC with its active support. The question for the Court was whether a bank creditor could participate in the 'prescribed part' under Section 176A of the Insolvency Act in respect of its floating charge shortfall, or whether the whole of that part would fall to be shared amongst the unsecured creditors (including HMRC) to the exclusion of the bank.
- **Prudential Assurance Co Ltd v PRG Powerhouse Ltd** [2007] EWCH 1002. Marcia was led by Paul Morgan QC (as he then was) in this landmark decision on guarantee stripping and CVAs.



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## Professional Discipline

Marcia regularly represents accountants, auditors and IPs in disciplinary proceedings. She is also one of the Chancery Bar Association's nominated representatives on the Barristers' Complaints Advisory Service panel and in that capacity she represents and advises members of the Bar pro bono when they have been the subjects of complaints to and disciplinary action by the Bar Standards Board.

### Significant cases:

- *Bell v ICAEW* (2016) Marcia represented the Appellant before the Appeal Committee of the ICAEW, successfully overturning the first instance decision to suspend her client's insolvency license for a period of 2 years.
- *Re a Chartered Accountant (anonymised)*. Marcia advised a chartered accountant in disciplinary proceedings brought by the ICAEW as a consequence of his practice entering into a CVA (2013).
- *Re an Insolvency Practitioner (anonymised)*. Marcia represented an IP in disciplinary proceedings before the ACCA, the central charge being professional misconduct in relation to an IVA (2012).
- *Re an auditor*: Marcia successfully defended a firm of chartered accountants in disciplinary proceedings before the ACCA. The central charge was professional misconduct in relation to an allegedly negligent audit of the client company's accounts by reference to the forged valuation of a gemstone (2011).