



Rachael Earle

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Clerks' Details

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Qualifications and Appointments

- LLM in Commercial Law (First Class) (Ranked 1st in College), Darwin College, University of Cambridge
- Bar Professional Training Course (Very Competent) BPP Holborn
- LLB Law with French Law (First Class), University College London
- Darwin College Dean's Award (2014)
- Blackstone Entrance Exhibition (2012)

“An unbelievably sharp junior barrister who instils confidence.”

The Legal 500 2022

Memberships

- Chancery Bar Association
- Commercial Bar Association
- Insolvency Lawyers' Association
- R3: Association of Business Recovery Professionals

Practice Overview

Rachael specialises in insolvency and asset recovery.

Her practice encompasses all areas of individual and corporate insolvency and she has extensive experience of complex misfeasance claims.

Rachael also has a strong commercial practice with a particular focus on cases involving allegations of fraud and dishonesty. She regularly deals with applications for urgent injunctions.

Rachael was ranked as a Rising Star in The Legal 500 2021, which noted she **"works extremely hard"** is **"technically very good"** and is **"excellent on her feet"**. She is also **"very tough and doesn't back down"**.

The Legal 500 2022 describes Rachael as: **"An unbelievably sharp junior barrister who instils confidence."**

Notable ongoing and recent cases include:

- *BHS Group Limited (in liquidation) & others v Dominic Chappell, Lennart Henningson, Dominic Chandler and Keith Smith*: Currently defending (led by Lexa Hilliard QC) one of the former directors of BHS against misfeasance and wrongful trading claims valued at over £160 million.
- *Re Zoom Distribution UK Limited* [2021] EWHC 800 (Ch). Acted for the successful administrators in their application for a declaration that their appointment was valid (and not void) pursuant to rule 12.64 of the IR 2016 despite the fact that the appointing directors had failed to comply with para 26(1)(b) of Schedule B1.
- Advising, and acting for, both liquidator and director clients in respect of claims relating to participation in EBT schemes.
- Acting for Joint Administrators on an application to Court for the approval of a complex distribution plan in respect of client funds which are being held after the failure of a debt management firm.
- Acting for Joint Liquidators in a £2 million fraudulent trading and misfeasance claim against former directors of a national firm of solicitors who misled clients into investing into a fraudulent scheme.
- Acting for Joint Liquidators in a misfeasance claim against a former director who misappropriated over £3 million of company property; the case has involved applications for both proprietary and *Chabra* injunctions.



Practice Overview continued

- Acting for a minority shareholder on a section 994 petition, who has been wrongly excluded from the management of the Company and from dividends to which he was properly entitled worth £3 million.
- Led in a \$2.5 million arbitration relating to a telecommunications contract dispute involving allegations of fraudulent misrepresentation.
- Acting in a £2 million claim for breach of a Sale and Purchase Agreement where the vendor is alleged to have fraudulently concealed key documents during disclosure.

Insolvency

Rachael is often instructed on insolvency cases which are of a complex or urgent nature. She appears regularly in the High Court before ICC Judges.

Her experience extends to fraudulent and wrongful trading, misfeasance, antecedent transactions, unlawful dividends and disguised distributions, orders for possession and sale in bankruptcy proceedings where there are issues relating to beneficial ownership or equity of exoneration, as well as both rescission and annulment applications and appeals against adjudications on proofs of debt.

Rachael also has considerable experience in bringing and defending claims against IPs, such as remuneration challenges and misfeasance proceedings.

Recent work includes:

Corporate Insolvency

- *BHS Group Limited (in liquidation) & others v Dominic Chappell, Lennart Henningson, Dominic Chandler and Keith Smith*: Currently defending (led by [Lexa Hilliard QC](#)) one of the former directors of BHS against misfeasance and wrongful trading claims valued at over £160 million.
- Currently defending former directors and shareholders of a company against unlawful dividends and misfeasance claims by Joint Liquidators. These claims depend upon the Joint Liquidators successfully re-characterising payments made through EBT schemes as dividends.
- Currently acting for Joint Administrators in respect of an application to Court for approval of a complex distribution plan for client funds which are being held after the failure of a debt management firm.
- Currently advising the Joint Liquidators of a national charity on the correct characterisation of £6 million in donations received by the charity and whether they constitute restricted funds or, alternatively, form part of the estate.
- Currently acting for Joint Liquidators on fraudulent trading and misfeasance claims against former directors of a building company who defrauded elderly customers. Claims in the liquidation exceed £5 million.
- Currently defending a former director against misfeasance proceedings where the Liquidators claim that bonus payments made to him were excessive and made at a time when the company was allegedly in the vicinity of insolvency.
- Currently acting for Joint Liquidators on claims against former directors who operated a fraudulent VAT scheme, failing to declare some £3 million to HMRC.
- Currently acting in an application by members of a company (now in liquidation) against the office holders on the grounds that the remuneration charged and expenses incurred were excessive.
- Currently acting on behalf of Joint Liquidators to oppose an application for their removal from office in circumstances where the creditors' motives in making this application are improper.
- *Re Zoom Distribution UK Limited* [2021] EWHC 800 (Ch). Acted for the successful administrators in their application for a declaration that their appointment was valid (and not void) pursuant to rule 12.64 of the IR 2016 despite the fact that the appointing directors had failed to comply with para 26(1)(b) of Schedule B1.



Insolvency continued

- *Re Houston Management Facilities Limited (2020)*. Acted on behalf of the Joint Liquidators in obtaining a proprietary injunction against a former director and a Chabra injunction against his sibling.
- *DCL Hire Limited (in liquidation) (2019)*. Led in a 5 day misfeasance trial against a former director who made significant payments out of the Company for nil consideration on the instruction of a shadow director.
- *Parkers Developments Limited (2019)*. Acted on behalf of two directors in defending a misfeasance and unlawful return of capital claim in respect of their involvement in an EBT scheme worth over £1.2 million.
- *Pico's Limited (2019)*. Acted on behalf of the Company in seeking an urgent validation order to allow the Company to continue trading pending the first hearing of the winding up petition.
- *So Sienna Limited v (1) HMRC (2) The Official Receiver (2019)*. Acted for the company in an application for the rescission of a winding up order and dismissal of the petition.
- *HS Works Limited (in liquidation) (2018)*. Led in a 5 day High Court trial against a former administrator for breach of his schedule B1 and fiduciary duties, worth £4 million.

Personal Insolvency

- Currently acting for the former partner of a bankrupt against claims brought by the Joint Trustees alleging that trust deeds, entered into when the couple purchased their home, are shams.
- Currently advising Joint Trustees on the correct characterisation of funds held in the Bankrupt's bank account where a creditor claims that those funds are subject to a Quistclose Trust agreement.
- Currently acting for Joint Trustees in respect of a creditor's challenge to their adjudication on his proof of debt worth over £1.5 million.
- Currently acting for Joint Trustees in an application for possession and sale where the family home is held in the sole name of the Bankrupt's wife but the Bankrupt has a beneficial interest by virtue of his financial contributions.
- Currently acting for Joint Trustees in a breach of trust claim against the Bankrupt's former business partner and a professional negligence claim against his former solicitors, worth over £4 million.
- *Murphy and Hyde v Munir & Others [2021] EWHC 278 (Ch)*. Led in a 5 day trial on behalf of the Joint Trustees. The Bankrupt purported to transfer the entire beneficial interest in his substantial London property portfolio to various members of his extended family in the years before he was made bankrupt. He entered into three deeds of trust for this purpose. The Court found the deeds to be shams, alternatively they constituted transactions at an undervalue and transactions defrauding creditors.
- Acted on behalf of Joint Trustees for an order for possession and sale of the Bankrupt's family home where his wife claimed a beneficial interest in the property and also that debts secured against the property should be applied against the Bankrupt's beneficial share only.
- Rachael has advised on several cases involving statutory demands based on guarantees and whether the relevant clause creates an unliquidated damages claim or a debt.