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Matthew Parfitt

Call: 2005

Matthew is an advocate, litigator and adviser who specialises in company and insolvency law.

He was appointed to the Attorney General's panel to act in government litigation in 2010 (C Panel) and 2015 (B Panel), which has allowed him to develop substantial unled advocacy experience.

He is ranked in Chambers & Partners and in the Legal 500 as a leading junior for company law and, in the Legal 500, for insolvency. The directories say he is a "clever, accommodating and client-friendly junior counsel"; "he is quietly persuasive and his advocacy is faultless"; and he has "a cool head, a comprehensive knowledge of his field and an excellent responsiveness to pressurised demands".

His recent court work includes:

- Burnden Holdings (UK) Ltd v Fielding [2018] UKSC 14 (Supreme Court – limitation period for claims against directors)
- Re Diffraction Diamonds DMCC [2017] EWHC 1368 Ch (winding up of foreign-incorporated company on public interest grounds)
- BHS Group Ltd (in administration) v Retail Acquisitions Ltd [2017] 2 BCLC 472 (winding up; disputed debts; meaning of 'insolvency')
- Allers v Anno 11 GmbH [2016] EWHC 388 (at first instance and in the Court of Appeal – construction of compulsory purchase power in a company's articles of association)

Corporate

- Shareholders' disputes (unfair prejudice and derivative claims)
- Directors' duties
- Companies House matters (including rectification of register of members and charges, and restoration to register)
- Company meetings
- Distributions, maintenance of capital and purchase of own shares
- Reductions of capital
- Directors' disqualification
- Construction and drafting of constitutional documents and shareholders' agreements
- LLP law

Matthew advises and litigates in relation to all aspects of company law and the law of LLPs. He is ranked in Chambers and Partners and the Legal 500 as a leading junior for company work. The 2018 edition of Chambers and Partners states: "He's an understated and persuasive advocate, and he knows this area of the law inside-out."

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For details of his extensive practice in the context of shareholders' disputes, see below under 'Litigation and Arbitration'.

Matthew's recent work includes:

- Articles of association and shareholders' agreements: a recent example which reached the Court of Appeal is Allers v Anno 11 GmbH [2016] EWHC 388 (successful at first instance and on appeal) which concerned the construction of a compulsory purchase power in a set of articles. Most recently, Matthew has given expert evidence in matrimonial proceedings on the proper construction of a set of articles of association.
- Remedying problems at Companies House: applications to extend time for registering charges; applications to remove material from the register under section 1096 of the Companies Act 2006; company restoration. Matthew's practice now embraces the most difficult or urgent cases including very high value or offshore matters including, recently, companies in Guernsey and Jersey. As well as appearing for applicant companies, Matthew has also been instructed by Companies House.
- Distributions, maintenance of capital, and purchase of own shares: Matthew is instructed in Burnden Holdings (UK) Ltd v Fielding, a case which has already reached the Supreme Court and involved numerous interlocutory applications, and which concerns an allegedly unlawful dividend paid by a company. The trial is listed for early 2019. Previous reported work in the field includes acting with tax counsel in Vardy Properties v HMRC [2012] UKFTT 564 (TC), the leading case on a particular form of stamp duty mitigation scheme which turned on the lawfulness of certain dividends.
- Reductions of capital: Matthew has appeared on applications for court-approved reductions of capital (Re Empyrean Energy plc; Re Rights and Issues Investment Trust plc).
- Rectifying the register of members: Matthew appeared unled in Re Hitchins (Hatfield) Limited, a rectification application in which there were questions concerning directors' duties and the waiver of pre-emption rights under the company's articles of association. Matthew frequently encounters the same issues in the context of shareholders' disputes.
- Directors' disqualification (on behalf of the Secretary of State, and defendant directors): Re Solx Consulting Ltd; re IPD Furniture Ltd; Re PJ Care Homes Ltd; Re Greenleaf Ltd.
- Takeovers, mergers, and acquisitions at all levels from FTSE 100 companies to high-street takeaways. Matthew provides swift and commercial advice on deals. He was seconded to Slaughter and May for three months at the peak of financial boom in 2007 and worked with Nigel Boardman.

Restructuring & Insolvency

- Winding up and bankruptcy petitions including public interest winding up
- Transactions at an undervalue/preferences/transactions defrauding creditors

- Administration and receivership
- Injunctions to restrain presentation and advertisement of petitions
- Setting aside statutory demands
- Officeholders' powers and duties
- Bankruptcy
- Offshore and cross-border insolvency

Matthew advises and litigates in relation to all aspects of insolvency law both corporate insolvency and personal bankruptcy. He is ranked in the Legal 500 as a leading junior for insolvency work. His recent work includes a number of high value and/or high profile cases such as the BHS/Retail Acquisitions winding up dispute, and cases involving difficult points of law and practice (including appellate work in the High Court, the Court of Appeal, and the Supreme Court).

Matthew's recent work includes:

- Winding up petitions: BHS Group Ltd (in administration) v Retail Acquisitions Ltd [2017] 2 BCLC 472. Matthew was instructed (unled) on the winding up petition presented by BHS Group against Retail Acquisitions Ltd, Dominic Chappell's vehicle for acquiring BHS from Sir Philip Green.
- Public interest winding up: Re Diffraction Diamonds DMCC [2017] EWHC 1368 (Ch). Matthew appeared for the Secretary of State on a petition to wind up companies involved in a scheme for marketing fancy-coloured diamonds as a supposed investment opportunity to members of the public; there was an offshore element as one of the key companies was incorporated overseas. Matthew is currently instructed on a case involving truffle tree technology and has appeared on several further public interest petitions in the last 18 months.
- Provisional liquidation: Matthew has applied for the appointment of provisional liquidators, most recently in connection with public interest winding up petitions, and normally on a very urgent basis (including applications made to the duty judge out of hours).
- Transactions at an undervalue, preferences, and transactions defrauding creditors: Burnden Holdings (UK) Ltd v Fielding [2018] UKSC 14 (in the Supreme Court). Matthew is instructed in relation to a claim by the liquidator of the claimant company against its former directors which involves allegations of misfeasance and transactions defrauding creditors. A limitation issue reached the Supreme Court and there have been numerous interlocutory applications. The trial is listed for early 2019. Related litigation (reported as Burnden Group Holdings Ltd v Hunt [2018] EWHC 463) involves questions of a liquidator's powers and duties (in this instance, the power to refuse to permit inspection of proofs of debt).
- Just and equitable winding up: Matthew was instructed on the first just and equitable winding up petition determined in the Dubai International Financial Centre (DIFC).
- Offshore work, receivership: in 2017 Matthew was instructed by the receivers of Jurong Aromatics Corporation Ltd in relation to disputes arising with secured creditors and suppliers in a multi-billion dollar petrochemical insolvency in Singapore.
- Bankruptcy: Ramsden v HMRC [2018] EWHC 1226 Ch. Matthew was instructed by HMRC in relation to an application to annul a bankruptcy order made in 1992 which was apparently one of the highest value

bankruptcies at the time. The annulment application was dismissed, although an appeal has been brought. A linked case involving Mr Ramsden's documents and the Data Protection Acts continues in the Queen's Bench Division.

- Difficult and novel points of law: Matthew has been instructed in a number of cases which have involved difficult or novel points of law including HMRC v Stayton (at first instance and on appeal in 2018) (interaction between Data Protection Act 1998 and the insolvency court); Safier v Wardell [2017] BPIR 504 (chargeability of the Secretary of State's administration fee where third party funds are used to settle bankruptcy debts and costs); Uniglaze 2 (East Anglia) Limited (2015) WL 8489266 (competing claims between employees and HMRC following failed CVA); and Official Receiver v Baker [2014] BPIR 724 (jurisdiction to make an income payments order).

Litigation & Arbitration

- Shareholder disputes: unfair prejudice and derivative claims
- Winding up on the just and equitable ground
- Breach of directors' duties
- Breach of warranty claims
- Joint venture disputes
- Arbitration and claims under the Arbitration Act 1996
- LLP disputes

A substantial part of Matthew's practice involves disputes between shareholders, litigated principally via unfair prejudice petitions, derivative claims, or petitions on the just and equitable ground. Matthew also has experience of disputes between members of LLPs (including law firms).

Many of these disputes do not come to trial. Matthew has experience of all aspects of this work, focusing on achieving success for his clients whether at the pre-action stage, during interlocutory proceedings, in mediation or – if necessary – at trial.

Matthew is the author of the chapter on derivative claims in *Gore Browne on Companies*.

Recent work has involved:

- Re Delmergate Limited (2018): an unfair prejudice petition concerning a substantial chain of pharmacies. Settled on the first day of trial.
- Re Hayne Barn Holdings Limited (2018): an unfair prejudice petition concerning a commercial landlord company. Settled at mediation.
- Re Stubbins Marketing Limited (2017): a series of interlocutory applications in connection with a claim by a company against its former directors who had sold the company's business to their own company at an alleged undervalue.
- A. A. Turki Corporation v Ooreedoo QSC (2016) a claim under section 68 of the Arbitration Act 1996 to set aside an arbitration award in connection with a dispute between joint venture partners in relation to a telecoms business in the Middle East.
- Re Ace 4 Kebabs Ltd (2016): trial of an unfair prejudice petition. Settled in the week before trial.

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As well as shareholder litigation, Matthew has a broad commercial litigation practice. His significant experience of company and insolvency law gives him a strong foundation for wider commercial dispute resolution. He appears in all divisions of the High Court, including the Commercial Court, and has arbitration experience.

His recent work has involved:

- Injunctions and pre-emptive remedies including freezing injunctions, pre-action disclosure, and applications for security for costs (e.g. Burnden Holdings (UK) Ltd v Fielding – security for costs; Assetco v Grant Thornton [2013] EWHC 1215 – pre-action disclosure)
- Advising HMRC in connection with the VAT recovery claim in Littlewoods Ltd v HMRC [2017] UKSC 70.
- Judicial review: R (Mohamed) v HMRC [2016] EWHC 2455; [2016] EWHC 3396 (legitimate expectation in the context of tax enforcement)
- Non-party costs orders (Re Diffraction Diamonds DMCC – order made against a director of a company wound up on public interest grounds)
- A confidential arbitration in the LCIA involving a substantial Russian retailer operated by a BVI-registered company.

International & Offshore

Matthew is increasingly instructed by offshore firms. Recent work has involved advising clients in Singapore, the DIFC, Guernsey, Jersey, Bermuda, the Cayman Islands, the British Virgin Islands and Hong Kong.

Matthew has appeared in the Dubai International Financial Centre (DIFC) courts in relation to a freezing injunction and in connection with the first ever just and equitable winding up petition of a DIFC-registered company. He has also been involved in a substantial dispute in the DIFC involving a company incorporated in Ras Al Khaimah which explored the limits of the DIFC's jurisdiction.

Financial Services

Matthew undertakes some banking and financial services work, including regulatory work. In 2010-2011 he spent six months on secondment in the Financial Institutions Dispute Resolution team at Freshfields Bruckhaus Deringer.

His experience includes:

- Investigations under section 166 FSMA in the banking and insurance sectors.
- Litigation and investigations arising from the sale of Payment Protection Insurance.
- Advice relating to a major bank's submissions to the Vickers Independent Commission on Banking.

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- Advice on all aspects of FSMA, including in particular advice on regulated activities, supervision and enforcement.
- Banking litigation arising out of a set-off clause in a swaps agreement.
- Advice and litigation in connection with the government banking bail-outs.

Membership & Publications

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Author of the chapter on Derivative Claims, Gore-Browne on Companies.

The Elimination of post-takeover minorities in Butterworths Journal of International Banking and Financial Law, Vol. 22 No. 9 (October 2007)

The use of insolvency procedures to remove minority shareholders in International Corporate Rescue, Volume 5, Issue 2 (February 2008)

The Law of Majority Shareholder Power (edited by David Chivers QC and Ben Shaw, OUP, 2008): author of the chapters on introducing compulsory transfer provisions into a company's articles and on derivative claims.

Matthew has provided editorial assistance in relation to Gore-Browne on Companies, A Practitioner's Guide to the FSA Handbook (City & Financial Publishing), Oyez's corporate forms, and CCH's Corporate Practice Service.