

# Mark Johnson

## Senior Associate

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### Practices

FOCUS: Insolvency and Restructuring

Litigation

Real Estate Litigation

Securities Litigation

United Kingdom

### Education

LLB, Newcastle University

LPC, BPP University Law School

### Community Involvements

R3 Association of Business Recovery Professionals

Insolvency Lawyers Association

Mark Johnson advises across the full spectrum of insolvency and restructuring matters, both contentious and non-contentious, in the UK and cross-border. He represents insolvency practitioners, banks, companies and their directors, individuals and other key stakeholders, providing advice on formal insolvency procedures such as administration, liquidation and bankruptcy as well as assisting companies facing potential insolvency and the restructuring options available to them.

### Knowledge that spans a wide range of matters

On the contentious side, Mark assists office holders across a broad range of asset recovery actions, including investigations into antecedent transactions and other claims against directors and third parties, as well as advising directors defending such claims. He also advises on all other contentious insolvency matters including administration orders, winding up petitions, statutory demands and bankruptcy petitions, and all related insolvency applications.

Mark's non-contentious work includes significant experience on transactional matters such as assisting on both the buy and sell side of 'pre-pack' administration sales and other insolvency sales, advising on restructuring options for companies in distress including voluntary arrangements, and advisory work assisting companies and their directors on the duties they have when facing financial difficulties.

### Representative Experience

- Acted for the defendant in a double derivative, unfair prejudice petition in respect of a claim for fraudulent breach of trust relating to a company registered in Saint Vincent and the Grenadines that operated hotels in the United Kingdom and Cyprus. Claim made via the beneficiaries of a trust company alleging defendant misappropriated sums in excess of £30

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million in fraudulent breach of trust and that he was a *de facto* director. Claim was dismissed in its entirety. Follow-on proceedings related to non-party costs orders.\*

- Acted for the trustees of the majority shareholder of a company domiciled in Saint Vincent and the Grenadines in the Eastern Caribbean Court of Appeal against a decision of the High Court to dismiss an application for the rescission of a winding-up order. Succeeded in appeal; case remitted back to the High Court.\*
- Acted for administrators of a company that operated under government contracts to provide probation services following privatisation. Involved a sale of the business and assets of the company and the novation of government contracts. Negotiated with multiple relevant governments and their advisers.\*
- Acted for financial institution in applying to strike out/summary judgment in relation to a claim asserted by borrowers of a foreign currency mortgage for negligence, breach of duty and deceit. Court of Appeal's judgment now one of the leading authorities on set off and limitation claims relating to mortgage debts.\*
- Acted for a bank and the LPA receivers in relation to a claim for breach of duty (against the receivers) and undue influence (in relation to the bank) regarding a £25 million mortgage secured against a London residential property valued at approximately £40 million.\*
- Acted for administrators of a company who had been appointed by a charge holder pursuant to their qualifying floating charge in circumstances where it was alleged that the charge holder had failed to disclose to the administrators that there was a unfair prejudice petition issued in advance of the administrators' appointment that sought a declaration that the charge (upon which the administrators were appointed) was invalid. The applicants sought an injunction against the administrators and an order for their removal under paragraph 81 of Schedule B1 to the Insolvency Act (improper motive). In an expedited hearing, the High Court dismissed the paragraph 81 application and discharged the injunction.\*

\*Experience prior to Katten

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## News

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- Katten UK Advises GLAS in Sale of Telford Offshore Group (March 29, 2023)
- Katten Strengthens Its Insolvency Practice with Hires in London (August 3, 2020)

## Publications

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- English Law Creditors Bound by Irish Scheme of Arrangement (October 9, 2023)
- Intercreditor Distressed Disposal Provisions: Pragmatic Decision Provides Certainty for Stakeholders (September 27, 2023)
- Tips for Dissenting Stakeholders Challenging a Cram Down (or Up) (August 17, 2023)
- Pre-Pack Regulation: Two Years On (May 10, 2023)
- Deleveraging Through the LMA Intercreditor Distressed Disposal: How to Navigate a Challenge-Free Process (April 17, 2023)
- UK High Court Hands Down Decision in *Sova Capital* (March 27, 2023)
- Financial Conduct Authority's Expectations for Regulated Firm Restructurings and Insolvencies (February/March 2023)
- Commercial Landlords v. Tenants: Let Battle Recommence (December 1, 2022)
- Weathering the Crypto Winter: Tools for Insolvency Practitioners (October 20, 2022)
- UK Supreme Court Confirms Creditor Duty in Zone of Insolvency: *BTI v Sequana* (October 10, 2022)

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- Guidance for Insolvency Practitioners: Financial Conduct Authority's Update on Regulated Firm Restructurings and Insolvencies (October 5, 2022)
- Debtors Must Continue to Consider English Restructuring Processes to Secure a Global Solution (August 2, 2022)
- Directors' Duties Under English Law — How to Lead in Difficult Times (July 1, 2022)
- Defective Administrator Appointments — The Invalid Versus Irregular Debate Continues (*Security Trustee Services v Seabrook Road*) (March 9, 2021)