

HUGH SIMS QC & SIMON PASSFIELD SUCCESSFULLY DEFEND INSOLVENCY PRACTITIONER - FEB 2016

26 Feb, 2016

On 26 February 2016, HHJ Simon Barker QC handed down his long-awaited judgment in *Stevensdrake Limited v Hunt* [2016] EWHC 342 (Ch).

The defendant liquidator had instructed the claimant firm of solicitors on a CFA in relation to a misfeasance claim issued against the former administrators of the company. The misfeasance claim was successful (in that the claim was settled) but there were insufficient recoveries to enable payment of the claimant's fees. The claimant sued the defendant personally under the CFA for a sum of approximately £1 m (including fees and disbursements).

Instructed by Jim Varley of Devonshires, Hugh Sims QC and Simon Passfield successfully argued that the retainer between the claimant and the defendant incorporated a term that the claimant's fees would only be paid out of realisations and that the defendant had no personal liability for those fees.

Although not strictly necessary to do so, the court also went on to uphold the defendant's alternative arguments that the claimant would have been estopped by convention from enforcing its strict legal right under the CFA, that the defendant entered into the CFA as a result of the claimant's undue influence and that the claimant was negligent and in breach of fiduciary duty in failing to advise the defendant of the meaning and effect of the CFA.

Please [click here](#) to read the full Judgment.