



Portsmouth Lawyers help Businesses Recover

Verisona Solicitors are delighted to announce the appointment of David Oliver formerly of regional law firm Blake Laphorn as Head of Insolvency and Business Recovery based at their office at 1000 Lakeside North Harbour Portsmouth.



From the early days as a founder Partner of Sherwin Oliver in 1989 and latterly with Blake Laphorn, David has built a succession of market leading Insolvency, Business Recovery, Asset and Debt recovery teams across centres in London, Oxford and Southampton. As head of the insolvency Team he has been instrumental in recruiting, training and developing a broad range of talented lawyers to carry out this complex but important area of work.

David sees Verisona as a great opportunity: *'I have been looking for the chance to build a new team to serve SME's in the Portsmouth and Southampton area for Business Recovery and Insolvency. Verisona is a dynamic forward thinking law firm with huge potential. I believe they*

fill a gap in the local commercial market that no other law firm matches.'

Verisona has been established for only 18 months but during that time has significantly expanded its range of company and private client work. It is constantly reviewing its markets and where it can challenge for new areas of business.

As Senior Corporate Director Mike Dyer puts it: *'We took an important strategic decision from the start to use our skill, empathy and approachability to develop a wide range of legal services for the commercial sector. Given his pedigree as one the leading experts in Insolvency in the country, when we spoke with David about his aspirations, it was a no brainer. We are delighted to welcome David aboard'*

Local business practitioners in this specialist area are keen to see David establish a new high quality service. Antony Fanshawe of Begbies Traynor said:

'I have known and worked with David extremely effectively for many years. I am delighted to hear of his move to Verisona. These are exciting times for them and I wish them the very best.'

Verisona Moves

The directors of Verisona are delighted to announce the appointment of Ian Peach to the Board of Directors.



Ian is head of Conveyancing and joined the Company in early 2009. He joins a wealth of legal talent at the head of the business. He has worked in the Portsmouth and Fareham areas throughout his working life. As a former estate agent who joined the legal profession almost 20 years ago, his knowledge of residential property in the areas is unsurpassed.

Ian believes that whilst the times ahead for property work are challenging, the importance to Verisona of leading the field locally in conveyancing work is pivotal to the firms aim to balance high street legal work with employment, company, insolvency and other areas of corporate specialism.

As Ian puts it: *'In recent years at my former firm and now at Verisona we have been leading the way in using technology to innovate the way we deliver our conveyancing service. Now, In a post HIPs world we are already looking at fresh opportunities with our competitors to try and take the stress and hassle out of selling and buying property'*

Verisona' senior Director Mike Dyer is enthusiastic about Ian's appointment: *'I am delighted to have Ian as one of my co-directors. He is a man with vision and passion. He represents all that we strive to achieve as a young business with a keen eye on the future delivery of legal services. Ian is one of the people who will ensure we drive the business through the changes that lie ahead. He is also a Pompey season ticket holder along with many of the other directors!!'*

Scrapping HIPs 'will boost fragile housing market'

Ministers in the new coalition Government believe that their quick decision to scrap Home Information Packs (HIPs) will encourage sellers back into the housing market.

Ministers moved quickly to suspend HIPs from May 21st to prevent any uncertainty that might disrupt the market.

It means that HIPs, which have been widely criticised since they were introduced by the Labour Government three years ago, are no longer needed when selling a home. However, Energy Performance Certificates (EPCs), which many people considered to be the most important component of HIPs, will be retained. Sellers will still have to commission an EPC before marketing their property and it must then be available within 28 days of the property being put up for sale.

Abolishing HIPs means the burden of paying for searches will now fall back on the buyer and so will add to their costs.

The new communities secretary, Eric Pickles, said: "This action will encourage sellers back into the market, and help the market as a whole and the economy recover."

Please contact us if you would like more information about the new developments or any aspect of buying and selling a home.

UK opts out of European proposals on wills and cross border estates

The UK has chosen to opt out of EU proposals dealing with wills and cross border estates.

The issue may be important to people who own property abroad or who may live away from their native country. Different countries have widely differing approaches to inheritance and so the administration of cross border estates can become very complex as more than one legal system may apply.

The European Commission is currently considering draft proposals to address the problem by simplifying the regulations on international successions.

The new proposals mean that successions would automatically be dealt with under the laws of the country in which the person was permanently resident before they died. This would apply unless the person had opted out and chosen the country of their nationality instead.

The proposed changes would have no effect on the succession laws of each member country.

The UK has decided to opt out for the time being because of concerns that the new regulations could create some potential problems.

For example, under English law, if a person makes a lifetime gift then, with a few exceptions, it is considered final and cannot be later undone.

However, in some EU countries such

lifetime gifts can be “clawed back” in favour of family members.

Despite the decision to opt out for now, the UK may eventually adopt the new regulations when they are finalised as long as certain concerns are addressed.

In the meantime, the main issue for most people will be how to make the most of the current regulations in the UK and ensure that as much of their estate as possible will pass on to their chosen heirs.

It is important to start planning as early as possible. Make sure you make a will and keep it up to date and then look at the provisions provided by the law that could help you pass on your wealth in a tax efficient way.

Currently, there is a £325,000 threshold before inheritance tax becomes payable. It is then charged at 40% on the value of the estate above the threshold. However, there is no tax to pay if a person leaves their estate to their spouse when they die.

Since 2007, married couples and civil partners have been able to effectively double the threshold to £650,000 at today's rates when the second spouse dies. This won't happen automatically, however. To take advantage of this benefit, the first spouse's unused

inheritance tax threshold or “nil rate band” as it is known must be transferred to the second spouse when they die. A solicitor will be able to advise on how this should be done.

There are other provisions people may wish to consider. For example, if you live for seven years after making a gift to someone there will usually be no inheritance tax liability – no matter how large the gift.

You can also give away a total of £3,000 each year, either to one person alone or divided between several people, without the recipients being liable for inheritance tax on the gift when you die. Gifts made to charities, either in your will or in your lifetime, are also exempt from inheritance tax.

Inheritance tax planning can be quite complicated so it is wise to seek legal advice as soon as possible to make the most of the provisions available.

Please contact us if you would like more information about the issues raised in this article.



Husband didn't reveal affair to wife when remortgaging home

A wife has prevented her home from being repossessed after a court heard that her former husband had not revealed that he was having an affair when they remortgaged the property.

The couple had lived together in the family home with their children. The husband got into financial difficulties after overspending on credit cards. He persuaded his wife to agree to remortgaging so he could clear his debts.

Shortly afterwards, she discovered that he had been having an affair and this led to them divorcing. The husband then lost his job and was later made bankrupt.

The wife acquired the home for £1 from his trustee in bankruptcy. However, she then found she could not pay the instalments due to the company which had financed the remortgage.

The company then began legal proceedings and the court decided that it was entitled to repossess the house.

However, that decision has now been overturned by the Court of Appeal. It held that when the wife was asked by her husband to remortgage the home she was entitled to be given all the relevant information that might influence her decision. In agreeing to her husband's

request, she was working on the assumption that he was as committed to their marriage as she was. Had she known of her husband's affair she might have reached a different conclusion.

The affair should therefore have been disclosed. The husband's failure to make that disclosure amounted to undue influence on his wife which was sufficient to invalidate the mortgage transaction between them. Her appeal was therefore allowed.

Please contact us if you would like more information about remortgaging or issues relating to matrimonial law.

Print firm wins compensation for negligent advice

A print firm has been awarded damages after receiving negligent advice when entering into a franchise agreement.

The firm had contacted a company which offered franchises to run design services under its name. The company identified one of its existing franchises which could be sold as a going concern.

Negotiations began and the printers were told that it would cost £15,000 to refit the premises once the business was purchased. This figure was then entered into the business plan.

The franchise company also told the printers that they would be given client data from the existing business prior to

launch. The franchise agreement was then drawn up and signed.

However, the franchise company then refused to place the client data on to the new business's computer system as agreed. The cost of refurbishment also turned out to be double the figure stated.

The printers claimed damages on the basis that the franchise company had failed to exercise reasonable care when providing important advice. If they had known the true cost of the refurbishment, they would have negotiated a lower purchase price.

The court ruled that the franchise company had been negligent and in



breach of its duty of care when giving advice about refurbishment costs. It had also breached its contractual obligations by failing to provide the customer data as agreed and it was therefore liable to pay damages.

Please contact us if you would like more information about the issues raised in this article.

Firms are using unscrupulous tricks to delay payment

An increasing number of firms are using unscrupulous tricks to delay paying invoices for as long as possible, according to new research.

The business information provider, Creditsafe, found that 1 in 10 companies had been forced to reissue at least 20% of their client invoices in the last 12 months. Nearly 9 out of 10 companies had to reissue at least one invoice over the same period.

The research suggests that asking suppliers to reissue invoices is becoming routine for some firms who hope that



the move will restart the timescale for payment. This gives them the chance to hold on to their money for longer and so protect their liquidity.

David Knowles, Business Development Director, Creditsafe, said: "Unscrupulous accounts payable teams and finance directors are using every trick in the book to prevent paying invoices on time."

The most commonly used excuse for requesting a duplicate invoice is to claim that the original was never received. This is in spite of the fact that the original was sent by registered post. Some firms can become very arrogant, as in the comment from one director: "I'm too important to read my post so why would I know you billed me?"

Faced with such intransigence it is best to start taking action as quickly as possible. A straightforward solicitor's letter is often enough to secure payment because people then realise you are taking the matter seriously.

For those who still refuse to budge there are several other options available to get them to pay. In fact, firms can turn credit control into a profit making operation by recovering unpaid money in a way that earns more than enough to cover the cost of pursuing bad payers.

It's possible because businesses are entitled to levy a statutory late payment fee depending on the size of the debt and they can also impose punitive interest charges.

If this doesn't make the debtor pay, it may be necessary to issue a 'court order for questioning' against the company secretary. This is often enough to prompt many late payers into action but for those who still refuse to pay, there are other legal options available.

Please contact us if you would like more information about dealing with late payment.

Director wins the right to buy out 'unfair' colleague

A director of a golf equipment company has won the right to buy out a fellow director who had acted in an unfair and prejudicial manner.

The two men had set up a new company in which they had one share each and were joint directors. The relationship then broke down with the first director making several allegations about the way his colleague was conducting business affairs.

He complained that the colleague had withdrawn a large sum of money illegitimately from the company account and had run up unexplained debts on the company credit card. He had also altered the share structure to give himself greater voting power and then removed his colleague as a director at a meeting that was inquorate.

It was also alleged that he had registered his home address as the company's office address, and opened a new company bank account and wrongly paid company receipts into it. The second director disputed the allegations and the court held that,

given the direct clash of evidence, deciding the facts of the matter would come down to appraising each director's credibility.

The judge said that the court preferred the evidence of the first director who was making the complaint. He answered questions in a frank and straightforward way and had tried to provide an accurate account.

His colleague, however, had been evasive and had lacked credibility. When pressed, he had made admissions that were against his own interest. The court held that he had conducted the company's affairs in a way that was prejudicial to his fellow director.

The court therefore held that the director making the complaint was entitled to buy his colleague's share of the company at a value to be agreed.

Please contact us for more information about issues relating to company law.

Fit Notes – do they cure the problem?

New style 'fitness for work' notes were introduced on 6th April 2010, replacing the traditional sick note.

But Sue Ball, head of Employment at law firm Verisona, says that GPs and employers alike are running shy of the new regime.

The notes are designed to provide employers with greater information on an employee's medical condition and suitability for work and to encourage people who are well enough, to return to work before they receive Employment and Support Allowance (ESA) on incapacity grounds.

The notes allow GPs to certify that a person is either 'not fit for work' or 'may be fit for work' and set out options:

- phased return to work
- amended duties
- altered hours
- workplace adaptations

One medical defence union has warned GPs to be cautious in their approach to completing the notes as it is unclear whether a GP would be liable if they encourage an early return to



work which causes the patient's condition to deteriorate. GPs cannot be expected to fully understand the nature of the workplace and working practices.

Sue Ball comments: "Part of the problem is that GPs are not occupational health specialists. Understandably they will not have the detailed knowledge to make an accurate assessment of their patient's workplace environment or the employer's needs in order to make the necessary recommendations to assist the employee's return to work. Even if they did have that knowledge, they simply don't have the time in a standard 10 minute GP appointment.

"The aim of the new note makes a lot of sense. If GPs, employers and employees can be helped to get the best from the system, really positive results can be achieved for everyone"

As an experienced Employment Lawyer and qualified Mediator, Sue Ball is helping many employers to understand the new system to help benefit their businesses. If you would like further information, please contact Sue on 023 9238 0112, or call into our Lakeside office to see her.

Divorcee awarded £215,000 - 25 years after separation

A barrister has been ordered to pay a lump sum of £215,000 to his former wife, 25 years after they were divorced.

The couple separated in 1985 after 13 years of marriage. They had no children. Under the divorce settlement, he agreed make regular payments to her. He then remarried and now has two children with his second wife.

The barrister retired last year and applied to have the payments dropped because his income had reduced. His former wife submitted that if the payments were to stop, he should pay her a

lump sum instead as a final settlement. When assessing the barrister's income, the judge halved the value of some of his assets to reflect the interests of his second wife. This included his pension which would be the main source of his income.

The judge also took into account that the first wife had received an inheritance which she could use to support her needs. He then granted the order allowing the barrister to stop the payments. The wife's claim for a lump sum payment was rejected.

The wife appealed on the grounds that she would suffer undue hardship and that the judge had overestimated the

interests and claims of the second wife. The Court of Appeal has now ruled in her favour. It held that the judge had been wrong to give priority to the claims of the second wife and that the barrister was in principle obliged to continue making the payments.

The judge had also been wrong to conclude that the first wife could adjust to the sudden loss of payments without undue hardship.

The court ruled that the barrister should pay his first wife £14,000 a year until he had paid a total sum of £215,000.

Please contact us if you would like more information about matrimonial law.



For more information on these and other topics, please visit:

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