

Joseph Sullivan

17 December 2021

Primekings & Ors v King & Ors [2021] EWCA Civ 1943

In a Judgment handed down on Friday 17 December 2021, the Court of Appeal has confirmed that the true ratio of the Court of Appeal majority in **Graham v Every** [2015] 1 BCLC 41 is that there must be a causal connection between personal actions of a shareholder or third party and some other act or omission constituting conduct of the company's affairs, for such matters to be pleaded in support of a claim for relief pursuant to section 994 of the Companies Act 2006 (unfair prejudice petition proceedings).

The Court held that whilst the Judge below correctly identified the law he subsequently erred in applying it to the pleaded claim. The pleaded (disputed) personal conduct of the shareholder and directors (which largely related to steps taken in pursuit of the recovery of their costs of previous failed litigation by the petitioners) should therefore have been struck out. It could not found a claim for relief pursuant to section 994 of the Act and "[t]he principle that statements of case should only set out the facts that go to make up each essential element of the cause of action relied upon, is particularly relevant to pleadings in unfair prejudice petitions" (which frequently involve parties seeking to raise myriad extraneous personal grievances). The Court of Appeal accepted the Appellants' submissions that such proceedings must be properly limited in scope. The matters relating to various costs recovery proceedings between the parties also fell to be struck out on the grounds of abuse of process (affirming the analysis in the Judgment of Cockerill J in **King & Ors v Stiefel & Ors** [2021] EWHC 1045 (Comm)).

The unanimous Judgments of the Court of Appeal shine a welcome light on the importance of such shareholder claims being confined to their proper scope.

Joseph Sullivan, instructed by James Popperwell, Ed Llewelyn-Evans, Alex Douty and Carrie Gothard at Macfarlanes LLP, led by Catherine Addy QC, appeared for the successful Appellants.

JOIN OUR MAILING LIST

FOLLOW QUADRANT 

FOLLOW QUADRANT 



Joseph Sullivan

"A fantastic barrister who gets to the heart of issues, and expresses advice in a clear, concise and digestible manner. A first rate advocate." (Legal 500, 2022)

Joe specialises in commercial law, banking and finance, commercial fraud and professional negligence. His practice encompasses the High Court, the Court of Appeal, the Supreme Court and arbitrations across the gamut of institutional rules.

[> view Joe's full profile](#)

joseph.sullivan@quadrantchambers.com