

ORD 13/0019

**IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN
CIVIL DIVISION
ORDINARY PROCEDURE**

Between:

**(1) JONATHAN FRANK EDWARD IRVING
(2) JAMIE ALEXANDER IRVING** **Claimants**

and

**(1) JEREMY PAUL BRADLEY CARTER t/a CARTERS
(2) CARTERS ADVOCATES LTD t/a CARTERS** **Defendants**

Judgment summary issued by the High Court of Justice of the Isle of Man

This summary is provided to assist in understanding the judgment of the court. It does not form part of the judgment. The judgment itself is the only authoritative document. The full judgment is available at www.judgments.im.

Jonathan Irving and Jamie Irving were the directors of Street Heritage Limited, a company involved in property development in Peel and also in the Isle of Man Bay Music Festivals. Jonathan Irving was the sole shareholder.

The company was in financial difficulties in 2010 and the Assessor of Income Tax applied to the High Court for a winding-up order. The Irvings instructed Mr Carter, an experienced advocate, to act for them and the company in defending the application.

The application was listed before the Court at 9.30am on 24th February 2010 but Mr Carter attended later, believing that the case was listed for 10am. By the time he arrived at court a winding-up order had already been made and the Deemster had left court.

The Irvings have brought this case to recover the financial losses which they say were incurred as a result of Mr Carter's conduct and the liquidation of the company.

This judgment formally delivered by Deemster Corlett on 24th August 2017 finds that Mr Carter was acting not only for the company but also for the Irvings personally and also that the liquidator of the company validly assigned the company's right to sue Mr Carter to the Irvings.

The judgment also decides that Mr Carter acted negligently and was in breach of contract, principally in not ensuring that he knew the correct time for the hearing and in not ensuring that the Deemster was brought back into court to rescind the winding-up order. The judgment decides that because there was an agreement between Mr Carter and Mr Harding, the Government Advocate, that the case would be adjourned, it was very probable that the Deemster would have agreed to adjourn the case, thereby giving the company time to attempt to put together a rescue package based upon a sale of land in Peel and promises of

cash to pay off the tax debt. The company and the Irvings therefore lost the chance of staving off the winding-up order.

The judgment finds that the Irvings were not guilty of contributing to the situation by for example informing Mr Carter that the hearing was at 10am or by failing to produce evidence of the company's solvency. The judgment decides that Mr Carter owed a duty of care to the Irvings personally and that his breach of duty and breach of contract were capable of causing the type of loss alleged by the Irvings, for example the financial loss which they incurred in the 2010 Bay Music Festival and personal guarantees which were called on following the liquidation.

The judgment does not deal with any award of damages. That will be for a future hearing, which will have to decide detailed issues of causation and amounts.