

The Cayman Islands Chancery Bar Conference 2024

7 & 8 November 2024 / Grand Cayman Marriot Beach Resort

Caymanian practitioners attend for free, but must reserve their place.

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PROGRAMME

THURSDAY, 7TH NOVEMBER

1pm	Registration and arrival refreshments	
1.30pm	Welcome	<u>Iain Quirk KC</u> , Chair of the International Sub Committee
1.35pm	Capacity issues for the offshore lawyer <ul style="list-style-type: none"> • Different tests for capacity in different jurisdictions and their application • Commonly encountered diagnoses and clinical tests. • Capacity issues in trusts and how to avoid them. • Managing and safeguarding assets of the elderly international client. 	<u>Alexander Learmonth KC</u> , New Square Chambers <u>Amy Berry</u> , New Square Chambers <u>Marcus Croskell</u> , New Square Chambers <u>Alexander Farara</u> , New Square Chambers
2.15pm	Remedies <ol style="list-style-type: none"> 1. <i>Causation and Accounting for Breach of Fiduciary Duty.</i> <ul style="list-style-type: none"> • Is the law in a mess and a state of flux? • Is the justification for eschewing causation an historic anachronism?; or • Is causation actually a fair, principled and refined tool? 2. <i>Forfeiture as a remedy for breach of fiduciary duty: uses and abuses.</i> <p>Alex’s talk will address legal and commercial issues associated with claims for the remedy of forfeiture (including forfeiture of remuneration and partner profit shares, and forfeiture of company shares) following breaches of fiduciary duty, as well as potential uses and abuses of claims for forfeiture.</p>	<u>Stephen Cogley KC</u> , 4 Pump Court <u>Alex Potts KC</u> , 4 Pump Court

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<p>2.55pm</p>	<p>Privilege, Immunity and the Privy Council A panel discussion</p> <ul style="list-style-type: none"> • Aspects of privilege: the scope of legal professional privilege and the iniquity exception (especially in light of the recent Court of Appeal decision in <i>Al-Sadeq v Dechert LLP</i> and ors [2024] EWCA Civ 28), including a discussion about the juridical basis for legal professional privilege, an overview of the iniquity exception, when it might be engaged / when it does not apply, an analysis of the decision in <i>Al-Sadeq</i> and the practical issues which now arise. • Natural justice and inequity. • Litigating before the Privy Council. Practical tips and latest developments. 	<p>Chair - Lesley Anderson KC, Kings & Gatehouse Chambers Nicholas Trompeter KC, Selborne Chambers Simon McLoughlin, Selborne Chambers Julia Beer, Selborne Chambers, Charlotte Pope-Williams, 3 Hare Court</p>
<p>3.55pm <i>Afternoon Tea</i></p>		
<p>4.35pm</p>	<p>Crypto, Taxation and IP</p> <ol style="list-style-type: none"> 1. Crypto disputes in Cayman – strategic considerations <ul style="list-style-type: none"> • Availability of interim remedies to secure cryptoassets – delivery up and conversion to fiat currency • Personal and proprietary claims – advantages and disadvantages • Insolvency procedures – is the appointment of provisional officeholders a viable alternative? 2. Implementation and impact of OECD Pillar 2 in offshore jurisdictions <ul style="list-style-type: none"> • Overview of Pillar 2 • Current status of implementation by offshore jurisdictions • Impact of pillar 2 in offshore jurisdictions 3. Intellectual Property in Cayman and Beyond <ul style="list-style-type: none"> • Patents, trade marks, designs and copyright in Cayman • Confidential information and copyright in multi-territory disputes and agreements • Role of UK case law and EU case law post-Brexit in interpreting IP in Cayman 	<p>Karl Anderson, 4 Stone Buildings</p> <p>Sarah Black, 11 New Square</p> <p>Martin Howe KC, 8 New Square</p>
<p>5.35pm</p>	<p>Where are we with implied representations in complex transactions?</p> <ul style="list-style-type: none"> • Was PAG the high-water mark for finding implied representations? • What awareness test applies to implied representations in light of <i>Loreley</i>? • Practical implications for claimants & defendants. 	<p>Peter de Verneuil Smith KC, 3VB</p>
<p>5.55pm <i>Canapé & Cocktail Reception by the sea</i></p>		

PROGRAMME

FRIDAY, 8TH NOVEMBER		
9am	Registration and arrival refreshments	
9.30am	<p>Navigating the Arbitration of Internal Trust Disputes</p> <ul style="list-style-type: none">• Examining the arbitrability of internal trust disputes in light of the Privy Council's guidance in <i>FamilyMart China Holding Co Ltd v Ting Chuan</i> [2023] UKPC 33.• Analysing the English court's approach to determining the arbitrability of trust disputes and granting stays under section 9 of the Arbitration Act 1996.• Exploring the practical implications of these decisions for trust practitioners and disputants. <p>Contempt in the Chancery context</p> <ul style="list-style-type: none">• The jurisdiction of the Grand Court• What constitutes, and who can be liable for, civil contempt?• The procedure for pursuing a contempt application• Sanctions and remedies• Pros and cons of pursuing an application for contempt in civil proceedings	<p><u>Mikhail Charles</u>, 5 Pump Court Chambers</p> <p><u>Graeme McPherson KC</u>, 4 New Square</p>
10.10am	<p>Full of sound and fury, signifying...? How may trust law accommodate changing perspectives in relation to environmental, social and governance (ESG) matters</p> <p>Ian Clarke QC will chair a discussion between the members of the panel regarding the extent to which trust law might be developing to accommodate changing perspectives in relation to environmental, social and governance (ESG) matters - with a particular focus on trustees' investment and dispositive powers, and the potential ramifications for the Cayman Islands of the Hasan litigation in England.</p>	<p>Chair - <u>Ian Clarke KC</u>, Selborne Chambers <u>Lydia Pemberton</u>, Selborne Chambers <u>Niamh Davis</u>, XXIV Old Buildings <u>Greg Williams</u>, Coram Chambers</p>
11.10am Morning Coffee Break		
11.40am	<p>Good Faith, Fiduciary Duties and Braganza in Partnerships, LLPS and ELPS</p> <ul style="list-style-type: none">• the extension of the duty of good faith in contract law;• the importation of public law duties into private corporate decision making; exploring their effect on relations and decision making in partnerships, LLPs and ELPs. <p>Including:</p> <ul style="list-style-type: none">• When will a contractual duty of good faith be implied? How does it differ from a fiduciary duty?• What are relational contracts?• What fetters are there on decision makers? When do Braganza duties arise and can they be overridden by contract?• Down the rabbit hole: if the decision is irrational - what then?	<p>Chair – <u>Eleanor Temple KC</u>, Kings Chambers & JCKC Chambers, Jersey <u>Jeremy Callman</u>, Ten Old Square <u>Jonathan Gavaghan</u>, Ten Old Square</p> <p>Continues...</p>

PROGRAMME

12.20pm	Abuse of Power: a consideration of two recent JCPC cases <ul style="list-style-type: none">• Two cases before Privy Council recently: <i>Grand View Private Trust Co Ltd & another v Wen-Young Wong & others</i> [2022] UKPC 47 and <i>Tianrui (International) Holding Company Ltd v China Shanshui Cement Group Ltd</i> [JCPC 2023/0002]• What issues did the Privy Council have to consider in <i>Wong and Tianrui</i>?• What were the issues concerning abuse of power in <i>Wong and Tianrui</i> and how do they overlap.• What is meant by abuse of power in a) trusts law and b) company law and what constraints/restrictions exist on the exercise of powers.	<u>Michael Todd KC</u> , Erskine Chambers <u>Hermione Williams</u> , New Square Chambers
1pm	Close	<u>Ian Clarke KC</u> , Chair of the Association
1.05 - 2pm	Networking Lunch	

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