

## Hermione Williams

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### Practice Overview

Hermione has a multi-faceted chancery commercial practice. Her areas of practice comprise commercial litigation, trusts and estates, company, insolvency and property law. As few cases fall neatly under one category, clients find her experience across this spectrum of areas invaluable from a practical as well as strategic perspective.

Hermione's domestic practice has been enhanced by her international experience. She has worked in the British Virgin Islands (BVI), Hong Kong and Guernsey, doing cross-border litigation. In the BVI and Hong Kong, the cases she worked on typically involved shareholder disputes, claims against directors, cross-border fraud and asset-tracing claims; whereas in Guernsey the matters were trust focused.

Such experience at the "coal face" and moreover working in-house as part of a team, ensures that Hermione is a well-rounded litigator who genuinely adds value.

Hermione has an excellent eye for detail and has a strategic, meticulous and sensitive approach to the detail of a case. She is described as an articulate and effective advocate who is able to present her arguments cogently and think on her feet. As a natural problem solver, Hermione systematically identifies solutions for the benefit and for the protection of her client's best interests in order to secure their objectives. Though able to work alone, she thoroughly enjoys working hard as part of a team to do this.

Hermione's six years at the commercial and chancery Bar in England, combined with her time offshore, equips her to offer clients a high level of technical expertise. This experience, in conjunction with her instinctive commercial acumen, commitment and tenacity, enables Hermione to deliver legal advice that instils confidence in and loyalty from her clients.

### Commercial Litigation

Hermione's commercial litigation practice includes contractual disputes, civil fraud and asset-tracing claims, shareholder disputes, claims brought both by and against directors, enforcement of foreign judgments and the associated freezing, disclosure and Norwich Pharmacal orders, set aside and summary judgment applications.

She works with law firms, banks and fiduciary service providers throughout the world with respect to large multijurisdictional transactions and disputes. Hermione is instructed to appear in both the High Court and County Court whether as both sole or junior counsel, whether to obtain interlocutory relief (ex and inter partes) or as part of substantive proceedings.

Prior to joining New Square Chambers in November 2017, Hermione worked for offshore firms in both the BVI and Hong Kong, having already spent six years at the English Bar. She is equipped to offer clients the highest level of technical expertise, and is keen to get involved in a case early, and where required provide the initial merits assessment. Hermione therefore enjoys a busy advisory and drafting practice and prides herself on delivering a quality service that instils both loyalty and confidence from her client base.

Experience includes:

- Being retained to work in-house on a contractual dispute in the Companies Court involving negligent misstatement and interpretation of Heads of Terms in the context of a failed reverse takeover; responsible for day to day conduct of the file including all client contact, correspondence with adverse parties and court; proofing witnesses for the trial and drafting all witness statements, settling applications for security for costs, disclosure orders, extension of time, drafting written submissions for hearing of applications and attending court as sole counsel.

- Successfully defending an application to inspect and take copies of seven sets of bankruptcy proceedings that the applicant sought to adduce in three sets of proceedings in Nairobi. Application resisted on the grounds *forum non conveniens* and in the alternative that the respondent could point to "countervailing prejudice" (*Franbar Holdings Ltd v Patel* [2005] EWHC 3048).

- Care and conduct of proceedings for a SPV in New York (set up to purchase sovereign debt claims) in relation to the recognition and enforcement of arbitral awards against a State Entity; including the initial merits assessment and reviewing evidence of the State's alleged beneficial interests in BVI assets and the defence of sovereign immunity.

- Successfully restraining the advertisement of a petition in the High Court on the grounds that the debt was disputed on genuine and substantial grounds (*Vos J*).

- Obtaining a final injunction in the High Court for the freeholder of The Shard in London before Asplin J, having first secured the desired relief *ex parte* (out of hours) before Henderson J and then on an interim basis before Mann J. The case also involved applications for substituted service due to the avoidance tactics deployed by the foreign defendant.

- Acting for national mortgage-lending companies in relation to claims for the enforcement of mortgage security and claims for money judgment. Two particular claims I worked on involved defences of undue influence and duress.

- Acting for a mortgagee bank in a complex repossession claim requiring the restructuring of primary liability and subsequent possession of guarantor's assets.

- Obtaining an order for delivery in an acrimonious action for conversation. First hurdle was to persuade the Judge that the claimant retained title to the asset and issue estoppel arose, and then secure an injunction for delivery as opposed to damages.

- Instructed to appear in High Court to oppose an application for both prohibitory and mandatory injunctive relief in an IP dispute which included allegations of breach of confidentiality.

- Successfully defending a national service provider against claims brought under the Protection From Harassment Act.

## Company

Hermione's Company law practice includes shareholder disputes, derivative actions, unfair prejudice petitions, claims against directors for breach of fiduciary or statutory duty, director's disqualification and partnership disputes.

Her insolvency expertise ensures she is adept at handling how these two areas overlap and she is experienced at handling shareholder disputes where both unfair prejudice petitions and applications to wind up a company on the just and equitable ground are being pursued.

Experience includes:

- Settling proceedings in an action declaratory relief in relation to the identity of a BVI company's shareholders and settling the related application to serve such proceedings outside the jurisdiction and attending court as sole counsel.

- Settling pleadings to issue proceedings for the assignee of a debt which derived from intercompany loans; drafting witness evidence and written submissions in relation to summary judgment and security for costs applications and appearing at hearing of such applications as junior counsel; dealing with and assessing what strategy to take in relation to arguments of res judicata and issue estoppel.

- Dealing with a member's application to wind up a BVI company on the just and equitable ground due to deadlock at board level, acting for opposing shareholder; including settling evidence in response, drafting application to strike out the petition on the grounds that it had been unlawfully advertised and brought for a collateral purpose, and advising on prospects of opposing shareholder bringing an unfair prejudice action.
- Instructed to appear in High Court to oppose an application for both prohibitory and mandatory injunctive relief in an IP dispute which included allegations of breach of confidentiality.
- Advising an employee director in a matter which involved an unfair prejudice petition as well as breach of contract and constructive unfair dismissal claims.
- Junior counsel in *Franbar Holdings Ltd v Casualty Plus Ltd* [2008] EWHC 1534.

## Insolvency

Hermione's insolvency practice is both domestic and international, having spent three years working offshore in Hong Kong and the British Virgin Islands. She is particularly interested cross-border insolvency and assistance proceedings. Hermione accepts instructions in a wide range of corporate insolvency and bankruptcy matters including:

- Applications to appoint office holders, for example on grounds of insolvency or the just and equitable basis.
- Applications to appoint receivers in the context of asset-tracing claims.
- Claims against office holders, including applications to their removal and/or to review their decisions.
- Administrative receivership in cases where there is a floating charge.
- Claims brought by office holders, including applications for set aside voidable transactions or claims for misfeasance.
- Applications to restrain presentation and/or advertisement of petitions and to set aside statutory demands.
- Applications to obtain/resist bankruptcy orders, annulment applications, appeal of bankruptcy orders.
- Claims by Trustees in Bankruptcy under TOLATA including applications to court for directions.

Experience includes:

- Acting for Hong Kong Trustees in Bankruptcy who sought recognition in the BVI and various forms of declaratory relief as the Bankrupt had assets in the jurisdiction and had sought to avoid the effects of the bankruptcy by making dispositions to his wife; including all contact with the client, drafting pleadings, witness evidence, written submissions and appearing at the hearing.

- Acting for a number of supporting creditors in relation to an application to appoint a liquidator over a BVI Company; including investigating numerous claims and assessing their merit before then drafting evidence in support under acute time pressure prior to the hearing of the Petition; all day to day management of the case; working with senior counsel and attendance at hearing as junior counsel;
- Successfully defending an application to inspect and take copies of seven sets of bankruptcy proceedings that the applicant sought to adduce in three sets of proceedings in Nairobi. Application resisted on the grounds forum non conveniens and in the alternative that the respondent could point to "countervailing prejudice" (*Franbar Holdings Ltd v Patel* [2005] EWHC 3048). Responsible for drafting evidence in opposition and written submissions; dealing with lay client directly; attendance at hearing.
- Successfully representing the supervisors of an IVA in resisting an appeal of a bankruptcy order (Proudman J).
- Successfully restraining the advertisement of a petition on the grounds that the debt was disputed on genuine and substantial grounds (Vos J).
- Acting for a creditor in relation to an application for the review of a liquidator's decision to reject a proof of debt based on expert evidence. Judge was persuaded to set aside the decision. Appearing at hearing as junior counsel (Bannister J).

Dealing with a member's application to wind up a BVI company on the just and equitable ground due to deadlock at board level, acting for opposing shareholder; including settling evidence in response, drafting application to strike out the petition on the grounds that it had been unlawfully advertised and brought for a collateral purpose, and advising on prospects of opposing shareholder bringing an unfair prejudice action.

## Property

Property litigation has always been an integral part of Hermione's practice on account of her pupillage taking place at a specialist planning, housing and local government law chambers. Hermione is particularly interested in cases involving an insolvent or bankrupt estate and is experienced in assisting office holders trace, realise and distribute estate property. She is also familiar with matters which have a trust element, including offshore trusts.

Her practice comprises both commercial and residential property including:

- Equitable claims based on constructive/resulting trusts and proprietary estoppel
- Trusts of law, co-ownership, determination of beneficial interests
- Possession, trespass, nuisance, adverse possession and forfeiture claims
- Boundary, rights of way and easements disputes
- Construction of leases and rectification
- Breaches of covenant and
- Party wall disputes.

Finally, Hermione has a strong advisory practice and strives to provide the highest level of service to clients. She is noted for acting well under pressure and is adept at handling instructions to draft urgent interlocutory applications as well as pleadings under tight time constraints.

Experience includes:

- Acting for Hong Kong Trustees in Bankruptcy who sought recognition in the BVI and various forms of declaratory relief as the Bankrupt had assets in the jurisdiction and had sought to avoid the effects of the bankruptcy by making dispositions to his wife.

- Obtaining a final injunction in the High Court for the freeholder of The Shard in London before Asplin J, having first secured the desired relief *ex parte* (out of hours) before Henderson J and then on an interim basis before Mann J. The case also involved applications for substituted service due to the avoidance tactics deployed by the foreign defendant.

- Acting for Trustees in Bankruptcy in claims under TOLATA, most recently securing an order for sale and defeating arguments made pursuant to *Stack v Dowden*.

- Acting for a mortgagee bank in a complex repossession claim requiring the restructuring of primary liability and subsequent possession of guarantor's assets.

- Acting for banks in relation to claims for the enforcement of mortgage security and claims for money judgment. Trial success in a heavily contested possession dispute where a defence was run that the security had been obtained in circumstances of undue influence and duress.

- Obtaining an order for delivery in an acrimonious action for conversation. First hurdle was to persuade the Judge that the claimant retained title to the asset and issue estoppel arose, and then secure an injunction for delivery as opposed to damages.

- Succeeding at trial for a national landowner in a longstanding dispute about title to agricultural land. The complexity of the case was compounded by the fact that the land was unregistered and deeds dating back to the early 18<sup>th</sup> century had to be examined.

- Advising the lessee of commercial property in Soho, London, in a long-running contentious construction dispute.

## Trusts and Estates

Hermione's trusts and estates experience is both domestic and international, on account of her spending three years working offshore in first Hong Kong and then the British Virgin Islands. Her practice focuses on the following areas:

- Probate and the administration of estates.
- Civil fraud and asset-tracing claims, typically where there is an offshore element.
- Contentious and non-contentious trusts litigation.

Asset-tracing claims are by definition time-critical and require an unshakable, strategic and hard-working barrister. Hermione understands the needs of clients in such contexts and is used and enjoys working under these conditions.

Recent experience includes:

- Ongoing direct access instruction in a contentious probate dispute involving the estates of a deceased married couple; includes various applications and claims including an application to remove the personal representative, a challenge to the validity of the Will of one testator on the grounds of incapacity and a dispute about the ownership of assets.

- Acting for the beneficiaries of an unadministered estate where a creditor of the estate registered an English judgment in the BVI before then procuring both a mareva injunction and an order appointing a local insolvency practitioner as administrator ad collingenda bona; dealing with correspondence with the appellant and the administrator, day to day management of the case and provision of advice.

- Acting for Hong Kong Trustees in Bankruptcy who sought recognition in the BVI and various forms of declaratory relief as the Bankrupt had assets in the jurisdiction and had sought to avoid the effects of the bankruptcy by making dispositions to his wife. Responsible for including all contact with the client, drafting pleadings, witness evidence, written submissions and appearing at the hearing.

Advising in relation to a cross-border asset tracing matter where an application in the BVI was needed for a Norwich Pharmacal order against a number of registered agents in aid of foreign proceedings; including all client care and day to day matter management; providing initial advice on merits of application; settling the application documents, witness statement and skeleton argument.

## Offshore

Hermione is well-placed to accept instructions in offshore matters having acquired first-hand experience at the "coal face" by working for offshore firms in Hong Kong and the British Virgin Islands. She was admitted as a Barrister of the Eastern Caribbean Supreme Court in the Territory of the Virgin Islands in October 2014 and returned to the English Bar in November 2017. She appeared in the Commercial Court as both sole and junior counsel.

Hermione's practice covers commercial litigation, arbitration, insolvency, corporate law and trusts, with a focus on shareholder disputes, claims against directors, cross-border fraud and asset-tracing claims.

The fused nature of the legal profession in the BVI meant she both appeared in Court as well as carried out all other tasks associated with working in a litigation team. Hermione is unfazed by the challenge and complexity that cross-border matters present. She offers clients not only technical expertise but also an insight into how the process in the BVI may have a bearing on the strength of their claim and/or application. Hermione is a valuable junior for leaders and enjoys working hard as part of a legal team.

Hermione is an articulate speaker and was one of only two solo speakers at the five day International Arbitration Conference in the BVI, where she gave a presentation on the clash in policy between the enforcement of arbitral awards and the doctrine of sovereign immunity.

Experience includes:

- Settling pleading to issue proceedings for the assignee of a debt which derived from intercompany loans; drafting witness evidence and written submissions in relation to summary judgment and security for costs applications and appearing at hearing of such applications as junior counsel; dealing with and assessing what strategy to take in relation to arguments of res judicata and issue estoppel.
- Acting for the beneficiaries of an unadministered estate where a creditor of the estate registered an English judgment in the BVI before then procuring both a mareva injunction and an order appointing a local insolvency practitioner as administrator ad colligenda bona; dealing with correspondence with the appellant and the administrator, day to day management of the case and advice.
- Acting for Hong Kong Trustees in Bankruptcy who sought recognition in the BVI and various forms of declaratory relief as the Bankrupt had assets in the jurisdiction and had sought to avoid the effects of the bankruptcy by making dispositions to his wife; including all contact with the client, drafting pleadings, witness evidence, written submissions and appearing at the hearing;

- Care and conduct of proceedings for a SPV in New York (set up to purchase sovereign debt claims) in relation to the recognition and enforcement of arbitral awards against a State Entity; including the initial merits assessment and reviewing evidence of the State's alleged beneficial interests in BVI assets and the defence of sovereign immunity.

- Acting for a creditor in relation to an application under the Insolvency Act which challenged a liquidator's decision to reject a proof of debt based on expert evidence; drafting witness evidence and written submissions (latter included dealing with a preliminary point of law regarding the standard of review), instructing and working with leading counsel and our client's expert, day to day conduct of the matter; appearing at hearing as junior counsel before Bannister J in Commercial Court.

- Acting for a number of supporting creditors in relation to an application to appoint a liquidator over a BVI Company; including investigating numerous claims and assessing their merit before then drafting evidence in support under acute time pressure prior to the hearing of the Petition; all day to day management of the case; working with senior counsel and attendance at hearing as junior counsel.

- Advising in relation to a cross-border asset tracing matter where an application in the BVI was needed for a Norwich Pharmacal order against a number of registered agents in aid of foreign proceedings; including all client care and day to day matter management; providing initial advice on merits of application; settling the application documents, witness statement and skeleton argument.

- Dealing with a member's application to wind up a BVI company on the just and equitable ground due to deadlock at board level, acting for opposing shareholder; including settling evidence in response, drafting application to strike out the petition on the grounds that it had been unlawfully advertised and brought for a collateral purpose, and advising on prospects of opposing shareholder bringing an unfair prejudice action.

- Settling proceedings in an action declaratory relief in relation to the identity of a BVI company's shareholders and settling the related application to serve such proceedings outside the jurisdiction; including day to day conduct of matter, drafting pleadings, witness statements, application notice and draft order; responsible for all correspondence with client, adverse parties and court; preparation of written submissions and bundle for service out hearing and attending court as sole counsel (Farara J).

Dealing with numerous CMCs; settling case summary and list of issues for CMC bundle, preparing written submissions dealing with any preliminary applications to be determined at the CMC (i.e. forum challenges, inadequate service of proceedings, disputes about expert evidence), all correspondence with adverse party and court and attendance at CMC as sole counsel.

