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FRANCESCA PERSELLI*

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OVERVIEW

Francesca is a Guernsey-qualified Advocate, practising at a local law firm. Prior to moving to Guernsey in 2023, she practised as a barrister in London from 2012 to 2023 and was latterly a member of Maitland chambers. Her practice has encompassed wrongdoing by fiduciaries in a variety of contexts: company, insolvency, trusts and probate. As a barrister she appeared as sole counsel and as a junior at a variety of levels, including appellate level. She does not presently accept instructions outside of her employed work in Guernsey.

Having initially completed a Master of Chemistry at the University of Durham, Francesca took the GDL and BPTC at the College of Law and an LLM in Commercial Law at the University of Cambridge. She has since taken the Guernsey Bar Exams and Certificat D'Etudes Juridiques Françaises from the Université de Caen Normandie.

Francesca has contributed to leading textbooks including Lewin on Trusts and Williams, Mortimer and Sunnucks on Executors, Administrators and Probate. She was also a member of the Bar Council of England and Wales and remains passionate about the development of the legal profession in order to serve the interests of the community.

LANGUAGES

- Italian; experience working with Italian documents. Dual Italian and British nationality.

EXPERTISE

COMMERCIAL LITIGATION & ARBITRATION

The majority of Francesca's cases are commercial in nature and often involve allegations of fraud or dishonesty and multi-jurisdictional issues.

Notable cases:

- ***Credit Suisse v Metigen*** (led by) – acting for a media company seeking to publish an investigatory report by the Swiss financial regulatory authority (FINMA) into a $1bn fraud within Credit Suisse by a senior employee, Patrice Lescaudron. Resisting an injunction application by Credit Suisse to restrain publication of the report due to alleged breach of confidence and the bank's right to privacy under Art 8 ECHR on the basis of public interest in the contents of the report and/or priority of the media company's Art 10 ECHR rights.
- ***Blue Power v ENI*** [2020] EWHC 633 (Ch) (with and) – acting for claimant Italian research and development business in a 3 year dispute, claiming up to €1bn from Eni pursuant to a contract for marine transportation of compressed natural gas. Contractual claims for breaches of contract and exclusivity; IP claims for breach of confidence and infringement of database rights relating to modelling software.
- ***Farrer v Meyer*** [2021] EWHC 3835 (KB), [2022] EWHC 362 (QB) – Acting for Julie Meyer MBE, entrepreneur and former Dragon's Den "dragon", in the High Court and Court of Appeal in a claim against her for £200k of unpaid solicitor's fees for media and reputation management services. Defending contempt of court charges and a bench warrant following breach of a Part 71 Order to disclose financial information.
- Advising an oil company in a $500m arbitration against Nigerian Agip Oil, alleging breaches of a Joint Operating Agreement to manage various Nigerian oil exploration licences.
- ***Bedford Investments v Sellman*** [2021] EWHC 799 (Comm) (sole counsel at hearing; initially led by Andrew Ayres KC) – acting for defendant guarantor to a £2.1m claim by an assignee of the lender. The assignee and guarantor were also parties to a property development joint venture, carried on through a joint venture company which was the principal borrower and had defaulted on the loan.
- ***Carey Street Investments v Brown*** (led by) – acting for liquidators in a £30m claim against directors of two insolvent companies for making false declarations and underpayments to HMRC in dishonest breach of duty.
- ***Rumbough v Fragrant Prosperity Holdings*** (led by Nicholas Peacock KC) – acting for claimant in £800k claim relating to breaches of subscription and option agreements for the purchase of convertible loan notes in a special purpose acquisition company.
- Appearing for an energy supplier responding to an injunction to restore energy supply following disconnection.
- Acting for a football club defending an injunction for return of equipment from the applicant football team following termination of a lease of a stadium used by both teams.
- Advising a university as to the ambit of a contractual obligation to pay commission to an introduction agent upon the introduction and enrolment of new students.

- ***Carlton Travel v Baby*** [2018] EWHC 3269 (QB) – acting for the successful respondent in an appeal against refusal of relief from sanctions; issues as to enforceability of an oral guarantee agreement, absence of consideration, duress, undue influence.

CIVIL FRAUD

- ***Torr v Connor*** – representing claimant at first instance and on appeal in a claim for fraudulent misrepresentation relating to the sale of a high-end car previously owned by footballer Ian Wright.
- ***Carey Street Investments v Brown*** (led by) – acting for liquidators in £30m claim against directors of two insolvent companies for making false declarations and underpayments to HMRC in dishonest breach of duty.
- ***Trafalgar Multi-Asset Fund v Hadley*** (led by) – advising the beneficiaries of a Gibraltar QROPS in claims against the trustee relating to failure of an offshore fund suspended following investigation by the SFO and findings of fraud by its liquidators.
- Acting for company specialising in tracking technology for liquid petroleum gas cylinders in a £2m claim for fraudulent misrepresentation against software developer for deficiencies in software.
- Application for committal for breach of an order to attend court for questioning and for a passport order following judgment in £1.2m cross-border fraud claim.
- Advising ticket agent in responding to a freezing order obtained in respect of £2.7m claim for alleged failure to account to the festival organiser for ticket sales.

COMPANY & PARTNERSHIP

Evans v Muxworthy (led by Andrew Ayres KC and as sole counsel) – acting for the defendant to a dispute between shareholders in a property-owning company as to their interests in the company and alleged breaches of a joint venture agreement.

WMR Library v World Media Rights – acting for the defendant director of a group of TV production and media library companies in a £500k claim for breach of CA 2006 duties relating to a separation and sale of the businesses.

Seneschall v Harries – representing senior employee defending claims for lawful means conspiracy and remedies under s994 CA 2006 (unfair prejudice).

- ***Carey Street Investments v Brown*** (led by) – acting for liquidators in £30m claim against directors of two insolvent companies for making false declarations and underpayments to HMRC in dishonest breach of company law duties.
- ***Re Webuyanyscrap.com (OR v Bishop)*** (with Watson Pringle) – acting for defendant directors, employees and shareholders in £300k claims for misfeasance (s212 IA 1986), wrongful trading (s213 IA), fraudulent trading (s214 IA), transactions at an undervalue (s238 IA) and preference (s329 IA) following the insolvency of a scrap metal business.

- Acting for director facing £280k claim for breach of duty and account of profits.
- Advising director-shareholder of a deadlocked company as to company law options for resolving the deadlock.
- Representing creditor petitioning for administration of companies holding a £7.7m portfolio of rental properties.

INSOLVENCY & ASSET RECOVERY

- ***Re Webuyanyscrap.com (OR v Bishop)*** (with Watson Pringle) – acting for defendant directors, employees and shareholders in £300k claims for misfeasance (s212 IA 1986), wrongful trading (s213), fraudulent trading (s214), transactions at an undervalue (s238) and preference (s329) following the insolvency of a scrap metal business.
- Representing creditor petitioning for administration of companies holding a £7.7m portfolio of rental properties.
- Acting for liquidator of a company for applications under s236, 237 IA 1986 (for information and payment of monies owed to the company) against a bank suspected of having wrongly retained monies pursuant to a bad debt retention policy.
- Acting for financial institution resisting claim by CVA supervisor for monies allegedly owed pursuant to PPI claim.
- Experience includes validation orders, winding up and bankruptcy petitions, setting aside statutory demands and restraining advertisement of petitions, administration applications, powers and duties of office holders, claims against directors.

OFFSHORE & TRUSTS

Attard v Overseas Trust and Pension Limited [2021] GRC 058 (with Andrew Laws, Guernsey counsel) – advising the trustee of a £1.9m Guernsey pension scheme in claims for construction, breach of scheme rules, removal of trustee and ***Public Trustee v Cooper*** counter-application to distribute funds.

Trafalgar Multi-Asset Fund v Hadley (led by) – advising the beneficiaries of a Gibraltar QROPS in claims against the trustee relating to failure of an offshore fund suspended following investigation by the SFO and findings of fraud by its liquidators.

M v St Anne's Trustees Judgment 1/2018, Guernsey Royal Ct (with Karen Le Cras, Guernsey counsel) – advising the Trustee in the leading Guernsey authority on ***Pitt v Holt***.

Credit Suisse Trustees v Haggiag (Judgment 47/2015), Guernsey Royal Ct (with Jeremy Wessels, Guernsey counsel) – advising in Guernsey claim concerning choice of law, ***forum non conveniens*** in sham trust claims, civil law recognition of trusts under the Hague Convention, injunction against legal advisors alleging conflict of interest.

Secondments to Mourant (Guernsey), Carey Olsen (Guernsey), Ogier (Jersey). Cases included:

- ***Creditforce v Arbitrage Research and Trading*** – sham trust claim involving attempts by alleged settlor to hide ownership within a complex network of transactions.
- ***Chernukhin v Deripaska*** – enforcement proceedings brought in support of the ***Filatona Trading v Navigator Equities*** claim in the English High Court.

- ***Deutsche Bank v Sebastian Holdings and Vik*** – enforcement of English judgment in Guernsey; applications for appointment of an equitable receiver and collateral use of documents.
- ***First Tower Trustees v CDS (Superstores International)*** – advising solicitors in English proceedings as to choice of law where a trustee of a foreign law trust enters into an English law contract "as trustee".
- ***First Tower Trustees v CMS Cameron McKenna Nabarro Olswang*** – advising on negligence claim against the trustees' former solicitors in respect of the drafting of the contract and conduct of the above ***CDS*** litigation.
- ***Re St John's Ambulance & Rescue Service*** – pension claim alleging breach of the ***Imperial Tobacco*** duty.

- ***Investec Trust v Glenalla Properties (Tchenguiz Discretionary Trust)*** – part of a team of associates in litigation before the Guernsey Court of Appeal relating to the ambit of Art 32 Jersey Trusts Law (liability of a trustee to third parties).

- Claims involving: service out and jurisdiction issues (***forum conveniens***), choice of law in trusts disputes, prescription (limitation) of trust and negligence claims, cross-border estates and insolvencies, asset tracing and ***bona fide*** purchaser defence, breach of investment mandate by fund advisor, regulatory proceedings by the GFSC.

BANKING & FINANCIAL SERVICES

- Acting for a non-sanctioned Russian individual whose assets had been frozen by an English bank despite having the protection of an OFSI General Licence.
- Acting for the senior creditor intervening in an action by a debtor to enforce a loan agreement against a subordinated creditor, contrary to the terms of a deed of priorities.

MEDIA & ENTERTAINMENT

Credit Suisse v Metigen (led by). Acting for a media company seeking to publish an investigatory report by the Swiss financial regulatory authority (FINMA) into a $1bn fraud within Credit Suisse by a senior employee, Patrice Lescaudron. Resisting an injunction application by Credit Suisse to restrain publication of the report due to alleged breach of confidence and the bank's right to privacy under Art 8 ECHR on the basis of public interest in the contents of the report and/or priority of the media company's Art 10 ECHR rights.

Farrer v Meyer [2021] EWHC 3835 (KB), [2022] EWHC 362 (QB) – acting for Julie Meyer MBE, entrepreneur and former Dragon's Den "dragon", in the High Court and Court of Appeal in a claim against her for £200k of

unpaid solicitor's fees for media and reputation management services. Defending contempt of court charges and a bench warrant following breach of a Part 71 Order to disclose financial information.

Acting for a sales agent in an action for misuse of confidential information following a media leak of a confidential project to sell a chain of well-known retail stores.

Advising ticket agent in responding to a freezing order obtained in respect of £2.7m claim for alleged failure to account to the festival organiser for ticket sales.

WMR Library v World Media Rights – acting for the defendant director of a group of TV production and media library companies in £500k claim for breach of CA 2006 duties relating to a separation and sale of the businesses.

Acting for company specialising in tracking technology for liquid petroleum gas cylinders in a £2m claim for fraudulent misrepresentation against software developer for deficiencies in software.

Acting for supplier of motor sports merchandise and clothing defending a €1.2m claim by its former representatives pursuant to the Commercial Agents Regulations for breach of an agency agreement.

Acting for claimant concierge company against ticket agent in a claim for non-delivery of tickets to premium sporting events.

Please also see Intellectual Property section for additional related experience

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INTELLECTUAL PROPERTY

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- Acting for a sales agent in an action for misuse of confidential information following a media leak of a confidential project to sell a chain of well-known retail stores.
- ***Discovery Yachts Limited v Sunchalk Limited*** – appeared for the applicant seeking an injunction restraining passing off. Advised on trade mark infringement and enforcement of a sale agreement following purchase by the claimant of the defendant's business.
- ***Pegas Touristik UK Limited*** – acted for the appellant in a trademark appeal to the Appointed Person.

- Acting for applicant company in injunction against former senior employees to restrain misuse of confidential information and breach of database rights in design software relating to electrical engineering systems.
- Preparing expert English law opinion for Italian litigation in relation to a claim between a perfume manufacturer and distributor. Issues included availability of injunctive relief for the protection of confidential information and trade secrets; injunctive relief in support of exclusive distribution rights; ambit of contractual termination clause.
- Advising Canadian cannabis company in claim against English marketing agent for breaches of non-compete clause in agency agreement, misuse of confidential information and ownership of IP relating to CBD products.
- Comfortable with claims requiring scientific knowledge (chemistry and physics in particular) or music theory.
- Please also see Media and Entertainment section for additional related experience.

PRIVATE CLIENT

- Claim for a declaration relating to beneficial ownership of a £1.2m George Stubbs painting previously in the estate of a late dowager countess (led by Thomas Grant KC).
- ***Cook v Clapham*** (with Jersey counsel) – acting for the defendant to a claim as to the beneficial ownership of a number of high-value works of art claimed to be held subject to a Jersey-law fine art trust settled by the late Lord Cook.
- ***Re Paul (deceased)*** (led by Alex Learmonth) – probate claim relating to a £30m farming estate, seeking to set aside a will on the grounds of incapacity due to schizophrenia and want of knowledge and approval; alternatively rectification for mistake.
- Application for a proprietary injunction in respect of a Spanish property pending questions as to the effect of competing Spanish and English wills on the disposition of ownership in the property.
- Injunction to restrain administration of an estate pending a question as to whether the administrator was a biological child of the deceased.
- Advising lender on the provision of loans to executors during the course of administration of an estate.
- Acting for a defendant to a claim for possession asserting proprietary estoppel, having moved to England to provide housekeeping services for a late wealthy individual in exchange for a right to reside in a property.

CHARITIES

- Acting for trustees of a charity responding to claim seeking declaration that a community farm is a valid charity and for alleged breaches of duty under the Charities Act 2011.
- Advising on the Charities Act 2011 and charity proceedings.

QUALIFICATIONS

- MChem (Dunelm), Chemistry (First) – St Mary's College, Durham.
- Undergraduate Master's research project in computational crystallography (materials chemistry).
- GDL (Distinction) – The College of Law.
- BPTC (Outstanding) – The College of Law.
- LLM (Cantab), Commercial Law – Fitzwilliam College, Cambridge.
- Modules in intellectual property, advanced trusts, conflict of laws, restitution.

AWARDS

Scholarship from the South Eastern Circuit to attend Florida Bar Association Advanced Civil Trial Advocacy Course (May 2016). Received excellent feedback on advocacy and in particular cross-examination.

Diplock Scholar of the Middle Temple for both GDL and BPTC years.

College of Law/Allen & Overy Stuart Menzies bursary for a promising commercial lawyer.

Winner of College of Law mooting competition.

MEMBERSHIPS

- Bar Council elected member 2018-2023 (Legal Services Committee and Equality, Diversity and Social Mobility Committee, previously a member of the Young Barristers and International Committees)
- British Italian Lawyers Association
- Chancery Bar
- COMBAR
- ConTrA

NOTABLE CASES