

## GABRIELLA McNICHOLAS

CALL: 2013



### OVERVIEW

Gabriella is a go-to junior whose busy practice includes high value contractual and other business disputes across a very broad range of industries, civil fraud and asset tracing claims, shareholder and partnership disputes, breach of fiduciary duty claims and corporate and personal insolvency applications. She has extensive experience in dealing with jurisdictional challenges and conflicts of laws issues and the full range of applications arising in complex civil fraud and commercial disputes, including freezing orders and other injunctive relief, receivership applications, Norwich Pharmacal orders and other ancillary orders.

Thanks in part to her international background, covering Sweden, the US, Spain and the Netherlands, Gabriella has a creative spark which enables her to bring fresh ideas to difficult problems. She is a strong and passionate advocate who regularly appears as sole counsel in the High Court and in arbitrations but she also has experience of acting as part of a larger counsel team in high value and complex civil fraud litigation, such as the US\$2billion claim brought by the Libyan Investment Authority (a sovereign wealth fund) against the French bank Société Générale to set aside several trades and derivative options, and its further £100million claim against Credit Suisse and others.

### EXPERTISE

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#### COMMERCIAL LITIGATION & ARBITRATION

Gabriella is regularly instructed to advise, draft pleadings, and appear both led and as sole counsel in relation to a variety of commercial disputes across a very wide range of industries in the Commercial Court and in the Chancery Division. She is also regularly instructed in arbitration claims under several arbitral rules, including LCIA and ICC, and attendant court applications.

Gabriella is experienced in dealing with the full range of issues and interim applications which substantial commercial disputes often involve, including:

- Urgent injunctive relief, including applications to obtain, continue, vary and discharge freezing injunctions and other injunctions
- Jurisdictional challenges and conflicts of laws issues
- Enforcement and recognition of foreign judgements
- Foreign law and forensic accountancy expert evidence
- Disclosure issues, including applications for specific disclosure, third party disclosure and issues relating to privilege

## NOTABLE CASES

- *Ralph & Russo (in administration) v Tamara Ralph* (2021-) - acting for the former creative director and co-founder of the renowned British fashion house, in the highly publicised £23 million claim, which includes allegations of breach of contract and unjust enrichment. (led by **Richard Morgan KC**).
- *Candy Ventures SARL v Tamara Ralph* (2021-) - acting for the Defendant in defending a £17 million claim brought by an investment company founded and substantially owned by Nicholas Candy and involving allegations of fraudulent misrepresentation and breach of contract.(led by **Richard Morgan KC**).
- *Nimerv United Al Saqer Group & Others* (2021) EWHC50 (QB) - 3-day jurisdictional dispute which centred on the nature and extent of the evidence required to demonstrate a serious risk of a denial of substantial justice, such that the natural forum is not the appropriate forum in which to try the claim (led by Andrew Ayres KC).
- *LIA v Credit Suisse & Others* (2021) - acting for the Libyan sovereign wealth fund in its £100 million claim against the Swiss bank, which included allegations of unjust enrichment, breach of fiduciary duty and undue influence (led by Roger Masefield KC and Andrew George KC).
- *VTB v Mazurov* (2020) - acting for Russian bank VTB in litigation in the Isle of Man stemming from its £146million world-wide freezing injunction, involving various associated applications including for disclosure, contempt of court and the appointment of a receiver.
- *WMR Library Limited & Anor v World Media Rights Limited* (2020) - contractual dispute arising out of the corporate restructuring of a TV production business.
- *Vaimo v B&W Group Ltd* (2020) - contractual claim against audio equipment manufacturer Bowers & Wilkins for services relating to the design and production of an e-commerce website.
- *Jolison Limited v Ndiaye* (2019) - successfully secured discharge of US\$53 million world-wide Chabra injunction (led by **Richard Morgan KC**).
- *Blue Power Group & Others v ENI Norge AS & Others* (2019) - €600 million claim for breach of exclusivity, confidentiality and best endeavours provisions related to compressed natural gas technologies (led by **Andrew Twigger KC**).
- *LIA v SocGen & Others* (2017) - US\$2billion claim to set aside several trades and derivative options and including claims of breach of fiduciary duty and illegality (top 20 case of 2017 by The Lawyer, led by Roger Masefield KC, Craig Orr KC and Andrew George KC).
- *Punjab National Bank (International) v Boris Shipping Ltd & Others* - £20 million claim under contracts for guarantee; application relating to service under Hague Convention ([2019] EWHC1280(QB)) and successful application for summary judgment.

- *Vaimo v Carraig Donn* - contractual claim against the Irish lifestyle retailer for services to create an e-commerce platform.
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## CIVIL FRAUD

Gabriella is regularly instructed in claims which involve allegations of civil or commercial fraud, including allegations of fraudulent misrepresentation, dishonest assistance, inducing breach of contract, unlawful means conspiracy and claims pursuant to the Insolvency Act 1986, including wrongful and fraudulent trading and claims under section 423 (transactions defrauding creditors).

## NOTABLE CASES

- *Candy Ventures SARL v Tamara Ralph* (2021-) - acting for the Defendant in defending a £17 million claim brought by an investment company founded and substantially owned by Nicholas Candy and involving allegations of fraudulent misrepresentation and breach of contract.(led by **Richard Morgan KC**).
  - *McLeod and DP Limited v Donald and MacNiven* (2021-) - £10 million claim for fraudulent misrepresentation relating to a novel ballistic technology for application in the oil and gas industry.
  - *Andoro Trading Corp and Uroco Ltd v Dolfin Financial (UK) Ltd & Ors* (2021) - acted with **Christopher Parker KC** for three of the Defendants in a US\$ 10 million-plus claim, defending allegations of dishonest assistance, knowing receipt, inducing breach of contract, dishonest misrepresentation and unlawful means conspiracy arising out of the unsuccessful launch of private blockchain platform.
  - *(1) Natwest Markets PLC (2) Mercuria Energy Europe Trading Ltd v Bilta (UK) Ltd* (2021) -assisted **Christopher Parker KC** in the appeal against the judgment of the Court of Appeal in respect of the correct test for dishonesty in claims for dishonest assistance.
  - *Nimer v UAS Group & Others* (2021) - £24 million unlawful means conspiracy claim against the owners of one of the largest conglomerates in the UAE.
  - *LIA v Credit Suisse & Others* (2021) - acting for the Libyan sovereign wealth fund in its £100 million claim against the Swiss bank, which alleged the existence of a fraudulent and corrupt scheme that involved dishonest assistance and knowing receipt.
  - *Jolison Limited v Ndiaye* (2019) - claim alleging that a declaration of trust in respect of a multi-million pound London property was a sham or a transaction to defraud creditors.
  - *LIA v SocGen & Others* (2017) - acting for the Libyan sovereign wealth fund in its US\$ 2billion claim against the French bank and various other defendants, alleging that various trades and derivative options were procured by a fraudulent and corrupt scheme and involving allegations of bribery, claims in knowing receipt and damages for fraud.
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## COMPANY & PARTNERSHIP

Gabriella is experienced in advising on and appearing in a wide range of company and shareholder matters, including corporate governance disputes, unfair prejudice petitions and other shareholder disputes, claims of breach of duty against directors and director disqualification proceedings.

She also has experience in advising on claims arising out of joint ventures and partnership disputes (the majority of which settle on confidential terms), including breach of duty claims, issues regarding beneficial ownership and division of profits, disclosure, dissolution and associated relief, such as freezing injunctions to avoid dissipation of partnership assets.

## NOTABLE CASES

- Substantial shareholder dispute arising out of the restructure and sale of a £200million plus corporate group operating within the hospitality industry, involving wide-ranging allegations of unfairly prejudicial conduct and breaches of directors' duties, with a variety of remedy sought, including injunctive relief, an account, and a buy-out order.
- ***Re Anglo-Austrian Patisserie Limited – Manolete Partners PLC v Steven Edler & Ors*** (2020-2022) - proceedings against the former directors of a company and third parties arising out of a corporate restructuring and involving allegations of unlawful distribution of company assets, equitable compensation for breaches of duty and claims in knowing receipt (led by **Catherine Addy KC**).
- ***Ralph & Russo (in administration) v Tamara Ralph*** (2021-) - acting for the co-founder and former creative director of the renowned British fashion house in the highly publicised £23 million claim brought by the Administrators, which includes various allegations of breach of statutory and fiduciary duty. (led by **Richard Morgan KC**).
- ***Wells v Hornshaw*** (2019-) - unfair prejudice petition involving allegations of unlawful dilution, breaches of directors' duties and breaches of shareholders' agreement (led by Thomas Grant KC); Gabriella appeared unled in the 3-day successful application to obtain summary judgment on the issue of quasi-partnership and other allegations.
- ***Boca Limited v Volaw Trustee Limited & Anor*** (CHP 18/0065) - long-running partnership dispute in the Isle of Man, which culminated in a week-long High Court trial before Deemster Rosen KC in November 2019, in which allegations of fraud were successfully defended and a mandatory injunction secured to compel compliance with a partnership deed.
- ***Pejcinovic v Locker*** (2018) - unfair prejudice petition including allegations of breaches of shareholders' agreement, exclusion from management and unlawful dilution of shareholding.
- ***Campbell v Campbell*** (2017) EWHC 2747 (Ch) (led by John Machell KC) - freezing injunction to avoid dissipation of partnership assets.

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## INSOLVENCY & ASSET RECOVERY

Gabriella is instructed to advise in respect of a great variety of insolvency related matters and she appears regularly in the High Court in both corporate insolvency and bankruptcy proceedings. Examples include:

- Advising on and appearing in contested winding-up and bankruptcy petitions, and applications for

injunctions to restrain the presentation of a winding up petition

- Advising insolvency practitioners in respect of misfeasance, wrongful trading and preference claims against directors and others
- Advising on and appearing in applications for and against validation orders under s 127 of the Insolvency Act 1986
- Applications under s 236 of the Insolvency Act 1986 (inquiry into company's dealings)
- Advising on and appearing in applications to lift the statutory moratorium upon administration under para 43(6)(b) of Schedule B1 to the Insolvency Act 1986
- Advising on and appearing in applications both challenging and supporting the appointment, conduct, remuneration and removal of insolvency practitioners.

## NOTABLE CASES

Examples include:

- ***Re Broadsheet LLC*** (2022). Manx dispute relating to the ownership and distribution of US\$30million recouped by a company in liquidation from the Government of Pakistan and the order of priority of four rival claims (totalling US\$56.4million) by litigation funders, lenders, solicitors and the liquidator.
- ***Re Anglo-Austrian Patisserie Limited – Manolete Partners PLC v Steven Edler & Ors*** (2020-2022) – proceedings against the former directors of a company and third parties arising out of a corporate restructuring and involving allegations that company assets were transferred at an undervalue and that creditors were unlawfully preferred (led by **Catherine Addy KC**).
- ***Hunt v Down*** (2020) 4 WLUK 474 - application under the block transfer regime, which raised issues of standing and the extent to which the cooperation of the outgoing officeholder is required.
- ***Re TRIAP Limited*** (2020) - claim pursuant to s 127 arising out of the winding up of a company providing insolvency and restructuring services.
- ***Portland Stone Firms Limited & Ors v Barclays Bank Plc, KPMG LLP & Ors*** (2018) EWHC 2341 (QB) - £20 million claim for unlawful means conspiracy, in respect of which Gabriella was instructed to assist on the allegations that Administrators wrongfully pursued a fire sale and failed to genuinely consider rescuing the company as a going concern.
- ***LF2 Ltd v Supperstone*** - application by a creditor under paragraph 74 of Schedule B1 to challenge the refusal of administrators to consider an offer to purchase a chose in action.
- ***David Rucker v Full Circle Asset Management Limited*** - successful application before Birss J to lift the statutory moratorium and allow Part 7 proceedings to continue, and successful application before Rose J to oppose the appointment of administrators chosen by the directors and to appoint the office-holders preferred by the majority creditor.

## MEMBERSHIPS

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- Chancery Bar Association
- COMBAR
- Young Fraud Lawyers Association

## QUALIFICATIONS

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- BCL (Oxon)
- BA (Jurisprudence) Magdalen College, Oxford: First Class
- BPTC, City University

## LANGUAGES

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- Swedish (native)
- Spanish (intermediate)

## AWARDS

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**Denning Scholarship**  
**Lincoln's Inn**

**Hardwicke Entrance Scholarship**  
**Lincoln's Inn**

**Demyship and Scholar**  
**Magdalen College, Oxford**

**Cum Laude**  
**Department of Moot Court and Advocacy at Leiden University**