

# Serle Court International Trusts and Commercial Litigation Conference

When

Monday 19 November 2018  
8.45am - 16.50pm

Where

The InterContinental  
New York Barclay Hotel

first rate from  
top to bottom



serle court

chancery  
& commercial

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# Programme

08.45	Registration and coffee
09.15	Opening remarks - Alan Boyle QC
09.30	<b>Panel session:</b> <b>To the ends of the earth and beyond: identifying and preserving assets in cross-border litigation</b>
10.15	<b>Panel session:</b> <b>Trustees in the firing line: tactics, strategies and legal issues</b>
11.00	Coffee
11.20	<b>Breakout sessions:</b> (a) Obtaining information in fraud and asset recovery litigation (b) <i>De jure, de facto</i> and shadow directors, and their duties in good times and bad (c) Attribution, Buyers, and Co-ownership: the ABC of Art litigation for private client and commercial lawyers
12.15	<b>Panel session:</b> <b>Injunctions and interim remedies: Have common law courts become too claimant friendly?</b>
1.00	Lunch
2.00	<b>Debate:</b> <b>Brexit and the Future of International Commercial Litigation</b>
2.30	<b>Breakout sessions:</b> (d) Trustees' liability to third parties: a comparative look (e) Judgment Avoidance: A practical guide
3.15	Tea
3.35	<b>Juniors session:</b> <b>Key cases of 2017/2018</b>
4.00	<b>Panel session:</b> <b>Discretionary decision making post-<i>Braganza</i></b>
4.45	Closing remarks - Alan Boyle QC
6.30 - 9.00	Evening reception at Upstairs at the Kimberly Hotel, Penthouse Level, 145 East 50 <sup>th</sup> Street





# Sessions

## Panel session:

### **To the ends of the earth and beyond: identifying and preserving assets in cross-border litigation**

Drawing upon a wealth of domestic and offshore experience, the panel members will discuss strategies and techniques by which assets may successfully be found and made available to claimants in a range of jurisdictions worldwide.

- *Philip Marshall QC*
- *Matthew Morrison*
- *Richard Brown*  
Harneys, London
- *Arabella di Iorio*  
Advocates BVI, BVI

## Panel session:

### **Trustees in the firing line: tactics, strategies and legal issues**

Looking at new developments in the law and experience of recent litigation, the panel, which will be chaired by Dakis Hagen QC, will focus on the key issues which face professional trustees defending hostile claims.

- *Dakis Hagen QC*
- *Giles Richardson*
- *Constance McDonnell*
- *Anthony Poulton*  
Baker & McKenzie  
LLP, London
- *Jonathan Speck*  
Mourant Ozannes, Jersey

## Breakout sessions:

### **(a) Obtaining information in fraud and asset recovery litigation**

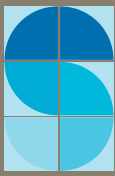
This session will consider recent developments and topical issues in the court's approach to ordering the production of information in the context of fraud and asset recovery litigation, including the role of Norwich Pharmacal and related relief in multi-jurisdictional litigation, orders ancillary to freezing orders, access to information held by the authorities (including through beneficial ownership registration requirements) and the availability of documents from related criminal proceedings.

- *James Mather*
- *Adrian de Froment*
- *Jon Felce*  
PCB Litigation, London

### **(b) *De jure, de facto* and shadow directors, and their duties in good times and bad**

This session will investigate duties owed by differing categories of directors, the differences (if any) between them, how those duties might be affected when the company encounters financial troubles, and whether they differ in the offshore world.

- *Lance Ashworth QC*
- *David Drake*
- *Nick Burkill*  
Ogier, BVI
- *Stephen Ross*  
Withers LLP, London



# Sessions

## **(c) Attribution, Buyers, and Co-ownership: the ABC of Art litigation for private client and commercial lawyers**

A panel of experienced litigators will focus on claims involving art and cultural property assets. Art works and other high value chattels frequently form an element of wider disputes in the trust and commercial contexts, and this session is intended to highlight some of the most important issues that may be relevant for commercial and trust lawyers who may not specialise in art litigation.

- *Richard Wilson QC*
- *Andrew Bruce*
- *Sandrine Giroud*  
Lalive, Geneva
- *Tim Maxwell*  
Boodle Hatfield LLP,  
London

## **Panel session:**

### **Injunctions and interim remedies: Have common law courts become too claimant friendly?**

The sometime poachers and gamekeepers on the panel will discuss recent developments around the common law world and discuss whether the balance has moved too far in favour of claimants.

- *John Machell QC*
- *Tim Collingwood*
- *David Lederkramer*,  
Proskauer Rose LLP, New York
- *Stephen Leontsinis*  
Collas Crill, Cayman
- *Keith Oliver*  
Peters & Peters Solicitors  
LLP, London

## **Debate:**

### **Brexit and the Future of International Commercial Litigation**

In this session, the speakers will debate about the impact of Brexit on cross-border litigation in the UK, the European Union and beyond. They will consider, in particular, its potential impact on the choice of English courts and English law, on litigation in foreign courts and on the enforcement of UK judgments overseas.

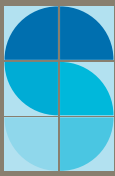
- *Jonathan Harris QC (Hon)*
- *Franco Ferrari*  
NYU, School of Law

## **Breakout sessions:**

### **(d) Trustees' liability to third parties: a comparative look**

This session will focus on issues relating to trustees' liabilities in their dealings with third parties. Different jurisdictions have varying approaches to such liabilities. English law generally treats trustees as contracting personally. At the other end of the spectrum, in most states, US law tends to assume that trustees' liability is limited to the trust assets. Jersey and Guernsey have simple statutory regimes (the effect of the Jersey one having recently been examined in the *Investec v Glenalla* litigation), whereas the BVI and New Zealand have more complex versions. This session will explore what is the actual position in English law, the policy imperatives behind these differences and the practical consequences of each approach, from the perspective both of litigators and those who act for parties such as lenders in their dealings with trustees.

- *Kathryn Purkis*
- *James Brightwell*
- *Jonathan Fowles*
- *James Dickinson*  
Dickinson Gleeson,  
Jersey



# Sessions

## (e) Judgment Avoidance: A practical guide

An exploration of some of the things that work – and don't work – when dealing with defendants who have taken steps to avoid payment of judgment debts; including consideration of the recent judgments in *Marex Financial v Garcia* and a review of the current state of EU law on anti-avoidance measures.

- *Andrew Moran QC*
- *Thomas Braithwaite*
- *Sam Roberts*  
Cooke Young & Keidan  
LLP, London
- *Jonathan Sablone*  
Nixon Peabody LLP,  
New York

## Juniors session:

### Key cases of 2017/2018

In this session, junior barristers at Serle Court will briefly discuss the most important cases handed down in the last 12 to 18 months which have changed the legal landscape and which every litigator specialising in international trusts and/or commercial litigation needs to know.

- *Emma Hargreaves*  
(Chair)
- *Sophia Hurst*
- *Eleni Dinienis*
- *Gregor Hogan*

## Panel session:

### Discretionary decision making post-*Braganza*

A discussion of where we are in the wake of the *Braganza* line of cases and how it may impact on decision-making in various contexts.

- *Dominic Dowley QC*  
(Chair)
- *Rupert Reed QC*
- *Jennifer Haywood*
- *Nicole Buncher*  
Clifford Chance LLP,  
London
- *Jason Butwick*  
Dechert LLP, London