



serle court

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Niamh Herrett

Year of Call: 2021

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## Practice Overview

Niamh joined Chambers in October 2022 following the successful completion of pupillage. She sat with Dan McCourt Fritz KC, Gareth Tilley, Constance McDonnell KC, Thomas Elias and Stephanie Wickenden developing a broad commercial chancery practice in line with chambers' profile. During pupillage, Niamh worked on cases across Serle Court's core practice areas, with particular experience in private client work, commercial litigation, company law and intellectual property.

Before joining Serle Court, Niamh studied law at Merton College, Oxford graduating with a first-class undergraduate degree and a Distinction in the BCL receiving numerous academic scholarships and prizes. During her BPC year Niamh was a Guest Teacher at the London School of Economics and Political Science where she taught undergraduate seminars on the Property II course (Land and Trusts).

Niamh spent her first six months in practice on secondment to Farrer & Co in their contentious trusts team where she worked on complex and high-profile private client trusts and probate matters.

Niamh is interested in the whole range of Commercial and Chancery work and is developing a broad practice in all of Chambers' core areas, as well as in Intellectual Property.

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## Areas of Expertise

### Company

*Loveridge v Loveridge* [2021] EWCA Civ 1697. Assisted Lance Ashworth KC and Dan McCourt Fritz in a successful appeal to the Court of Appeal, representing the Defendants, in striking out the Claimant's amended unfair prejudice petition and substituting the costs order made in respect of a contempt application which was withdrawn.

Assisted Dan McCourt Fritz in a claim for breach of warranties pursuant to a share purchase agreement with losses estimated to be upwards of £3m.

Assisted Dan McCourt Fritz in an unfair prejudice petition.

Assisted Gareth Tilley in resisting an unfair prejudice petition.

Assisted Thomas Elias in a successful Part 8 claim to rectify the register of members of the Defendant company in the Companies Court.

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### Private Client Trusts and Probate

*Reeves v Drew and ors.* Assisted Constance McDonnell KC in preparing a statement of reasons on behalf of the Second Defendant for refusing the Claimant's permission to appeal and permission to adduce further evidence. The Claimant's applications were refused.

Assisted Constance McDonnell KC in advising on the administration of an estate worth upwards of £2m, including removal of executors and corresponding claims against the same.

Assisted Constance McDonnell KC in proceedings in the Court of Protection concerning a deputy's duty to diversify.

Assisted Constance McDonnell KC in a claim to set aside property transfers made by the Deceased on the ground of

lack of capacity or alternatively the Defendant's undue influence.

Assisted Constance McDonnell KC in a claim contesting the validity of a will on the grounds of testamentary capacity and undue influence in relation to an estate worth upwards of £2.5m.

Assisted Constance McDonnell KC in resisting a claim by a widow under the Inheritance (Provision for Family and Dependents) Act 1975 for reasonable financial provision in relation to an estate worth circa £50m.

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## International and Offshore

*Kuwait Ports Authority et al v. Port Link GP Ltd.* Assisted Dan McCourt Fritz in an action in the Cayman Islands concerning a 'first-of-its-kind' derivative claim brought by a Limited Partner on behalf of a Cayman ELP. The Defendants' application to strike out the claim was dismissed.

Assisted Gareth Tilley in advising on the prospects of a claim for capital contributions made to a UK LLP and Cayman Islands ELP.

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## Commercial Litigation

*BRG Noal GP S.a.r.l v Kowski* [2022] EWHC 867 (Ch). Assisted Philip Marshall KC, Gareth Tilley and Adil Mohamedbhai acting for the Claimant private equity fund in proceedings to obtain interim relief to enforce undertakings given by its founders where, in alleged breach of those undertakings, Luxembourg companies in which the founders had an indirect shareholding had issued proceedings against the fund in Luxembourg courts. The Claimant was unsuccessful and the founders were granted a stay of the English proceedings on grounds of forum non conveniens.

Assisted Max Marenbon in representing the Claimant in proceedings concerning applications for an interim proprietary injunction and joinder in the context of the Claimant's efforts to recover circa £650,000 of overdue loans. The Defendants consented to the applications on the day of the hearing.

Assisted Gareth Tilley in advising on a claim concerning a breach of shareholder agreement and the interpretation of a related release clause in a share transfer agreement.

Assisted Dan McCourt Fritz in resisting a claim arising out of an exit agreement entered into between the parties for the purpose of crystallising the Claimants' interest in the joint venture business in which both parties were involved.

Assisted Dan McCourt Fritz in advising on the operation of the change of position defence to a claim in unjust enrichment in relation to the payment of €15m from the Claimant bank to the Defendant bank where that payment was made pursuant to a mistaken belief that a fraudulent payment instruction was genuine.

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## Civil Fraud

*Isbilen v Turk.* Assisted Dan McCourt Fritz and Tim Benham-Mirando in relation to a £40m multi-jurisdictional claim involving allegations of fraud and undue influence and complex asset tracing. I assisted Tim Beham-Mirando in successfully obtaining Norwich Pharmacal/Bankers' Trust relief.

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## Insolvency

Assisted Gareth Tilley in representing the petitioning creditor in a bankruptcy petition.

Assisted Gareth Tilley in advising on the application of the new Payment and Electronic Money Institution Insolvency Regulations 2021 and, in particular, its interaction with the making of an account freezing order pursuant to Section 303Z3 of the Proceeds of Crime Act 2002.

*Marwaha v Entertainment One Limited*. Assisted Oliver Jones in successfully representing the Respondent to an application to set aside a statutory demand for £1.2m made on the ground of a Henderson v Henderson abuse of process. The application was dismissed in Romford County Court.

*Shoreditch Energy Limited v Joint Administrators of Orbit Energy Limited*. Assisted Daniel Lightman KC in bringing proceedings on behalf of a creditor to challenge the remuneration and expenses of a joint administration pursuant to rule 18.34 of the Insolvency Rules 2016.

Assisted Thomas Elias in advising a judgment creditor on the interaction between a final charging order and a bankruptcy order made against a judgment debtor.

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## Property

*Kendall v Norton*. Assisted Amy Proferes in preparing further submissions on the requirements of Schedule 6 paragraph 5(4) LRA 2002 for a boundary dispute trial heard in Birmingham County Court.

Assisted Christopher Stoner KC in advising on a landowner's potential breach of an option agreement along with related economic torts.

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## Intellectual Property

*Costa v DissociaDID Ltd & Anor* [2022] EWHC 1934 (IPEC). Assisted Thomas Elias in a two-day trial representing the Defendants. The Claimant alleged infringement by the Defendants of literary copyright in works of joint authorship, which was dismissed in part. The Defendants succeeded in counterclaiming for loss caused by unlawful means.

Assisted Stephanie Wickenden in an IPO trade mark opposition hearing representing the applicant of the contested marks.

Assisted Stephanie Wickenden with two UK registered trade mark infringement claims.

Assisted Stephanie Wickenden in a claim for UK design right and copyright infringement.

Assisted Stephanie Wickenden in a claim for infringement of copyright and misuse of confidential information.

Assisted Stephanie Wickenden with a discrete intellectual property issue raised in the context of a broader commercial matter.

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## **Publications**

*'How wide is the net? Lessons for offshore trustees after Gorbachev v Guriev'* (2023) Private Client Business, Number 1, 1-11. Co-authored with Joseph de Lacey and Jennifer Ridgeway of Farrer & Co.

*'Guardian Trust revisited'* (2023) Trusts & Trustees, Vol.29, No.2, 143-157. Co-authored with Joseph De Lacey of Farrer & Co.

## **Scholarships and Prizes**

Kennedy Scholarship, Lincoln's Inn

Buchanan Prize, Lincoln's Inn

Accommodation Scholarship, Lincoln's Inn

Barnett Bequest BCL Scholarship, Merton College

Winner of the Essex Court Roman Law Moot

Allen and Overy Prize for most promising second year law student, Merton College

Part of Oxford University's winning team in the Eleventh International Roman Law Moot Court Competition

Academic Scholarships, Merton College

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## **Education & Qualifications**

BA in Law, Merton College, University of Oxford (First Class)

BCL, Merton College, University of Oxford (Distinction)

BPC, University of Law (Outstanding)

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