



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amended unfair prejudice petition and substituting the costs order made in respect of a contempt application which was withdrawn.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

Advising (led by Constance McDonnell KC) in relation to a probate dispute concerning the validity of the deceased's last will in respect of an estate worth upwards of £20m.

Advised in relation to a multi-jurisdictional succession and inheritance dispute concerning the estate of a wealthy American businessman worth at least many tens of million of dollars, including extremely valuable works of art situated in London. The dispute spanned three jurisdictions (Illinois, Italy and England) and gave rise to complex private international law issues.

Advised (unled) in a potential claim to set aside the purported transfer by the deceased of their interest in relation to a valuable business asset on the ground of lack of capacity or alternatively that any purported transfer on trust failed

for lack of intention and/or certainty of objects.

*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 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

*Wong v Grand View Private Trust Co & Ors.* Assisting Jonathan Adkin KC and Adil Mohamedbhai for the defendant Trustees in relation to a substantial appeal of the trial judgment to be heard in January 2025. The underlying dispute is believed to be the largest claim ever brought before the Bermudian Courts and one of the largest disputes anywhere in the world.

*Patel v JTC Trust Company Limited.* Acted for the defendant Trustee of three Jersey trusts in relation to claims for breach of trust arising out of the exclusion of certain beneficiaries in circumstances where disclaimers had been entered into (but challenged by the claimant on the basis of mistake, duress, and/or undue influence).

*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

*Wong v Grand View Private Trust Co & Ors.* Assisting Jonathan Adkin KC and Adil Mohamedbhai for the defendant Trustees in relation to a substantial appeal of the trial judgment to be heard in January 2025. The underlying dispute is believed to be the largest claim ever brought before the Bermudian Courts and one of the largest disputes anywhere in the world.

*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 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

*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 their counterclaim for loss caused by unlawful means (the tort of deceit).

*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

*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 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.

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

Niamh acts on a number of intellectual property matters, with experience in the UK Intellectual Property Office, the Intellectual Property Enterprise Court, and substantial claims in the High Court.

*Thatchers v Aldi* [2024] EWHC 88 (IPEC); [2024] E.T.M.R. 18. Acting (led by Stephanie Wickenden) for the successful defendant in a high-profile trade mark infringement and passing off claim in which Niamh delivered oral submissions at trial. Niamh continues to act for the defendant in relation to the appeal due to be heard in December 2024 (led by Michael Edenborough KC and Stephanie Wickenden).

*easyGroup v Hanley*. Acting (led by Michael Edenborough KC) for the claimant in a breach of contract claim concerning the breach of a confidentiality and/or non-disclosure obligation pursuant to a settlement agreement entered into between the parties. Niamh is instructed to appear at the trial due to be heard in October 2025.

*easyGroup v Simpler Postage*. Acting (led by Michael Edenborough KC) for the claimant in a trade mark infringement and passing off claim in the High Court and responding to the defendant's substantial counterclaim for revocation of a number of trade marks within the claimant's intellectual property portfolio. Niamh is instructed to appear at the trial due to be heard in November 2025.

*easyGroup v EasycargoUK Limited*. Acting as sole counsel for the claimant in a trade mark infringement and passing off claim in the Intellectual Property Enterprise Court.

*easyGroup v Beauty Perfectionist* [2024] EWHC 1441 (Ch); [2024] E.T.M.R. 36. Assisting Michael Edenborough KC and Stephanie Wickenden for the claimant in a trade mark infringement and passing off claim in the High Court in which the claimant was ultimately unsuccessful.

Niamh has experience appearing before the tribunal in the UK Intellectual Property Office, such as *Rillius Holding Limited v Hachette Filipacchi Presse* (IPO) O/0575/24 where Niamh acted for the successful applicant in consolidated opposition proceedings where the Hearing Officer accepted the applicant's submission that the Opponent, and owner of the brand name 'PARIS-MATCH', had failed to establish reputation of the same in the UK.

*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.

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## Publications

'Completing the tort of passing off – Court of Appeal considers the recognised heads of damage (*Re Easygroup Ltd v Easy Live (Services) Ltd and others*)'. An article for Lexis Nexis published 30 January 2024.

'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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