

JAMES MICHAEL PAUL GLEESON

Professional

2005 Advocate of the Royal Court of Jersey

2000 English solicitor*

*Non-practising

Qualifications

1993 MA (Cantab.), Jesus College, Cambridge University
Double First in English Literature (5th in Year)

1994 MA in Creative Writing, University of East Anglia
1996/7 CPE and LPC, College of Law

University Prizes / Scholarships

1990 Wimble Scholarship (Victoria College)

1992 Foundation Scholarship (Jesus College)

1993 Two Cambridge University Prizes for best dissertation (Cambridge Quarterly Prize) and creative writing (Arthur Quiller Couch Prize);
Keller Prize for a distinguished undergraduate performance from Jesus College;

1994/5 Harper-Wood Studentship for creative writing / travelling from St John's College.

Directory recommendations

Legal 500.

Chambers & Partners UK, Europe and Global.

Repeatedly listed as a prominent figure in the "Leading Lawyers Contentious Trusts" category in the Citywealth Leaders List.

In addition, the firm is delighted to have been shortlisted for 3 years running in the STEP PCA Boutique Firm of the Year category.

Cases of note:

A. COMPANY AND FUNDS LITIGATION

***Pirrwitz v AI and others* [2013] JRC017**

Represented the successful former chairman of two Jersey collective investment funds with a value as of their IPO's of €1.3 billion (instructed by a leading global insurance company and a Lloyds of London underwriter). The action was split into two trials. The Group 1 trial took place in September 2012, for three weeks, in relation to which James successfully defended his client against allegations of breach of fiduciary duty associated with the provision and calculation of exit payments for a former director of the Funds. The Court of Appeal decision provides authority for the different forms in which directors' remuneration can arise concluding that an exit payment, *i.e.* a lump sum agreed to be paid to a director in the event that he is removed as director, does constitute remuneration.

***Vilsmeier v AI and others* [2014] JRC257**

Represented the successful former chairman of two Jersey collective investment funds with a value as of their IPO's of €1.3 billion. The Group 2 trial took place in June 2014 and spanned five weeks. Judgment was handed down in December 2014. Mr Vilsmeier substantially succeeded in his own claims, was fully successful in defence of the counterclaims and was awarded his costs of the action. The case is the leading (and only) authority in Jersey concerning the ambit, basis and scope of the discretionary relief from liability under Article 212 of the Companies (Jersey) Law 1991 as amended.

Cavendish Learning Limited & Others v Dr Mohammed Abdel-Haq

Successfully acting (in conjunction with John Machell QC of Serle Court) for a former director of two Jersey companies in relation to two sets of proceedings in the Royal Court, concerning shareholder disputes and related allegations of breach of fiduciary duty. The first case centred upon an investment in the Amman Arab University in Jordan, and was scheduled to go to trial for a period of 2 weeks in September 2014. The case raised novel issues concerning the validity of a purported trust established for alleged improper purposes, namely to circumvent a legal prohibition on foreign ownership under Jordanian law. It successfully settled on the eve of trial.

A further trial was scheduled for a week in May 2015 relating to a different Jersey holding company with a Jordanian asset (in this case, a petrol station on the main route from Jordan to Syria). The case raised similar allegations in relation to breach of fiduciary duty as against Dr Mohammed Abdel-Haq, and was to have considered the *Re Duomatic* principle of informed shareholder consent. It also settled prior to trial.

Re a Trustee: Claims against BVI company directors

Represented two former directors of a BVI company in relation to Jersey litigation brought against these directors (and others) personally for breach of duty for in excess of £26 million. Following a two-day multi-party mediation in December 2012, a global settlement was agreed.

***Cannon v Nicol* (2006) JLR 299**

Counsel for the successful plaintiff in connection with a partnership dispute. The judgment clarified the Jersey law of partnership and also developed the law of Jersey further in relation to the relief available in claims for proprietary estoppel.

B. TRUSTS AND ESTATES LITIGATION

CONFIDENTIAL

Representing a leading trust company (X Co) in an action for breach of trust. The case is extremely document-heavy and factually complicated, and if it goes to trial will result in disclosure of many tens of thousands of documents and a lengthy trial. Numerous issues of law are raised, including the scope of exculpatory and so-called anti-Bartlett clauses.

***J v K & Other* [2016] JRC110**

Representing the successful wife in an appeal by the appellant trustee against the granting of a Letter of Request issued by the County Court of St Louis, Missouri. The case related to on-going US matrimonial proceedings and concerned the public interest in the disclosure of trust documents to assist a foreign court as against the interests of confidentiality. Among other objections to disclosure, the trustee appellants raised the '*firewall provisions*' of the Trusts (Jersey) Law 1984. The Court upheld the order for disclosure of trust documents to the non-beneficiary wife.

***In the Matter of the R Trust* [2015] JRC267A**

Acting *inter alios* with DWFM Beckman and Deborah Bangay, QC acted in the above proceedings on behalf of the successful wife. In the light of the order in the Family Division of the English High Court setting aside the trust pursuant to section 37 of the Matrimonial Causes Act 1973, we succeeded in obtaining directions in Jersey giving substantial effect to the English order. We had earlier taken steps to secure the assets of the Trust, in an innovative case securing an interim freezing order over a trust in aid of proceedings. The application, believed to be the first of its kind in Jersey, overcame both the '*firewall provisions*' of the Trusts (Jersey) Law 1984 and the wife's status as a non-beneficiary.

Re the X Trust – CONFIDENTIAL

Represented the *de facto* settlor and protector and adult beneficiaries of a Jersey discretionary trust in respect of claims by the current trustee against a former trustee arising from multimillion euro investment losses sustained by the trust fund. The case settled on extremely favourable terms at a mediation in London in September 2015. Directions were thereafter issued by the Royal Court sanctioning and approving the terms of the settlement in December 2015 (the firm acts in conjunction with the client's Australian solicitors, Mills Oakley).

***Rep of WTHK Ltd and Valentin NZ Ltd v UBS Trustees* [2016] JRC099**

Represented a leading trust company in relation to complex regulatory matters. The underlying client structure held assets under administration worth c €1 billion. Our involvement for our client trust company, which was resolved without need of proceedings, raised novel issues concerning statutory interpretation and in particular the scope of Article 30 of the Proceeds of Crime (Jersey) Law 1999.

Garnham v PC & Others [2012] JRC 050

Represented the professional executrix of the Jersey Estate of a Chinese billionaire in relation to disputed proceedings, concerning a substantial asset forming part of the Estate. The judgment addresses the law on issues such as the management of conflicts of interest, and the distinction between the exercise by an executor of permissive powers and mandatory duties in the context of administration of disputed estate assets. James continues to act in this matter in relation to on-going issues arising in the estate administration. There have been three judgments so far.

Alhamrani and others v Alhamrani and others

Junior counsel for the Plaintiffs in the Alhamrani trust litigation. The case was the most complex, highest value and longest running piece of trust litigation ever to come before the Royal Court of Jersey. The claims which related to alleged breaches of trust had, including claims for interest, a value of in excess of USD 120 million. The case settled after the trial of Stage 1 issues, which was ongoing, had lasted 102 days.

Mubarak [2008] JRC 136

Counsel for the Jersey Trustee in connection with the longest-running ancillary relief proceedings in the High Court, Family Division. The resulting judgment, *Mubarak v Mubarak* [2008] JRC 136, has provided welcome clarity as to the circumstances, and manner, in which the Royal Court of Jersey may give effect to foreign matrimonial orders varying Jersey trusts.

Art 51 Trusts Law: Mistake application

Acting, in conjunction with Charles Russell Speechlys, and Richard Wilson QC of Serle Court, in proceedings relating to recoupment of payments wrongfully made by a Guernsey trustee, pursuant to the doctrine of mistake. The matter went to a final hearing in December 2012 when the monies mistakenly paid away were ordered to be repatriated.

Investec Trustees (Jersey) Limited v BC, LC, CH and AC [2013] JRC 181.

Represented beneficiaries of a very substantial Jersey trust, the assets of which comprise underlying companies which in turn own inventories of fine art consisting of Old Master paintings of very considerable value. The case is a contested Article 51 (Trusts (Jersey) Law 1984) application for directions in relation to disclosure of Trust documents.

Rathbone & others v Mauleverer & others [2007] JRC 016 and [2008] JRC 023

Acting for Rathbone in relation to two sets of proceedings concerning the completion of important administrative matters relating to certain companies' affairs. The first judgment considers the *re Duomatic* principle as applying as a matter of Jersey law.

A Trustees Limited v W X Y and Z [2008] JRC 097

Represented the trustees in a *Public Trustee v Cooper* application for the Court sanction and or blessing of certain momentous decisions of the trustee arising from changes to the UK tax regime.

In Re the Avalon Trust (2006) JLR N 19.

Appointed by the Royal Court of Jersey to act on behalf of the minor children in respect of an application for directions for disclosure of trust documents in the context of English divorce proceedings.

C. COMMERCIAL LITIGATION

Consolidated Resources Armenia v Global Gold Consolidated Resources Limited and Two Others [2015] JCA061

Representing the successful defendants (the majority shareholder and director respectively of the 1st defendant joint venture gold mining exploration company with operating subsidiaries in Armenia) in unfair prejudice proceedings brought by the minority shareholder (CRA). Walkers act for the Plaintiff (Carey Olsen having previously acted). James succeeded before the Court of Appeal in obtaining a stay of proceedings in favour of arbitration, overturning long-standing authority. An appeal to the Privy Council is pending. We also succeeded in a recent application to have the interim injunctions in relation to the joint venture set aside ([2015] JRC233A). James Brightwell of New Square Chambers has assisted.

ENRC NV v Zamin Ferrous Limited [2015] JRC217

Represented the successful plaintiff, ENRC (along with Hogan Lovells International, and Steven Smith QC and Tim Akkouch of Erskine Chambers), which had obtained Summary Judgment in England against Zamin, a Jersey company, in the amount of \$65m. We obtained a freezing injunction in Jersey on behalf of ENRC with attendant disclosure orders. Zamin's disclosure revealed the existence of two suspiciously timed agreements which appeared to dissipate its main asset (a South American mining concession allegedly worth \$250m). Zamin refused to supply any detail about the agreements. We then successfully applied for disclosure of the agreements on behalf of ENRC ([2015] JRC 217), primarily on the ground that the lack of information about the agreements and suspicious timing gave rise to the fear that Zamin was dissipating its assets. The information was needed to police the injunction. This is the first reported case in which the Royal Court has followed the English courts in supporting freezing injunctions by making specific further disclosure orders in relation to the assets of subsidiary companies. The Court approved the use of more extensive disclosure orders generally.

BBX v Catalfumo

Represented the successful plaintiff bank in respect of the enforcement in Jersey of a Florida judgment in excess of USD 41 million plus interest. The action raised claims seeking to set aside transfers in defraud of creditors under the Pauline jurisdiction. The action, which eventually settled, also encompassed freezing orders and related Norwich Pharmacal disclosure against the former Jersey resident trustee (the firm was instructed by the Cayman office of Harneys, with Stephen Moverley-Smith, QC advising).

Jomair and others v Hourigan and others [2011] JRC 042

Represented the successful plaintiffs in a case where the Jersey court re-confirmed the fundamental principle that it is in the interests of justice for a judgment creditor to obtain disclosure of the debtor's assets in order to aid enforcement of the judgment. The Court made the disclosure orders sought and also ordered the defendant to pay the costs of the plaintiffs on the indemnity basis. The case has since been cited in *Leeds v Admatch* [2011] JRC 159 and in *ENRC NV v Zamin Ferrous Limited* [2015] JRC217.

Incat v Luba [2008] JLR 435

Represented Luba Freeport Limited, a subsidiary of Lonrho plc, in connection with its defence of claims worth over USD 8 million in respect of various alleged inter-company debts. There have been numerous reported judgments dealing with issues including:- the formation of contracts relating to without prejudice negotiations under Jersey law, the validity, terms and effect under English law of an agreement to defer intercompany debt and the taxation of foreign law firms' fees under the taxation jurisdiction exercised by the Assistant Judicial Greffier. Instructed by DLA Piper UK LLP. The case successfully settled in September 2010.

Dr. Mockford v Advent & Others

Counsel for Dr Mockford in relation to an injunction action. The injunction (in respect of shares valued as at completion at c. £10 million) was essential in order to preserve the status quo pending the conclusion of proceedings commenced by Dr. Mockford in the Queen's Bench Division of the High Court of England and Wales.

D. INSOLVENCY MATTERS

Siena v Glengall Bridge Holdings Limited and Others [2015] JRC 260

The Plaintiff was a lender which had lent c. £45 million to the Defendant companies ("the Companies"). They were unable to repay instalments to the loan as they fell due and the full amount was therefore repayable. The application was for a letter of request to be issued to the English Court, asking it to put the Companies into administration. James Gleeson, Craig Swart and Robert Christie acted for the shareholders of the Companies and argued that (a) they had standing to intervene, on the basis that the Companies' assets were worth c. £55 million and there was equity in the Companies so the shareholders had an interest in the proceedings; and (b) the

proceedings should be adjourned to give the shareholders to put together an alternative package which would realise the assets and settle the debts. We were successful on point (a), which made new law as no Jersey authority has previously recognised that the shareholders of companies have standing to appear in such an application (separately from the companies themselves) where there is a positive equity situation. However in relation to point (b) the Court refused to adjourn the proceedings on the facts.

Horizon Trustees (Jersey) Limited [2012] JRC 039

Acting for two of the creditors of Horizon in relation to proceedings for the just and equitable winding up of Horizon pursuant to Art 155 of the Companies Law.

Centurion Management Services [2009] JRC 227

Acting for creditor of Centurion in relation to proceedings for the just and equitable winding up of Centurion pursuant to Art 155 of the Companies Law.