

# The Cayman Islands Chancery Bar Conference 2024

**7 & 8 November 2024 / Grand Cayman Marriot Beach Resort**

Caymanian practitioners attend for free, but must reserve their place.

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## PROGRAMME

THURSDAY, 7TH NOVEMBER		
1pm	Registration and arrival refreshments	
1.30pm	<b>Welcome</b>	<u>Iain Quirk KC</u> , Chair of the International Sub Committee
1.35pm	<b>Capacity issues for the offshore lawyer</b> <ul style="list-style-type: none"> <li>• Different tests for capacity in different jurisdictions and their application</li> <li>• Commonly encountered diagnoses and clinical tests.</li> <li>• Capacity issues in trusts and how to avoid them.</li> <li>• Managing and safeguarding assets of the elderly international client.</li> </ul>	<u>Alexander Learmonth KC</u> , New Square Chambers  <u>Amy Berry</u> , New Square Chambers
2.15pm	<b>Remedies</b> <ol style="list-style-type: none"> <li>1. Causation and Accounting for Breach of Fiduciary Duty. Is               <ul style="list-style-type: none"> <li>• The law in a mess and a state of flux?</li> <li>• The justification for eschewing causation an historic anachronism?; or</li> <li>• Is causation is actually a fair, principled and refined tool?</li> </ul> </li> <li>2. Forfeiture as a remedy for breach of fiduciary duty: uses and abuses.</li> </ol> <p>Alex's talk will address legal and commercial issues associated with claims for the remedy of forfeiture (including forfeiture of remuneration and partner profit shares, and forfeiture of company shares) following breaches of fiduciary duty, as well as potential uses and abuses of claims for forfeiture.</p>	<u>Stephen Cogley KC</u> , 4 Pump Court    <u>Alex Potts KC</u> , 4 Pump Court
2.55pm	<b>Privilege, Immunity and the Privy Council</b> A panel discussion	Chair - <u>Lesley Anderson KC</u> , Kings & Gatehouse Chambers <u>Nicholas Trompeter KC</u> , Selborne Chambers <u>Simon McLoughlin</u> , Selborne Chambers <u>Julia Beer</u> , Selborne Chambers, <u>Charlotte Pope-Williams</u> , 3 Hare Court
3.55pm	<i>Afternoon Tea</i>	

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<p>4.35pm</p>	<p><b>Crypto, Taxation and IP</b></p> <ol style="list-style-type: none"> <li>Crypto disputes in Cayman – strategic considerations           <ul style="list-style-type: none"> <li>• Availability of interim remedies to secure cryptoassets – delivery up and conversion to fiat currency</li> <li>• Personal and proprietary claims – advantages and disadvantages</li> <li>• Insolvency procedures – is the appointment of provisional officeholders a viable alternative?</li> </ul> </li> <li>Implementation and impact of OECD Pillar 2 in offshore jurisdictions           <ul style="list-style-type: none"> <li>• Overview of Pillar 2</li> <li>• Current status of implementation by offshore jurisdictions</li> <li>• Impact of pillar 2 in offshore jurisdictions</li> </ul> </li> <li>Intellectual Property in Cayman and Beyond           <ul style="list-style-type: none"> <li>• Patents, trade marks, designs and copyright in Cayman</li> <li>• Confidential information and copyright in multi-territory disputes and agreements</li> <li>• Role of UK case law and EU case law post-Brexit in interpreting IP in Cayman</li> </ul> </li> </ol>	<p><b>Karl Anderson</b>, 4 Stone Buildings</p> <p><b>Sarah Black</b>, 11 New Square</p> <p><b>Martin Howe KC</b>, 8 New Square</p>
<p>5.35pm</p>	<p><b>Where are with implied representations in complex transactions?</b></p> <ul style="list-style-type: none"> <li>• Was PAG the high-water mark for finding implied representations?</li> <li>• What awareness test applies to implied representations in light of Loreley?</li> <li>• Practical implications for claimants &amp; defendants.</li> </ul>	<p><b>Peter de Verneuil Smith KC</b>, 3VB</p>
<p>5.55pm <b>Canapé &amp; Cocktail Reception by the sea</b></p>		

<b>FRIDAY, 9TH NOVEMBER</b>		
<p>9am</p>	<p>Registration and arrival refreshments</p>	
<p>9.30am</p>	<p><b>Arbitration and contempt in the Chancery context</b></p>	<p><b>Graham McPherson KC</b>, 4 New Square <b>George Spalton KC</b>, 4 New Square</p>
<p>10.10am</p>	<p><b>Full of sound and fury, signifying...? How may trust law accommodate changing perspectives in relation to environmental, social and governance (ESG) matters</b></p> <p>Ian Clarke QC will chair a discussion between the members of the panel regarding the extent to which trust law might be developing to accommodate changing perspectives in relation to environmental, social and governance (ESG) matters - with a particular focus on trustees' investment and dispositive powers, and the potential ramifications for the Cayman Islands of the Hasan litigation in England.</p>	<p>Chair - <b>Ian Clarke KC</b>, Selborne Chambers <b>Edward Cumming KC</b>, XXIV Old Buildings <b>Niamh Davis</b>, XXIV Old Buildings <b>Greg Williams</b>, Coram Chambers</p>
<p>11.10am <b>Morning Coffee Break</b></p>		

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<p><b>11.40am</b></p>	<p><b>Good Faith, Fiduciary Duties and Braganza in Partnerships, LLPS and ELPS</b></p> <ul style="list-style-type: none"> <li>• the extension of the duty of good faith in contract law;</li> <li>• the importation of public law duties into private corporate decision making;</li> </ul> <p>exploring their effect on relations and decision making in partnerships, LLPs and ELPs.</p> <p>Including:</p> <ul style="list-style-type: none"> <li>• When will a contractual duty of good faith be implied? How does it differ from a fiduciary duty?</li> <li>• What are relational contracts?</li> <li>• What fetters are there on decision makers? When do Braganza duties arise and can they be overridden by contract?</li> <li>• Down the rabbit hole: if the decision is irrational - what then?</li> </ul>	<p>Chair – <u>Eleanor Temple KC</u>, Kings Chambers &amp; JCKC Chambers, Jersey  <u>Jeremy Callman</u>, Ten Old Square  <u>Jonathan Gavaghan</u>, Ten Old Square</p>
<p><b>12.20pm</b></p>	<p><b>Abuse of Power: a consideration of two recent JCPC cases</b></p> <ul style="list-style-type: none"> <li>• Two cases before Privy Council recently: Grand View Private Trust Co Ltd &amp; another v Wen-Young Wong &amp; others [2022] UKPC 47 and Tianrui (International) Holding Company Ltd v China Shanshui Cement Group Ltd [JCPC 2023/0002]</li> <li>• What issues did the Privy Council have to consider in Wong and Tianrui ?</li> <li>• What were the issues concerning abuse of power in Wong and Tianrui and how do they overlap.</li> <li>• What is meant by abuse of power in a) trusts law and b) company law and what constraints/restrictions exist on the exercise of powers.</li> </ul>	<p><u>Jonathan Gavaghan</u>, Ten Old Square  <u>Hermione Williams</u>, New Square Chambers</p>
<p><b>1pm</b></p>	<p><b>Close</b></p>	<p><u>Ian Clarke KC</u>, Chair of the Association</p>
<p><b>1.05 - 2pm</b>     <b>Networking Lunch</b></p>		

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