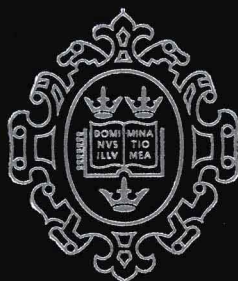

INTERNATIONAL TRUST DISPUTES

EDITED BY
SARA COLLINS
STEVEN KEMPSTER
MORVEN McMILLAN
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OXFORD

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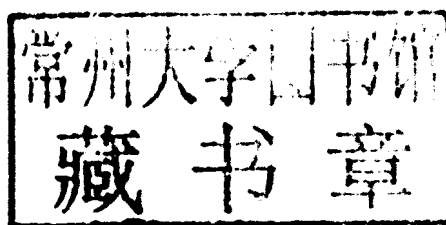
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FOREWORD

Sir Henry Wootton said, 'In architecture as in all other operative arts, the end must direct the operation. The end is to build well. Well building has three conditions, commodity, firmness and delight.' I find that a very apt description of the contents of this long awaited and necessary book, with contributions by many leading practitioners in the international trust world.

The book commences with an overview on the trust concept internationally, and then addresses the critical point that the trust has developed as a concept of the common law jurisdiction, though the world is not wholly governed by the common law. Hence the importance of the Hague Conference on private international law and the development of the Hague Convention, and the Brussels I regime.

The book then deals with the jurisdiction of the English court in divorce, ante and post nuptial agreements, the Matrimonial Causes Act 1973, the Trust in Matrimonial Disputes and the joining trustees to English matrimonial proceedings, and enforcement against offshore trustees.

Succession and forced heirship disputes are looked at both in relation to the Inheritance (Provision for Family and Dependents) Act 1975 and intestacy, and also in connection with claw-back claims and the civil law systems of France, Switzerland, Eastern Europe, Sharia law systems, and the United States.

Sham trusts and reserved powers are considered, looking at the development of the concept in England, and there is a detailed analysis of the matter of common intention and settlors' reserved powers and the consequences of a trust being held to be a sham.

Asset protection trusts and insolvency, with particular reference to the impact of Section 423 of the 1986 Insolvency Act are considered.

The book also delves into dishonest assistance and establishing liability, the position of directors and corporate trustees, dog leg claims, defences and limitation, and knowing receipt.

Trustees' decision making and duties, powers and discretions and construction issues are all considered.

Then there is a review of breach of trust claims and remedies, excluding and passing on liability, and the importance of the Limitation Act 1980.

No contest clauses are examined in detail, as is the area of mistake, rectification and the rule in *Hasting-Bass*. In this connection, there is a useful analysis of the 2011 Court of Appeal decisions in *Pitt v Holt* and *Futter v Futter*.

There is a useful and detailed examination of setting aside trusts, undue influence and capacity, together with a detailed examination of the applicability of the Mental Capacity Act 2005 in this area.

The matter of retirement replacement and removal of trustees are comprehensively dealt with, as is the right to information and its nature, requests from settlors or protectors, disclosure from retiring trustees and others.

The ambit of directions and *Beddoe* applications, which have developed significantly in recent years, are considered.

The book then moves on to deal with injunctions, permanent and interim, undertakings as to damages, freezing injunctions, and search orders.

Representation of parties is considered, as are applications by trustees, beneficiaries, third parties, and the types of orders and proceedings, with particular reference to persons under disability.

The involvement of charitable interests, jurisdiction over charities, differences between charities and private trusts, proceedings with charity interests, costs, settlement, human rights issues, cross-border giving and European law, are all covered.

The vital role of ADR in trust disputes and its forms are all reviewed, as is the matter of enforcement pursuant to the Mediation Directive of 21 May 2008, which member states have had to comply with since June 2011.

The subject of variation and compromise, the exemptions to the Variation of Trust Act 1958, the development of the inherent jurisdiction and a detailed analysis of the 1958 Act itself follows.

The subject of appeals, and the important matter of costs, including the rights to indemnity, trustee liens, and assessment of costs are all dealt with.

Also, there are specific sections on the Bermudan, BVI, Cayman Islands, Gibraltar, Guernsey, Isle of Man, Jersey, Liechtenstein, New Zealand, and Switzerland jurisdictions in the book.

Given its breadth and depth, this important book enhances one's understanding of international trust disputes. It skilfully tells its readers much they did not know previously, and is informative from beginning to end. It addresses important issues head on, and raises challenging questions and answers them in a clear manner that is bound to encourage the reader to develop a deeper insight into the many and varied areas it covers.

Henry Frydenson
Principal, Frydenson & Co
Chairman, Association of Contentious Trust and Probate Specialists
5 September 2011

PREFACE

This work was commissioned by OUP to fill a perceived gap in the market for practitioners in the area of International Trust Disputes in the principal onshore and offshore jurisdictions. It is ambitious in its scope consisting of 31 chapters and involving at least 37 authors. All the authors are in professional practice either as solicitors, barristers or attorney/advocates in their own jurisdictions. All who contributed will acknowledge how difficult it has been to produce these chapters during the course of busy working lives (and we thank their—and our—assistants, trainees, pupils, and secretaries who without doubt also contributed). We thank them all for their good nature and patience in dealing with our queries and edits. We know how difficult it has been to write these chapters and juggle professional lives; we have each contributed a chapter ourselves.

For the four editors, two in London and two in Cayman, it has been a huge task to edit and co-ordinate the production of the chapters. The project has taken at least two years. During this time, one chapter could not be finished pending the Supreme Court's decision in *Radmacher v Granatino* in October 2010. Another chapter had to be re-written completely after the Court of Appeal's decision in *Futter v Futter* and *Pitt v Holt* in March 2011. This year has also witnessed another key English Court of Appeal decision in *Southgate v Sutton* (reversing *Sutton v England*) which is covered principally in the chapter on variation and compromise. Other chapters have been amended and new cases contributed during the course of the process of finalizing the book. The law is as stated on 1 June 2011.

We took a vote at an early stage of editing to use the female possessive pronoun throughout; Steve was in a minority of one and proved amenable as always. In the course of editing it was at times challenging to think of professional trustees for example as collectively female; sadly even in 2011 an unlikely proposition in the world in which we move. In the end, in the face of a degree of resistance from some authors, it was agreed that the female and male possessive pronoun should alternate with one chapter being male and the next being female throughout the work.

We thank the team at OUP: in particular Roxanne Selby whose idea this book was and who was then diverted to an even bigger project—the production of her first child—and Fiona Sinclair for her professionalism, patience, and persistence in maintaining focus and momentum to finish the book; at times it must have seemed a Herculean, not to say Sisyphean task.

We are also grateful to Henry Frydenson of ACTAPS who has kindly written the foreword to this book.

Finally, to the practitioners who we hope will use this book—we hope you find it useful.

Sara Collins
Steven Kempster
Morven McMillan
Alison Meek
London, 24 July 2011

ABOUT THE CONTRIBUTORS

Francis Barlow QC

Ten Old Square

Francis Barlow's practice covers the full spectrum of Chancery matters, both contentious and non-contentious. As well as having particular expertise in drafting UK and offshore trusts and advising on their construction and effect and associated taxation issues, he has extensive experience in contested trust, probate and succession disputes. He has acted in or advised on trust disputes and trust litigation in the Channel Islands, the Isle of Man, the Caribbean and Bermuda. He was recently appointed *amicus curiae* by the Supreme Court of Bermuda to argue that a trust was not invalid as an illusory trust. He is the consultant editor of *Williams on Wills* and a contributor to the first and second editions of *Thomas and Hudson's Law of Trusts*. He was a member of the "Group of Experts" appointed by the EU Commission to consider proposals for the harmonization of the laws of succession of Member States.

Paul Buckle

AO Hall Legal Specialists

Paul Buckle qualified as a pensions lawyer in England in 1995, and since he moved to Guernsey in 1999, has been a specialist practising only in the fields of trusts and pensions and associated litigation. Recent cases in which Paul has been involved include *Gresh*, *Thommessen* and *Spread v Hutcheson*. Since joining AO Hall in May this year, Paul has been working on establishing the firm's fiduciary law practice, and deals with all aspects of contentious and non-contentious trust and pensions law. Paul also writes and lectures extensively on aspects of his practice and is a member of ACTAPS.

Seth Caine

Cains Advocates

Seth Caine is a director of Cains Advocates in the Isle of Man. A graduate of Nottingham University, he has practised law for almost 30 years, initially in London and subsequently as an advocate with Cains, since 1992. Seth is the head of the Litigation Department at Cains, specializing in commercial disputes, insolvency and dolence claims (the Manx form of judicial review). He was a member of the Council of the Isle of Man Law Society from 2004 until 2011, and was also a member of the Isle of Man Government Insolvency Review Working Party. In 2010 he was appointed to the Independent Panel on Election Funding, set up by the Council of Ministers in the Isle of Man. Seth is also a member of the Association of Contentious Trust and Probate Specialists.

Adam Carvalho

Farrer & Co

Adam Carvalho is a solicitor in the Contentious Trusts & Estates Group at Farrer & Co. Adam started life at Farrers in the firm's international private client team, before moving teams to concentrate on contentious matters. Adam has contributed articles to a number of publications including *Trusts & Trustees*, *Trusts and Estates Law & Tax Journal* and *Historic House* on subjects ranging from Hastings-Bass applications to trustee investments to tax planning. Adam has also contributed to a number of textbooks including *International Tax*

Systems and Planning Techniques (Sweet & Maxwell), *The Law of Trusts* (Oxford University Press) and the forthcoming *Practitioner's Guide to Conflicts of Interest in the Financial Services Industry* (City & Financial).

Adam Cloherty

XXIV Old Buildings

Adam Cloherty is a commercial chancery barrister, with a particular focus on contentious and non-contentious trusts, estates, corporate and insolvency work, both domestically and internationally. He is recommended by *Chambers & Partners 2012* for both commercial and traditional chancery work. Adam writes and speaks extensively on the law of trusts, is co-general editor of *International Trust Laws* (Loose-leaf, Jordans) and a member of the editorial board of the *Journal of International Trust, Tax and Corporate Planning*.

Sara Collins (editor)

Sara Collins was formerly a partner and Head of Trust & Private Client in the Cayman Islands office of Conyers Dill & Pearman. Sara has published regularly. She is a member of STEP and ACTAPS and has been involved in many of the leading Cayman Islands trust cases.

Geoffrey Cone

Cone Marshall Ltd

Geoffrey Cone graduated from University of Otago, New Zealand, with LLB honours and a post graduate diploma in tax and trust law. He commenced practice in 1980 in Auckland, New Zealand, then moved to Christchurch where he was a partner and the Chairman of Partners in a leading law firm. There he practised in commercial litigation as well as tax and trust advisory work and appeared in the courts at all levels as leading counsel, including the Privy Council. After working in the British West Indies as a litigator for two years he returned to practice in 1997 in Auckland, following which he established his own practice in 1999. His firm, Cone Marshall Limited, is the only New Zealand law firm to specialize exclusively in international trust and tax planning, and it provides trustee and trust management services through its affiliated companies. Geoffrey wishes to acknowledge the assistance of Lu Pan, a solicitor at Cone Marshall Limited, in the preparation of this chapter.

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James Corbett is a partner in the firm of Kobre & Kim LLP. The firm has offices in New York, Washington DC, Miami, London and Hong Kong. He specializes in cross-border litigation and arbitration. He is a former member of chambers at Serle Court, Lincoln's Inn. He has extensive experience in trust and estate litigation and has advised or appeared in cases throughout the Caribbean, in the Channel Islands and in other offshore jurisdictions. He is a member of STEP and ACTAPS. He is a Bencher of the Inner Temple. He is regular speaker at international conferences.

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XXIV Old Buildings

Owen Curry has been developing a practice in traditional and modern chancery work, including trust litigation and corporate and personal insolvency, since finishing pupillage in 2010. He gained experience of an attack on an offshore trust during his pupillage while

assisting with the judgment creditor's successful appeal to the Privy Council in *TMSF v Merrill Lynch Bank and Trust Company (Cayman) Limited* [2011] UKPC 17.

Richard Dew

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Richard Dew is a chancery specialist, undertaking litigation, drafting and advisory work particularly in the areas of trusts and estates, both contentious and non-contentious and including tax planning (principally capital taxation), wills, family provision and the administration of estates. He has a busy litigation practice, and has been involved in a number of recent cases including the recent Court of Appeal decisions in *Shovelar v Lane* [2011] EWCA Civ 802 and *Dibble v Pflugger* [2010] EWCA 1005. In addition he writes and speaks extensively. He is a co-author of *Tolley's Inheritance Tax Planning* and the *Trusts and Estate Practitioner's Guide to Mental Capacity*. He is a member of STEP and ACTAPS.

Nicola Evans

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Nicola Evans is the professional support lawyer for the Charities Group at Bircham Dyson Bell. With wide experience across the charities sector, Nicola is a regular contributor of articles and comments in the charity press. She is co-author of *Tolley's A Practitioner's Guide to Contentious Trusts & Estates* and is co-writing, with Professor Peter Luxton, the second edition of *The Law of Charities* (Oxford University Press). Nicola sits on the executive committee of the Charity Law Association and is a member of ACTAPS.

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Dawn is the head of the Contentious Trust and Succession Group awarded the Contentious Trust & Estates Team of the Year - STEP Private Client Awards 2007/08 and 2009/10 and consistently top rated in directories. Dawn has a wealth of experience in advising asset holders, trustees, protectors, personal representatives and other fiduciaries, heirs, charities and beneficiaries generally as well as creditors or other adverse claimants who are involved in a dispute or potential dispute, whether domestic or multi-jurisdictional. Dawn's work ranges from advising on creation of robust structures to trying to defuse problem issues and constructive or consensual litigation through to the most hostile litigation involving trusts, foundations, succession, divorce, professional negligence and fraud. Dawn is listed in the Citywealth 2010 Leading Lawyers Honours List within Contentious Trusts.

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Toby Graham (TEP) is Head of the Contentious Trusts & Estates Team at Farrer & Co. Toby lectures extensively in the UK and abroad. He prepared the course materials for the STEP Certificate in Trust Disputes and chairs the STEP mediation group. Toby is the editor and co-author of Butterworth's *International Guide to Money Laundering Law & Practice*, co-author of Butterworth's Compliance Series title, *Money Laundering* and a co-editor of *A Practical Guide to the Transfer of Trusteeships* published by STEP. Toby is a member of the editorial board of the *Wills and Trusts Law Reports* and co-editor, along with Tony Molloy QC, of *Trusts & Trustees* published by Oxford University Press. Toby won the STEP outstanding achievement award 2007/08.

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Sofie specialises in contentious trust and probate work. She has extensive experience in acting for beneficiaries, trustees, and executors in a wide range of trust and probate disputes both in the UK and other jurisdictions, including over ten years experience of heavyweight litigation. She previously worked in the trust, asset tracing and fraud claims group of a magic circle firm where she came to specialise in fraud and trust cases, including cases of undue influence and forgery. In 2001 she was offered a senior litigation position at Lloyd's of London where she undertook substantial commercial litigation before returning to private practice in July 2006 when she joined the Private Client and Tax Team of Boodle Hatfield. Sofie became a partner in 2010.

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Arabella is the Managing Partner and the Head of Litigation of Maples and Calder's British Virgin Islands office. She is a Fellow of the Chartered Institute of Arbitrators, a trained mediator and a member of ACTAPS. She is a regular speaker on trusts and estates litigation in the offshore arena, having worked in Bermuda as well as the BVI. In addition to her specialisation in trusts she runs a busy commercial practice and is a solicitor-advocate.

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Steven joined Taylor Wessing in 2008 to head up the Contentious Trusts and Estates group which in 2011 was awarded the STEP Contentious Trusts team of the year accolade. His practice encompasses advising on contentious trusts and estates matters using his advisory and trust structuring experience to resolve disputes swiftly. Major cases have included matters being heard in the courts of England, Jersey, Guernsey, Cayman, Bermuda and Switzerland. Steven is ranked as a leading practitioner in contentious trusts in the UK *Chambers* and *Legal 500* legal directories and he has spoken at international trusts conferences in London, Europe, the Middle East and throughout the Caribbean.

Jeremy Kosky

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Jeremy Kosky is a litigation partner with Clifford Chance. He leads the wealth and asset management sector which has included advising trustees, beneficiaries and protectors in relation to some of the most high profile trust disputes in recent times including the Thyssen litigation in Bermuda (1997 to 2002) and the Alhamrani litigation in Jersey (2003 to 2009). He has extensive offshore experience, working with local counsel in Bermuda, Cayman, BVI, Jersey and Guernsey in particular. He is well-known for bringing his skills as a "diplomat" to help clients resolve their cases whether with or without the assistance of a mediator. He writes and speaks extensively and is a member of ACTAPS. He acknowledges the assistance of Andrew Jones and Shreyas Sridhar in researching and preparing this chapter.

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Kerry Lawrence is a barrister by background, a Jersey Advocate and a partner of Ogier. She is based in Jersey where she heads the Commercial Litigation Team. Her practice covers contentious and semi-contentious trust litigation as well as more general commercial and finance industry related litigation, fraud and asset tracing and contentious regulatory work.

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Morven McMillan is a partner and Head of Trusts, Cayman Islands, Mourant Ozannes. She is a specialist in the field of contentious trusts disputes and also has considerable experience in non-contentious work. She is regularly involved in disputes relating to trusts, wills and inheritance. Morven is a member of the Society of Trust & Estate Practitioners (STEP), and of the Association of Contentious Trust and Probate Specialists (ACTAPS), and speaks regularly at international conferences.

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Susannah Meadway's practice as a chancery barrister at Ten Old Square, Lincoln's Inn, encompasses advisory, drafting and litigation work in the fields of trusts and associated taxation, wills, probate and the administration of estates, pensions, family provision, Court of Protection matters and charities. Her most recent reported case is *Chisholm v Chisholm* [2011] WTLR 187 in which rectification of a settlement was obtained. For several years she has been recommended in both the Legal 500 UK and The Chambers & Partners Guide to the Legal Profession as a leading junior in the fields of Private Client and Traditional Chancery. She writes and talks extensively on the subject of trusts. She is a member of STEP.

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5 Stone Buildings

Penelope Reed QC has practised as a Chancery barrister since 1984, specializing in trusts, wills and probate and has been involved in numerous appeals in cases in these areas. She is a member of STEP, ACTAPS and the Chancery Bar Association. She is the co-author of the *Trustee Act 2000: A Practical Guide* and *Risk and Negligence in Wills Trusts and Estates*, and the author of *Tolleys Trusts and Estates Law Handbook*. She is greatly indebted to William East for his contribution of his expertise in respect of the Supreme Court to her chapter on appeals.

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Beverly-Ann Rogers has practised at Serle Court for over twenty years as a chancery barrister and now as a full-time mediator. She is experienced in mediating multi-party and cross-cultural disputes and regularly trains and mediates in the Far East and Middle East. Consistently highly recommended in the legal directories for private client and mediation, Legal 500 cites her as 'a clear first choice mediator for disputes in the field of trusts and estates' and Chambers & Partners as 'a star' who brings 'shrewdness and a quiet authority' combined with 'empathy, compassion and a personal touch.'

Andrew De La Rosa

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Andrew De La Rosa has for several years been recognized as a leading specialist in his fields of practice, which include international trust and succession matters. In successive editions of The Chambers & Partners Guide to the UK Legal Profession, professional clients have described him as 'awesome and absolutely compelling,' a 'great advocate and terrific strategist,' and 'charming and easygoing but with a deadly eye, known to get results'. The Citywealth Leaders List has named him as one of the leading trust practitioners at the English Bar; The Legal 500 has also ranked him amongst the leading private client and partnership counsel.

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Nigel Sanders is an English solicitor by background, a Jersey Advocate and a partner of Ogier. He is also admitted in the Cayman Islands and the British Virgin Islands. He is based in Jersey where he has a broad commercial litigation practice with an emphasis in the following areas: contentious trusts, company and commercial disputes, insolvency related issues and contentious regulatory work.

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Carlos de Serpa Pimentel is a Partner and the Private Client and Trusts Practice Group Head. He specializes in all aspects of Cayman Islands trust law advice and litigation. Carlos regularly advises trustees and ultra high net worth individuals on the establishment, restructuring and administration of trusts, and the use of private trust companies as well as providing advice to protectors and beneficiaries on a variety of trust related matters. He also advises on estate planning and administration of estate issues for high net worth individuals. Carlos has substantial experience in relation to Cayman Islands and BVI trust litigation matters, acting on

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Charles was admitted to the Gibraltar Bar in 1997 having been called to the Bar in England and Wales in 1996. Charles is also a qualified English solicitor. He is a partner in the litigation department at the firm and has a wide ranging litigation practice with particular emphasis in the areas of trusts, estates and family law. He is a member of ACTAPS and is internationally recognized as a leading Gibraltar lawyer in his chosen field of litigation. Charles is also a qualified mediator.

Paul Smith

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Paul Smith is a senior Counsel in the litigation department in the Bermuda office of Conyers Dill & Pearman. Paul joined Conyers in 2000 and became Counsel in 2006. Paul's practice covers all aspects of dispute resolution with specialist expertise in trust litigation, commercial litigation, arbitration, insurance and reinsurance litigation. Paul regularly conducts high-profile litigation arising from Bermuda trust disputes. Paul is the co-author of the Bermuda chapter of "Global Financial Crisis; Navigating and Understanding the Legal and Regulatory Aspects". Together with Brigit Morrison he wishes to acknowledge the support and encouragement of Alec Anderson, Head of Private Client at Conyers Dill.

Simon Taube QC

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Simon Taube's practice covers the broad range of Chancery activities in both litigation and advisory work. He also conducts cases abroad in other common law jurisdictions. His special expertise includes the fields of UK and foreign trusts and estates, tax planning and trust taxation. He also has wide experience in charity, property, securities, partnership, professional negligence and family provision matters.

Charlie Tee

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Charlie focuses on UK and international tax and trust issues for both individuals and landed estates, as well as advising on wills and succession planning. He works closely with a number of business families advising on existing structures set up for the management and governance of the family business, its interaction with family trusts and associated estate planning measures. Charlie advises charities and private clients on tax issues in probate and trust disputes and assists with trust issues involved in international trust litigation. In particular, he advises a number of family offices and international families as to their ongoing affairs and international trust structures, including private trust company structures.

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Shân Warnock-Smith QC is both an adviser and a litigator in the whole range of trust and succession matters. She is ranked among the leading Silks in her field and has appeared in a number of the most important private client cases of recent years. Shân has an international practice, taking her around the globe to advise and to litigate both in UK and elsewhere. Since 2010 she has practised both from International Chancery and Trust Chambers (ICT Chambers) in the Cayman Islands and 5 Stone Buildings in London. Shân is also a specialist mediator of trust and succession disputes.

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XXIV Old Buildings

Elizabeth Weaver is a barrister at XXIV Old Buildings, Lincoln's Inn, London. She has a broad commercial Chancery practice, focusing on contentious work in the areas of trusts and estates, wills, company and property disputes. Elizabeth has considerable experience of working on large scale commercial claims and trust disputes, often with an international or offshore element. Elizabeth also has a well recognized specialism in professional negligence claims involving her key areas of expertise. Elizabeth is a member of STEP and ACTAPS. She has been called to the Bar of the Eastern Caribbean Supreme Court.

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Dr. Stefan Wenaweser, LL.M., has been partner of Marxer & Partner, Attorneys at Law, Vaduz, since 2008. He has practised in Liechtenstein since 2000 and specialized in litigation—mainly involving trusts and foundations—trust and estate planning and the administration of trusts and foundations. He was lecturer in the Executive Master of Laws in Company Law (LL.M.) programme at the University of Liechtenstein in 2008. He is co-author of the Liechtenstein Chapter in Garb and Wood (eds.): *International Succession*, 3rd Ed., Oxford 2010, conference speaker and author of various publications on Liechtenstein trust law. The Legal 500 and Chambers Europe rank him as a leading individual. He is greatly indebted to Prof. Paul Matthews and to his partners Dr. Florian Marxer and Mag. Jochen Schreiber for their expertise and helpful suggestions about this chapter.

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| <i>Al-Bassam v Al-Bassam</i> [2004] WTLR 757 | 3.n33 |
| <i>Al-Koronky and Another v Time Life Entertainment Group Limited</i> [2006] EWCA Civ 1123 | 27.80 |
| <i>Alghussein Establishment v Eton College</i> [1988] 1 WLR 587, HL | 4.40 |
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| <i>Allcard v Skinner</i> (1887) 26 Ch D 145 | 11.07 |
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| <i>Anker-Petersen v Christensen</i> [2002] WTLR 313 | 10.18, 10.21 |
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| <i>Arbuthnot Leasing International Ltd v Havelet Leasing Ltd (No 2)</i> [1990] BCC 636 | 5.38, 5.n38, 5.n48 |
| <i>Armitage v Nurse</i> [1998] Ch 241 | 7.32, 7.40, 8.54, 8.57, 8.60, 8.n78, 8.n79, 8.n81, 13.02, 13.n31, 21.40, 24.39, 25.34 |
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| <i>Associated Provincial Picture Houses Ltd v Wednesbury Corporation</i> [1948] 1 KB 223 | 10.n43 |
| <i>Attorney-General for Hong Kong v Reid</i> [1994] 1 AC 324 | 6.72, 8.38 |
| <i>Ayliffe v Murray</i> (1740) 26 ER 433 | 7.43 |
| <i>Baden v Societe Generale pour Favoriser le Developpement du Commerce et de L'Industrie en France SA</i> [1993] 1 WLR 509 | 6.05, 6.11, 6.17–18, 6.86, 8.n71 |
| <i>Babin v Hughes</i> (1886) 31 ChD 390 | 8.61 |
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| <i>Barlow Clowes International Ltd (In Liquidation) and another v Eurotrust International Limited and another</i> [2005] UKPC 37 | 6.29, 6.33–36, 6.38, 6.41, 6.n27 |
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