

HFW



**HFW IN THE BRITISH VIRGIN ISLANDS**  
THE TEAM OF CHOICE FOR MULTI-JURISDICTIONAL DISPUTES





**“They really understand  
litigation in the BVI  
Commercial Court.”**

CHAMBERS 2022

The firm has more than 350 specialist disputes lawyers across the Americas, Europe, the Middle East and Asia-Pacific and has been litigating for clients in offshore jurisdictions for more than 20 years.

#### **Why the BVI?**

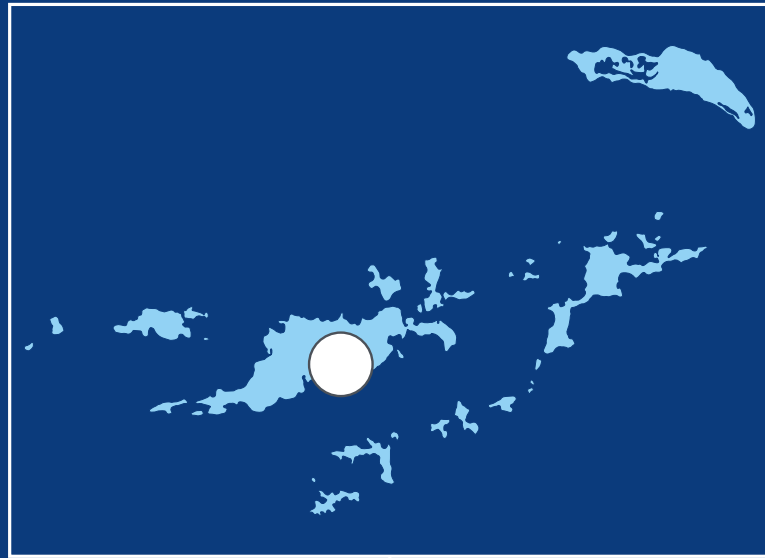
As a largely self-governing British Overseas Territory, the BVI has an independent judicial system based on English common law.

It is an internationally respected financial centre and offers one of the most popular offshore holding structures in the world.

Litigation remains the most popular mechanism of resolving high-value, complex disputes, with the final court of appeal being the Privy Council in London.

The BVI is home to an internationally respected and dedicated Commercial Division of the High Court specifically designed to deal with such cases with two full time judges Mr Justice Wallbank and Ms Justice Mangatal-Munroe





## HFW in the BVI

HFW has been litigating for clients in offshore jurisdictions for more than 20 years, including in the British Virgin Islands (BVI), the Bahamas, Bermuda, the Cayman Islands, Dominica, St. Kitts & Nevis, St. Lucia, and the Turks & Caicos Islands.

To support our global client base, HFW established a presence in the BVI and now has a team of specialist BVI lawyers who work closely with our offshore litigation teams in London and Hong Kong.

**We are now uniquely positioned among international law firms to provide timely strategic advice across all time zones to major users of BVI – Greater China, Russia and the CIS, Middle East, South America, the UK and Europe.**

### AMERICAS

British Virgin Islands  
Houston  
Rio de Janeiro  
São Paulo

### ASIA PACIFIC

Hong Kong  
Melbourne  
Perth  
Shanghai  
Singapore  
Sydney

### EUROPE

Brussels  
Geneva  
Monaco  
Paris  
Piraeus

### MIDDLE EAST

Abu Dhabi  
Dubai  
Kuwait  
Riyadh

### UNITED KINGDOM

London







# From the outset, we take the time to work with our clients to create strategies, which will achieve the best possible outcome.

## Who we act for

We act for:

- Insolvency practitioners
- Creditors
- High net worth individuals
- Trustees and protectors
- Public and private companies
- Financial institutions

We also work closely with many leading law firms and accountancy firms to support clients on their complex BVI cases.

## A litigation powerhouse

More than two-thirds of our work globally is disputes - unprecedented for a law firm of our size and scale

Litigation is in our DNA and is a key strength of our BVI office. Our team's specialist corporate and commercial litigation experience includes for example:

- Shareholder and joint venture disputes
- Contentious insolvency
- Restructuring and insolvency
- Fraud and asset tracing
- Trust litigation
- Urgent interlocutory relief (including freezing injunctions and the appointment of receivers)
- Claims against directors
- Claims against auditors

## Achieve the best outcome

From the outset, we take the time to work with our clients to create strategies, which will achieve the best possible outcome. With a view to the commercial and legal consequences for our clients, these often include:

- Advising on options for litigation funding and financing of the claim
- Worldwide freezing orders and proprietary injunctions
- Obtaining and enforcing security
- International asset tracing
- Disclosure and search orders
- Obtaining ancillary relief in overseas jurisdictions
- Obtaining evidence from other jurisdictions
- Full trial
- Appeal
- Enforcement of judgments and arbitration awards in the BVI
- Committal proceedings

## The BVI team of choice for multi-jurisdictional disputes

We are regularly instructed on high value commercial litigation and contentious insolvency and are the firm of choice in respect of multi-jurisdictional disputes.

We take pride in being responsive and delivering excellent client care, which has seen repeated and continuing instruction from our clients and from other lawyers internationally and in the jurisdiction. We have a proven track record of achieving victories for our clients and results in a time and costs efficient manner at all stages of litigation and throughout the Eastern Caribbean Courts as well as in the Privy Council.

### Ground breaking case: Mareva Injunction

HFW acted for Mareva Compania Naviera in the groundbreaking case that gave its name to the Mareva Injunction.



## Our track record in the BVI

Our BVI team's track record goes back almost 15 years and includes some of the most high-profile and high-value litigation seen in the BVI over that period, including:

### Shareholder disputes

#### A long running \$1bn shareholder dispute between Russian oligarchs

Renova Industries Limited & Ors v Emmerson International Corporation & Ors

- We acted for various key BVI companies and the former director of Emmerson International in all matters before the BVI Commercial Court and Court of Appeal.

#### A high value shareholder dispute in the BVI with the Estate of Georgian billionaire

Inna Gudavadze and Others v Carlina Overseas Corporation and Ors

- We acted for a company based in Azerbaijan in a dispute with the estate of the late Georgian billionaire, Badri Patarkatsishvili which concerned, among other things, the ownership of a highly strategic oil terminal on the Black Sea in Georgia.

### Insolvency

#### Landmark Privy Council case - The liquidation of Pioneer Freight Futures Company Limited (PFF)

Byers & Ors v Chen Ningning [2021] UKPC 4

- Since 2009, we have acted for the joint liquidators of PFF, including extensive litigation in the BVI and a successful Privy Council appeal.
- This was a landmark case – the Privy Council provided important guidance on the fiduciary duties owed by directors of BVI companies and the rare circumstances in which the Privy Council will overturn findings of fact made by the lower courts. The Privy Council found that the director had indeed breached her duties (as we had argued on behalf of our clients).

#### Cross border insolvency in the BVI, Hong Kong and China

Re RZ3262019 Limited

- We act for the joint provisional liquidators (JPLs) of a BVI company which owns interests in Hong Kong and China. The JPLs were appointed by the BVI Court. To enable the JPLs to investigate the company's affairs in Asia, we successfully sought Letters of Request from the BVI Court and Orders from the Hong Kong Court recognising that the JPLs are the duly authorised agents of the company.

#### Voluntary liquidation of large UAE group

- We advised a large UAE group with offices in Dubai and Singapore, who traded in agricultural products worldwide, on its voluntary liquidation under section 179 of the Insolvency Act 2003. We achieved a court appointed voluntary liquidation for our client and their BVI-appointed advisors as a result of the group's compounded and significant losses and debt, which it was unable to trade out of or refinance.

#### A long-running series of cases linked to the high profile liquidation of Unicorn Worldwide Holdings and other companies

- We are acting for Quantuma LLP and KrysGlobal BVI, the joint liquidators of various BVI companies, in relation to litigation before the English Commercial Court involving multiple parties with overlapping proprietary claims to assets, including shares in the companies over which the joint liquidators were appointed.
- Litigation for recoveries is also being run in the Isle of Man and the BVI.

#### The liquidation of Kaupthing Bank

We remain the exclusive BVI lawyers for Kaupthing Bank which, following the collapse of the Icelandic banking industry in 2008, has been involved in extensive litigation in the BVI Commercial Court and Court of Appeal.

This included Kevin Stanford v Chesterfield United Inc & Ors, a highly contentious case arising from a disputed creditor claim by Stanford in the liquidation of Chesterfield, a BVI company which was wound up on Kaupthing's petition. Our successful efforts resulted in substantial realisations for Kaupthing's liquidation estate.

### Trust disputes

#### Dispute involving several trust entities and beneficiaries, and BVI Court of Appeal success

Storca and Ors v Minco Enterprises Limited and Ors

- We successfully challenged a freezing injunction and ancillary relief granted on an ex parte basis against two BVI companies, securing victory for our clients before the BVI Court of Appeal. We also progressed multiple applications designed to stay or strike out the main proceedings, including a challenge to the BVI Court's jurisdiction to deal with the claim based upon arbitration clauses and *forum non-conveniens*.

#### Nevis Trust Dispute

- Acting for the Protector in a dispute between the Trustee and Protector involving a four week trial in the BVI and successful appeal to the Privy Council in London.

### Fraud

#### Historic global fraud claim - allegations of manipulating the international fertilizer market

Eurochem and Ors v. Kopist and Ors

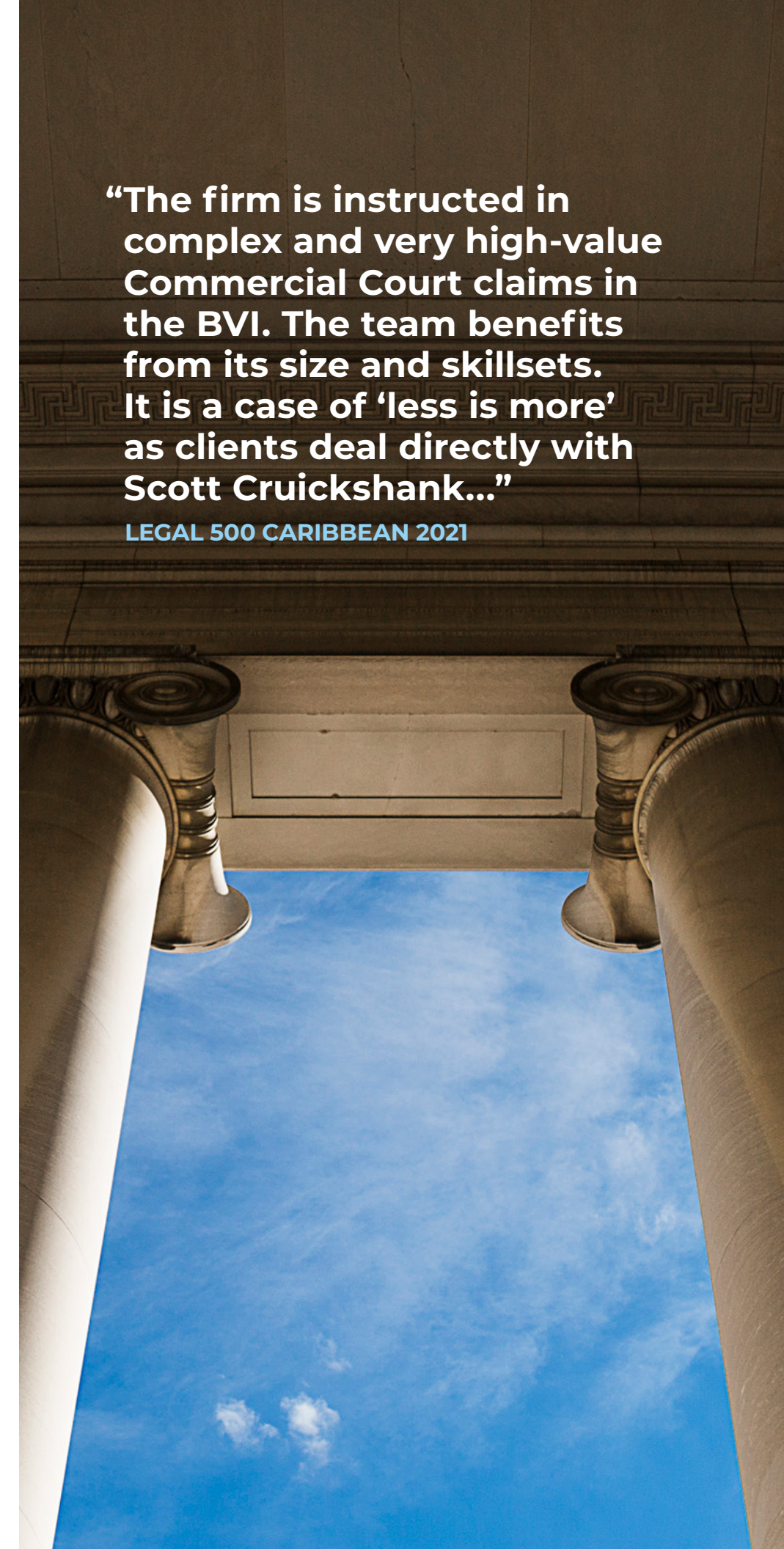
- We acted for two BVI companies and two individuals in a global fraud claim relating to allegations of manipulating the international fertilizer market in a dispute involving a number of trust entities and beneficiaries. The jurisdiction challenge proceeded all the way to the Privy Council in London.
- This case is now the benchmark for BVI jurisdiction challenges.

#### A UAE Bank - Urgent domestic and worldwide \$1b freezing order following a fraud upon a FTSE listed company

- We acted for a UAE Bank in obtaining urgent domestic and worldwide freezing order for up to \$1billion in support of proceedings in London and in other jurisdictions. The action in the BVI underpinned claims against individuals and entities who, it was alleged, were involved in and facilitated a fraud upon a FTSE listed healthcare company.
- We obtained one of the first examples of relief under section 24A of the Eastern Caribbean Supreme Court (Virgin Islands) Act, which was introduced in 2021.

**“The firm is instructed in complex and very high-value Commercial Court claims in the BVI. The team benefits from its size and skillsets. It is a case of ‘less is more’ as clients deal directly with Scott Cruickshank...”**

**LEGAL 500 CARIBBEAN 2021**





# Our BVI team - Cross-Jurisdictional Lead Partners

## BVI



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Scott has worked in the BVI since 2008 and has considerable experience in shareholder disputes, insolvency, fraud and asset tracing, trust litigation, and corporate and commercial disputes generally.

Scott routinely works with law firms, financial institutions and corporate and commercial clients based throughout the world on large multi-jurisdictional disputes and transactions. He has considerable courtroom experience matched with an acute commercial acumen.

In addition to corporate and commercial litigation, Scott also has a wide experience of arbitration and mediation.

**“Scott has a wealth of invaluable BVI related knowledge. He is a tough but very smart lawyer, passionately committed to the client’s very best interests. Great to work with.”**  
*Legal 500 Caribbean*

**“Scott’s client care is also of a very high standard and similarly offers excellent strategic decision-making on cases.”**  
*The Legal 500 Caribbean 2021*

**“He offers excellent strategic judgement and great client care. He is also a very pleasant and affable partner to work with.”**  
*Chambers*

**“He is very thorough and methodical.”**  
*Chambers*

## Hong Kong



### NOEL CAMPBELL

Partner, Global Head of Commercial Litigation and Global Co-Head of Fraud and Insolvency

Qualified in BVI, England & Wales, Hong Kong and Australia (Victoria)

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Noel specialises in commercial litigation with an emphasis on financial litigation, fraud and asset recovery, insolvency, company law matters and trusts. His cases are typically high value, complex and cross-border.

He has extensive experience of all types of commercial litigation in the London and Hong Kong courts and running litigation in offshore jurisdictions.

His experience in Caribbean/offshore jurisdictions is unparalleled covering Anguilla, Antigua, The Bahamas, Bermuda, the BVI, Cayman Islands, Dominica, Jersey, Guernsey, Hong Kong, Isle of Man, Liechtenstein, Marshall Islands, Monaco, The Philippines, St Kitts & Nevis, Saint Lucia, Singapore, Switzerland and Turks & Caicos. He has had several cases in the Eastern Caribbean Court of Appeal, the Bahamian Court of Appeal and the Privy Council.

**“Noel Campbell is something of a godfather at the firm and has seen all sorts of disputes. He is someone you want in your corner.”**  
*Legal 500*

**He is “a decisive leader” who “has phenomenal judgement” and an “uncanny ability to maximise the potential in people.”**  
*Chambers*

## London



### RICK BROWN

Partner, Co-Head of Fraud and Insolvency

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Rick specialises in complex, high value cross-border fraud and insolvency matters, including those which involve claims for breach of contract, fraud and/or breach of fiduciary duties and asset tracing. He has also worked on a number of offshore trust matters in the Caribbean, Gibraltar and elsewhere. He regularly deals with and instructs investigators and offshore lawyers.

Rick has considerable experience in acting for insolvency practitioners, mainly on contentious complex cross-border insolvency matters. He has valuable experience of interlocutory hearings and trials in the Commercial Court in the British Virgin Islands and elsewhere in the Caribbean and has significant experience acting for clients on claims involving parties from Russia and the CIS, as well as the Middle East.

**“The stand-out individual. He is a consummate team leader, as well as someone who has keen commercial, as well as legal, judgment.”**  
*Legal 500 2021*

# Uniquely positioned to advise on BVI and foreign law aspects of a dispute, unlike exclusively offshore firms.



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**HFW has over 600 lawyers working in offices across the Americas, Europe, the Middle East and Asia Pacific. For further information about our capabilities, please visit [hfw.com](https://www.hfw.com).**

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