

HFW LITIGATION

ENFORCEMENT OF
JUDGMENTS AND
ARBITRATION AWARDS

“As one of the world’s largest and most active disputes practices, litigation is in our DNA.

We have more than 350 specialist disputes lawyers in offices across the Americas, Europe, the Middle East and Asia-Pacific, and frequently litigate on behalf of clients in courts around the world.”

A handwritten signature in white ink on a dark teal background. The signature reads "Noel Campbell" in a cursive, flowing script. The "N" is large and loops back, and the "C" is also large and loops back. The signature ends with a long, horizontal flourish.

NOEL CAMPBELL

Global Head of HFW LITIGATION

INTRODUCTION TO HFW

Established in 1883 and headquartered in the United Kingdom, we are a sector-focused global law firm with strong footprint across Asia, Australia, the Middle East, Europe, and the Americas.

As one of the world's largest and most active disputes practices, litigation is in our DNA. We are known for our Dispute Resolution expertise¹, and our expert Commercial Litigation and International Arbitration lawyers have in-depth knowledge of the shipping, aviation, commodities, energy, construction, and insurance and re-insurance sectors.

Our long standing presence across the globe means that we fully understand the local business, legal environment, and cultures – meaning that we can get things done.



1 "The standout firm for commercial litigation." THE LAWYER

OUR SPECIALIST DISPUTE RESOLUTION EXPERTISE

More than two-thirds of our work globally is disputes – unprecedented for a law firm of our size and scale. Our deep commercial litigation expertise is built upon experience in the following areas:

- Class actions
- Corporate disputes
- Cyber disputes
- Enforcement actions
- Financial services disputes
- Fraud
- Insolvency
- Oil and gas disputes
- Natural resources disputes

In addition to our commercial litigation and international arbitration strengths, we have expertise in enforcing and recovering under the judgments and awards our clients receive – there is after all little commercial satisfaction in being proven to have been in the right, if you are then left without financial compensation, for this reason, we are alive to issues of enforcement even before the issue of proceedings.

Our global office network and experience in offshore financial jurisdictions enables us to design and pursue effective local and cross-border recovery strategies. We have vast experience of pursuing, as well as defending all manner of enforcement claims, across the globe. We regularly enforce arbitration awards under the New York Convention 1958 (NYC)², which at the time of writing includes 164 States, but also in countries to which the NYC does not apply.

2 <https://www.uncitral.org/pdf/english/texts/arbitration/NY-conv/New-York-Convention-E.pdf>

ENFORCEMENT OVERVIEW

Enforcement of court judgments and arbitration awards is complex and requires knowledge of the local laws and procedures, our Disputes lawyers are experts not just in the law, but also in the procedures that apply in their jurisdictions.

Our lawyers know which procedure is most likely to result in the quickest recovery for our clients, and where we are acting on cross-border enforcement (as we often are), which jurisdiction is preferred, and which convention or treaty should be used.

Financing the recovery

We advise our clients on whether litigation funding will assist with financing the legal costs that will be incurred in the recovery proceedings, or whether the award or judgment could be monetised (sold for a percentage of the value), and via our knowledge of the funding market, and internal Funding Committee, we help clients work with funders to obtain the best option for their matters.

In addition to litigation funding, we offer a range of alternative fee agreements, which provide flexibility and assist in financing the enforcing proceedings.

Expert resources

Collaboration is part of how we work, whether internally to make sure we have the knowledge needed, or externally for example, with local lawyers with whom we have developed relationships in jurisdictions where we do not have an office; accountants with whom we work to analyse and identify the assets; and via our network of other experts we are able to call on what is needed, and work together to achieve the desired outcome.

How do we recover sums owed under arbitration awards and judgments?

By understanding court procedures and powers across the world's jurisdictions, we are able to determine the most effective means of recovery, for example in England and globally we frequently apply to court to obtain the following court procedures to assist in recovery:

- Asset disclosure orders, which enable us to identify whether there are assets and if so, where and in what form they are
- Worldwide freezing orders from English courts allow us to preserve assets in other jurisdictions e.g. money held in bank accounts belonging to the judgment debtor
- Third Party Debt Orders enable us to recover money owed to the judgment debtor from third parties
- Orders entitling us to seize goods, and other property from the debtor's business address
- Charges over property so that there is a recovery from the proceeds of a sale
- Serving a statutory demand with a view to the liquidation or the bankruptcy of the judgment debtor
- Liquidation procedures



OUR GLOBAL ENFORCEMENT EXPERIENCE

We have extensive experience of successfully enforcing arbitration awards and court judgments in the following jurisdictions and under various international treaties and conventions.

The breadth and depth of our work in this area is difficult to summarise in a few examples, but the following gives a flavour of the work we undertake:

	ARBITRATION AWARDS	COURT JUDGMENTS
Australia	Enforcement in Australia of London arbitration awards totalling US\$10million	Enforcement in Australia of judgments of the High Court of Singapore totalling US\$68million
Bulgaria	Enforcement of arbitration award under the NYC	
Bermuda		Enforcement of Jersey judgment
Brazil	Enforcement of arbitration award, recovery of US\$4.7million	
Cayman Islands		Enforcement of Singapore judgment in Cayman Islands
China	Enforcement of CIETAC arbitration award for US\$4million	Enforcement of Hong Kong judgment for US\$8million in the PRC

	ARBITRATION AWARDS	COURT JUDGMENTS
England and Wales	Bahraini arbitration award successfully enforced Enforcement of an ICSID award	Enforcement of Greek court judgment
India	Enforcement of London arbitration award, recovered US\$5million	
Luxembourg	Successful enforcement of ICC arbitration award, under NYC	
Morocco	Successfully enforced French arbitration award	
Romania	Successfully enforced arbitration award, under NYC	
Saudi Arabia	Successfully enforced ICC arbitration award under NYC, recovery of US\$100million	Enforcement of judgment and recovery of US\$455million
Singapore		Enforcement of judgment in Singapore
Thailand		Enforcement of judgment in Thailand
Vietnam	Enforcement of English arbitration awards in Vietnam, leading to the successful recovery of US\$3million	
UAE	Enforcement of Abu Dhabi arbitration award	

Our global enforcement experience



● Arbitration Awards

● Court Judgments

OUR JUDGMENT AND ARBITRATION AWARD ENFORCEMENT EXPERIENCE

We have experience in handling enforcement of both arbitration awards and court judgments. We take matters from the award or judgment through to a recovery, in the most efficient way possible using the procedures available in the jurisdiction in which the most attachable assets are located.

We are frequently approached by clients wishing to instruct us for our expertise post-judgment or award, not least because enforcement requires a specific set of skills, which we have honed involving investigators, asset recovery mechanisms, and insolvency options. We have close relationships with experts in all of these fields, and work with them to develop enforcement and asset recovery strategies, ensuring we are enforcing against the assets providing for the largest recovery in the most convenient jurisdiction.

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graph TD; A[AWARD/JUDGMENT] --> B[RECOVERY]
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AWARD/JUDGMENT

RECOVERY

Examples of our recent experience include:

Court judgments:

- Acting for property division of Singapore based multinational conglomerate operating in property logistics, hospitality, food, agribusiness and maritime sectors in respect of the registration and enforcement in Australia of judgments of the High Court of Singapore totalling US\$68million including obtaining freezing orders over property in Australia
- Successfully recovering US\$18million for our client. We used a freezing injunction to secure the assets in a Bermuda based discretionary trust, in support of a Jersey judgment. English reported decision: *Lemos v Lemos & Anor* [2016] EWCA Civ 1181
- Enforcing and recovering US\$8million following a Hong Kong judgment pursuant to Arrangement of Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region pursuant to Choice of Court Agreements between Parties Concerned (2008)
- Acting for the lead bank in one of the largest and most complex financial services disputes in the world, secured judgment for US\$455million and took enforcement action in multiple jurisdictions to make a successful recovery
- Advising clients in relation to Thai mortgage enforcement proceedings to protect assets
- Enforcement of Singapore judgment (including insolvency proceedings) involving a parent guarantee and concerned with a number of jurisdictions including Singapore, Thailand, and the Cayman Islands

Arbitration Awards:

- Acting for international energy and resources company in respect of the registration and enforcement in Australia of London arbitration awards totalling US\$10million including obtaining freezing orders over shares in Australian listed company and pursuing bankruptcy proceedings against guarantor
- Recovering US\$3million under an arbitration award enforced in Vietnam and requiring an asset disclosure order and freezing order from the English courts
- Acting in the enforcement of a Bahraini arbitration award
- US\$17million LCIA award recognised in China
- Successfully enforcing a CIETAC award, using the supporting powers of the English courts. English reported case: *RBRG Trading UK Ltd v Sinocore International Co Ltd*, [2018] EWCA Civ 838
- Securing a freezing order to preserve assets under an award. When this was breached, we secured a contempt order against a shadow director of the judgment debtor, which resulted in payment. English reported decision: *Bunge SA v Huaya Maritime Corp* [2017] EWHC 90 (Comm)
- Enforcement of an award in USA relating to fraudulent mis-procurement of a state contract with a national port authority in a West African post conflict state
- Enforcement of an ICSID award in England, acting for the investor
- Acting in US\$455million banking litigation, enforcing in multiple-jurisdictions, including Saudi Arabia
- Taking enforcement proceedings in Morocco to recover against a French trading company in a dispute with a Moroccan company

OUR TEAM

We have a highly experienced team of 25 litigation experts.
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