

HFW



WHY CHOOSE HFW?
COMMERCIAL AND CORPORATE LITIGATION

INNOVATIVE

Our lawyers are at the cutting edge of creative litigation, trained to resolve disputes innovatively and efficiently.

HIGHLY RANKED

The Lawyer 2016's court analysis ranks us as the top user of the English Commercial Court. We are recognised as a 'go to' firm for complex multi-jurisdictional disputes, and frequently appear in the English Supreme Court, and other leading international courts.

ONE FIRM

We are one firm, with a collaborative global ethos, approach and standard.

GLOBAL REACH

We have over 500 lawyers working seamlessly across Asia, Australia, the Middle East, Europe and the Americas with 18 offices in 16 jurisdictions. Our global reach is further supported by our formal alliances and associations with law firms across the Middle East, Singapore and PRC.

DEPTH AND BREADTH OF LITIGATION EXPERIENCE

Our dynamic, entrepreneurial expertise and experience in commercial litigation is built upon the following areas:





OUR TEAM'S EXPERIENCE: FRAUD

- Acting for a major Swiss trade finance bank, obtaining a domestic UK freezing injunction in relation to a fraudulent banking transfer in breach of an assignment of the proceeds of sale in favour of the bank. We assisted in the recovery of tens of millions and our client recovered the vast majority of its costs.
- Acting for a leading Abu Dhabi bank in pursuing its losses from defaults under credit facilities in excess of US\$600 million arising out of the Al-Gosaibi fraud. Our client lent money to various corporate entities within the Saad and Al-Gosaibi conglomerates, both bilaterally and on some occasions as a member of banking syndicates under different agreements. In 2009 the Saad and Al-Gosaibi groups defaulted. They had also borrowed from 118 other local, regional and international banks. This involved the co-ordination and pursuit of proceedings in Abu Dhabi, Dubai, Bahrain, Saudi Arabia, Jordan, Lebanon, London and New York to recover assets and bring claims against the borrower and the fraudster.
- Advising a UAE (Abu Dhabi) Islamic bank in respect of a sophisticated fraudulent scheme implemented by various UAE and foreign entities and individuals against the bank to secure the restructuring of a debt in excess of AED250 million through a series of sale and purchase, option and management agreements. Involves litigation before the Dubai and Abu Dhabi courts and a series of Abu Dhabi Commercial Conciliation and Arbitration Centre arbitrations.
- Defending a US\$375 million claim for alleged dishonest assistance, knowing receipt and conspiracy, brought by investors of closed investment funds against companies and individuals.
- Acting on a US\$300 million warehouse receipt fraud with multi-jurisdictional asset tracing and recoveries.
- Acting for a syndicate of investors in an Australian Ponzi scheme, successfully locating and freezing misappropriated assets in Hong Kong, the Cayman Islands and Vanuatu.
- Acting for an Asian bank to recover proceeds of a large-scale cross-border fraud, including multiple Norwich Pharmacal orders and Mareva injunctions.
- Advising/defending a UAE insurer against a AED300 million claim brought against it in the Dubai courts by a Dubai-based money exchange under a Bankers Blanket Bond Policy for losses arising from the fraudulent/dishonest activity of its employees in which the insured may have been complicit.
- Acting for a Dubai-based bank in respect of US\$15+ million coverage dispute with trade credit and Bankers Blanket Bond insurers arising from a substantial fraud and theft in a high profile organisation. The case is currently ongoing in the UAE courts.



OUR TEAM'S EXPERIENCE: FINANCIAL SERVICES DISPUTES

- Advising an Abu Dhabi bank against a Bangladeshi bank, which had sought the disclosure of certain customer information from our client, as part of a substantive claim against certain third party defendants. To do so, it obtained a Norwich Pharmacal Order (NPO) against our client in the English High Court. We disputed the granting of the NPO on the basis that the English Court had no jurisdiction to grant such an order. At a hearing in the Commercial Court, the court ruled in favour of our client on all counts. The judgment has garnered considerable interest as it provided useful guidance on the rarely used practice of Norwich Pharmacal applications. This case was entirely about jurisdictional issues, legislative interpretation and procedure, and is therefore about as 'pure' commercial litigation as it is possible to get. Our client was recently awarded its costs on the indemnity basis due to the Bangladeshi bank's failings when attempting to obtain the NPO.
- Acting for an international logistics company based in Germany and Singapore defending a claim from its former financial advisors, relating to a US\$450 million private equity investment in our client.
- Advising a DIFC registered/DFSA regulated investment bank in respect of the implications of ongoing DIFC Court proceedings brought jointly by Kuwaiti family members against the bank's DIFC financial services advisory arm and a related Swiss private bank. The claims involved allegations of breaches of DFSA regulations (failure to act with regulatory authority) and negligence in providing investment advice as against the DIFC entity. The claims also involved allegations of carrying on unauthorised business in the DIFC, breach of contract and vicarious liability for the negligence of the DIFC entity.
- Acting for an Iranian client in English High Court proceedings against a European bank in relation to a loan facility and related swap transactions. As a result of international sanctions, the loan facility was terminated prematurely. The bank arrested three vessels belonging to our client as security for the repayments under the loan and swap agreements forcing our client to make a substantial payment to release the vessels. Our client is now suing the bank for US\$9million on the basis that some of the funds that it was forced to pay were unlawfully appropriated by the bank which unjustly enriched itself.
- Advising a major Dubai-based financial institution on the prospects of obtaining the first freezing injunction through the DIFC Courts in connection with the sale and purchase of commercial office space in the DIFC with a dispute value in excess of AED500 million.
- Advising the Dutch subsidiary of a Turkish bank against a UK consultancy firm in relation to its pre-investment due diligence and risk management.



OUR TEAM'S EXPERIENCE: INSOLVENCY

- Acting for the court appointed receivers, general administrators and now trustees of the insolvent estate of the late Boris Berezovsky. This case is a highly complex, multifaceted matter and the estate is facing a number of claims, including one of fraud in excess of US\$100 million.
- Acting for the trustees in the bankruptcy of Viren Rastogi, formerly a director and controlling stakeholder of RBC Resources which went into liquidation owing US\$400 million to its bankers. Now a leading Court of Appeal authority on preventing the automatic discharge of bankruptcy in fraud cases.
- Advising the Government of Niger on a sovereign debt workout in relation to a 20 year old debt to the Taiwanese Export-Import Bank of the Republic of China. The debt structuring deal saw the total owed reduced from US\$183 million to US\$20 million and required an immediate payment by the Government of Niger of US\$5 million.
- Acting for a leading Swiss bank as a representative of a class of shareholders in the long running Bahamian insolvency of the Oracle Fund.
- Acting for directors of a US telecommunications company in Chapter 11 bankruptcy proceedings, in excess of US\$100 million.
- Acting for opposing creditors in Hong Kong proceedings for the just and equitable winding up of a Hong Kong LNG trading company, including procuring the appointment of independent directors of the company, proceedings against the company's shareholders and managing claims against certain of the company's counterparties.
- Defending a UK national resident in the UAE in English court proceedings arising from a statutory demand issued by a UK building society in respect of personal guarantees initially provided by the individual to secure over £300 million of lending to acquire an extensive commercial property portfolio, which was subsequently restructured and sold. Involved previously untested issues concerning the applicability of the UK/ UAE Service Treaty to statutory demands.



OUR TEAM'S EXPERIENCE: ENFORCEMENT ACTIONS

- Acting on behalf of vessel owners in respect of the ratification of an English arbitral award for c.US\$20 million which was obtained under a settlement agreement in respect of a charterparty dispute. Use of the DIFC Court as a 'conduit' for onward enforcement outside the DIFC against a Dubai LLC.
- Acting in Dubai Court proceedings for the recognition and enforcement of a AED250 million London arbitration award under the New York Convention. The proceedings were fully defended by the Dubai based defendant and its international law firm. In a landmark judgment, the Dubai Court of Appeal ordered the recognition and enforcement of our client's London arbitration award despite the numerous traditional defences raised by opponents. The defendant challenged the judgment before the Dubai Court of Cassation. However, on 21 January 2016, the Court of Cassation rejected the defendant's appeal and upheld the findings of the Dubai Court of Appeal. This judgment is of particular significance as it confirms that UAE courts should consider the validity of the underlying arbitration clause in the context of the New York Convention and the foreign law governing the contract. The judgment is also the first of its kind ordering the recognition and enforcement of a foreign arbitral award made on the basis of an unsigned contract.
- Significant experience obtaining Worldwide Freezing Orders and anti-suit injunctions from the High Court, followed by contempt of court proceedings in case of non-compliance e.g. successfully enforced a Worldwide Freezing Order in favour of creditors against a party based in the UAE & Singapore.
- Acting on behalf of three international banks, as claimants, in respect of enforcement proceedings in the DIFC Court in respect of a New York judgment in the amount of US\$171+ million entered under a Confession of Judgment against a Cayman investment fund. The DIFC enforcement proceedings formed part of a wider global enforcement effort by the claimants.
- Advising an Australian managed Dubai LLC in respect of the enforcement of a Dubai Court judgment for AED4.8 million against the UAE and/or Australian arms of a US private military contractor following a dispute under a contract for the supply of equipment and ground handling services at airports in Afghanistan. Involved advising in respect of the (previously untested) use of the DIFC Court as a 'conduit' for the enforcement of local UAE court judgments outside the UAE.
- Successful track record in enforcing judgments/seizing assets in other jurisdictions e.g. enforcement of a Chinese CIETAC award in London (US\$4.8 million).



OUR TEAM'S EXPERIENCE: NATURAL RESOURCES DISPUTES

- Acting for a leading iron ore miner, defending a claim in the English High Court from a service provider for payments under, and damages for, alleged breach of a contract to provide mining contractor services for an iron ore mine in Sierra Leone. We defended the claim and simultaneously counterclaimed for overpayments made by the iron ore miner under the mining services contract. The case is attracting considerable interest as it is likely to make new law on security for costs and (alleged) third party funding.
- Acting in the Hong Kong courts, representing Australian and Hong Kong joint venture partners in a Gold Mining Development in Gansu Province.
- Experience in other mining claims around the globe e.g. "Representing international mining company in US\$50 million plus High Court claim by a mining contractor arising out of the operation of an iron ore mine in West Africa".
- Acted successfully in the English Supreme Court for a European petroleum company in its dispute with a Middle Eastern state oil company. Our client converted an arbitration award into a UK judgment and then used a third party debt order, an unconventional mechanism, to arrest a debt payable to the state oil company. Our client sought to enforce against a debt owed under a letter of credit payable to the state oil company. The main issue before the Supreme Court was the situs of the debt represented by the letter of credit. This win in the Supreme Court has meant our clients have been able to recover US\$9 million for a claim dating back to 2006.
- Acting for the operator of an oilfield concession offshore in Qatar in relation to ongoing disputes arising during the execution of its 2005 field development plan involving investment of over US\$3 billion.
- Acting for a Dubai based crude oil and petroleum trader in a dispute with a Pakistan company concerning contracts for the sale and purchase of two cargoes of High Sulphur Fuel Oil and alleged contracts for the sale and purchase of a cargo of gasoil. The case involves complex issues in relation to the existence and interpretation of contracts amongst other things.
- Acting for a major US oil and gas contracting group. We are defending its UK arm against claims made by UK contractors, who are seeking to recover a contribution in respect of a settlement of over £50 million of claims arising out of the operation of a trade association.
- Acting on a dispute arising out of contracts for the sale of four cargoes of ultra low sulphur diesel by a UK seller to a European purchaser, to be delivered on a CIF basis to Romania. These were backed by four letters of indemnity from a European bank. The fourth cargo, like the former three, was delivered to Romania as agreed but, unlike with the previous three, no holding certificate was ever issued by the bank. The European purchaser is pursuing a claim against the bank under the letter of indemnity; it alleges that the UK seller committed breaches of various warranties and undertakings contained in the letter, and that the bank is jointly and severally liable to the UK seller in damages or for an indemnity.



OUR TEAM'S EXPERIENCE: CORPORATE DISPUTES

- Advising a prominent UAE businessman in respect of disputes with a high-profile global advertising agency arising out of a share sale agreement, including acting in a minority shareholder unfair prejudice petition before the Hong Kong Court and separate proceedings brought before the English High Court including a claim for an anti-suit injunction. The claims between the parties involve various allegations of fraudulent accounting and secret profit-taking.
- Acting for the partners of a major joint venture to operate the world's largest and most efficient vertically integrated aluminium smelting plant in relation to a series of equipment failures at the plant, which have caused considerable interruption to the business. Litigation is taking place in London, Dubai and Saudi Arabia. There are a number of very interesting points surrounding the interpretation of Saudi law on crucial commercial issues.
- Acting in a shareholder dispute concerning the reduction of our client's holding in a lucrative oil venture. Our client, a US-based partnership, formed a joint venture with a partner, based in Singapore, to prospect for oil in South America. The joint venture was successful in finding valuable reserves of oil. However, the joint venture partner has diluted our client's shareholding, an action which our client claims is illegitimate. This classic shareholder dispute involves complex cross-border issues as the oil exploration venture is based in South America, the company holding the shares is Singaporean, and our client is Delaware-based.
- Acting for the CEO and minority shareholding of a Middle East global services corporation involving the non-payment of US\$25 million of dividends. The case raises issues of corporate governance and required collaboration between our London, Dubai and Hong Kong offices.
- Acting for the exclusive distributor of an alcohol brand in a South American jurisdiction. The dispute concerns the alleged termination of the Distribution Agreement between the parties with proceedings commenced in both Scotland and in the South American jurisdiction.
- Acting for a minority shareholder in a dispute with majority shareholders over affairs of a publically listed Hong Kong company.
- Instructed by the Bermudian subsidiary of a major Canadian corporation, including defending proceedings in connection with the intended joint venture holding company in Bermuda.
- Defending a AED32 million claim for an alleged breach of a joint venture filed against our clients before the Dubai Courts.
- Successfully representing three brokers in a multi-million pound conspiracy, misuse of confidential information and restrictive covenant dispute.
- Acting for a well known trader in a dispute with an aluminium smelter based in the UAE, in connection with a price review dispute arising under a fifteen year supply contract of alumina. The amount in issue was approximately US\$300 million.



OUR TEAM'S EXPERIENCE: CYBER DISPUTES

- Defending a US\$2 billion claim alleging data theft.
- Regularly act in cyber security cases.
- Acted for an Indian commodities firm to recover funds after it had its IT systems hacked by fraudsters who then obtained and falsified payment instructions to various foreign bank accounts. Significant funds were recovered through freezing injunctions, disclosure orders and asset tracing.



OUR TEAM'S EXPERIENCE: CLASS ACTIONS

- Acting in class actions involving major catastrophes. Our Australian offices acted on one of the country's largest class actions.
- We acted for one of the defendants in the largest ever class action in the state of Victoria, in connection with the 7 February 2009 Victorian bushfires in Kilmore East and Murrindindi, concerning allegations of negligence against our client and numerous public organisations and private utilities providers.
- The Kilmore East and Murrindindi class actions were brought on behalf of over 10,000 and 1,000 Group Members respectively, claiming sums of AUD \$2 billion and AUD \$600 million respectively. The Kilmore East class action settled for approximately AUS\$503 million and the Murrindindi class action settled for approximately AUS\$302 million (global settlement figures including State recovery proceedings).

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LEGAL COSTS

Achieving the desired outcome for your disputes matter is what our lawyers do best. Achieving the best possible costs recovery, or minimizing the costs exposure, is where our Costs Team ensure we offer a complete service that sets us apart from many other disputes law firms.

Our Costs Team is happy to receive instructions on cases where we do not act on the underlying dispute. Again, this sets us apart from many other firms in this area.

We deal with a wide range of issues arising from legal costs from the outset of the matter through to the final costs recovery either justifying, or opposing them. Working as an integral part of the firm's Disputes teams gives us a valuable insight into costs disputes both pre and post the dispute, whether it be arbitration, litigation, mediation, or more specialised proceedings e.g. adjudication.

Costs Lawyers have "*rights of audience*" and "*rights to conduct costs litigation*" pursuant to the Legal Services Act 2007, which therefore avoids the need to instruct outside counsel, thereby saving costs.

How are we different?

- Part of a global firm, with access to global resources
- Able to offer advice and act on costs issues across many of the international courts and international arbitration institutions
- Advice and representation from the outset to completion of the matter
- No need to instruct separate costs counsel
- Able to act on costs matters even where we did not act on the underlying case

Services we offer :

Getting the right costs pricing at the outset:

- **Retainers/Client Care Letters**
 - Preparing bespoke fee agreements
 - Advising on fee agreements between HFW and our clients
 - Advising on fee agreements between HFW and counsel/experts
 - Working with our Funding Committee, advising on Third Party Funding arrangements; and
 - Advising on Legal Expenses Insurance (ATE and BTE)
- **Building estimates of legal costs**
 - Preparing estimates of costs and disbursements
 - Advising on counsel/expert's fee proposals
- **Managing legal spend**
 - Providing tracking services for agreed/ordered estimates of legal costs

Contentious Costs (between the parties)

- **Arbitration**
 - Preparing and opposing Schedules of Costs
 - Written and oral submissions on legal costs
- **England and Wales litigation in the High Court, Court of Appeal, UK Supreme Court, Privy Council, Employment Appeals Tribunal, and Competition Appeals Tribunal**
 - Advising on costs aspects of consent and final orders
 - Costs Management
 - Preparing and opposing Precedent H Costs Budgets

- Negotiating and compromising agreements on Precedent H Costs Budgets and preparing Precedent R Budget Discussion Reports
- Providing written and oral submissions on Precedent H Costs Budgets
- Attending Costs Case Management Conferences (CCMCs)
- Providing a tracking service for agreed/ordered Precedent H Costs Budgets
- Interlocutory Applications
 - Preparing and opposing Statements of Costs
- Detailed Assessment Proceedings
 - Preparing and opposing Bills of Costs (including the e-Bill which came into force in April 2018)
 - Commencing Detailed Assessment Proceedings
 - Preparing Points of Dispute
 - Preparing Points of Reply
 - Attending Interlocutory Applications
 - Preparing written and oral submissions
 - Attending Detailed Assessment Hearings
- **International Courts (DIFC Courts, Hong Kong High Court etc.)**
 - Interlocutory Applications
 - Preparing and opposing Statements of Costs
 - Preparing written and oral submissions
 - Drafting post claim costs resolutions
 - Detailed Assessment Proceedings
 - Preparing and opposing Bills of Costs
 - Providing written and oral submissions on legal costs

Contentious Costs (Solicitor and Client)

- Commencing proceedings under the Solicitors Act 1974
- Preparing and opposing costs breakdowns for:
 - Directions Hearings
 - Interim Applications
- Preparing written and oral submissions

Costs Auditing and Expert Reports

- **Auditing legal costs and WIP analysis**
 - Represent Solicitors – identifying and advising on inefficiencies and financial consequences
 - Represent previous Solicitors – analysing legal spend and advising on resolution strategies
 - Advice on Alternative Funding Agreements
- **Benchmarking and pricing for future costs**
 - Utilising sector specific historical data to project future legal spend

Expert Evidence

- Preparing Court compliant reports opining on legal expenditure
- Oral evidence

Training and Current awareness

• Conferences, Seminars and Webinars, the list of topics currently includes:

- Time recording
- File management
- Costs management
- Recent costs case law
- Solicitor and client issues

• Monthly costs case law updates and guides to best practice

Charges

- Our charges are based either on reasonable hourly rates or Alternative Fee Arrangements (AFAs) are available

Please contact any of the Costs Team to discuss further:



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Our global reach

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- Melbourne
- Paris
- Perth
- Piraeus
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- Singapore
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