



## In Your Court: Ogier's dispute resolution review - May 2024

Newsletters - 09/05/2024

There have been a number of developments of note in dispute resolution across our jurisdictions over the past few months.

These include two judgments of the Irish courts clarifying the scope of the Norwich Pharmacal jurisdiction in Ireland, the fallout from the high-profile collapse of cryptocurrency hedge fund Three Arrows Capital which has been progressing through the BVI courts, and a successful application to the Royal Court in Guernsey that funds held in a trust were not the proceeds of crime.

Elsewhere in Ireland, changes to the planning judicial review process have been proposed, while a long-running action made by former Irish Football Association chief executive John Delaney against the seizure of over 1,100 digital documents was rejected.

Senior associate Shane Quinn from Ogier's Hong Kong team also shares his insights as to when an appeal to the Privy Council in the BVI may be necessary in instances where a court has delayed passing judgment.

Enjoy In Your Court and if you have any questions, please get in touch with our team.

[Read In Your Court: Ogier's dispute resolution review online.](#)

### **The rise of ESG litigation**

Environmental, social, and governance, or ESG, is a set of criteria used to assess a company's impact on society and the environment, as well as its corporate governance practices. Increased regulatory requirements, growing investor demands, and the global climate crises have led to the rising need for companies to manage and report ESG performance.

Such growing rules and regulations, alongside existing legislation, have increased ESG-related litigation risk for companies. The potential financial and reputational damage from ESG litigation

is significant, making it a rising concern for businesses globally.

Read more: [The rise of ESG litigation](#)

## The Luxembourg government approves major amendments to proposed reform of residential leases

The Luxembourg reform of residential lease agreements took a turn this week, as the Luxembourg government approved major amendments to Bill 7642 on Monday 15 April 2024.

The previous government initiated the legislative process in 2020 to reform the residential lease law, proposing to cap rents to 3.5% of the capital invested in the property by the owner. However, the project hit several hurdles, mostly due to strong opposition.

To overcome these controversies and limit further delays to the introduction of Bill 7642, six major amendments have been adopted.

Read more: [The Luxembourg government approves major amendments to proposed reform of residential leases](#)

## Liquidators of Three Arrows Capital Ltd obtain court approval for US\$100 million interim distribution

On 28 March 2024, the BVI Court granted the Joint Liquidators of Three Arrows Capital Ltd (in liquidation) (3AC) sanction to make an interim distribution of up to US\$100 million of 3AC's assets to its creditors in *BVIHC(COM)2022/0119 Russell Crumpler and Christopher Farmer (as Joint Liquidators of Three Arrows Capital Ltd (in Liquidation)) v Three Arrows Capital Ltd (in Liquidation)*.

Read more: [Liquidators of Three Arrows Capital Ltd obtain court approval for US\\$100 million interim distribution](#)

## Recent Cayman litigation emanating from the Middle East

This article provides an update on the disputes Ogier is seeing come before the Cayman Court involving a connection to the Middle East. There is a steady, substantial and varied pipeline of cases demonstrating the close connections between the region and the Cayman Islands.

Read more: [Recent Cayman litigation emanating from the Middle East](#)

## Restructuring plans post-Adler: a Jersey law perspective

In a seminal judgment of the Court of Appeal of England and Wales in the case of *In the Matter of AGPS Bondco plc* (Adler), the Court of Appeal overturned the first instance judgment of the High Court of England and Wales sanctioning a restructuring plan between AGPS Bondco plc (Plan Company) and its creditors. In doing so, it restated and clarified the law in England and Wales insofar as it relates to restructuring plans. Post-Adler, the High Court has sanctioned a restructuring plan in the case of *In the Matter of Project Lietzenburger Straße Holdco S.A.R.L.* (commonly known as the Fürst case), in which Adler was cited, and others may well follow shortly.

Read more: [Restructuring plans post-Adler: a Jersey law perspective](#)

## A guide to appeals to the BVI Privy Council following lengthy delays to court judgments

Commercial litigation can often seem like a long and expensive process, whether a party is prosecuting or defending a claim.

In a recent New Law Journal article, Shane Quinn looks at recent judgments from the BVI and explores where excessive delays could lead to grounds for an appeal to the Privy Council.

Read more: [A guide to appeals to the BVI Privy Council following lengthy delays to court judgments](#)

## Read the latest from our Ireland team

Don't miss our latest briefings from our Ireland team. These discuss developments, recent judgments and more.

- [Norwich Pharmacal orders in Ireland: helpful clarity from the Irish Courts](#)
- [Preparing your organisation for the Digital Operational Resilience Act \(DORA\) deadline](#)
- [Delaney caught offside in Irish Supreme Court - the Corporate Enforcement Authority v the FAI and John Delaney](#)
- [Major reforms proposed to the planning judicial review process in Ireland](#)

## Focus on fraud and asset tracing: tips for dealing with allegations of fraud

Fraud is, thankfully, rare and suspicions or allegations of fraud are typically as unexpected as they are unwelcome. When allegations are made it is important that directors are equipped to respond quickly and effectively.

This article contains our top tips for how to manage a situation involving fraud or suspicion of

fraud in a fund context.

Read more: [Focus on fraud and asset tracing: tips for dealing with allegations of fraud](#)

## **Ogier succeeds in obtaining a decision that trust funds were not the proceeds of crime**

Ogier in Guernsey successfully assisted Dr Richard Tucker Loero in securing an order from the Royal Court declaring that Dr Tucker Loero's funds held in a trust in Guernsey were not the proceeds of crime, for the purposes of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (the Law).

Read more: [Ogier succeeds in obtaining a decision that trust funds were not the proceeds of crime](#)

## **Snapshot: enforcement against real property in Guernsey - Saisie**

Saisie (meaning "to seize") is a court-driven, Guernsey customary law process, governed by the Saisie Procedure (Simplification) (Bailiwick) Order, 1952. It is a three-stage, post-judgment process which enables a creditor to enforce their rights against the debtor's realty in Guernsey.

The effect of saisie is to vest all of the debtor's realty in Guernsey into the name of the creditor. The entire proceedings can take six to 12 months and place certain burdens on the creditor who initiates them.

Read more: [Snapshot: enforcement against real property in Guernsey - Saisie](#)

[Meet our global Dispute Resolution team.](#)

### **About Ogier**

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

### **Disclaimer**

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

## Meet the Author



Marc Kish

Partner

Cayman Islands

E: [marc.kish@ogier.com](mailto:marc.kish@ogier.com)

T: [+1 345 815 1790](tel:+13458151790)

## Key Contacts



Nicholas Brookes

Partner

British Virgin Islands

E: [nicholas.brookes@ogier.com](mailto:nicholas.brookes@ogier.com)

T: [+1 284 852 7366](tel:+12848527366)



James McDermott

Senior Associate

British Virgin Islands

Ireland

E: [james.mcdermott@ogier.com](mailto:james.mcdermott@ogier.com)

T: [+353 1 584 6324](tel:+35315846324)



Romauld Johnson

Associate

British Virgin Islands

E: [romauld.johnson@ogier.com](mailto:romauld.johnson@ogier.com)

T: [+1 284 852 7387](tel:+12848527387)



Daniel Burkitt

Counsel

British Virgin Islands

E: [daniel.burkitt@ogier.com](mailto:daniel.burkitt@ogier.com)

T: [+1 284 852 7324](tel:+12848527324)



Jennifer Fox

Partner

Cayman Islands

E: [jennifer.fox@ogier.com](mailto:jennifer.fox@ogier.com)

T: [+1 345 815 1879](tel:+13458151879)



Rebecca Findlay

Managing Associate

Cayman Islands

E: [rebecca.findlay@ogier.com](mailto:rebecca.findlay@ogier.com)

T: [+1 345 815 1883](tel:+13458151883)



Duzelle Daker

Senior Associate

Cayman Islands

E: [dunzelle.daker@ogier.com](mailto:dunzelle.daker@ogier.com)

T: [+1 345 815 1782](tel:+13458151782)



Nour Khaleq

Senior Associate

Cayman Islands

E: [nour.khaleq@ogier.com](mailto:nour.khaleq@ogier.com)

T: [+1 345 815 1857](tel:+13458151857)



Harry Clark

Associate

Cayman Islands

E: [harry.clark@ogier.com](mailto:harry.clark@ogier.com)

T: [+1 345 815 1825](tel:+13458151825)





Simon Davies

Partner

Guernsey

E: [simon.davies@ogier.com](mailto:simon.davies@ogier.com)

T: +44 1481 737175



Bryan De Verneuil-Smith

Partner

Guernsey

E: [bryan.deverneuil-smith@ogier.com](mailto:bryan.deverneuil-smith@ogier.com)

T: +44 1481 752357



Sandie Lyne

Partner

Guernsey

E: [sandie.lyne@ogier.com](mailto:sandie.lyne@ogier.com)

T: +44 1481 752224



Justin Davis □□□

Partner □□□

Hong Kong

E: justin.davis@ogier.com

T: +852 3656 6141



Shane Quinn □□

Senior Associate □□□□

Hong Kong

E: shane.quinn@ogier.com

T: +852 3656 6067



Stephen O'Connor

Partner

Ireland

E: [stephen.oconnor@ogier.com](mailto:stephen.oconnor@ogier.com)

T: [+353 1 232 1074](tel:+35312321074)



Maria Edgeworth

Partner

Ireland

E: [maria.edgeworth@ogier.com](mailto:maria.edgeworth@ogier.com)



Leonie Kelly

Head of Sustainable Investment Consulting

Hong Kong

E: [leonie.kelly@ogier.com](mailto:leonie.kelly@ogier.com)

T: [+852 3656 6169](tel:+85236566169)



Paddy Murphy

Managing Associate

Ireland

E: [paddy.murphy@ogier.com](mailto:paddy.murphy@ogier.com)

T: [+353 1 584 6311](tel:+35315846311)



Cian O'Gorman

Associate

Ireland

E: [cian.o'gorman@ogier.com](mailto:cian.o'gorman@ogier.com)

T: [+353 1 584 6766](tel:+35315846766)



Sarah Rogers

Associate

Ireland

E: [sarah.rogers@ogier.com](mailto:sarah.rogers@ogier.com)

T: [+353 1 574 1394](tel:+35315741394)



Eoin McAuley

Trainee Solicitor

Ireland

E: [evin.mcauley@ogier.com](mailto:evin.mcauley@ogier.com)

T: +353 1 237 3088



James Angus

Partner

Jersey

E: [james.angus@ogier.com](mailto:james.angus@ogier.com)

T: +44 1534 514316



Bruce MacNeil

Partner

Jersey

E: [bruce.macneil@ogier.com](mailto:bruce.macneil@ogier.com)

T: +44 1534 514394



Tom Hall

Managing Associate

Jersey

E: tom.hall@ogier.com

T: +44 1534 514443



Jeremy Snead

Partner

London

Cayman Islands

British Virgin Islands

E: jeremy.snead@ogier.com

T: +44 20 3835 9470



Audrey Bertolotti

Partner

Luxembourg Legal Services

E: [audrey.bertolotti@ogier.com](mailto:audrey.bertolotti@ogier.com)

T: [+352 2712 2023](tel:+35227122023)



Olivia Collette

Managing Associate

Luxembourg Legal Services

E: [olivia.collette@ogier.com](mailto:olivia.collette@ogier.com)

T: [+352 2712 2061](tel:+35227122061)



Hélène Arvis

Counsel

Luxembourg Legal Services

E: [helene.arvis@ogier.com](mailto:helene.arvis@ogier.com)

T: [+352 2712 2059](tel:+35227122059)

**Related Services**

Legal

Dispute Resolution

Corporate and Financial Services Disputes

Crypto Disputes

Enforcement of Judgments and Awards

Fraud and Asset Tracing

Funds Disputes

International Arbitration

Section 238 Shareholder Appraisal Rights

Shareholder and Valuation Disputes

Employment law

**Related Sectors**

Restructuring and Insolvency