

Justice in Paradise: A 2023 Retrospective of Bermuda's Legal Sector



In 2023, the world saw a mix of both challenges and progress across several areas. Political landscapes shifted in some regions, while conflicts like the Russo-Ukrainian war remained a focal point of global concern, fresh conflict emerged between Israel and Gaza. Civil society movements amplified calls for dialogue and humanitarian aid in the regions, emphasising the desire for sustainable peace and stability. Technological advancements continued to shape our lives, with AI and automation making strides in industries like healthcare and transportation. However, we also saw instances where AI will need to be carefully managed going forward.

2023 also witnessed a significant royal event - the coronation of a new monarch in the UK. Amidst the geopolitical complexities, this coronation represented a moment of tradition and transition, uniting citizens, and dignitaries in celebrating a new chapter in Britain's history. The juxtaposition of this regal occasion alongside ongoing regional conflicts underscored the diverse narratives shaping the world this year.

Overall, 2023 was a year marked by resilience, adaptation, and ongoing efforts to address the complex issues facing our planet.

We look back at some noteworthy developments unfolded across diverse areas, our expanding team and some of the successes we have achieved for our clients.

This note has been prepared for informational purposes only and is not legal advice. Please contact us if you require advice on matters covered in the summary below.

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BARRISTERS
& ATTORNEYS

OUR TEAM UPDATES



ThoughtLeaders4 FIRE (Fraud Insolvency Recovery Enforcement)

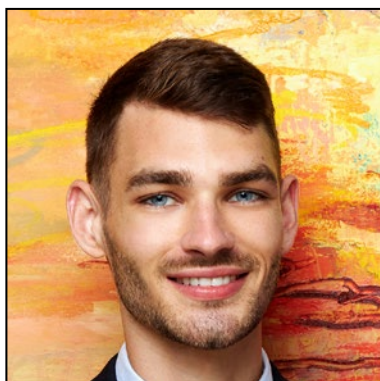
MJM Limited's Arno Duvenhage was the FIRE Starters Future Thought Leaders Essay Competition 1st Runner Up! Arno submitted an award-winning essay entitled 'Think Global & Digital / Follow Climate & Crypto / Act Swiftly'.

The essay was published in the FIRE Starters Essay competition supplement.



Nicole Cavanagh TEP

MJM Limited's Senior Associate, Nicole Cavanagh TEP, successfully completed the Diploma in International Trust Management, and is now a full member of the Society of Trusts and Estates Practitioners (STEP).



Reid Orchard

We were pleased to welcome Reid Orchard to MJM Limited as an Associate. Having completed his pupillage with the firm, Reid has shown himself to be a clever, hardworking lawyer who approaches matters in a practical way to achieve the best results for clients.



Nathalie Ashworth

In September the Dispute Resolution Team welcomed Nathalie Ashworth who joined the team as a Paralegal. Nathalie is a French speaker with six years litigation experience with a focus on contentious trust disputes.

INTERNATIONAL RECOGNITION FOR MJM



Corporate & Finance - Band 2 Dispute Resolution - Band 3

Four individuals ranked and one special recognition.

- Fozeia Rana-Fahy - Band 2
- Jeremy Leese (Head of Corporate & Finance) - Band 2
- Brian Holdipp - Band 3
- Jennifer Haworth (Head of Dispute Resolution Team) - Band 4
- Alan Dunch - Senior Statespeople



"MJM is a well-respected Bermuda law firm. It maintains a commendable litigation practice which is active on broad range of commercial disputes, as well as trust litigation, restructuring proceedings and regulatory mandates. Notable work highlights often see the firm representing Bermudian public authorities and governmental departments, in addition to its work on behalf of globally recognized clients in the financial services industry."

(In relation to the Corporate and Finance Department)



Tier 2 Rankings

Corporate and Commercial
Banking, Finance and Capital Markets
Dispute Resolution

Leading Individual

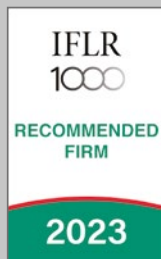
Fozeia Rana-Fahy

Next Generation Partners

Brian Holdipp
Jeremy Leese
Jennifer Haworth



INTERNATIONAL RECOGNITION FOR MJM



Firm at Tier 2

- Brian Holdipp - Highly Regarded (Capital markets, Asset finance)
- Jeremy Leese - Highly Regarded (Banking, M&A, Asset finance)

Chambers
AND PARTNERS

Chambers High Net Worth 2023

- Fozeia Rana-Fahy - Band 2



"Fozeia is great, and strong on trusts."
Offshore Trust Client, Global



"MJM is one of Bermuda's standout independent law firms, with a team that is known for its deep knowledge of the shipping, banking and oil and gas sectors. That team enjoys a strong reputation for its involvement in major restructuring, debt financing and regulatory mandates, and acts for a broad array of clients."

(In relation to the Corporate and Finance Department)

"The MJM team are very capable lawyers in corporate transactions and litigation work."

"The team I work with directly has a good mix of knowledge and expertise."

"Jennifer is a very experienced litigator and is very capable in delivering our instructions before the court." - Dispute Resolution Client, Global



Product and Services Awards

MJM Limited was awarded the Bermudian Legal Services award for 2023.

The Bermudian Service Awards is where the best of what Bermuda has to offer the corporate community, from creative to the culinary, events to employment, technology to transport and everything in between.

Product & Service Awards
2023 WINNER

LEGAL UPDATES

Banking Litigation Summary

MJM continues to be active in banking litigation matters for several well known banking institutions in Bermuda. As 2023 comes to an end, we look back at some of the most interesting and noteworthy cases decided by the Bermuda courts over the course of the past year in which MJM acted.

[Read more](#)

Corporate Income Tax Act 2023

Following rounds of consultation with the public and affected industry stakeholders, the Bermuda Government on 8 December 2023 tabled historic legislation with the laying of the Corporate Income Tax Act 2023 (the "Act").

The corporate income tax rate has been set at 15%.

It will be effective for fiscal years beginning on or after 1 January 2025, providing multinational enterprises time to transition and make the necessary adjustments.

[Read more](#)

The New Economic Investment Residential Certificate

In 2023, the 2021 Economic Investment Certificate and Residential Certificate policies were revised and combined to create a single policy known as the Economic Investment Residential Certificate (EIRC) Policy, which came into effect on 31 March 2023. The EIRC policy provides a pathway for non-Bermudian investors to work and reside in Bermuda indefinitely.

[Read more](#)

Client Earth v Shell – Director duties in the context of climate change

There is a growing global context within which the board of directors of large corporates are starting to be challenged, both in boardrooms and in the courts, concerning company policy and execution surrounding climate change related objectives.

[Read more](#)

The Court of Appeal of Bermuda issues its first ruling arising from the Public Access to Information Act, 2010

On 24 March 2023, the Court of Appeal issued its first ruling regarding the Public Access to Information Act, 2010 ("PATI") and the function of the Information Commissioner, who is charged with administering that legislation.

[Read more](#)

"Fozeia Rana-Fahy of MJM Limited has a broad litigation practice that includes trusts disputes as well as insolvency and corporate cases."

Chambers Global 2023

LEGAL UPDATES

Arbitrating the underlying “matters” to a winding up petition: Privy Council makes seminal ruling

At the end of 2022, we foreshadowed in a prior article this seminal ruling of the Privy Council concerning the broader question whether certain underlying “matters” to a winding up petition could be made subject to arbitration in the context of a shareholder dispute.

[Read more](#)

When will the Bermuda Court grant a stay because of related foreign proceedings?

A common tactical ploy by defendants in international disputes is to argue that whichever court they find themselves before should defer making a decision until a court in another jurisdiction has heard the matter. Sometimes it is just in the hope of putting things off long enough that the Plaintiff abandons the claim, deterred by the delay and costs.

In *Griffin Line General Trading LLC v (1) Centaur Ventures Ltd and (2) Templar Capital Ltd* [2023] SC (Bda) 24 Civ. (31 March 2023) the Bermuda court was asked to grant a stay to allow related proceedings to conclude in South Africa.

[Read more](#)

Testamentary capacity and undue influence. *Stoneham v Fraser* [2020] SC (Bda) 92 Civ. (29 November 2023)

In November 2023 the Supreme Court of Bermuda (Mussenden J) delivered judgment in a case involving testamentary capacity and undue influence in the context of an estates dispute - an area in which we anticipate seeing increased litigation.

[Read more](#)

Northstar Financial and Omnia: An Important Decision Regarding Segregated Accounts in Liquidation Context

On 28 July 2023, judgment was handed down in an application by the joint provisional liquidators (“JPLs”) of Northstar Financial Services (Bermuda) Ltd. and Omnia Ltd. (together the “Companies”) to resolve questions regarding the operation of segregated accounts.

[Read more](#)

Elder abuse in the modern era

The Court is often charged with settling financial disputes among individuals. Regrettably, some of these disputes involve vulnerable members of our society who have undergone various levels of deception or mistreatment at the hands of individuals in a position of trust. Seniors fall victim to financial exploitation in most instances because they take and accept the advice from family members, a confidant, a caregiver, or even a person in a position of authority. Sadly, many of these instances of financial abuse among our seniors go unreported because the senior truly believes that the individual has their best interest at heart.

[Read more](#)

“Senior statesperson Alan Dunch is widely known as one of the most experienced litigation lawyers in Bermuda. He continues to assist clients with contentious employment and trust matters.”

Chambers Global 2023

CORPORATE DEALS

Eurazeo Investment in BMS Group

MJM acted as Bermuda counsel to Eurazeo on its £355 million investment in BMS Group, including a number of BMA-regulated Bermuda companies. Completion of the transaction was announced on 28 September 2023. Eurazeo is a French private equity and venture capital firm listed on Euronext Paris with more than €35 billion in assets under management. BMS Group is a global broker that provides specialist insurance, reinsurance and capital markets advisory services. MJM was instructed on behalf of Eurazeo by White & Case's London office.

Seacrest Petroleo IPO

MJM acted as Bermuda counsel to ABG Sundal Collier and Pareto Securities as managers on the Initial Public Offering of the shares of Seacrest Petroleo. The transaction was announced on 21 February 2023. Seacrest Petroleo is an independent oil and gas production company with offices in Bermuda, Norway and Brazil, and an integrated portfolio of onshore producing oil fields and export infrastructure in Brazil. ABG Sundal Collier and Pareto Securities are leading Nordic investment banks. MJM was instructed on behalf of the managers by Schjødt's Oslo office.

Archer Limited Refinancing

MJM acted as Bermuda counsel to Archer Limited on the refinancing and recapitalisation of its \$600 million term loan pursuant to the company's agreement with its secured lenders and other stakeholders for an overall refinancing solution for the group. The transaction resulted in a new \$260 million first lien facility, \$200 million of new second lien Nordic bonds, conversion of its outstanding convertible bond to equity and a \$100 million privately placed equity raise. The private placement was required as a condition to the refinancing and recapitalisation. Completion of the transaction was announced on 25 April 2023. Archer is a global oil services company providing drilling services,

well integrity and intervention, plug and abandonment and decommissioning. MJM was instructed by Schjødt AS acting as Norwegian and English counsel for Archer Limited.

Himalaya Shipping Ltd IPO

MJM acted as Bermuda counsel to Himalaya Shipping Ltd. on the Initial Public Offering of its shares on the New York Stock Exchange, in which the company raised net proceeds of US\$45.6 million, including the sum raised on the partial exercise by the underwriters of the over-allotment option. Completion of the IPO was announced on 4 April 2023 and completion of the partial exercise of the over-allotment option was announced on 2 May 2023. Himalaya Shipping is an independent dry bulk carrier company with two dual fuelled Newcastlemax vessels in operation and 10 dual fuelled Newcastlemax dry bulk vessels under construction at New Times Shipyard in China expected to be delivered between April 2023 and July 2024. MJM was instructed by Skadden acting as US counsel and Ro Sommernes acting as Norwegian counsel to Himalaya Shipping.

Viking River Cruises Financing

MJM acted for our longstanding client KfW IPEX-Bank in the latest two rounds (now up to loans ten and eleven) of financing of ten new vessels in total for Viking River Cruises, whose structure involves several Bermuda companies as borrowers and guarantors. KfW was security trustee and mandated lead arranger for syndicated senior secured export credit facilities, in aggregate, exceeding €330m.

2023 MJM LIMITED CONTRIBUTIONS TO PUBLICATIONS



Marketing Intelligence
Shipping 2023



Complex Commercial
Litigation Bermuda 2023



Shipping & Offshore
Flipbook 2023



Labour & Employment
Bermuda 2023

All PDF versions of publications are on our website "bookshelf" at www.mjm.bm/bookshelf

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CONFERENCE ATTENDANCE AND CONTRIBUTION

Throughout the year, our private client team has been engaging with clients and members of the local and international business community to share their collective wealth of knowledge, as it relates to complex issues arising for trustees and beneficiaries.

Our attorneys led several informative discussion groups in the local market during 2023, which were well received and provided a proactive and focused approach to problem solving within the trust arena. Trusts in the divorce space and mental incapacity were among the topics covered and both provided for an interesting dialogue between participants.

MJM was an event partner at Informa's Transcontinental Trusts Bermuda Conference 2023 which was held in July. Our Director Fozeia Rana-Fahy co-chaired the event with Jonathan Condor, Basil Zirinis and Natasha Hernandez. Senior Associate Mike Goulborn also spoke at this event on the topic "Protectors - Case Law Developments and Drafting Implications".

Fozeia participated at the Cambridge Forum on International Wealth Disputes in Madrid in October addressing topics such as undue influence and elder abuse in wills and trusts, ethical dilemmas in trust litigation, firewall and protectors.

Fozeia also spoke at the Step Bermuda Conference this November providing a practical and insightful review of trust case law to the trust and estates industry.



Transcontinental Trusts: Bermuda 2023



BARRISTERS
& ATTORNEYS

"Jennifer Haworth has always provided great legal service. She makes complex matters easier for the layman to understand and has great vision."

Dispute Resolution Client, Global

CONFERENCE ATTENDANCE AND CONTRIBUTION



MJM also continues to be an active participant at the International Association of Restructuring, Insolvency & Bankruptcy Professionals (INSOL) events throughout the year. In June, Arno Duvenhage, Dan Griffin and Jennifer Haworth represented the firm at the INSOL Bermuda Seminar. Jennifer was also a speaker at the event on a panel addressing segregated accounts companies generally, but specifically in the insolvency context in light of the Northstar/Omnia case.

Additionally, Jennifer attended the INSOL Cayman Islands Seminar event in November and participated in a panel debate session on the topic of AI: This House believes Artificial Intelligence will replace lawyers in 10 years' time, but never Insolvency Practitioners.



MJM's Corporate and Finance team was equally involved in various events specifically involving the maritime and shipping legal sector. Jeremy Leese and Brian Holdipp were in attendance at the Marine Money's 2023 Ship Finance Forum in New York, the Nor-Shipping conference in Norway and London's International Shipping Week amongst others.



MJM IN THE COMMUNITY



Salvation Army annual food drive

MJM is delighted to continue supporting the important work that the Salvation Army does in the Bermuda community. Staff members donated non-perishable food items to help bring joy and support to those in need during this festive season.

"Feel For Lumps, Save Your Bumps"

A number of MJM's staff led by Jennifer Haworth, Director and Head of the firm's Dispute Resolution Team, took to the streets of Hamilton to partake in the 27th Annual BF&M Breast Cancer Awareness Walk "Feel For Lumps, Save Your Bumps".

For more than two decades, the BF&M Breast Cancer Awareness Walk has united our community in the fight against this deadly disease and funded access to lifesaving screenings, treatment and cancer prevention education.



"We Skipped Work For this"

MJM sponsored and attended The Bermuda Chamber of Commerce's 19th Annual Golf Classic at Belmont Hills Golf Club. It was a great afternoon of fun, networking and competition. A big thank you to all those involved with organising such a superb afternoon.

The Team included MJM's Nicole Cavanagh TEP, De Waal Keet Nigrini, Gabriella Carboneri, ACG, STEP Affiliate and honorary MJM player Benjamin Wylie from Deloitte Bermuda.



MJM's Masterchef

MJM's Hil de Frias joined Fiona Hatfield as the special guest for Season 2 Episode 1: Cooking with Fiona. Hil combined two of his passions: cooking + the law, specifically probate.



MJM IN THE COMMUNITY

JADA ROGERS-INGEMANN **2023 MJM LIMITED SCHOLARSHIP RECIPIENT**



JONATHAN JERVIS
2023 MJM LIMITED BURSARY RECIPIENT

MJM's legal education award

We are pleased to announce that our 2023 legal education awardees are Jada Rogers-Ingemann and Jonathan Jervis. Jada has been selected as MJM Limited's 2023 Legal Scholarship winner and Jonathan Jervis has been granted a bursary.

Jada Rogers-Ingemann was awarded the MJM Scholarship to a value of \$10,000 to support the continuation of her legal studies. Jada is a 2020 graduate of Warwick Academy and is currently enrolled at the University of Kent in Canterbury, England where she has one more year to complete before graduating with both a bachelor's and master's degree in law.

Jonathan Jervis received a \$7,500 bursary from MJM. In 2022, Jonathan achieved a Graduate Diploma in Law from the University of Law, Leeds, England, and he is currently pursuing a dual Legal Practice Course (LPC) and master's in law degree. Jonathan is a graduate of the Bermuda Institute and

Andrews University where he earned a Master of Social Work.

MJM's annual Legal Scholarship is granted to an outstanding Bermudian or Permanent Resident Certificate Holder (PRC) who aspires to enter the field of law and is committed to return to Bermuda to practice. The scholarship is renewable subject to satisfactory academic progress and other conditions, for up to four years.

Update on 2021 **Education Award recipient**

Our 2021 Legal Education Award recipient Seon Tatem was promoted to Assistant Director of Future Leaders Bermuda, a grassroots charity that aims to "empower passionate young leaders and arm them with the skills they need to make a positive impact in Bermuda and the world today".

We are inspired by the contribution Seon and his peers continue to make to Bermuda, and we congratulate each of them on their respective appointments.



MJM IN THE COMMUNITY



Workshop on financial abuse

In October, MJM Limited's Nicole Cavanagh TEP and Tanisha Butler partnered with the Centre Against Abuse to present a free workshop entitled Financial Abuse at Argus Insurance.

Attendees had the opportunity to gain an understanding of how financial abuse can be subtle and yet form part of a wider spectrum of abusive behaviors.

A similar workshop was also held on tech abuse earlier in the year.

Law Student networking event

MJM recently hosted some of Bermuda's aspiring lawyers at our 2023 annual law student networking event. Students made invaluable connections whilst receiving insights from our team members representing various departments that will help them as they advance on their respective career paths to becoming lawyers.

Convex End-to-End 2023

We were proud to continue our annual Gold sponsorship of the Convex Bermuda End to End 2023 event, now in its 36th year of supporting Bermuda's charities to the betterment of our overall community.

Five charities benefited from money raised at this year's Convex End-to-End:

- Bermuda Zoological Society's Microforest Project,
- Gina Spence Productions,
- the Eliza DoLittle Society,
- the Skills Development Programme; and
- Vision Bermuda.



OUR TEAMS

MJM has five core practice areas. Each is led by a Director who is recognised as a leading practitioner in their respective field of specialisation.

Corporate and Finance

JEREMY LEESE, DIRECTOR

We have extensive experience in advising local and international clients on a wide range of corporate transactions and related company law issues. Our team has proven professional skills and has earned a reputation for sound judgment and a practical, commercial approach.

[Read more](#)



Private Client

HIL DE FRIAS, DIRECTOR

We are well-qualified to clients in achieving efficient term estate, succession, and tax planning and/or to philanthropic objectives. Our team is highly experienced and well positioned to give effective advice and implement practical solutions.

[Read more](#)



Property

DENIS DE FRIAS, DIRECTOR

Our Property team is dedicated to assisting with all residential and commercial property acquisitions and sales (freehold and leasehold), mortgages and other property transactions. Our projects and transactions include residential, recreational, resort, industrial, commercial, hotel, office, and retail properties. We also provide practical and reliable advice on complex property issues.

[Read more](#)



Dispute Resolution

MJM provides advice and representation across a broad range of international and Bermuda based disputes. We regularly act in large scale commercial, insolvency and trust litigation cases in the Supreme Court and at appellate levels.

[Read more](#)



JENNIFER HAWORTH,
DIRECTOR



FOZEIA RANA-FAHY,
DIRECTOR

"Always very responsive, knowledgeable and effective."
Corporate & Finance Client, Global



Happy holidays and
a wonderful new year!



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