

Arbitrators

AT 24 LINCOLN'S INN FIELDS



SOPHIA HURST

Sophia's practice spans a range of commercial and commercial chancery disputes, both in arbitration and litigation.

She has particular expertise in civil fraud and asset recovery and is recommended as a Leading Junior in the directories, where she is described as "*incredibly calm, a super clear and succinct drafter, a real team player*" and "*Incredibly dependable*". Sophia's practice also encompasses contractual claims, M&A, joint venture and shareholder disputes, and matters relating to directors/fiduciary duties, banking and finance, and contentious trusts. Examples of her subject-matter expertise are highlighted below. Sophia has experience acting for a broad range of clients across numerous sectors, including major banks, funds, and energy, construction, telecoms and emerging technology companies.

Sophia's practice often involves disputes with an international or cross-border element and she frequently advises on issues relating to jurisdiction (including applicability of arbitration or jurisdiction clauses) and enforcement of awards and judgments. As well as her London-based practice, she has particular experience in the BVI, where she has been called since undertaking a secondment in 2018, and the Middle East, where she has a substantial practice before locally-seated arbitral tribunals as well as the courts in DIFC and ADGM.

Sophia has published articles, delivered seminars and appeared on panels on topics related to her practice, including at ICC FraudNet, and the Private Client Global Elite Rising Leaders' Forum.

Arbitration (including arbitration-related court applications)

Sophia is familiar with the major sets of arbitration rules. She also has experience of obtaining injunctions in the High Court under section 9 of the Arbitration Act 1996 to stay proceedings issued in breach of an arbitration agreement.

Her recent instructions include:

- Acting for the defendant to an LCIA arbitration alleged to have been commenced as a tactical device to delay substantial litigation (including allegations of fraud) against the arbitration claimant. Sophia successfully obtained a rare order for security for costs of the arbitration and a peremptory order when these were unpaid.
- Instructed with Ciaran Keller in an LCIA arbitration in relation to a multi-million dollar dispute regarding the ownership and control of a power plant in Uganda.
- Instructed by the Middle East branch of a major bank in an arbitration relating to failed settlements under the 2002 ISDA Master Agreement.
- Sole counsel in a substantial challenge to the jurisdiction of the arbitral tribunal in a Singapore-seated LCIA arbitration of a US \$60 million joint venture dispute relating to commercial property around the Burj Khalifa, Dubai. Sophia also acted unled in the DIFC First Instance Court and Court of Appeal in related proceedings.
- Acted as part of the counsel team in a substantial UNCITRAL arbitration relating to a contractual dispute in the in the energy and natural resources sector
- *Donna Union Foundation v Koshigi & Ors*: acting for the Receiver appointed by the BVI Commercial Court alongside worldwide freezing orders to support enforcement of an arbitration award.
- Advised on enforcement matters arising out of an ICSID arbitration award in an energy infrastructure investor-state context.

What Others say

Legal 500 UK Bar 2023, Fraud: Civil:

"Incredibly calm, a super clear and succinct drafter, a real team player and available at short notice throughout Covid. Incredibly dependable."

Banking & Financial Services

Sophia has significant academic experience of banking and financial law, having worked at the Law Commission on consumer credit aspects of the Consumer Rights Act 2015, and its project to reform Bills of Sale into 'goods mortgages'. She worked as a research assistant for *Goode and Gullifer on legal problems of Credit and Security* and is the author of a number of articles in Butterworths Journal of Banking and Financial law. She has advised and delivered talks on the legal and regulatory aspects of cryptocurrencies, in which she has a particular interest.

Notable cases include:

- *First Abu Dhabi Bank PJSC v. Larmag Holdings NV* [2019] DIFC CFI 030; [2019] DIFC CA 010: Led by Rupert Reed KC at first instance and on appeal for First Abu Dhabi Bank, this was a significant case in confirming the DIFC's jurisdiction over onshore banks (against whom *Bankers Trust* relief was sought) on the basis that they were recognised by the DIFC regulator, the DFSA, for the sole purpose of trading on NASDAQ

- *Arif Naqvi and Waqqar Siddique v Dubai Financial Services Authority* FMT 21015 and 21018: acted, led by Paul Stanley KC, for the DFSA in relation to Mr Naqvi and Mr Siddique's appeals against regulatory penalties imposed following the collapse of the Abraaj group. The Financial Markets Tribunal upheld the DFSA's decision to fine and prohibit Mr Naqvi, the former CEO of Abraaj, on the basis that he was knowingly concerned in misleading and deceiving investors over the misuse of their funds. The fine, over US \$135 million, was the largest ever issued by the DFSA to an individual to reflect what the FMT described as "exceptionally serious" conduct that caused "unprecedented harm to the entire community of the DIFC".

Civil Fraud & Asset Recovery

Sophia has experience of all aspects civil fraud and asset recovery claims. She has acted (led and unled) for both claimants and respondents in applications for urgent freezing relief, as well as at trial in claims involving fraud and allegations of dishonesty. She often advises on international enforcement and conflict of laws issues.

Recent cases include:

Abu Dhabi Commercial Bank PJSC v Prasanth Manghat: Acting, led by Huw Davies KC, for the defendant former CEO of the NMC Healthcare group, now in administration after the discovery of a \$billion accounting fraud.

WWRT v Carosan Trading Ltd & Kaufman: Acting with Andrew Ayres KC and Nathan Pillow KC, in the BVI Commercial Court and Court of Appeal for claimant assignee of loans assigned from Ukraine's Platinum Bank alleged to have been fraudulently obtained by companies with no genuine commercial activity.

AS World Group Holding Ltd v Sajid Barkat: Sophia acted unled at trial for the claimant events company in claims against its former sole director for breach of contract and fiduciary duty, including claims that the defendant abused a power of attorney, granted to manage the business during the Covid pandemic, to unlawfully enrich himself from company funds. The claimants claims were upheld in full.

Commercial Dispute Resolution

AQR Capital Management LLC & Ors v London Metal Exchange [2022] EWHC 3313 (Comm): led by Paul Mcgrath KC, Sophia acted for the claimant investment companies seeking *Norwich Pharmacal* relief against the London Metal Exchange (LME) following its unprecedented decision to suspend trading on the nickel market and cancel trades entered into on 8 March 2022, causing the claimants losses of c.USD95 million.

Lal & Hennessey v Benton DIFC CFI-005-2021: Sophia acted as sole counsel at trial of a dispute relating to the sale of The Entertainer, a corporate deals and rewards app, to leading Middle East private equity firm GFH Capital, in a \$150 million M&A deal. The claimants, former CEO and CFO of The Entertainer, claimed earnout payments under agreements entered into on termination of their employment. The defendant, former majority shareholder and owner of The Entertainer, counterclaimed alleging that the claimants breached their fiduciary duties by secretly pursuing a management buy-out and disclosing confidential information to would-be purchasers.

Toucan Energy Holdings Ltd & Anr v Wirsol Energy Ltd & Ors [2021] EWHC 895 (Comm): acted (led out of Chambers) for the Claimants in a substantial Commercial Court dispute relating to the financing, construction and sale of 19 solar parks in the UK, including issues around damages for blight and waiver of contractual conditions subsequent.

Weaver & ors v British Airways Plc [2021] EWHC 217 (QB) Sophia acted (with David Blayney KC and Sophie Holcombe) for claimants in a group action against British Airways following the theft of customers' personal data from BA's website and mobile app in 2018. Thought to be the largest ever data breach group action in the English courts, the claim settled on confidential terms.

Commercial Chancery Disputes

Sophia has substantial experience in chancery litigation and commercial disputes with a cross-over element, including shareholder and joint venture disputes, director/fiduciary duties, fraud and trusts.

Company Law

Sophia regularly advises and acts in disputes involving a company law aspect, including M&A disputes, shareholder claims, disputes relating to directors' duties and issues of corporate capacity.

Conflict of Laws & Private International Law

Sophia has a particular interest in private international law and regularly advises on issues of jurisdiction and choice of law, including the applicability of jurisdiction and arbitration clauses and issues of enforcement of awards and judgments.

Notable instructions include:

WWRT v Carosan Trading Ltd & Kaufman: Acting with Andrew Ayres KC and Nathan Pillow KC, in the BVI Commercial Court and Court of Appeal for claimant assignee of loans assigned from Ukraine's Platinum Bank alleged to have been fraudulently obtained by companies with no genuine commercial activity. The Court of Appeal considered whether, on appeal against a finding of *forum non conveniens*, the court could take into account fresh evidence relating to the Ukrainian conflict to consider whether it remained an available or appropriate forum.

O & P Trustee v Q et al BVIHCM 2020/0116: *Public Trustee v Cooper* proceedings to approve a momentous restructuring of two BVI trusts containing assets over USD 500 million. The case raised novel issues as a rare application to enforce non-money judgments – being family court orders in relation to child surrogacy arrangements. The case provided the first reported judgment examining the common law principles of reciprocity and whether they apply to family matters in BVI, as well as making new BVI law in refusing to recognise the surrogacy orders as contrary to the public policy of the BVI.

IPCom GmbH & Co KG v Vodafone Group Plc [2019] EWHC 1255 (Pat): Acted for Vodafone, led by Prof. Jonathan Harris KC (hon), in a jurisdiction challenge made under Article 30 of the Brussels Recast Regulation in a telecommunications intellectual property dispute.

Offshore Litigation

Sophia is familiar with the challenges of cross-border disputes. She is regularly instructed in commercial, trusts and asset-tracing matters arising in or involving the offshore jurisdictions, with particular experience in BVI, Cayman Islands, Channel Islands, and DIFC/ADGM.

Private Client and Trusts

Sophia has substantial experience of contentious trusts matters, particularly in a cross-border context, and has advised in relation to trusts in all the major trusts jurisdictions including England and Wales, Jersey, Guernsey, BVI, Cayman, Bermuda, Cyprus and the Isle of Man. She also acts for HNW and UNHW individuals in private wealth disputes.

Career

Sophia was called to the Bar in England & Wales in 2014, in BVI in October 2018 and registered as an advocate in the DIFC in September 2019.

She is an elected Main Committee member of the Chancery Bar Association, and a member of ComBar, R3 (the Association of Business Recovery Professionals) and ConTrA (the Contentious Trusts Association). Sophia also sits on the Bar Council Regulatory Reform Working Group.

Education

2021: MA French Studies, University of London (Birkbeck) (Distinction)

2014: BPTC, University of Law (Outstanding)

2008-2012: BA (Jurisprudence), Brasenose College, University of Oxford (First class)

2013: BCL, Brasenose College, University of Oxford (Distinction)

2010: *Licence droit*, Université Paris II Panthéon-Assas (*mention*)

Publications

Decrypting Conflict of Laws (Journal of International Banking and Financial Law, (2023) 3 JIBFL 158)

Book review: Charles Kerrigan, *The Financing of Intangible Assets: TMT Finance and Emerging Technologies* (2020) 8 JIBFL 572

Big Data, Coronavirus and Cryptocurrencies: The Changing Face of Fraud Legal Week May 2020

Languages

English – native.

French – business proficient.