

## CURRICULUM VITAE

**NAME:** John Ross McDonough

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**DATE OF BIRTH:** 25<sup>th</sup> September 1962

**EDUCATION:**

- University of Glasgow, Scotland

**QUALIFICATIONS AND ADMISSIONS:**

- LL.B Degree – University of Glasgow 1983
- Diploma in Legal Practice – University of Glasgow 1984
- Admitted as a Solicitor in Scotland 1986
- Admitted as a Solicitor in England 1989
- Admitted as an Attorney at Law in the Cayman Islands 1994
- Admitted as a Solicitor in the British Virgin Islands 2009
- Registered as a Foreign Lawyer Hong Kong 2015

**EMPLOYMENT HISTORY:**

**Wilde Sapte, London, England**

- Solicitor – 1992 to 1994

**Campbells, Cayman Islands**

- Attorney - Associate and then Partner -1994 to date

**WORK EXPERIENCE:**

From 1992 until 1994 employed by Wilde Sapte (now Denton Wilde Sapte), in its banking litigation group. Work load involved all aspects of banking and insolvency litigation including:

- professional negligence claims – surveyors and solicitors
- claims under guarantees
- constructive trust claims
- tracing claims

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- breach of mandate claims
- fraud related claims
- cheque conversion claims
- claims under letters of credit
- enforcing security

From November 1994 to date as an associate attorney and then partner (2000) with Campbells, George Town, Grand Cayman. Now Senior Partner and Managing Partner of the firm's Hong Kong office. Advising and acting in the following areas:

- **Insolvency** – including procedural issues and litigation arising from corporate restructuring, provisional liquidations, receiverships and liquidations.
- **Mutual and Hedge Funds** – including disputes relating to the formation, operation and winding up of funds.
- **Trust Litigation** – including acting for trustees, protectors and beneficiaries in all types of trust disputes
- **Investigations and asset tracing** – including international fraud and money laundering and dealing with any legal proceedings arising.
- **Registration and enforcement of foreign court orders and judgments** - including issues concerning jurisdiction and applicable law.
- **Advice on and defence of domestic and foreign regulatory enquiries and prosecutions** – including enquiries and prosecutions relating to issue of, dealings with and transfers of stocks and securities, alleged money laundering and RICO offences.
- **Banking** – including account collection, inter-bank disputes concerning documentary credits, guarantees, set off and liability to account holders and third parties.

**REPORTED CASES**

Appeared as counsel in a number of reported cases before the Grand Court, Court of Appeal and Privy Council including:

- **In re Hall 1994-95 Cayman Islands Law Reports (“CILR”) 456** – application for recognition of a United States Trustee in Bankruptcy to recover assets located within the Cayman Islands, the action also involved interim asset freezing relief.
- **Marada Global Corporation v Marada Corporation 1994-95 CILR** – an action for recognition of a receiver appointed by a United States Court; acted for victims of a fraud in the United States tracing the proceeds of fraud to assets situated within the Cayman Islands.

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- **In re Ontario Securities Commission 1994-1995 CILR** – application for recognition of letters rogatory from a tribunal in Ontario, Canada seeking evidence from witnesses in the Cayman Islands.
- **Tartaglia v Colonial Development Corporation Ltd & Walker 1996 CILR N4**– application for recognition of foreign judgment.
- **J.P. Morgan & Co v Collins et al 1996 CILR N5**– action to trace and recover the proceeds of fraud held within the Cayman Islands; Mareva injunction granted and varied.
- **Laager v Kruger 1996 CILR 361** – action to enforce a Swiss judgment in the Cayman Islands; application to vary a Mareva Injunction to allow payment of legal and living expenses.
- **Webb v Webb 1996 CILR 26** –application to enforce a charging order over Judgment Debtor’s interest in jointly owned property.
- **Laager v Kruger 1996 CILR N2** – application in relation to discovery in aid of Mareva injunction.
- **Laager v Kruger 1996 CILR N2** - application in relation to use of information obtained on discovery for use in foreign proceedings and the extent of the implied undertaking.
- **Kruger v Governor 1997 CILR 73** – extradition proceedings and judicial review of decision to authorize proceedings.
- **Laager v Kruger and Kruger 1997 CILR 311** – application in relation to use of information obtained on discovery and the extent of the implied undertaking.
- **In the Matter of Kruger 1997 CILR 424** – acted in the largest personal bankruptcy case ever to be brought before the Courts in Cayman involving numerous issues of Cayman bankruptcy law.
- **Banco Provincial International N.V. v Windsor Investments Ltd 1997 CILR 390** – acted for the liquidators of a large Venezuelan bank in proceedings involving the determination of the effect of security interests created under Venezuelan law on shares in a Cayman Islands’ company and enforcement of a foreign default judgment.
- **British American Bank v Whittaker 1997 CILR 480** – acted for a secured creditor in an important decision in relation to procedures to be followed when enforcing security over land in the Cayman Islands.
- **In re Global Opportunity Fund 1997 CILR N7**– acted for minority shareholders in a Cayman Islands hedge fund in the winding up of the fund, the assets of which had been depleted by fraud committed by the investment manager. Other issues dealt with included a contested application for removal of liquidators.
- **Gray v Royal Bank of Canada 1997 CILR N10** – acted for the curator of the estate of a foreign mental patient; successfully obtained recognition and enforcement of his appointment in the Cayman Islands.

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- **Laager v Kruger 1997 CILR N10** – enforcement of a foreign judgment; application to restrain enforcement on grounds of procedural unfairness in the Courts of the foreign country.
- **Banco Economico S.A. v Allied Leasing & Finance Corporation 1998 CILR 92; 102; 292; 333 Grand Court; 2000 CILR 118 Court of Appeal** – acted for provisional liquidators and liquidators of Cayman Islands subsidiaries of a large Brazilian bank in an extremely complicated cross-border liquidation which was described as a "mini BCCI".
- **In Re Transnational Insurance Company Ltd. 1998 CILR 114 (Grand Court); 1999 CILR 207 (C. of A.); 2001 2WLR 1202; 2001 A.C. 328 (Privy Council)** – successfully acted at all stages of the action (including acting as lead counsel before the Privy Council, Cayman's highest appeal court) for the liquidator of an American re-insurance company which made a claim in the liquidation of a Cayman Islands re-insurance company. The action involved issues of interpretation of a retrocession agreement governed by New York law, conflicts of law, Cayman Islands insolvency law and re-insurance law, including the question of whether a claim for incurred but not reported losses could be made in the Cayman Islands liquidation.
- **In re Transworld Bank and Trust Company Ltd 1999 CILR 237** – acted for majority creditors in the liquidation of a bank on a contested application to remove liquidators which was successful; subsequently acted for replacement liquidators.
- **BankAmerica Trust and Banking Corporation (Cayman) Ltd v Transworld Telecom Holdings Ltd & Hellenic Telecommunications Organisation S.A. 1999 CILR 110** – acted for a party to an arbitration agreement and successfully obtained a stay of Cayman Islands proceedings pending determination of the issues between the parties by arbitration in Geneva, Switzerland.
- **Omni Securities Ltd v Deloitte & Touche and Others 1997, 1998, 1999, 2000, 2001 CILR** – acted for the Swiss parent company of a Cayman subsidiary company in a substantial auditors' negligence case.
- **In Re Kruger 2000 CILR N11** – acted on an issue of contractual construction.
- **In the Matter of the Q Trusts 2001 CILR 481** – acted on a trustees' directions application seeking the Court's approval of a resettlement of the capital of the trust.
- **In Re Inverworld Limited 2001 CILR N3** – contested application to bring a voluntary liquidation under the control of the Court.
- **Attorney General v Carbonneau and Hartog 2003 CILR 129** – acted on an application for return of funds overpaid as a result of attorneys' negligence.
- **Banco Mercantil v Peniche 2003 CILR 343** – successfully resisted an application for summary judgment for enforcement of a Mexican judgment for 60 million pesos.
- **Schramm v Financial 2004-5 CILR 39 and 104 (Court of Appeal)** – acted on an application to restore a dissolved company to the Companies Register.

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- **In re Fortuna Development Corporation 2004-5 CILR 197** – acted for Inspectors appointed to a substantial group of companies.
- **ATC (Cayman) Ltd v Rothschild Trust Cayman Ltd 2006 CILR 73** – successfully acted for a successor trustee of a Cayman trust in a dispute with the former trustee to obtain control of the trust assets.
- **In re Bancredit Cayman Ltd 2007 CILR 46** – acted for the Central Bank of the Dominican Republic in contested proof of debt proceedings.
- **In re Basis Yield Alpha Master Fund 2008 CILR 50** – acted for Morgan Stanley Australia Ltd successfully opposing orders sought by Cayman liquidators for discovery of documents and interrogation of witnesses.
- **Merren v Cayman National Bank 2008 CILR 428** – acted for the Bank at first instance and in the Court of Appeal in relation to the debtor’s subsequent unsuccessful appeal against the grant of summary judgment on a disputed debt claim.
- **Strategic Turnaround Master Partnership v Culross 2008 CILR 447 (Court of Appeal); 2009 CILR N13 (Court of Appeal); 2010 UKPC 33; 2010 (2) CILR 364 (Privy Council)** – acted for the successful petitioning shareholder/investor in contested winding up proceedings in the Grand Court, Court of Appeal and Privy Council. Landmark decision developing and clarifying Cayman Islands law in relation to the status of a redeeming shareholder in a hedge/mutual fund.
- **TNT NV v Logispring GP LP 2009 CILR 456** – acted for the General Partner in a dispute in relation to the appointment of a liquidator to a Cayman Islands exempted limited partnership.
- **Camulos Partners Offshore Limited v Kathrein and Company 2010 (1) CILR 303** – acted for shareholder/investor in a Cayman Islands hedge fund who petitioned to wind-up the fund on just and equitable grounds.
- **ATC (Cayman) Limited v Rothchild Trust Cayman Limited 2010 (2) CILR 388** – acted for a successor trustee in a dispute regarding handover of trust assets and reimbursement of outgoing trustees’ costs.
- **Cayman National Building Society v Cranston 2011 (1) CILR 67** – acted for a building society in an important application to clarify procedures which required to be adopted by mortgagees applying to enforce their security.
- **In the Matter of Heriot African Trade Finance Fund Ltd 2011 (1) CILR 1** – acted for a shareholder in a Cayman hedge fund who successfully sought a winding up order on the just and equitable ground as a result of loss of the fund’s substratum and loss of confidence in management.
- **Heriot African Trade Finance Fund Ltd v Deutschbank (Cayman) Ltd 2011 (1) CILR 34** – acted for a shareholder in a mutual fund who had obtained an order for the winding up of Cayman hedge fund on the just and equitable ground in resisting an application for a stay of the winding up

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pending an appeal and in obtaining an order for security for the shareholder's costs of the appeal.

- **Medley Opportunity Fund Limited v Fintan Master Fund Limited and Natural Nominees Limited 2012 (1) CILR 360** – acted for a shareholder in a Cayman Islands hedge fund in a dispute as to the validity of a side letter containing terms relevant to the shareholder's rights of redemption of its shares.
- **In the Matter of FIA Leverage Fund 2012 (1) CILR 248** – acted for the successful petitioners who sought the winding up of a hedge fund on the grounds that the company was unable to pay its debts by virtue of its failure to pay redemption proceeds. The fund argued that it had paid the redemption proceeds by tendering certain assets by way of an in specie redemption. This was the first case in which the Cayman Court had had to consider this issue and found in favour of the petitioners who successfully argued that the assets tendered did not provide value equivalent to the redemption amount owed to it.
- **In the matter of RE X Limited 2012 (1) CILR 407** – acted for a hedge fund which was served with a winding up petition and was successful in obtaining the dismissal of the petition, its removal from the Court register and orders for costs against the petitioners.
- **In the matter of Acorn Intl. Inc. 2015 (1) CILR N[6]** – acted for Chinese based telemarketing company which was the subject of a winding up petition brought by a group of shareholders on the just and equitable basis.
- **Asia Pacific Ltd v ARC Capital LLC (C.A.) 2015 (1) CILR 27** – acted at First Instance and in the Court of Appeal for the successful petitioner which was a shareholder in a quasi-partnership company which was wound up on the just and equitable basis.
- **In the matter of Lancelot Investors Fund Ltd 2015 (1) CILR 328** – acted at First Instance and in the Court of Appeal for the liquidator of a hedge fund which was a feeder fund into a master fund which was the subject of the second largest Ponzi scheme in US history. Successfully resisted an appeal against a rejection of a proof of debt which was based on an unenforceable "side letter" executed by the company's investment manager.

**EXPERT WITNESS APPOINTMENTS**

Appointed as an expert witness on Cayman law on numerous occasions in proceedings before Courts and Tribunals in several jurisdictions. Engaged by the Liquidators of BCCI to give expert evidence of Cayman law in numerous cases.

**AWARDS AND ACCOLADES**

Ranked in Band 1 of Attorneys for Offshore : Dispute Resolution – Asia-Pacific Region in Chambers & Partners Global 2016.

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Ranked in Band 1 of Attorneys in the Cayman Islands for Dispute Resolution in Chambers & Partners Global 2015 (and in previous editions).

Named Lawyer of the Year by the Cayman Islands Recovery and Insolvency Specialists Association ("RISA") for 2013.

Named Litigation Lawyer of the Year 2013 in the Finance Monthly Global Awards 2013.

Named Cayman Islands' Insolvency and Restructuring Lawyer of the Year 2009 for the Cayman Islands in a poll conducted by World Finance Magazine.

Listed in the Experts Guides published by the International Financial Law Review as an expert in the area of Insolvency and Restructuring.

Listed in the International Who's Who of Insolvency & Restructuring Lawyers.

Listed in The Practical Law Guide as recommended for Restructuring and Insolvency and Dispute Resolution.

**PROFESSIONAL AFFILIATIONS**

Member of the Cayman Islands Law Society and the Caymanian Bar Association

Honorary Overseas Member of the Commercial Bar Association (COMBAR)

Member of the Association of Contentious Trust and Probate Specialists

Member of the Association of Business Recovery Professionals

Member of the Insolvency Lawyers Association

Member of INSOL

Member of American Bankruptcy Institute

Notary Public of the Cayman Islands