

William Frain-Bell



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William Frain-Bell has acted as counsel in a broad range of disputes before courts and tribunals throughout the UK and abroad. He is also a Chartered Arbitrator and accredited CEDR Mediator. He is ranked Tier 1 for Commercial Litigation in the latest edition of the Legal 500 (2019) which describes him as **"Excellent in court; a joy to work with."**

"Highly regarded for his expertise in rural property and agricultural disputes" (Chambers UK, 2014), "The impressive William Frain-Bell of Terra Firma Chambers excels in the farming and rural property realm. He also has a great deal of experience in international arbitrations". **"He is outstanding."** (Chambers UK, 2013).

Biography

William was educated at Loretto School (where he is a current Governor) before taking an MA at St Andrews University, followed by an LLB at Aberdeen University. He qualified as a solicitor with Tods Murray WS before calling to the Bar in Scotland in 1999. In 2000 William was also called to the Bar of England & Wales (Middle Temple) and is a member of Thomas More Chambers in London. He is a Fellow of the Chartered Institute of Arbitrators and a Chartered Arbitrator.

Since calling to the Bar, William has appeared in both the UK Supreme Court and the Privy Council, the Inner and Outer Houses of the Court of Session, the High Court of England & Wales, the Sheriff Court, the Scottish Land Court, the Upper Tribunal (Tax and Chancery Chamber), the First Tier Tribunal (Employment and Immigration) and before arbitration Tribunals in the UK and internationally. William has particular experience appearing as counsel for both claimants and respondents in construction related disputes in the Middle East and has a good working knowledge of the UAE Civil Code. He is spearheading, with others, the launch of Faculty of Advocates Arbitration and its online arbitration service platform.

William is currently instructed as junior counsel in an investor state arbitration (expropriation claim) brought by a listed Indian infrastructure engineering company against the State of Mauritius.

A keen rally navigator, sailor and skier, William has sailed across the Atlantic Ocean and keeps a Folkboat in Crinan. He holds a Motorsport UK international cross-country rally licence and in 2019 was second in class in the Africa Eco Race from France to Dakar in Senegal. He is also a member of the Faculty of Advocates Yacht Club.

Appointments

Ad hoc Advocate Depute

Junior Junior to Office of the Advocate General (Home Office)

Board Member of Faculty of Advocates Dispute Resolution Service (FDRS)

Chartered Arbitrator
Chartered Institute of Arbitrators (CI Arb) Approved Faculty List Tutor
Visiting Lecturer/Tutor in International Arbitration - Aberdeen University
Panel Member of the CI Arb President's list of approved arbitrators (Scottish branch)
Accredited Mediator (CEDR)
Governor of Loretto School
Diploma in Blockchain Strategy from the Said Business School, University of Oxford

Memberships

Fellow of the Chartered Institute of Arbitrators (FCI Arb)
PG Dip. International Commercial Arbitration - QML
Probationary Member of the Central Association of Agricultural Valuers (CAAV)
Member of Thomas More Chambers (London)
Member of the Faculty of Advocates Council

Recent Cases

Supreme Court/Privy Council

Multi-Link Leisure Developments Ltd v North Lanarkshire Council [2010] UKSC 47 - Junior Counsel in an appeal regarding the interpretation of an option to purchase clause in a lease of land intended to be used as a golf course. The court held that the local authority landlord was entitled to have regard to the "hope value" of the golf course when assessing its full market value. Due to the fact that planning development meant that possible purchasers of the golf course would include developers interested in acquiring the land for housing development, the potential market value was considerably increased.
Peerthum v The Independent Commission Against Corruption and the Commissioner of Police of Mauritius [2014] UKPC42 - Counsel for the Commissioner of Police in appeal from the Supreme Court of Mauritius relating to challenges regarding the Constitutional powers of the respondents in Mauritius in relation to the arrest of public officials for alleged criminal offences.

Court of Session/High Court

Khaled Zahid v Duthus Group Investments Ltd and HRH Prince Turki Bin Mugrin Al Saud [CA112/16] - Junior Counsel for the pursuer in an ongoing commercial court action for repayment of the US\$1m deposit paid in anticipation of the purchase of the Middle East office of global architectural design practice RMJM.

The Scottish Ministers v Ronnie Decker and others - Junior Counsel (to the Dean of Faculty) in ongoing petition for recovery of assets brought by the Scottish Ministers against a former employee of a company identified as being a major VAT carousel money laundering operation. Successfully argued before the Inner House for the case to be restored to the rolls following summary decree finding by the Lord Ordinary. The matter is awaiting proof.

R (on the application of RA) v the Director of Public Prosecutions [2017] 2 Costs L.R. 323 - Counsel for the Claimant in an application for judicial review following the failure by the DPP to make a charging decision against him in relation to an alleged tax avoidance vendor finance scheme in the pharmaceutical industry. The delay prevented the Claimant's business from being floated on the stock market. Following the application, no charges were brought and the Claimant recovered his costs from the DPP.

Simon Butler v British Association of Snowsports - Junior Counsel in a judicial review petition raised by a UK national ski-instructor in France, denied official recognition as such by his Scottish based professional body, BASI. The case involved multiple references to EU law and the employment rights of citizens of one member state in another.

The Scottish Ministers v Russell Stirton and others [2012] CSOH 15 - Junior Counsel for Russell Stirton in the longest recovery of assets proof to have been held in the Court of Session. The respondents were Glasgow businessmen whose assets had been frozen on the basis that their

income was unlawfully obtained.

Scottish Land Court

Messrs Gray & Co (Muirfield) v The Scottish Ministers [SLC/204/04] - Counsel for the Applicant in an action seeking to overturn a decision by the Scottish Ministers to reduce the Applicant's SAPS payments, as a result of erroneous information being submitted by him. The court found in favour of the Applicant on the basis that whilst he was expected to state the correct animal figures, it was nevertheless possible to see a reasonable explanation for the error in the valuation figure in this case.

Upper Tribunal (Tax and Chancery Chamber)

Stewart Ford and Mark Owen v The Financial Conduct Authority [FS/2014/005] Advised the former CEO of Keydata Investment Services Ltd, Stewart Ford in relation to his appeal to the Upper Tribunal, following the imposition of the largest ever fine by the FCA on an individual (£75m), following the collapse of a leading UK investment product distributor.

Merlin Scientific LLP v HMRC [2015] UK FTT Junior Counsel in a VAT appeal before the Upper Tribunal determining the relationship between home office use with hotel facilities and corporate entertainment. The FTT found that there had been no free supplies of business entertainment by the taxpayer.

Arbitrations (as Counsel)

Junior Counsel in US\$150m investor-state dispute (India and Mauritius) under the UNCITRAL Rules.

Junior Counsel in US\$200m shipping dispute (Contract of Affreightment) under the rules of the SIAC.

Counsel for the claimant in AED200m non-payment/EOT application dispute in the DIAC.

Counsel for the claimant in US\$2m breach of contract claim relating to the sale and distribution of mobile phones in Hong Kong under the rules of the LCIA.

Advised claimant in respect of a proposed ICSID claim (denial of justice) as a result of failures in the legal system of the Slovak Republic.

Acted for the claimant in a property development dispute under the Scottish Arbitration Rules.

Acted for the claimant in a dispute involving the construction of a farm building under the Scottish Arbitration Rules.

ICSID Arbitration - Cambodia Power Company v The Kingdom of Cambodia [ICSID Case No. ARB/09/18] - Junior counsel for the claimant in a US\$250m power supply dispute.

DIAC Arbitration - Counsel for the successful claimants as sole counsel in an AED250m unfair termination arbitration relating to the construction of a twin-tower block in Dubai.

DIAC Arbitration - Seconded deputy to law firm (Pinsent Masons) international arbitration partner in an AED60m arbitration involving the quality of the construction of the largest structure of its kind in the world.

DIAC Arbitration - Counsel acting for the successful purchaser claimant in respect of an AED8m dispute with a master developer relating to the construction of a villa development in Dubai.

DIAC Arbitration - Counsel for the successful developer claimant in respect of proceedings with a value of AED12.5m concerning the sale of properties of land in Dubai. Thereafter acted for the claimant in UK High Court enforcement proceedings.

DIAC Arbitration - Counsel for the claimants in an AED15m dispute against a developer in respect of breach of contractual obligations leading to contract termination.

Arbitrator appointments

Appointed as sole arbitrator by the Scottish Branch Panel in an arbitration involving a family jewellery business (dispute settled soon after appointment) under the Scottish Arbitration Rules.

Appointed as sole arbitrator in a dispute regarding the sale of concrete by a Swiss company to a Cameroon company. Subject to the Arbitration Act 1996.

Appointed as sole arbitrator in a dispute regarding a shipping demurrage dispute. Subject to the

Arbitration Act 1996.

Appointed Chairman of panel of 3 arbitrators in DIAC arbitration regarding payment dispute in relation to the hiring and usage of construction plant hire machinery.

International courts and tribunals

Cayman Islands Grand Court

R v Wm. McKeever Bush OBE, Grand Court Cayman Islands (23/2013) - Junior Counsel in the successful defence of the former Premier (Prime Minister) of the Cayman Islands on 11 counts of misconduct in public office.

Wm. McKeever Bush OBE v Commissioner of Police David Baines OBE, Duncan Taylor CBE and the Attorney General of the Cayman Islands - Junior Counsel in ongoing action brought by the former Premier of the Cayman Islands against the Islands' Commissioner of Police, Governor and Attorney General for: (i) malicious prosecution; (ii) conspiracy to commit misfeasance in a public office; and (iii) conspiracy to injure.

Alden McLaughlin v Wm. McKeever Bush OBE - Junior Counsel for the defendant in an ongoing libel action brought by the current Premier of the Cayman Islands against the former Premier, Mr Bush, following statements made by Mr Bush that he had been removed from office as a result of an undemocratic plan orchestrated by the claimant and others.

Kurt Scott v Caribbean Utility Co Ltd - Counsel for a US national claimant in a multi-million personal injury claim, following an explosion at work that left the claimant with life changing disabilities, including severe burns and psychiatric illness. Worked with medical experts in the US and UK. Case settled prior to trial.Dubai World Tribunal

Greenfield Trading C v FZC v Nakheel PJSC (DWT/0038/2011) - Junior Counsel for the successful claimant in claim for economic loss following the defendant's employee's negligent misrepresentation in relation to the suitability of land in Dubai for a resort hotel complex. Believed to be the first decision of its kind under the UAE Civil Code.

Diamond Developers v Nakheel & Jumeirah Village LLC (DWT/0019/2010) - Counsel for the successful claimant in landmark first full trial held before the Dubai World Tribunal. Ruling required Nakheel to finalise agreement to credit in excess of US\$8m in down payments on two islands in The World Development to seven plots of land in Jumeirah Village.

The World LLC v Kleindienst Properties Limited (DWT/0031/2011) - Counsel for the defendant in the defence of contractual dispute with claim value in excess of US\$200m and counterclaim of value in excess of US\$60m.

The World LLC v Penguin Marine Boat Services (DWT/0008/2011) - Counsel for the defendant in defence of claim relating to payment of license fees in respect of The World Development and counterclaim in excess of AED80m for breach of warranties. Proceedings are ongoing.

David John Nicholson v Nakheel PJSC (DWT/0015/2011) - Counsel for the successful claimant (the former General Counsel of Nakheel) in an employment dispute involving his former employer.

Chris O'Donnell v Nakheel PJSC (DWT/0035/2011) - Counsel for the claimant (the former CEO of the world's one-time largest property developer) in an employment dispute (claim value in excess of US\$3.5m) involving his former employer.

Shokat Mohammed Dalal v The World LLC and Nakheel PJSC (DWT/0023/2010) - Counsel for the claimant in a dispute between a high net worth individual and the master developer of a development of man-made islands.