

**Judgment 37/2004**

**Dinning v. Ferbrache et al (Ozannes) – Royal Court (Civil action file 817) – 2 September, 2004**

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**Action in tort – defendant’s application that Ozannes, a firm of advocates, be restrained from acting for the plaintiffs in the substantive action – knowledge gained by advocate acting for a partner of the defendant in matrimonial proceedings – review of concepts of breach of confidence and misuse of private information – restraint order granted.**

**IN THE ROYAL COURT OF GUERNSEY**

The 2nd day of September, 2004 before Andrew Christopher King Day, Lieutenant Bailiff; sitting alone.

IN THE MATTER OF

GILLIAN SARAH DINNING

Applicant

and

PETER TERENCE RICHARD FERBRACHE  
and others (the partners in Ozannes, Advocates)

Respondents

WHEREAS on 5<sup>th</sup> August 2004 the Lieutenant Bailiff considered an application for an injunction restraining the Respondents from advising or acting for IFS Investments Limited in proceeding issued against the Applicant and heard thereon advocates R. J. Collas and J. E. Roland counsel for the Applicant and Respondents respectively. The Lieutenant Bailiff this day GAVE JUDGMENT in the terms attached hereto and: -

- 1) ORDERED that Advocate P. T. R. Ferbrache and all the named Respondents be restrained from acting for IFS in the proceedings against the applicant;
- 2) ADJOURNED the matter of costs.

S. M. D. ROSS  
Her Majesty’s Deputy Greffier

**IN THE ROYAL COURT OF GUERNSEY**  
**(Ordinary Division)**

**Between:**

**GILLIAN SARAH DINNING**

**Applicant**

**- v -**

**PETER TERENCE RICHARD FERBRACHE and**  
**others (the partners in Ozannes, Advocates)**

**Respondents**

**Judgement of Day LB on the Applicant's application for an injunction restraining the Respondents from advising or acting for IFS Investments Limited in proceedings issued against the Applicant.**

**Advocate R J Collas appeared for the Applicant**

**Advocate J E Roland appeared for the Respondents**

**Hearing date: 5<sup>th</sup> August 2004**

**Judgement handed down: 2<sup>nd</sup> September 2004**

**Cases referred to:**

Havelet Holdings Ltd v Ozannes R.Ct. 12/03/1998

Perrot et al v Beetle Holdings et al Guernsey Cof A (Civil 325) 10/04/2003

Credit Suisse (Guernsey) Ltd v Perrot and others R.Ct. 13/8/2003

Prince Jefri Bolkiah v KMMG (a firm) [1999] 1 AER 517

Attorney General v Guardian Newspapers (No.2) [1990] AC 109 (“Spy Catcher”)

A v B plc [2003] QB 195

Campbell v MGN Ltd [2004] 2 WLR 1232

Hosking v Runtin [2004] NZ CA 34

Coco v AN Clark (Engineers) Ltd [1969] RPC 41

Prince Albert v Strange (1849) 2 De G & Sm 293

Cockram v Loyalty Brokers R.Ct . 15/06/1992 13 GLJ 1

1. This application arises from what can only be described as bitter and substantial litigation (“the substantive litigation”) instituted in the early part of this year by IFS Investments Limited (“IFS”) against four Defendants, Manor Park (Guernsey) Limited, Manor Park Guaranteed Investment Funds Limited, Alan Williams (in effect the principal of the first two Defendants) (together “the Manor Park group”) and the Applicant. This litigation in turn follows earlier litigation in the second half of 2003 instituted by the first two Defendants against IFS and other associated parties, which was settled in November 2003. The institution of the substantive litigation has already given rise to a number of applications being made by the Applicant, and judgments being given by this Court.
2. The background to the substantive litigation, and the issues involved therein, have previously been extensively reviewed, and may be found by reference to the judgements of this Court on 22<sup>nd</sup> April and the 11<sup>th</sup> June 2004 (in respect of “privacy” and “strike out” applications respectively, and under the heading IFS Investments Limited v Manor Park and Others). For present purposes I say little about that litigation. At the heart of it lies commercial rivalry, between what I would call the principal parties, in the business of fund management, not least in connection with Norwich Union International Ltd (“NUIL”). It is clearly highly lucrative business. The litigation involves allegations of conspiracy to commit economic torts, and the commission of the torts themselves. Damages as presently estimated amount to £32m. The Applicant’s involvement relates to her alleged impugned conduct whilst acting as legal adviser to the other three Defendants in late 2003 and early 2004. She is an advocate and partner in the firm of Carey Olsen and a shareholder in Carey Olsen Trust Company (Guernsey) Limited (“COTC”).
3. The Applicant’s complaint against Advocate Peter Ferbrache and his partners (though for reasons which will become clear is essentially against Mr Ferbrache himself) is summarised in her Cause filed, I think, in early March 2004. The substantive proceedings were themselves first filed on the 5<sup>th</sup> of March, 2004, though the Defendants were aware of the terms of that Cause slightly earlier. The application is in the following terms:-

*“Gillian Sarah Dinning.....”*

#### **ACTIONS**

*Peter Terence Richard Ferbrache ( and ten other partners) practising together as “Ozannes” of 1, Le Marchant Street, St Peter Port (hereinafter called “the Respondents”) TO SEE the Court make an order as set out below in the following circumstances.*

1. *The Applicant is a partner in the firm of Carey Olsen and shareholder in Carey Olsen Trust Company (Guernsey) Limited.*
2. *On behalf of IFS Investments Limited, Ozannes have issued proceedings against Manor Park (Guernsey) Limited, Manor Park Guaranteed Investment Funds Limited, Alan Williams and the Applicant seeking various remedies including damages in the sum of €32,000.000.00 (“the IFS Action”). Advocate Peter Ferbrache is the partner responsible for the conduct of the IFS Action.*
3. *Advocate Ferbrache has also been acting since in or about October 2001 on behalf of Advocate John Greenfield in relation to Advocate Greenfield’s divorce. In the course of Advocate Greenfield’s divorce proceedings, Advocate Greenfield has disclosed to Advocate Peter Ferbrache confidential information relating to the financial affairs of Carey Olsen and Carey Olsen Trust Company Limited as a result of which Advocate Peter Ferbrache has access to confidential information regarding the finances of the Applicant.*
4. *The nature of the information disclosed by Advocate Greenfield to Advocate Peter Ferbrache is such that Advocate Peter Ferbrache is able to assess accurately the income, shareholding and liabilities of each of the Carey Olsen partners in relation to Carey Olsen and Carey Olsen Trust Company Limited. Furthermore, as the matrimonial proceedings are ongoing Advocate Greenfield is under a continuing duty to give disclosure and thus to provide further information to Advocate Peter Ferbrache.*
5. *The Respondents intend, unless restrained by the Court, to continue to act in the IFS Action thereby exposing the Applicant to a real risk of disclosure or misuse of confidential information relating to her.*

*AND the Applicant claims:-*

*An injunction restraining the Respondents from advising or acting for IFS Investments Limited in proceedings issued against the Applicant.*

*AND the Applicant claims the costs hereof on a full indemnity basis or on such other basis as the Court has been pleased to order.”*

4. The basic factual matrix to this application is not in dispute, and can be simply summarised. Mr Ferbrache acts (and has acted for approaching three years) for Mr Greenfield in the latter’s matrimonial proceedings – Mr Greenfield being a partner of the Applicant in Carey Olsen and also a shareholder in COTC. Mr Ferbrache is the partner in

Ozannes having the principal responsibility for the conduct of the IFS litigation, as was confirmed by Miss Roland during the course of argument (I should add that Miss Roland is not a partner in Ozannes though employed by them). I should also add, in passing, that Miss Roland confirmed, as requested by Mr Collas, that Mr Greenfield has now also objected to Mr Ferbrache acting for IFS against the Applicant, for what that is worth. That much, at least, is agreed.

5. The Applicant is concerned in this way. Mr Ferbrache, so the argument runs, has extensive information concerning the finances of Mr Greenfield which have been imparted to him in confidence for the purposes of the matrimonial proceedings (which information may well be increased and/or amended because of Mr Greenfield's on-going duty to give financial disclosure). Self evidently Mr Ferbrache must have considerable knowledge, by inference, of the financial affairs of the Applicant in respect of her interests in Carey Olsen and COTC. Whilst there is no client relationship between Mr Ferbrache and the Applicant, and never has been, the knowledge which Mr Ferbrache must have gained of the Applicant's affairs is confidential to her and she is therefore entitled to have it protected against disclosure. If that information is relevant to the substantive litigation, Mr Ferbrache has a duty to inform IFS of it, with the potential for its use. That would amount to misuse of private information, which can and should be restrained by this Court.
6. The position of the Respondents is equally simple. The duty regarding confidentiality which the courts will seek to protect is the continuing duty to a former or existing client, a category into which this Applicant demonstrably does not fall. Furthermore, Mr Ferbrache has no information confidential to the Applicant, and even if he did it could not be relevant to the substantive litigation.
7. The first issue ("the first issue") which arises in this case is, to the best of my understanding, novel as far as this jurisdiction is concerned. I think it can be stated in this way. On the premise that Mr Ferbrache is in possession of information concerning the confidential – or I would prefer to say private – financial affairs of the Applicant, does he have a duty, compliance with which can be legally enforced, not to disclose that information regardless of the fact that he has had and has no professional relationship with the Applicant? The further issues which arise are, secondly, is that premise correct and, thirdly, is that information relevant to the substantive litigation?
8. I have been referred to three local cases – Havelet, Perrot and Credit Suisse - in which the duties of Advocates to existing or former clients have been closely examined on their

particular facts. In those circumstances, they provide little direct assistance with regard to the first issue.

9. The facts in Perrot were that an advocate, who had had the conduct of and relevant information in relation to seven matters, moved to a new firm who acted for the opposition and wished to continue to do so. The case essentially revolved around the adequacy or otherwise, in its particular circumstances, of undertakings offered by the migrating partner and his new partners, and the sufficiency or otherwise of “Chinese walls” or other special measures, to eliminate any real risk of inadvertent disclosure by the migrating partner of confidential information about his former clients. Those considerations can have no application in this case, as Mr Ferbrache’s position is clear. He has the principal conduct of the IFS litigation and he proposes to continue to have it unless restrained by this Court. There is no suggestion of his stepping aside, immunised within a *cordon sanitaire* to allow one of his partners to take over conduct of the case.
10. Nevertheless, it is instructive to note, I believe, that in Perrot, the Court of Appeal adopted the legal principles which it considered relevant to the facts of that case as those expounded by Lord Millet in Prince Jefri (at para 7 of Southwall J A’s judgement). The Court’s jurisdiction to intervene on behalf of a former client seeking an injunction against a professional is stated to be not any conflict of interest, nor to avoid any perception of possible impropriety, but solely if intervention is necessary to protect the former client against the use or disclosure of information confidential to the former client, which arises from the continuing duty owed by the professional to the former client to preserve the confidentiality of such information and not to misuse it. Such continuing duty is unqualified and is a duty to keep the information confidential, not merely to take all reasonable steps to do so, and not to misuse it.
11. I turn to the English jurisprudence with regard to the duties imposed by law to protect confidential or private information against disclosure, absent any contractual relationship. Because of its authoritative nature, I believe this jurisprudence to be highly persuasive in an area of its common law which has clearly been developing, and necessarily developed, in recent years, much of which development predates the enactment of the Human Rights Act, 1998, though such development has been accelerated by it. It is true that the more recent authorities are concerned with resolving the conflict between confidentiality and the freedom of the press (Spy Catcher, the unfaithful footballer A v B, the famous drug-addicted model, Campbell), but they provide, I believe, invaluable guidance in respect of the first issue in this case.

12. I turn immediately to Campbell. In the very simplest terms, the facts in that case (as taken from the head note) were that the claimant, an internationally famous fashion model, had courted publicity, had volunteered information to the media about her private life and had stated publicly, but falsely, that she did not take drugs. The defendant newspaper, the Mirror, published articles which disclosed her drug addiction and the fact that she was receiving therapy through a named self-help group, gave details of group meetings she attended and showed photographs of her in the street as she was leaving a group meeting. The claimant sought damages against the newspaper for breach of confidentiality. She accepted that the newspaper was entitled to publish the fact of her drug addiction and the bare fact that she was receiving treatment, but alleged that the newspaper had acted in breach of confidence by obtaining and publishing the additional details of her therapy at the group meetings and the photographs, which had been taken covertly.
13. It was that additional confidential or private information which was at stake in the case, and whether or not it was sufficiently peripheral and insignificant so that its publication would not amount to a breach of the duty of confidence. This in turn required the necessary balance to be struck between the legitimate need to protect the disclosure of information, which is confidential, as against the public interest in the dissemination of information, such conflicting factors now being in England and Wales firmly based, because of the 1998 Act, upon the conflicting articles of the Convention, that is Article 8 (respect for private and family life) and Article 10 (freedom of expression). In the event, Morland J gave judgement for the claimant, the Court of Appeal allowed the newspaper's appeal unanimously, and the House of Lords (by a majority of 3 : 2 – Lords Nicholls of Birkenhead and Hoffman dissenting) allowed the claimant's appeal and restored the judge's order.
14. Lord Hoffmann said (at para 36) their Lordships were divided as to the outcome of the appeal, the difference of opinion relating to a very narrow point which arose on the unusual facts, but the importance in the case lay in the statements of general principle on which their Lordships were effectively unanimous.
15. Lord Nicholls examined the concepts of breach of confidence and misuse of private information under English law. He stated (at paras 11 – 14):-

*“Breach of confidence: misuse of private information*

11. *In this country, unlike the United States of America, there is no over-arching, all-embracing cause of action for ‘invasion of privacy’: see Wainwright v Home Office [2003] 3 WLR 1137. But protection of various aspects of privacy is a fast developing area of the law, here and in some other common law jurisdictions. The recent decision of the Court of Appeal of New Zealand in Hosking v Runtin (25 March 2004) is an example of this. In this country development of the law has been spurred by enactment of the Human Rights Act 1998.*
12. *The present case concerns one aspect of invasion of privacy: wrongful disclosure of private information. The case involves the familiar competition between freedom of expression and respect for an individual’s privacy. Both are vitally important rights. Neither has precedence over the other. The importance of freedom of expression has been stressed often and eloquently, the importance of privacy less so. But it, too, lies at the heart of liberty in a modern state. A proper degree of privacy is essential for the well-being and development of an individual. And restraints imposed on government to pry into the lives of the citizen go to the essence of a democratic state: see La Forest J in R v Dymont [1988] 2 SCR 417, 426.*
13. *The common law or, more precisely, courts of equity have long afforded protection to the wrongful use of private information by means of the cause of action which became known as breach of confidence. A breach of confidence was restrained as a form of unconscionable conduct, akin to breach of trust. Today this nomenclature is misleading. The breach of confidence label harks back to the time when the cause of action was based on improper use of information disclosed by one person to another in confidence. To attract protection the information had to be of a confidential nature. But the gist of the cause of action was that information of this character had been disclosed by one person to another in circumstances ‘importing an obligation of confidence’ even though no contract of non-disclosure existed: see the classic exposition by Megarry J in Coco v A N Clark (Engineers) Ltd [1969] RPC 41, 47-48. The confidence referred to in the phrase ‘breach of confidence’ was the confidence arising out of a confidential relationship.*
14. *This cause of action has now firmly shaken off the limiting constraint of the need for an initial confidential relationship. In doing so it has changed its nature. In this country this development was recognised clearly in the judgment of Lord Goff of Chieveley in Attorney-General v Guardian Newspapers Ltd (No 2) [1990] 1 AC 109, 281. Now the law imposes a ‘duty of confidence’ whenever a person receives information he knows or ought to know is fairly and reasonably to be regarded as confidential. Even this formulation is awkward. The continuing use of the phrase ‘duty of confidence’ and the*

*description of the information as ‘confidential’ is not altogether comfortable. Information about an individual’s private life would not, in ordinary usage, be called ‘confidential’. The more natural description today is that such information is private. The essence of the tort is better encapsulated now as a misuse of private information.”*

16. And as Lord Hoffman said (at paras 44 - 48):-

*“44. But although the action for breach of confidence could be used to protect privacy in the sense of preserving the confidentiality of personal information, it was not founded on the notion that such information was in itself entitled to protection. Breach of confidence was an equitable remedy and equity traditionally fastens on the conscience of one party to enforce equitable duties which arise out of his relationship with the other. So the action did not depend upon the personal nature of the information or extent of publication but upon whether a confidential relationship existed between the person who imparted the information and the person who received it. Equity imposed an obligation of confidentiality upon the latter and (by a familiar process of extension) upon anyone who received the information with actual or constructive knowledge of the duty of confidence.*

*45. Thus the cause of action in Prince Albert v Strange was based upon the defendant’s actual or constructive knowledge of the confidential relationship between the Prince Consort and the printer to whom he had entrusted the plates of his etchings. It was not essential that the information should concern the Prince’s family life or be in any other way personal. Any confidential information would have done. Nor was it essential that the defendant should have intended widespread publication. Communication to a single unauthorised person would have been enough. Many of the cases on breach of confidence are concerned with the communication of commercially valuable information to trade rivals and not with anything that could be described as a violation of privacy.*

*46. In recent years, however, there have been two developments of the law of confidence, typical of the capacity of the common law to adapt itself to the needs of contemporary life. One has been an acknowledgement of the artificiality of distinguishing between confidential information obtained through the violation of a confidential relationship and similar information obtained in some other way. The second has been the acceptance, under the influence of human rights instruments such as article 8 of the European Convention, of the privacy of personal information as something worthy of protection in its own right.*

47. *The first development is generally associated with the speech of Lord Goff of Chieveley in Attorney-General v Guardian Newspapers Ltd (No 2) [1990] 1 AC 109, 281, where he gave, as illustrations of cases in which it would be illogical to insist upon violation of a confidential relationship, the “obviously confidential document...wafted by an electric fan out of a window into a crowded street” and “the private diary... dropped in a public place.” He therefore formulated the principle as being that*

*“a duty of confidence arises when confidential information comes to the knowledge of a person....in circumstances where he has notice, or is held to have agreed, that the information is confidential, with the effect that it would be just in all the circumstances that he should be precluded from disclosing the information to others.”*

48. *This statement of principle, which omits the requirement of a prior confidential relationship, was accepted as representing current English law by the European Court of Human Rights in Earl Spencer v United Kingdom (1998) 25 EHRR CD 105 and was applied by the Court of Appeal in A v B plc [2003] QB 195, 207. It is now firmly established.”*

In A v B, (at p. 207B) Lord Woolf stated the principle enunciated by Lord Goff as being – “*a duty of confidence will arise whenever the party subject to the duty is in a situation where he either knows or ought to know that the other person can reasonably expect his privacy to be protected.....*”.

17. Lord Hoffman, in Campbell then continued to examine the second “*more subtle*” development in the law of confidence, deriving in part from Article 8 of the Convention and the enactment of the Human Rights Act. “*What the human rights law has done*” Lord Hoffman continued (at para 50) “*is to identify private information as something worth protecting as an aspect of human autonomy and dignity*”; and proceeded to discuss issues necessarily germane to the facts in Campbell, but not to those in the instant case.

18. Finally, Baroness Hale of Richmond cited (at para 134) the statement by Randerson J in the New Zealand case of Hosking (also referred to by Lord Nicholls) that:-

*“(the English Courts) have chosen to develop the claim for breach of confidence on a case by case basis. In doing so it has been recognised that no pre-existing relationship is required in order to establish a cause of action and that an obligation of confidence may arise from the nature of the material or may be inferred from the circumstances in which it has been obtained”.*

19. If, therefore, Mr Ferbrache is in receipt of private information with regard to the Applicant (and I deliberately use the description “private” in preference to the traditional one of “confidential”), then it seems to me that the English authorities are clear that an initial confidential relationship is not necessary to establish the duty to respect the private nature of the information and to found an application to restrain its disclosure. With the humblest respect, I consider that to be the law of this Bailiwick. It is, indeed, the position stated in Perrot, adopting the principles enunciated in Prince Jefri, albeit without a contractual context or a professional conflict of interest.
20. The premise, however, (the second issue) was that Mr Ferbrache was in possession of information relating to the Applicant, and that that information could be properly described as private. I think I am entitled to assume that an advocate who is involved in matrimonial proceedings will make full and proper disclosure of his assets and liabilities, including those arising from any business in which he is involved. Inevitably, the imparting of that information to his counsel must, albeit indirectly, give the recipient some idea, at least, of the financial interests of his business partners. I am thus satisfied that Mr Ferbrache is in possession of information relating to the Applicant. That information must by its very nature be personal and therefore private to the Applicant, and confidential in the sense referred to by Lord Goff – it is not generally accessible to the public. In that regard I specifically reject Miss Roland’s submission that much information about the Applicant’s assets might be obtained by perusal of the public records. Further, I am satisfied that when Mr Ferbrache received information he knew or ought to have known it was fairly and reasonably to be regarded as private. Misuse of that information can therefore, in principle, be restrained.
21. If that information to which Mr Ferbrache is privy is relevant to the substantive litigation, he has a duty to disclose it to IFS. Is it? (the third issue).
22. As is conceded by Mr Collas, as it must be, that information which Mr Ferbrache has can, strictly, have no relevance to establishing the liability, or otherwise, of the Applicant in respect of the charges against her. Nor can it have any relevance to any subsequent argument as to quantum. It could, however, be relevant to any decision as to enforcement against any defendant whose liability has been established (that, again, is at least agreed).
23. Of much more significance, in my view, and as Mr Collas argued, is the use to which knowledge of the Applicant’s financial partnership affairs might play in the general conduct of the litigation and in any negotiations between the parties. This is an intangible factor. It is not just a question of what use of the information might, or might not, be

made by IFS. It is equally, in my assessment, a question of the potential uncertainty on the part of the Applicant as to whether or not that private information is in fact being used to inform the conduct of the litigation or the negotiations. It must also be remembered that such information might reveal either financial strength or weakness. And the ongoing duty of disclosure by Mr Greenfield in the matrimonial proceedings might provide a changing picture of the value of the firm and the trust company. As Mr Collas said, the impact of the litigation might be revealed.

24. Mr Ferbrache has deservedly earned a widespread reputation for being one of the leading civil litigation counsel in Guernsey, with advanced tactical skills to guide its conduct (see, for example, Silver Falcon). I certainly would not wish to impugn Mr Ferbrache's integrity in any way, nor appear to be doing so. But I have become deeply uneasy at the propriety of Mr Ferbrache continuing to act, in all the circumstances of this case.
25. Initially, (at the end of January this year), IFS sought to injunct the first two Defendants alone. Those proceedings were in early course terminated at the direction of this Court, but as a result of them certain information was required to be, and was, provided, not least by the Applicant. Subsequently, the Appellant was joined as a defendant in the substantive litigation (as was the third Defendant). The essential allegations in those proceedings against the Applicant are that she exceeded the proper parameters in which counsel should act for a client, and thus became personally involved.
26. There are – there certainly have been – unpleasant undercurrents to this litigation. I have referred to them on previous occasions and in previous judgements. I repeat just two.
27. I have had occasion to review the correspondence between counsel encompassing the period from 20<sup>th</sup> January to the 1<sup>st</sup> April 2004. The inference of one theme of that correspondence, which Mr Collas has previously submitted I could draw, was that IFS was seeking to bring pressure to bear on the Applicant, by the threat of being publicly exposed to litigation. In that way, she might persuade her former clients, (the first three Defendants) to produce for NUIL what they requested, to enable IFS to advance their fund business with them. That was also alluded to in the substantive Cause (paras 33 and 34). That, it was argued, amounted to an unworthy collateral purpose for instituting the proceedings against the Applicant. That allegation was, of course, strenuously denied by Ozannes; and in due course I discounted it, for the purpose of the earlier “strike out” proceedings.

28. Secondly, in late 2003 COTC was engaged by the second Defendant to provide the administrative and other services which had previously, since 2001, been provided for the second Defendant by an entity, IFSG, associated with IFS. That change of administrators was part and parcel, it seems, of the commercial fall out of the principal parties and their aborted litigation, in 2003. That fact has been deliberately referred to in the substantive Cause against the four Defendants (at para 22). It raises the issue (which can also be seen in the correspondence) as to whether IFS impliedly alleges that it attributes significance to the Applicant's financial interest in the well-being of the first, and particularly, second Defendant. The inference is that if the Manor Park Group were able to replace IFS in providing fund management services for NUIL (part of their bitter rivalry), the financial benefits to the Group could be very considerable, which in turn could be of advantage to COTC.
29. It is, perhaps, peculiar that IFS should raise that matter, as it could only be counter productive. It has enabled Mr Collas to make the point, in the previous "strike out" proceedings, that the substantive Cause identified two motives for the Defendant's conduct. This, potentially, would destroy any argument that, with regard to the allegation of unlawful conspiracy to injure, the predominant purpose of the Defendants was to injure IFS, as opposed to concurrently advancing their own self interests.
30. These examples of undercurrents in this litigation are not referred to so as to provide any assessment of their validity, rather merely to note their existence. The impression is created, whether by innuendo or otherwise, and however shadowy, of unworthy motives financial or otherwise. It is also public knowledge, not least by virtue of their public advertising campaigns, that both Ozannes and Carey Olsen consider themselves to be major commercial enterprises, with major commercial practices, and the local leaders in commercial litigation. It is not unworthy to think that those firms themselves are in fierce competition.
31. Whilst it has to be admitted that there is no immediately obvious way in which any private information Mr Ferbrache has with regard to the financial affairs of the Applicant can be relevant to the substantive litigation, I consider that its potential influence is more intangible and insidious. The fact that it may, at some time or times, during the course of this litigation impact to a greater or lesser extent on the position of the parties cannot be discounted. It seems to me that the wiser policy is to eliminate that possibility, which I certainly regard as more than fanciful, now and not have to address the problem again later.

32. No argument has been advanced that this is a case, as hypothetically alluded to by Carey DB in Cockram, where, because of the size of the local bar, to deprive a litigant of his existing advocate might deprive him of legal representation altogether. Nor, as already stated, has any argument been advanced that suitable Chinese walls or other protective measures, coupled with appropriate undertakings, might be put in place to afford suitable protection to the Applicant. That could only start to be considered if Mr Ferbrache were prepared to stand aside. Clearly, he does not propose to do so unless otherwise restrained.
33. On balance, I think the Applicant is entitled to the relief which she seeks. I therefore uphold her application. All the named Respondents are restrained, as well as Mr Ferbrache, from advising or acting for IFS in the proceedings against the Applicant.
34. I will hear applications as to costs.