

**Judgment 41/2009**

**Manches LLP v Inter Global Financial Ltd – Royal Court –  
9 September 2009**

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**Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957 – application to register a judgment originally granted in a County Court in England and Wales which had been transferred to the High Court for enforcement – held that, for the purpose of the 1957 Law, the judgment was one of "a Superior Court" – registration granted**

**IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY  
(ORDINARY DIVISION)**

**Civil**

**BETWEEN:-**

**Manches LLP**

**Judgment Creditor**

**- and -**

**Inter Global Financial Limited**

**Judgment Debtor**

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**ORDER**

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**BEFORE LIEUTENANT BAILIFF FINCH** sitting alone on the 9<sup>th</sup> day of September, 2009.

**IN THE MATTER OF** an application dated 19 August 2009 tabled by the Judgment Creditor seeking the registration of a judgment of the English High Court in the Royal Court of Guernsey.

**UPON HEARING** Advocate S H Davies for the Judgment Creditor on the 21<sup>st</sup> day of August, 2009

**AND UPON READING** Advocate Davies' Skeleton Argument and Written Submissions and the authorities bundles attached thereto

**IT IS HEREBY ORDERED THAT:**

1 Pursuant to section 4 of the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957 (as amended) ("**Law**"), a judgment of the English High Court of Justice, Queen's Bench Division

dated 20 March 2009 awarded in favour of the Judgment Creditor against the Judgment Debtor (“**Judgment**”) be registered in the Royal Court of Guernsey.

- 2 Pursuant to Rule 8(1) of the Royal Court Civil Rules, 2007, and Rule 7(1)(b) of the Judgments (Reciprocal Enforcement) (Guernsey) Rules 1972, as amended (“**Rules**”), leave be granted to effect service of a Notice of Registration of the Judgment (in the form annexed at Schedule 1 hereto) (“**Notice**”) outside of the jurisdiction in the manner more particularly described below.
- 3 Pursuant to Rule 7(1)(b) and Rule 7A(1) of the Rules, the Notice is served by way of substituted service by the Judgment Creditor or their appointed agents by delivering the Notice to, and leaving the Notice at, the Judgment Debtor’s registered office situated at 36 Gore Road, London, SW20 8JL, United Kingdom.
- 4 Pursuant to Rule 4 of the Rules, the period within which an application may be made to set aside the registration must be made within 21 days from the date of service of the Notice, and that the Judgment Creditor will not seek to the enforce the Judgment until the expiration of that period.
- 5 Costs reserved until twenty-one days from the date of service of notice of the registration. If an application is made to set aside the registration in that period, the costs will be considered in the light of any decision made on such an application; if no such application is made then the question of costs is to be referred in writing.

The whole in accordance with the Judgment handed down this 9<sup>th</sup> day of September, 2009.

**Lieutenant Bailiff J.R. Finch**  
**This 9<sup>th</sup> day of September 2009**

## Schedule 1

### NOTICE OF REGISTRATION

TO: **Inter Global Financial Limited (the “Judgment Debtor”)**

Notice is hereby given that the following judgment (the “**Judgment**”) has been registered in the Royal Court of Guernsey such that the Judgment may be enforced against your assets (if any) sited in the Bailiwick of Guernsey.

The Judgment is a claim for non-payment of unpaid invoices for the period 30 September 2007 to 29 October 2008 inclusive in respect of legal services provided by Manches LLP (the “**Judgment Creditor**”) to the Judgment Debtor. The Judgment Creditor entered judgment against the Judgment Debtor on 4 December 2008 in the Mayor’s and City of London County Court, such judgment having been transferred to the English High Court of Justice, Queen’s Bench Division on 20 March 2009.

The Judgment Creditor believes that the Judgment Debtor maintains a bank account at the Royal Bank of Scotland International (Guernsey Branch) (the “**Bank**”) and has accordingly applied to the Royal Court of Guernsey to have the Judgment registered such that the Judgment can be enforced against the assets (if any) held at the Bank or elsewhere in the Bailiwick.

The name and address of the Judgment Creditor’s Advocate is Advocate Simon Davies, Ogier, Ogier House, St Peter Port, Guernsey, GY1 1WA. Any summons issued by the Judgment Debtor may be served at this address for the attention of Advocate Simon Davies.

The Judgment Debtor has the right to apply to have the registration set aside, such application to be made within 21 days of the date of service of this notice of registration.

**IN THE ROYAL COURT OF GUERNSEY  
(ORDINARY DIVISION)**

**Between**

**MANCHES LLP**

**Judgment  
Creditor**

-and-

**INTER GLOBAL FINANCIAL LIMITED**

**Judgment  
Debtor**

**Case heard on: 21<sup>st</sup> August 2009**

**Decision handed down: 9<sup>th</sup> September 2009**

**Before: John Russell FINCH Esquire, Lieutenant-Bailiff**

**Cases referred to:**

*In the matter of the Application of Hardwick [1995] JLR 245*

*Kreisky (trading as Video Vision Broadcast) v Stapleford Flying Club Limited [1990-92] MLR 236*

*Flightlease Holdings (Guernsey) Limited v Flightlease (Ireland) Limited Royal Court, Judgment 3 of 2009*

**Statutes referred to:**

The Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957;  
The Judgments (Reciprocal Enforcement) (Jersey) Law, 1960;  
The Judgments (Reciprocal Enforcement) (Isle of Man) Act, 1968;  
The Foreign Judgments (Reciprocal Enforcement) Act, 1933

**Decision on Registration of Judgment**

**Background**

1. On 21<sup>st</sup> August 2009, as part of the list of cases in the Ordinary Court, I heard an application by Advocate S H Davies to register an English judgment. It was (to put it shortly) a County Court judgment transferred to the High Court for the purposes of enforcement. There was concern on my part about the ability of the Ordinary Court to register the judgment, so I requested written submissions and authorities from Advocate Davies. (The Judgment Debtor did not appear and was not represented). The written submissions were duly received on 28<sup>th</sup> August, 2009 and I have considered them and the original application. The papers, as one would expect from Advocate Davies, are comprehensive and cogently set out.
2. For the purposes of this decision, I take the view that it suffices to say that the relevant legislation is the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957. This enables,

subject to various safeguards, judgments of “*Superior Courts*” outside the Bailiwick to be registered and enforced within this jurisdiction. The relevant courts in England and Wales are the “*House of Lords, Court of Appeal and the High Court of Justice*” (Schedule to the Law). A County Court therefore does not fall within the ambit of this definition.

3. The problem (as was very properly pointed out in the original application), is an authority from the Royal Court of Jersey – *IN THE MATTER OF THE APPLICATION OF HARDWICK [1995] JLR 245*. It should be noted that the other Islands, Jersey and the Isle of Man, have legislation in identical terms to Guernsey. In *HARDWICK*, Bailhache Bailiff held that a judgment originally made in the Leeds County Court and transferred to the High Court for the purpose of execution, was not the judgment of a “*Superior Court*”. The transfer of the judgment from the County Court to the High Court was for a “*specific and internal purpose, that is to say for the purpose of execution*”. In addition, the legislation referred to “*the original court*”, which is defined as “*in relation to any judgment means the court by which the judgment was given*” (Section 1(i) of the Law). The Bailiff of Jersey held that the judgment had been given by the County Court. Accordingly, the original order of the Deputy Judicial Greffier was set aside and the Order could not properly be registered in Jersey. This case, although not binding upon the Guernsey Royal Court, is plainly of persuasive authority and has to be considered respectfully. It was that decision, allied to a reading of the legislation, that caused doubts in my mind.
4. The additional submissions reveal a case from the Isle of Man, *KREISKY (trading as VIDEO VISION BROADCAST) v STAPLEFORD FLYING CLUB LIMITED [1990-92] MLR 236*. This decision was to the opposite effect from *HARDWICK* and I am urged to apply it. It should be noted that it is an appellate judgment of the Staff of Government Division, upholding the Deemster’s decision in the Common Law Division. It was not, it seems, cited or referred to in the Jersey case. Here the judgment of the Westminster County Court was transferred to the High Court to be registered for enforcement in the Isle of Man. Deemster Corrin at first instance decided that there was no magic in the use of the word “*given*” in the Statute:

*“It is quite simply a very suitable and appropriate verb to describe the method of the declaring of a judgment and so long as the document which arrives in the Island from another country can be labelled correctly and legally as a judgment issued by the Superior Court, that seems to me to be sufficient for the purposes of the 1968 Act.”*

This quote was cited and approved at page 240 in the judgment of Hytner JA. The conclusion of that judgment (page 242) was:

*“Having considered the matter with anxious care, we have come to the conclusion that a construction which meant that a judgment transferred from the County Court to the High Court in England and becoming for all purposes of enforcement a High Court judgment, entitled “In the High Court of Justice in England”, an interpretation saying that that was not, for the purposes of Manx legislation relating to enforcement, a judgment of the High Court of England would be wrong.”*

### **The Present Application**

5. The document relied upon is annexed to the affidavit of Mr Newman. It is a “*Certificate under Section 10 of the Foreign Judgments (Reciprocal Enforcement) Act, 1933*”. Underneath one finds the further heading:

*“In the High Court of Justice  
Queen’s Bench Division  
Master Rose  
Claim No. HQ09X00529”.*

6. It refers to a judgment obtained in the Mayor's and City of London Court. That Court transferred the action to the High Court by order dated 4<sup>th</sup> February, 2009 for the purposes of reciprocal enforcement. The Master signed the Certificate on 13<sup>th</sup> March 2009. The County Court's documents are all stamped with their own seal and also that of the Supreme Court. As indicated, there is a High Court action number assigned. To all intents and purposes there is no appreciable difference between this set of circumstances and those set out in the Jersey and Isle of Man cases. The amount we are concerned with is £42,474.84 and the details of the action can be found in the affidavit of Mr Matthew Tilson in the original application.

## Decision

7. In the HARDWICK case, reference was made to Section 42 of the Country Courts Act, 1984. Subsection (5)(b) states that where a County Court judgment or order is transferred for the purposes of enforcement to the High Court, it shall be treated as a judgment or order of the High Court "for all purposes". Bailhache Bailiff stated that the argument that this had transformed the County Court judgment into a High Court judgment "may well be right as a matter of English Law, but we are concerned with the question of whether such a judgment can be registered in Jersey under the 1960 Law". In my respectful judgment, more deference should have been afforded to the wording of the English statute, which although a matter of English law, cannot be brushed aside.
8. However, it suffices for the purpose of this decision to state that I prefer the Isle of Man approach. It is comforting to know that this was a decision on appeal and it might be thought possible that the Jersey case would have been augmented had the decision been cited in argument. The document I am asked to consider is headed "*In the High Court of Justice*", has an action number and is stamped with the seal of the Supreme Court. Some further comfort can be reaped from observations of Southwell JA in the Guernsey case of FLIGHTLEASE HOLDINGS (GUERNSEY) LIMITED v FLIGHTLEASE (IRELAND) LIMITED, Royal Court 14<sup>th</sup> January, 2009, referred to in Advocate Davies' new bundle. At paragraph 85(7) of that judgment is found the conclusion that:

*"Guernsey, as a significant centre for financial services of many kinds needs to develop its commercial law in ways that provide just solutions in the relatively complex situations which arise....."*

This was a liquidation matter, but the principle is germane in this application. It seems to me preferable to follow the Isle of Man approach and reject the somewhat mechanistic decision in the Jersey case. This has the added virtue, always welcome in civil matters, of common sense.

9. I agree with the submissions of the Judgment Creditor and the application to register the judgment is granted. The safeguards in the legislation exist should the Judgment Debtor wish to invoke them. For the sake of completeness, notice of the registration may be served as set out in the Application. Counsel is requested to prepare a draft order in accordance with this decision.

## Costs

10. Reserved until twenty-one days from the date of service of notice of the registration. If an application is made to set aside the registration in that period, then costs will be considered in the light of any decision made on such an application; if no such application is made then the question of costs is to be referred to myself in writing.

## J R FINCH