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Recent developments in worldwide freezing orders – the decisions in *Lakatamia*, *Gilbert* and *Petrichor*

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The worldwide freezing injunction order (WFO) is one of the most formidable weapons in the arsenal of English civil litigation. Famously described in the case law as one of the law's "*nuclear weapons*", it operates *in personam* to restrain a defendant – and, in certain circumstances, third parties – from dealing with or dissipating assets anywhere in the world, pending the resolution of a claim or the enforcement of a judgment. The statutory basis for the remedy is found in section 37 of the Senior Courts Act 1981, which affords the High Court a broad discretion to grant an injunction "*in all cases in which it appears to the court to be just and convenient to do so*". This is supplemented by Civil Procedure Rule (CPR) Part 25 and the model orders found in the associated practice directions, the most recent of which came into force on 6 April 2025 when Practice Direction 25A was revoked and replaced by updated model orders.

The WFO traces its origins to the seminal case of *Mareva Compania Naviera SA v International Bulkcarriers SA* [1975] 2 Lloyd's Rep 509. Over the ensuing five decades, the jurisdiction has expanded significantly – from domestic asset-freezing to worldwide orders, from straightforward enforcement tools to complex instruments involving third-party respondents, competing jurisdictions, and the interplay with foreign legal systems. Each generation of litigation produces decisions that refine and test the boundaries of the doctrine.

The three most recent and significant cases are, at appellate level, *Lakatamia Shipping Co Ltd v Su* [2025] EWCA Civ 1389, and, at first instance, *Gilbert v Broadoak Private Finance Ltd* [2026] EWHC 153 (KB) and *Petrichor Energy FZCO v Bashar* [2026] EWHC 914 (Comm). Between them, these decisions address three of the most pressing questions that arise in the modern practice of WFOs: the extent to which foreign third parties can be held civilly liable for assisting in breaches of English freezing orders; the jurisdictional preconditions that must be satisfied before a WFO can be obtained against non-parties located abroad under the so-called *Chabra* jurisdiction; and the tests to be satisfied when applying for a post-judgment freezing order.

Lakatamia Shipping Co Ltd v Su

The *Lakatamia* litigation is one of the most protracted and complex asset-recovery disputes to have come before the English courts in recent years. At its core, the claimant, Lakatamia Shipping Co Ltd, had obtained English High Court judgments totalling over US$60 million against a Mr Su, a judgment debtor who had, over the course of nearly a decade, proved adept at evading enforcement. Mr Su had already been committed to prison for contempt, including a failure to disclose assets and the dissipation of proceeds from the sale of two Monaco villas.

The present appeal concerned claims against a number of third parties alleged to have assisted Mr Su in dissipating those assets. One such third party was an individual known as Mr Zabaldano, a Monegasque lawyer who had transferred nearly €27 million from his firm's client account on the instructions of a Mr Chang, who was a director of a holding company called Cresta – the entity through which the Monaco villas were held. Mr Zabaldano accepted that he had been aware both of the English freezing order and of the English judgments against Mr Su at the time of the transfers.

His defence rested principally upon what lawyers in this field call the "*Babanaft* proviso". This proviso – derived from *Babanaft International Co SA v Bassatne* [1990] Ch 13 and now codified at paragraph 20(1) of the Model Order for Freezing Injunctions – states that, subject to certain exceptions, "*the terms of this order do not affect or concern anyone outside the jurisdiction of this court*". The rationale for this proviso is plain: the English court, when granting a WFO with worldwide reach, must nonetheless acknowledge that it cannot directly compel compliance from persons or institutions outside its own territorial jurisdiction. The proviso therefore operates as a limit on the contempt jurisdiction of the court – a person situated abroad who assists a defendant in breaching an order cannot straightforwardly be brought before the English court in contempt of that order.

A parallel claim was also brought against Mr Zabaldano for inducing a breach of judgment – the so-called "*Marex* tort", derived from *Marex Financial Ltd v Sevilleja Garcia* [2017] EWHC 918 (Comm). This aspect was dismissed at first instance on the basis that Mr Zabaldano honestly believed he was entitled and obliged to transfer the funds in question, and the Court of Appeal did not find it necessary to address this claim given the terms of its substantive ruling.

At first instance, Simon Colton KC, sitting as a deputy High Court judge, found on the facts that Mr Zabaldano had known Cresta to be beneficially owned by Mr Su and had therefore been aware that the transfer of the property sale proceeds would amount to a dealing with frozen assets. Notwithstanding that finding, the High Court concluded that Mr Zabaldano was not liable for unlawful means conspiracy because he was shielded by the *Babanaft* proviso.

The Court of Appeal disagreed. Males LJ, with whom Sir Julian Flaux and Falk LJ concurred, unanimously overturned the High Court's ruling. The court held that the proviso is a limit on the court's contempt jurisdiction; it is not and was never intended to be a general immunity from civil liability. These are distinct legal categories, and conflating them – as the High Court appeared to have done – represents a fundamental error of principle.

To understand the force of this conclusion, it is necessary to recall the elements of unlawful means conspiracy as they were summarised by Cockerill J in *FM Capital Partners Ltd v Marino* [2018] EWHC 1768 (Comm) and endorsed by the Court of Appeal in the present case. The tort requires: (i) a combination or understanding between two or more parties; (ii) an intent to injure the claimant, which need not be the dominant purpose and which may be inferred from the circumstances; (iii) concerted action involving unlawful means; and (iv) loss caused to the claimant as a result. The court found all four elements satisfied on the facts. The unlawful means consisted of conduct that was unlawful under English law – namely, the dissipation of assets in breach of the freezing order – even if Mr Zabaldano's individual acts of transferring funds were themselves lawful under Monegasque law.

This last point is critical. Mr Zabaldano argued strenuously that he had acted in conformity with the law and professional obligations applicable in Monaco. The Court of Appeal acknowledged this but held it to be beside the point. The question was not whether each individual act was lawful in the jurisdiction where it was performed, but whether the overall scheme involved unlawful conduct under the *lex causae* – English law. The court drew on the authority of the Supreme Court and Court of Appeal in *JSC BTA Bank v Khrapunov* [2017] EWCA Civ 40; [2018] UKSC 19, in which it had been held that assisting in the breach of a freezing order can constitute the "unlawful means" element of the tort of conspiracy, and in which the Supreme Court had endorsed the proposition that an agreement to assist a defendant in breaching an English court order is itself an unlawful agreement capable of founding tortious liability.

The Court of Appeal in *Lakatamia* held that the High Court had been wrong to distinguish the case from *Khrapunov*. It also took the unusual step of overturning a factual finding of the first instance judge: specifically, the finding that Mr Chang, whose instructions Mr Zabaldano had acted upon, lacked knowledge of the freezing order. The Court of Appeal held that deliberately turning a blind eye to readily available and obvious information – such as the existence of a freezing order widely known in the context of the litigation – is capable of satisfying the knowledge requirement for conspiracy. This is a significant development in its own right: appellate courts are generally reluctant to disturb factual findings; and the willingness of the court here to do so underscores the importance it attached to the outcome.

Permission to appeal to the Supreme Court was refused on 17 December 2025, the Supreme Court holding that the appeal did not raise an arguable point of law of general public importance. The decision therefore stands as definitive Court of Appeal authority.

The *Lakatamia* decision has several layers of significance that extend well beyond the particular facts of the case. First, and most fundamentally, it eliminates any doubt that the *Babanaft* proviso has a narrower function than some had assumed (or at least argued). It limits the exposure of foreign parties to contempt proceedings – a form of liability that, in any event, would rarely be practical to enforce against a person or institution resident abroad – but it does not confer any immunity against civil liability in tort. A foreign lawyer, banker, trustee, or intermediary who knowingly assists a defendant in dealing with assets in breach of an English WFO is, in principle, exposed to a damages claim in unlawful means conspiracy, regardless of where they are situated and regardless of whether their conduct is lawful under the law of the place where they acted.

Second, the decision broadens the practical reach of the WFO significantly. One of the longstanding criticisms of the WFO is that its extraterritorial effectiveness is limited: the English court cannot directly enforce compliance abroad; and recognition of English freezing orders in civil law jurisdictions – where the *in personam* model of the English freezing order is unfamiliar – is highly variable. *Lakatamia* offers claimants an additional tool: rather than relying solely on contempt proceedings or the slow and uncertain machinery of international recognition, a judgment creditor whose order has been frustrated through the assistance of foreign intermediaries can now pursue those intermediaries in the English courts for damages.

Third, the decision imposes a significant compliance burden on professional advisers operating in international transactions. Lawyers, accountants, bankers, and other fiduciaries who handle funds in cross-border contexts – and who may receive notice of English freezing orders as part of the ordinary course of international litigation – must now be acutely aware that compliance with local law is not on its own a sufficient safeguard against civil liability in England. Notice of a freezing order, combined with conduct that assists the restrained party in dissipating assets, will suffice to found a conspiracy claim, and the provenance of that conduct in a foreign jurisdiction is no defence.

Fourth, the case reinforces the "blind eye" or "Nelsonian knowledge" doctrine as it applies to conspiracy. The willingness of the Court of Appeal to infer knowledge from deliberate avoidance of obvious information ensures that defendants and their collaborators cannot avoid liability by the simple expedient of not asking questions they would prefer not to have answered.

Taken together, these principles represent a meaningful extension of the practical effectiveness of the WFO as an instrument of international asset recovery.

Gilbert v Broadoak Private Finance Ltd

Before examining the facts and outcome of *Gilbert*, it is necessary first to set out and explain the so-called

Chabra jurisdiction. The jurisdiction takes its name from *TSB Private Bank International SA v Chabra* [1992] 1 WLR 231. In essence, it permits the English court to grant a freezing order against a non-party to the underlying claim – that is, against someone who is not a defendant – where there is good reason to suppose that assets in the name or control of that non-party are in fact beneficially owned by the defendant, or would otherwise be amenable to enforcement of a judgment against the defendant. The most common scenario is one in which a defendant has structured their affairs so that their assets are held through corporate vehicles, nominees, or family members who are not themselves parties to the underlying dispute. *Chabra* relief allows the court to freeze those assets notwithstanding that the holder is technically a stranger to the proceedings.

The *Chabra* jurisdiction is a significant and flexible tool, but it is one that has always sat in an uneasy relationship with the rules governing service out of the jurisdiction. This is because very often there is no direct cause of action against the *Chabra* defendant. Where the non-party respondent to the *Chabra* application is domiciled or present within the jurisdiction, no difficulty of principle arises. But where the respondent is located abroad, the claimant must satisfy the court that the case falls within one of the jurisdictional gateways set out in Practice Direction 6B. If no gateway applies, the court simply has no jurisdiction over the respondent, and the application must fail, however strong the merits may otherwise be. This is where *Gilbert* comes in.

The *Gilbert* litigation arose from a property financing dispute. The claimants were an investor, Mr Gilbert, and his company. The defendant to the underlying claim was Broadoak Private Finance Ltd, an English property financing company, whose majority shareholder and principal director was a Mr Bleakley. The claimants had already obtained separate freezing orders against Broadoak itself and against Mr Bleakley personally. However, approximately £4.2 million of the judgment debt remained outstanding, and investigation of Broadoak's financial dealings revealed a concerning picture: approximately £7 million had passed through Broadoak's accounts and could no longer be accounted for. It emerged that Broadoak had paid substantial sums to Mr Bleakley, to his estranged wife Mrs Bleakley, and to a Spanish company called KSC – of which Mr Bleakley was the owner and Mrs Bleakley a director – for no apparent legitimate purpose. These payments included expenditure on luxury cars, jewellery, and watches, and some had been made after the receipt of a letter before action, which made the inference of dissipation particularly striking.

The claimants applied without notice for a WFO against Mrs Bleakley and KSC under the *Chabra* jurisdiction. The basis for the application was that assets held in their names were in truth beneficially owned by Mr Bleakley or would otherwise be amenable to enforcement of the judgment against him. The court initially granted the WFO up to a limit of £3.9 million, with permission to serve the application papers in Spain. At the return date hearing, however, the respondents sought to have the WFO discharged, and jurisdictional grounds formed the cornerstone of their challenge.

David Quest KC, sitting as deputy judge, addressed each of the jurisdictional gateways that the claimants sought to invoke. First, he reviewed Gateway 3 – Necessary or Proper Party, which permits service out where the respondent is a necessary or proper party to a claim made against an "anchor defendant" within the jurisdiction. The difficulty, however, was a timing one that proved fatal. By the time of the return date hearing, final judgment had already been entered against Broadoak – the anchor defendant – some six months earlier. There were therefore no substantive or procedural issues left to be tried in the underlying claim. The requirement that the *Chabra* respondents be "necessary or proper" parties to a claim against an anchor defendant presupposes that there is an extant, live claim against that anchor defendant. Once final judgment has been entered, that condition ceases to be satisfied. The claimants could not dress up a *Chabra* application as an exercise in joinder when there were no proceedings alive to which the respondents could be joined.

The claimants sought to rely on a separate new claim that they had issued against the respondents, but this did not assist them: the new claim had not been served; no permission to serve out had been sought by reference to that claim; and in any event no application for freezing relief had been made by reference to it. The court declined to treat the unserved and wholly procedurally deficient new claim as a substitute anchor.

The next one was Gateway 2 for Injunctions. Gateway 2 permits service out in claims made for an injunction ordering the respondent to do or refrain from doing an act within the jurisdiction. Although Mrs Bleakley held a bank account within England, this gateway was unavailable by reason of the House of Lords authority of *Siskina (Owners of cargo lately laden on board) and Others v Distos Compania Naviera SA* [1979] AC 210, which held that this applies only to final, substantive relief, not to interlocutory or interim injunctions such as freezing orders. Since a WFO is, by definition, interlocutory relief granted in support of some other substantive claim or enforcement process, Gateway 2 was simply inapplicable.

Then the court considered Gateway 10 on Enforcement of Judgments. Gateway 10 allows service out in claims made to enforce judgments or arbitral awards. The claimants argued that the *Chabra* application was in substance an enforcement exercise, seeking to reach assets that would be available to satisfy the judgment already obtained against Broadoak and Mr Bleakley. The court rejected this, relying on *Linsen International Ltd v Humpuss Sea Transport Pte Ltd* [2011] EWHC 2339 (Comm), in which it had been held that *Chabra* relief is not itself a claim to enforce a judgment. Rather, it is relief that assists or facilitates enforcement. The distinction, between enforcing a judgment and obtaining ancillary relief that might make enforcement more effective, is a critical one and the court will apply it strictly (see the analysis below on *Petrichor*). The application of *Chabra* relief "against" the assets of a non-party is not the same thing as bringing a claim "to enforce" a judgment against the primary judgment debtor. Gateway 10 was therefore unavailable.

The court was equally unpersuaded by the claimants' reliance on Gateway 11 (claims relating wholly or principally to property within the jurisdiction) and Gateway 20 (claims made under an enactment allowing proceedings to be brought). As to Gateway 11, the relevant property – the assets sought to be restrained – was situated in Spain, not England, and the application was directed at Spanish assets held by Spanish-resident respondents. As to Gateway 20, the court held that although the application was made under section 37 of the Senior Courts Act 1981, that provision does not itself "allow proceedings to be brought". Section 37 speaks to the availability of remedies in proceedings that are otherwise properly constituted; it is not a freestanding conferral of jurisdiction.

The court discharged the WFO. The evidence of dissipation – payments of judgment creditors' money to family members and a foreign company for the purchase of luxury goods – was exactly the kind of conduct that *Chabra* relief exists to address. And yet the jurisdictional requirements had not been met, and the court could not simply conjure up jurisdiction where none existed. Any expansion of the rules on service out was, as the judge observed, a matter for the Civil Procedure Rules Committee, not for the court exercising its existing powers.

Gilbert is a decision with considerable practical resonance, and it speaks to several important themes in the current law of WFOs. First, it underlines the critical importance of timing in *Chabra* applications. The failure of Gateway 3 in this case resulted directly from the fact that the underlying claim against the anchor defendant had been reduced to judgment before the *Chabra* application came to its return date hearing. This is not, of course, necessarily the fault of the applicants. The gap between an *ex parte* grant and the return date is sometimes measured in months, and a judgment can be entered in that interval. But practitioners must be alert to this risk and must ensure that, if they intend to rely on the necessary or proper party gateway, the underlying proceedings against the anchor defendant remain alive and live throughout the period in which *Chabra* relief is being sought and maintained.

Second, the decision illustrates the difficulty of using alternative gateways as substitutes for the natural route. The claimants in *Gilbert* argued for Gateway 3 primarily, but also advanced arguments under Gateways 2, 10, 11, and 20. The court rejected all of them, and its reasoning demonstrates that these gateways are interpreted in a principled and technically careful way. Gateway 2 is limited by the *Siskina* rule to final injunctions; Gateway 10 does not extend to ancillary or facilitative relief; Gateway 11 follows the *situs* of the relevant property; and Gateway 20 requires an enactment that affirmatively confers the right to bring proceedings, not merely one that defines the available remedies in proceedings otherwise properly constituted. Practitioners should not assume that the courts will adopt a purposive or generous construction of the gateways to reach a commercially desirable outcome.

Third, and relatedly, the decision suggests that there is a structural tension in the *Chabra* jurisdiction as it applies to overseas respondents – a tension that the courts acknowledge but decline to resolve by judicial creativity. The jurisdiction was developed in a largely domestic context, in cases where the non-party respondent was within England and Wales. Its application to overseas respondents requires, additionally, a satisfactory gateway for service out, and those gateways were designed for direct substantive claims, not for what is fundamentally an ancillary enforcement-assistance measure.

Petrichor Energy FZCO v Bashar

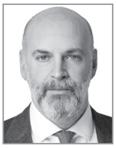
This leads us on to the third and final case concerning post-judgment freezing orders, and the decision of Bryan J in *Petrichor Energy FZCO v Bashar* [2026] EWHC 914 (Comm). This decision is important because it pulls together, in one place, the principles concerning post-judgment freezing orders, and draws together the principles scattered across several earlier authorities.

Bryan J structured the analysis around four requisite elements: legitimate purpose and the existence of assets; a real risk of dissipation; whether it is just and convenient to grant relief; and full and frank disclosure.

The substantive thread running through the judgment is the now well-settled proposition that the court will grant a freezing order more readily after judgment than before. This was restated in *Emmott v Michael Wilson & Partners* [2019] EWCA Civ 219, where Gross LJ explained that post-judgment freezing order relief is granted to facilitate execution by guarding against dissipation in the window between judgment and enforcement, that such orders can no longer be described as rare, and that the increased pressure they place on a defendant to honour the debt does not render them illegitimate or "*in terrorem*".

The policy rationale is that the law weighs heavily in favour of the enforcement of judgments, so the court should be able to prevent its judgments being rendered valueless by an unjustified disposal of assets; an unsatisfied judgment can itself make a risk of dissipation easier to infer, and factors such as delay or the absence of domestic assets carry less weight once judgment has been obtained.

In conclusion, *Petrichor* does not decide anything new. However, it is one of those judgments that practitioners must refer to and bear in mind when considering post-judgment freezing orders. Two practical points are also worth drawing out. First, on the merits threshold, the requirement of a good arguable case is necessarily satisfied where there is a judgment debt, so the analysis shifts almost entirely onto risk of dissipation and the discretionary factors. Second, the "legitimate purpose" gloss matters: a post-judgment injunction must be sought for the ultimate collection of the debt, so there must be some prospect that it will aid the judgment creditor in execution rather than simply place illegitimate pressure on the debtor (citing *Masri v Consolidated Contractors*).



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Justin Michaelson has been described as "*the lawyer clients want for the most complex and largest pieces of litigation*" (*The Legal 500 2025*). Justin has successfully represented clients in some of the most complex, high-profile cross-border disputes, involving litigations, arbitrations, related investigations, and various forms of interim relief. He has over 25 years' experience in major international commercial disputes and appears regularly before international commercial arbitral tribunals, both institutional and *ad hoc*, in disputes covering a wide variety of jurisdictions and sectors. Justin is both a commercial litigator and arbitration specialist. Justin's practice over the past few years has covered a broad range of civil fraud cases, including shareholder & partnership disputes, breach of confidence claims, white-collar crime claims and investigations, cryptocurrency and oil & gas and mining disputes. Justin also has significant experience in interim relief, including freezing orders, and has acted successfully for both Claimant and Defendant in obtaining and resisting or overturning freezing orders. Additionally, Justin serves as the head of the Contentious Trusts and Probate practice. Ranked by *Chambers UK*, clients have praised Justin's capabilities, saying "*[h]e is so masterful at handling extremely complex and cross-border cases*". Similarly, in *Chambers Global*, interviewees respect that he "*never gives up, is extremely hands-on and very knowledgeable*" and describe him as "*very professional and unflappable*". Previously, interviewees have noted their respect for his "*smart and practical approach*" and have described him as "*a person you just love to work with*". *The Legal 500 UK* notes that clients describe him as "*hands-on, very strategic*". In the latest edition of *The Legal 500*, Justin is described as "*terrific – super-smart, a great tactician, and on top of both the micro and macro aspects of cases... He's also fantastic to work with and is an enormously supportive team leader*".

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Prior to joining Quinn Emanuel, Simon trained and worked at a large global law firm, before spending six years at an international law firm headquartered in New York. Simon studied Law at King's College London, before going on to read for the Bachelor of Civil Laws at St. Edmund Hall, University of Oxford. Simon is the author of numerous publications in peer-reviewed journals focusing on international commercial arbitration and the conflict of laws.

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