



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO ATT 0026 OF 2023

IN THE MATTER OF AN APPLICATION FOR THE LIMITED ADMISSION OF HENRY ELLIOT GORDON PHILLIPS TO BE ADMITTED TO PRACTICE AS AN ATTORNEY-AT-LAW IN THE CAYMAN ISLANDS

AND IN THE MATTER OF THE LEGAL PRACTITIONERS ACT (2022 REVISION)

Before: The Hon. Justice Segal

Heard: 6 April 2023

Judgment: 11 April 2023

JUDGMENT

1. I have before me an application by Mr Henry Phillips, a junior barrister practising at South Square in London, for limited admission to appear on behalf of Abraaj General Partner VIII Limited (*GP8*) and Neoma Private Equity Fund IV L.P. (*NPEF IV*) in two sets of proceedings (the *Specified Proceedings*) which are more particularly described in paragraphs 1 and 7 to 13 of the affirmation of Ms Jennifer Fox (*Fox I*), a partner in Ogier, affirmed in support of the application.

2. Ms Fox's affirmation sets out the background to and a summary of the Specified Proceedings and the facts relevant to why Ms Fox and her firm have instructed Mr Phillips and why she considers that there are in this case unusual and special circumstances which justify (in accordance with paragraphs 4 and 6 of the Practice Direction 4 of 2012 (the *Practice Direction*) and the related case law on limited admission being granted to junior counsel). A previous application for the limited admission of junior counsel (Mr Keller) to advise GP8 and NPEF IV in relation to the Specified Proceedings was unsuccessful and the judgment setting out my reasons for dismissing that application was handed down on 1 April 2021 (I shall refer to that decision as *Re Keller*). Mr Keller was nonetheless instructed, albeit that he was not admitted in this jurisdiction, but is now no longer available for the trial and Ms Fox and Ogier have instructed Mr Phillips in his place.
3. The relevant law is set out in *Re Keller*. It is also discussed in my judgment in *In the Matter of an application for the limited admission of Luka Krsljanin*, (Unreported, Cause No. FSD 203 of 2020, 1 March 2022) and in Justice Doyle's judgment in *Re Mumford QC* (Unreported, Cause Nos. Att 30, 31, 32 and 33 of 2022, Doyle J, 14 March 2022). There is no need for me to repeat what is clearly set out in those judgments.
4. In *Mumford* (at [19]) Doyle J had noted (after having referred to my judgment in *Palladyne International Asset Management BV v Upper Brook* (unreported 26 September 2016)) that it was as a general rule good practice for notice of the limited admission application to be given to the other parties to the relevant proceedings. In this case notice has been given to the attorneys for the other parties to the Specified Proceedings and no objections have been made.
5. In *Keller* at [19] I said that on an application for the limited admission of junior counsel:

“it needs to be demonstrated that the instruction of junior counsel can exceptionally be justified because the role he/she is to perform is [(i)] necessary, [(ii)] cannot in the circumstances be performed by local attorneys and [(iii)] does not adversely impact on the local profession because for example the legal team already involves or will involve a number of local attorneys who are or will be performing roles of substance.”

6. I concluded on that occasion that more evidence was needed of the composition of GP8's legal team, the role to be performed by the junior barrister, the role to be performed by other members of the team, whether consideration was given to local attorneys performing the tasks given to the junior barrister and the reasons why a junior barrister is needed in the circumstances.
7. On this occasion, Ms Fox had provided much more detailed evidence in support of her submission that the requirements of paragraph 7 of the Practice Direction, that there must be “*unusual and special circumstances*” justifying the granting of limited admission to a junior barrister, are satisfied in this case.
8. I would note the following points in particular:
 - (a). Ms Fox provided details of the composition of the team of legal advisers advising GP8 and NPEF IV (the **GP8 Legal Team**) and confirmed and showed that there is already a substantial number of local attorneys from Ogier involved in the case and that even though Ogier has a large dispute resolution group there is no other internal resource available to join the GP8 Legal Team with the relevant requisite expertise (see Fox 1 at [19]).
 - (b). Ms Fox also confirmed that in her view it is unlikely that additional local resource could easily be added to the GP8 Legal Team because there are a limited number of local attorneys who

are likely to be available with Mr Phillips' particular expertise and experience and there is some evidence to support this view based on the difficulties experienced relatively recently by another local firm in recruiting additional attorneys to join its team advising Mr Jafar in one of the Specified Proceedings (see Fox 1 at [21]). Ms Fox noted that in this case the fact that many other attorneys in other firms had already acted for parties involved in the Specified Proceedings and adverse to GP8 and NPEF IV would make it even more difficult to recruit additional suitably qualified Cayman attorneys since many attorneys will have worked on the Specified Proceedings or the many other related disputes for other parties and therefore were likely to be unable to advise GP8 and NPEF IV (see Fox 1 at [20]). She had personal experience of the extent of other firms' involvement in the Specified Proceedings and related proceedings and disputes, which were numerous (and had, she says, had to cause Ogier to decline numerous potential instructions because of Ogier's existing involvement in the Specified Proceedings).

9. It seems to me that Ms Fox's evidence does establish that granting limited admission to Mr Phillips is necessary (to enable the GP8 Legal Team to do its job properly), that Mr Phillips' role cannot in the circumstances be performed (or reasonably be expected to be performed) by local attorneys within Ogier and that there is evidence supporting her belief that recruiting additional local attorneys to work on the Specified Proceedings (with the requisite expertise) would be difficult (it cannot be right in my view that local well-resourced firms undertaking large cases should be subject to an obligation in every case to seek to recruit externally before applying for the limited admission of a suitable junior barrister, at least where it is clear on the evidence that this would be difficult and involve time and additional expense – that would be onerous and inconsistent with the policy underlying the law in this area of protecting and promoting the local profession). Furthermore, Ms Fox's evidence shows that there is already a substantial number of local attorneys within Ogier working on the Specified Proceedings. It is also clear that the role that Mr Phillips will play is

focussed on and consistent with his specialist skills (he is not going to be used to undertake tasks which do not require someone with his expertise and experience). There is no question of junior counsel being instructed to fill unjustifiable gaps in an under resourced local team which could and should be filled by available local attorneys with the requisite expertise to do the job. Nor of work which could be done by local attorneys being shipped and done off Island. It has therefore also been established that granting Mr Phillips' application will not adversely impact on the local profession. This is also a case in which junior counsel have already been granted limited admission to act for other parties in the related proceedings. This is, as the authorities make clear, a matter to be taken into account albeit of limited weight. In these circumstances, granting limited admission to one junior barrister with a proven track record of specialist skills suited to the needs of this heavy, demanding and complex litigation is in my view entirely appropriate.

10. Accordingly, in these circumstances I shall grant Mr Phillips' application.

11. This is subject, since Mr Phillips plans to appear in a remote hearing before he arrives in Cayman and is able to sign the Register of Admitted Attorneys, to Mr Phillips providing the Court with a confirmation and undertaking (following the wording of paragraph 10 of the Practice Direction) that he accepts and agrees to act in accordance with and to comply with all of the professional duties and obligations and to be subject to the professional discipline of a generally admitted attorney-at-law and an officer of the Court. Paragraph 9 of the Practice Direction says that an attorney granted limited admission must sign the Register "*as soon as practicable after his arrival in the Islands and in any event before any appearance in the specified suit or matter*" in which he or she proposes to appear. My practice (as noted at [7(c)] in my *Palladyne* judgment) is, in order to ensure compliance with the evident purpose of paragraph 9, which is to ensure that the attorney is subject to the local professional rules and regulations when he or she appears, is to require that this confirmation and undertaking be given to the Court prior to any remote appearance.

At the hearing, Mr Clifford of Ogier who appeared on behalf of Mr Phillips, confirmed that he had Mr Phillips' instructions and authority to give this undertaking and would confirm that it had been given by email following the hearing.



Mr Justice Segal
Judge of the Grand Court, Cayman Islands
11 April 2023