

[Print this article](#)

Arbitration Gains Traction In Private Wealth Wrangles

Tom Burroughes

1 April 2026

There is growing use of arbitration in several jurisdictions to handle private wealth disputes, such as over trusts – cutting out time-consuming and expensive court disputes. It is also not necessary for all parties to accept an arbitrator’s decision if one side of a dispute agrees to the process, lawyers note.

For years, court cases in jurisdictions such as England, the Cayman Islands, Switzerland and the US could run for months or longer. A backlog of cases built up, and litigation fees grew ever larger. While some attorneys might have profited, those seeking a solution may not have been so pleased.

One benefit of arbitration beyond the speed and cost of it, litigators say, is that mediation, unlike litigation, takes place in private and is subject to a strict form of legal privilege. This means that parties can speak openly to one another on the day and, if a settlement is reached, avoid the need for a public judgment, preserving the reputations of those involved. As the media can sometimes take a prurient interest in such matters, this is not a minor benefit.

“The awareness is rising but there is still work to do,” David Wallace Wilson (pictured below), partner, head of the private wealth group, Geneva, at , told *WealthBriefing* in a recent call.



David Wallace Wilson

There are more cases where if one party is willing to accept the arbitration route, then the process can go ahead, instead of both sides having to accept it, as used to be the case.

With intergenerational wealth transfer amounting to trillions of dollars and equivalent, and cross-border disputes and use of offshore jurisdictions a commonplace fact, speedy resolution of arguments is becoming more important.

“This is a way to clear a backlog of cases,” Wilson said. For many clients, they are looking for “quick, fast and private resolution,” he said.

In a July 2025 briefing note, Wilson's firm pointed out that on 1 July 2025, the Swiss Arbitration Centre's new Supplemental Swiss Rules for Trust, Estate and Foundation Disputes (TEF Rules) entered into force. The note stated: “Switzerland is further cementing its position as a leading venue for resolving private wealth disputes. The rules are specifically designed to address the unique challenges faced by families, trustees and beneficiaries, especially the complexity of multi-jurisdictional proceedings, the need for confidentiality and the importance of enforceable decisions. As a result, the TEF Rules are expected to encourage greater use of arbitration in trust, estate and foundation matters.”

Describing developments to *WB*, Wilson said that if there is some resistance to this arbitration trend, it will come from litigators, although if the overall system becomes more efficient then professionals will be freed up to devote more time to the more serious cases where litigation is still required, Wilson said.

The arbitration trend appears to be widening.

As noted in this [article](#), a decision in 2024 of the English High Court in *Grosskopf v Grosskopf* (EWHC 291 (Ch)) may encourage practitioners to look again at trust arbitration.

As explained by author Tom McPhail, senior associate, contentious trusts and estates, : “The decision in *Grosskopf* reflects the recent ‘pro-arbitration’ attitude of the English High Court. While England is yet to follow certain offshore jurisdictions in offering further legislative support for arbitration (examples offshore include ss.91A and 91B of the Bahamas Trustee Act 1998 and s.63 of the Trusts (Guernsey) Law 2007), and while the prevailing view remains that an arbitration clause in an English law trust deed is not capable of binding beneficiaries, *Grosskopf* suggests that the English courts are increasingly willing to recognise the arbitrability of internal trust disputes.”

Caribbean and other places

According to offshore firm , (October 2025), the “use of arbitration to resolve trust disputes is gaining momentum in offshore jurisdictions and the Cayman Islands is poised to emerge as a progressive forum for trust arbitration”.

In the Bahamas, the jurisdiction's Supreme Court (2025) ruled in the *Gabriele Volpi vs Delanson Services Ltd & ors* case reinforced the principle that courts are reluctant to interfere with the arbitration process unless serious injustice can be shown. In the Cayman Islands, the approach is one of “minimal judicial intervention” and the Grand Court will only intervene where legislation expressly allows it (Harneys, 18 November 2025).

In the US, family trust controversies can be resolved through judicial and nonjudicial methods. The Uniform Trust Code, enacted in 2000, changed common law to allow nonjudicial settlement agreements, with six primary methods for modifying irrevocable trusts: using existing trust powers, decanting, nonjudicial settlement agreements (NJSAs), merger, and powers of appointment (source: “Resolution of family inheritance, succession and trust disputes in the US: judicial and nonjudicial approaches.” *Trusts & Trustees*, 2025, 32, 1-9, Oxford University Press). In Washington State, for example, the state has its Trust and Estate Dispute Resolution Act (TEDRA), which provides statutory frameworks for mediation, arbitration, and binding agreements.

In the US, for example, disputes can involve modifying irrevocable trusts. One approach is “decanting” – a term that borrows from the world of wine. The process involves a trustee transferring or “decanting” assets from an existing irrevocable trust into a new one with updated or modified terms.

There remain limits on how far the arbitration route, despite its benefits, can go. Judges may still intervene in a dispute over the construction of a trust, where rectification or variation is sought, where there are concerns about the position of minor beneficiaries, where there are serious allegations of fraud or misconduct, or where specific relief, such as the production of documents, is needed. Otherwise, lack of a full disclosure means further litigation and expense will be caused.

According to the *2025 International Arbitration Survey*, issued by international law firm White & Case LLP and School of International Arbitration Centre for Commercial Law Studies, Queen Mary University of London, some 87 per cent of respondents continue to choose international arbitration to resolve cross-border disputes, either as a standalone mechanism (39 per cent) or with Alternative Dispute Resolution (ADR) (48 per cent). The five most preferred seats for arbitration are London, Singapore, Hong Kong, Beijing and Paris. London and Singapore rank among the top five seats for each of the six regions in which respondents principally practice or operate. The survey, which covered private and public lawyers, arbitrators and others in a range of sectors, drew 2,402 respondents, with 117 interviews.

Editor's comment: While not necessarily a big headline-grabber, the use of arbitration to hammer out disputes is likely to be an increasingly important part of the wealth management toolkit. The knowledge that there are ways to resolve disputes without reaching for the courts might also boost the trusts sector if worries about costly litigation have deterred parties from forming them in the first place. Innovation around these disputes is to be welcomed.

