

Overview

Charities
Insolvency
Property
Tax
Trusts
Wills and Estates

Mediation and
Arbitration
International

Profile: Overview

Josh specialises in dispute resolution in the fields of private client and insolvency. He has extensive court experience including High Court trial experience and appeals at all levels up to the Court of Appeal. In addition, Josh has experience of non-contentious private client matters, particularly trusts and tax. He provides prompt and accurate advice, recognising that clients want answers, not just options.

Experience and Expertise

Josh specialises in contentious trusts and estates, trust advisory work and insolvency. He is instructed at all stages of litigation. In relation to trusts and estates matters, he has experience of acting for entitled beneficiaries, disentitled and disappointed beneficiaries and personal representatives. Josh has advised and represented trustees, including offshore trustees. In insolvency cases, he usually acts on behalf of office holders, but has also acted for creditors, contributories and others with claims in company assets.

In addition to his litigious practice, Josh has extensive experience of non-contentious trusts work and is often asked to advise in relation to variation of trusts and resettlement, including the potential tax consequences of such transactions. He has particular expertise in matters concerning the PSC Register, including arrangements intended to relieve individuals with significant influence or control over companies of the need to be entered on the register. Recently, he has been advising offshore trustees in connection with PSC Registers in complex and high-value corporate structures. Highlights have included:

- Advising a Guernsey trustee as to how to respond to a PSC Register notice from a company at the bottom of the corporate structure held on the terms of the trust.
- Advising Jersey trustees of two substantial related trusts as to the status of the protector of the trusts and the enforcer of the purpose trusts on which the shares in the PTC trustees are held.
- Advising the Swiss PTC of a substantial trust as to the status of various individuals concerned in the administration of the trusts, including the protector.

Josh has been admitted to the Bar of California and is able to give advice in relation to California and cross-border issues.

Josh has undertaken secondments in England and in Jersey. Most recently, he was seconded to the trusts team at Ogier in Jersey, where he worked on a large trust harmonisation project among other matters.

He is a keen supporter of pro bono work. Josh reviewed cases for the Bar Pro Bono Unit from 2013 to 2017. He is also an enthusiastic participant in the CLIPS Scheme. In 2013, Josh was nominated for the Bar Pro Bono Award. He was nominated again in 2015.

Josh was recently appointed as a High Court Examiner.

Josh supervised Land Law at Christ's College, Cambridge during the 2011 academic year.

Cases and Work of Note

Much of Josh's work consists of trials and other hearings, which have included trials in the Chancery Division and the Companies Court, hearings in the Court of Appeal and regular appearances in the High Court and County Court.

He has recently been involved in a number of applications to the High Court either seeking consent to variation of a trust or the Court's blessing under the jurisdiction described in *Public Trustee v. Cooper* of a transaction proposed by trustees.

Cases:

Representation of RBC Trustees (Guernsey) [2017] JRC 135: Josh provided an English law opinion as to the effect of a sole trustee exercising an express power to retire and, following the failure of the settlor to appoint a successor, retaining the trust property. The Royal Court of Jersey considered and accepted Josh's opinion as part of its decision as to whether to re-appoint the former trustee.

Hand v. George [2017] W.T.L.R. 495: A trial in the Chancery Division considering whether the Human Rights Act permitted adopted children to benefit under a trust under which they would otherwise be excluded. An appeal to the Court of Appeal is currently pending.

Re A: A Jersey case concerning assets misappropriated from an estate, which also raised issues as to whether *Bankers Trust v. Shapira* relief should be sought.

Hanspaul v. Ward [2016] EWHC 1358 (Ch): An ongoing dispute over the costs consequences arising out of an application to remove trustees and the correct approach for the court to take.

In re B (2016) Chancery Division: Application for the court's approval of a settled advance into a discretionary trust so as to protect a vulnerable beneficiary.

In re F (2015) Chancery Division: Application for the court's approval of a settled advance to postpone vesting of a minor's entitlement to a trust fund.

Jeffreys v. Porter [2014] EWHC 2076 (Ch) - Substitute personal representative, former executor presenting duplicate cheque, repayment of proceeds

Paratus AMC Ltd v. Lewis [2014] EWHC 1577 (Ch) - Mortgagees, payments into court, bad behaviour, publication of transcripts

Platebright Ltd v. Stewart & Fowler [2014] EWHC 886 (Ch) - Summary judgment, fraud

Nesbitt v. Nicholson & Others [2013] EWHC 4027 (Ch) - Contested probate, fraudulent calumny, want of testamentary capacity

GB Oils Ltd v. Gill [2013] EWCA Civ 860 - Summary judgment, guarantees, running account credit

Re Information Governance Ltd [2013] EWHC 2611 (Ch) - Administration orders, refusal of order notwithstanding company's insolvency

Recommendations

- "He is always happy to help, and his advice and manner are both excellent. He is also quite robust; you don't get 'I'm not sure' answers with him." (Charities, Chambers UK, 2017)
- "He has good common sense and quickly breaks down a seemingly complex scenario." (Charities, The Legal 500, 2016)

Publications

Josh is the author of the Insolvency division of Butterworths Civil Court Precedents.

Josh contributed chapters on wrongful and fraudulent trading, application to restrain presentation and insolvency and the matrimonial home to *Insolvency Litigation: A Practical Guide*, Sweet & Maxwell, 2016.

Josh is the co-author (with Mark Mullen) of *Companies Limited by Guarantee*, 4th Edition, Jordans, 2014.

Seminars

Josh enjoys giving seminars and conducting workshops. He has done so for firms of solicitors, local law societies and legal publishers and conference providers. Suggestions for topics are always welcome.

Recent subjects have included testamentary capacity, changes to the intestacy rules, and attacking wills. Josh has a comprehensive series of talks about the PSC Register and similar regimes in other jurisdictions.

Qualifications

MA (Cantab)

FCIArb

Public Access

Memberships

Association of Contentious Trust and Probate Specialists

Chancery Bar Association

Charity Law Association

Chartered Institute of Arbitrators (FCIArb)

ICC Young Arbitrators Forum

Insolvency Lawyers Association

LCIA Young International Arbitrators Group

Other Details

VAT Registration Number: 945583977

Bar Membership Number: 48432

For More Information

Please click on the links to the left or contact a member of the clerking team