

Overview

Charities
Commercial Disputes
Company
Court of Protection
Insolvency
Partnership and Joint Ventures
Pensions
Professional Liability
Property
Tax
Trusts
Wills and Estates

Profile: Overview

Oliver enjoys a busy traditional and commercial Chancery practice. His expertise is in trusts, wills and estates, with a particular focus on succession and property disputes, pensions and charities. He has substantial experience in dealing with a broad range of administration issues.

As well as non-contentious drafting and advisory work, Oliver has a strong litigation practice. He appears regularly in the High Court and has acted on numerous occasions in matters before the Court of Appeal. In addition, he has considerable experience representing clients at mediations.

He is experienced in dealing with large scale, complex, important and high profile matters. His practice also includes an international element, including matters relating to the jurisdictions of Jersey, Ireland, Singapore, various Caribbean islands, Australia and the US.

Oliver is equally at home acting as sole counsel or being led, and he particularly enjoys working as part of a wider team.

Experience and Expertise

Oliver specialises in trusts, estates and property disputes, especially contentious probate, breach of fiduciary duties, setting aside lifetime transactions, Inheritance (Provision for Family and Dependants) Act 1975 claims and real property related litigation, including constructive trusts, proprietary estoppel and co-ownership disputes (both in the commercial and domestic context) as well as personal property.

Oliver regularly advises and acts for trustees, personal representatives and beneficiaries on all issues that may arise during administration of trusts/estates/pension schemes, including questions of construction, distribution, the exercise of administrative and dispositive powers and *Beddoe* applications. He has gained a wealth of experience in drafting complex and intricate wills, trusts, pension documentation and associated instruments, as well as applying for variation of the same.

Oliver's practice also includes dealing with the consequences of mistakes in relation to the creation of, amendments to and administration of wills, trusts and pension schemes, both in the context of rectification/rescission and removal from office.

Oliver's practice compliments his considerable expertise in pensions related matters, having acted and advised in relation to pensions liberation schemes, amendments to trust deeds, pensions administration, trustee disclosure, the winding up of schemes and the interaction between bankruptcy and pensions.

Oliver's trusts and estates expertise also encompasses charities and tax and professional negligence related matters.

A significant proportion of Oliver's chancery practice is commercial in nature. Fraud and asset tracing and recovery in particular form an important part of Oliver's practice. He also acts regularly in relation to company and shareholder disputes (including unfair prejudice petitions), partnerships, insolvency, business contract disputes, guarantees and finance related matters.

Further detailed information on particular practice areas, can be found on the pages to the left.

Cases and Work of Note

- *Ong v Ping* [2017] EWCA Civ 2069. Acting (with Senior Counsel) on behalf of various parties who, in the context of bankruptcy proceedings, sought to set aside a number of judgments of the High Court which were alleged to have been obtained by fraud. The issues included whether a valid Jersey law trust was created in respect of a house in circumstances where the executed trust instrument had not specified any trust fund and, if so, whether its existence was deliberately concealed from the court. Oliver succeeded at first instance (see [2015] EWHC 1742 (Morgan J)); and related and consequential reports: LTL 24/6/2015; [2015] 6 Costs LR 997 (question of costs of instructing two sets of solicitors); & [2015] EWHC 3766). The trust issue was upheld on appeal (Leveson, Underhill LJ & Sir Colin Rimer), the Court of Appeal considering that, as a matter of construction, having regard to the whole body of antecedent correspondence, an effective trust of the house had been declared by conduct when the trust instrument was executed. Subject to permission to appeal to the Supreme Court on the trust question, on-going questions include the removal of the trustee, accounts and recovery of assets, including freezing injunctions, as to which there are multi-jurisdictional (Jersey and Singapore) issues.
- *Re Jordan Deceased* [2016] WTLR 1355 (Mr E Murray). Acting for the claimant in successfully seeking to pronounce for a will in respect of a £2m estate. The defendant relied upon a passive defence under CPR 57.7(5). The issues at trial included the scope of that defence, and what the Defendant was able to rely upon in terms of evidence, put to the attesting witness and submit by way of closing submissions. Uniquely, the Court acceded to Oliver's application post trial that an adverse costs order be made against the Defendant notwithstanding the general rule in CPR 57.7(5)(b) (reported at [2016] WTLR 1375). After this trial, the various family members launched multiple 1975 Act and proprietary estoppel claims, which were settled in a complex, multi-party, 2 day mediation.
- *Re Walker Deceased* [2014] EWHC 71; [2015] WTLR 493 (Mr N Strauss QC). Acted for the claimants in disputing their mother's last will on the grounds that her fatal brain tumour (and resulting psychosis) meant she did not have the requisite testamentary capacity, alternatively she did not know and approve of its contents. In finding that the Deceased had capacity, Strauss QC (after a two week trial) determined that the relevant test was that as set out in *Banks v Goodfellow*.
- *HR Trustees Ltd v Wembley Plc* [2011] EWHC 2974 (Vos J). Instructed to advise, draft proceedings and represent the trustees at trial on the issue whether an amendment to the rules of a pension scheme was invalid because only four out of five of the scheme's trustees had signed it, despite all five having agreed to the amendment, and if so whether the court could cure the defect by the application of the maxim equity looks as done which ought to be done, and correct what had been an obvious administrative error.
- *Alexander v Alexander* [2011] EWHC 2721; [2012] WTLR 187. (Morgan J). Acted for minors and unborns on a claim under s57 Trustee Act and/or Variation of Trusts Act in relation to a proposed power to sell property held subject to a right of occupation.
- *Haq v Island Homes* [2011] EWCA Civ 805; [2011] 2 P&CR 17. Acted for the claimant in a successful claim, where, following a 4 day trial, the Court granted a long lease of a supermarket on the Isle of Dogs on the basis of a commercial context proprietary estoppel. Led by leading Counsel on the defendant's successful 2 day appeal before the CoA.
- *Lex Wealth Management Ltd v Giannotti* [2011] EWCA Civ 1341. Instructed for the petitioner. CoA revisited the threshold test for showing that a debt in winding up proceedings was disputed on substantial grounds. The matter concerned the interpretation of an FSA drafted deed poll entered into by the applicant's directors in respect of undertakings to meet the debts of a previous company.
- *Yewbelle Ltd v London Green Developments Ltd. & Anor* [2007] EWCA Civ 475; [2008] 1 P&CR 17. Led by leading Counsel before CoA. The case concerned implied terms as to obtaining planning permission in a contract for the sale of land. Petition for leave to appeal to the House of Lords was refused.
- *Jarrom v Sellars* [2007] EWHC 1366; [2007] WTLR 1219 (Christopher Nugee QC). Acted for the claimant. The case is authority on the costs consequences on the abandonment of a probate claim where there had been a failure to mediate.

Publications, Articles and Talks

- "*Formal Defects in Pension Scheme Documentation: HR Trustees Ltd v Wembley Plc Five Years On*": Trusts Law International, Vol 30(4), 203-224; Also "*Curing defects in the formal execution of powers: HT Trustees Ltd v Wembley Plc 6 years on*": Trusts and Trustees, 16 November 2017.
- "*Failing to Define the Subject Matter of a Trust of Land - Is it Fatal*": Trusts and Estates Law and Tax Journal, May '16 Ed.
- "*Dealing with Errors in the Execution of Trust Powers*": Trusts and Estates Law and Tax Journal, Jan/Feb '14 ed.
- Joint author of Chapter A2 of Tolley's Pensions Law Service: Types of Pension Schemes - Work-Based Pension Schemes.
- Author of various Lexis Nexis Practice Notes on Pensions: "*Amending Mistakes and Rectification*"; "*Costs and Pensions Litigation*"; "*Making a Complaint to the Pensions Ombudsman*"; "*The Pensions Ombudsman: When he should be used and what are his powers*"; "*Appeals against Determinations by the Pensions Ombudsman*"; and "*Trustee claims against Advisors (Professional Negligence)*".

Oliver gives regular talks on all topics within his practice areas, including:

- Pensions: *Formal Defects in Pension Scheme Documentation - HR Trustees v Wembley Plc 5 years on* - Talk given at the APL Annual Conference 2016 in Budapest and at various solicitor's offices thereafter;
- Probate: *The Passive Probate Defence: Application and Adverse Costs Orders: Elliott v Simmonds*;
- Pensions: *Litigation Round-up (2016)* - A webinar for Lexis Nexis;
- Pensions: *PPF - A Focus on Litigation* - Part of the MBL Pensions Conference 2016;
- Trusts: *Failing to Define the Subject Matter of a Trust of Land - Is it Fatal*;
- Fraud: *Setting Aside Judgments and Orders: The Fraud of a Party Rule*;
- Testamentary Capacity: *The survival of Banks v Goodfellow; An analysis of Walker v Badmin*;
- Inheritance and Trustees Powers Act 2014: *Changes to the Rules of Intestacy and Family Provision Claims*;
- A 5 hours seminar entitled *'1975 Act and Other Claims Against PRs'*;
- Rectification: *Correcting Mistakes in Pension Scheme Documentation*;
- Restitution: *'Proprietary Remedies: The Briefest of Overviews'*;
- Constructive Trusts: *'Jones v Kernott: Where are we now with Co-Ownership of Land'*;
- Trust and Estates: *'Getting Rid of PRs'*;
- A 5 hour seminar entitled *'Contentious Probate: Current Issues and Problem areas for Practitioners'*;
- Real Property: *'Trusts of Land and Proprietary Estoppel'*;
- Mistakes: *'A gift once given, easily taken back?'*
- Costs: *'Jarrom v Sellars: Costs following discontinuance of a Probate Claim'*;
- Pensions: *'The protection of LGPS pensions on a transfer of public sector employees to the private sector'*.

Qualifications

- King's College, University of London, LL.B (Hons), 1st Class.
- College of Law, London, BVC.
- Hardwicke Scholar (Lincoln's Inn).
- Public Access Authorised

Professional Membership

- Chancery Bar Association
- Association of Contentious Trust and Probate Specialists
- Association of Pension Lawyers (associate member)

Other Details:

VAT Registration Number: 820 497 235

Bar Membership Number: 44066