

**Professional Liability**

## Profile: Professional Liability

### Experience and Expertise

Oliver is regularly instructed in relation to professional negligence issues arising from or relating to his areas of practice, and has considerable experience in relation to the following matters:

- Claims against will writers in relation to formal and substantive validity issues when taking instructions for and executing wills;
- Claims against solicitors in relation to defective or inappropriate drafting of wills and trusts;
- Claims against solicitors and accountants in relation to tax consequences and planning;
- Claims against conveyancers in relation to real property transactions;
- Claims against developers and architects in relation to design and build projects;
- Claims against scheme administrators and actuaries in relation to defective drafting and implementation of amendments to pension schemes;
- Misstatements as to financial instruments and investments.

### Cases and Work of Note

- *Re T Deceased (2019-)*. In this complex matter brother (A) had, before mother's death, entered into a written agreement with brother (B) and their mother agreeing not to make a claim against her estate on death so that it would devolve to B under her last will which otherwise left her estate between them. Unknown to B, and forgotten by mother, she had made a later will leaving her estate to A. Oliver acted for B in securing mother's estate by way of a probate claim, proprietary estoppel and restitution. Following settlement at a mediation, Oliver continues to act for B in seeking redress in professional negligence against the solicitor who drew up the agreement.
- *Re A Firm (2018-)*. Oliver is acting for disappointed beneficiaries in respect of the failure to ensure a will was executed before the deceased's death in circumstances where instructions had been given but, having been put on notice that the deceased had hours to live late on a Friday evening, the will writing firm took the decision not to attend on him;
- *Re A Firm (2017 -)*. Oliver is acting for the claimant who is seeking compensation for loss of a greater share in his mother's estate caused as a result of the failure of the solicitor to apply for a statutory will before her death. Extraordinarily, the solicitor had falsely represented to the claimant that he had successfully made a statutory will application and a will had been effectively executed; in fact no such application had been made.
- *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. The proceedings also included a claim against the will writers (Co-Op) for the costs, arising from their taking instructions for the will. That claim settled on the eve of trial;
- *H v C (2015)*. Advised in relation to failure to properly advise as to IHT consequences of will trust;
- *Phoenix Dunlop Pension Trustees Ltd v Barnett Waddingham (2014-)*. High Court. Instructed in the early stages of a professional negligence action against pension scheme actuaries in respect of a purported amendment to the scheme (subject to rectification claim).
- *Rafferty v Norman Barnett [2013]*. High Court. Acted for claimant in relation to defective drafting of a discretionary trust;
- *Ong v Pritchard Englefield (2013)*. High Court. Acting for claimant in a claim for loss arising from alleged failure to advise as to the existence of a trust which was relevant to her position in related litigation;

- *Re B Deceased* (2011). Advised in relation to the failure to advise the deceased as to efficient IHT tax planning;
- *Munch v Gilbert* [2011]. High Court. Acted for Claimant in relation to defective conveyance and declaration of trust;
- *S v H* (2010). Advised in relation to a claim against architects concerning the measurements for and development of property;
- *Re C Deceased* (2010). Advised in relation to failure to advise as to a potential 1975 Act claim;
- *Re B Deceased* (2010). Advised as to defective drafting of a will;
- *Re L Deceased* (2008). Advised as to failure to warn of IHT consequences of a will trust;
- *NATIXIS v WestLB & ors* [2007-8] Commercial Court. Instructed (with leading Counsel) on behalf of an investment bank in a long running and high value (£200m) claim in negligence and/or fraud against an arranger, lead manager and private equity firm (Nomura) in relation to the failed Box Clever securitisation.