

# Trusts

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“Radcliffe Chambers excels in contentious Chancery work, providing a service of the highest standard.”

Private Client section, The Legal 500

Radcliffe Chambers offers specialist expertise in all areas of trust law. Members advise on and act in contentious trust litigation, such as disputes relating to the validity and interpretation of trusts, and claims for breach of trust, civil fraud and asset recovery.

We also provide advice, drafting and representation in non-contentious trust work. Our members' work in this area includes the drafting of trust instruments, advice on questions concerning the scope and proper exercise of trustees' powers, removal of trustees and applications to the court for the variation of trusts.

We are regularly instructed in high value claims representing high profile figures and families. These include a recent variation of trusts in excess of £1 billion and a constructive trust claim in the £3billion Patarkashishvili Estate on behalf of Boris Berezovsky in 2009.

The expertise of members of Radcliffe Chambers extends to trusts administered in or governed by the laws of overseas common law jurisdictions.

We are able to advise on the following areas:

- Contentious trust litigation
- Informally created trusts
- Non-Contentious trust matters
- Overseas trusts

## Publications

Robert Pearce QC is Contributing editor of “Trusts and Administration of Estates” in The Civil Court Practice published by LexisNexis.

Nathan Wells edits the Trusts and Estates section of Butterworths Civil Court Precedents

Nathan Wells is co-author of Tolley's Practitioner's Guide to Powers and Duties of Trustees.

## Cases of Note

**Fielden v Christie-Miller** [2015] EWHC (Ch) - the relationship between proprietary estoppel and the unanimity principle where the representations relied on by the beneficiary are made by one of several trustees; the relationship between proprietary estoppel and the principle that trustees cannot fetter the exercise of their discretion (Mark West)

**Re Savile, deceased** [2014] EWCA Civ 1632 - represented all the abuse claimants against the estate of Jimmy Savile on the appeal by its residuary beneficiary the Jimmy Savile Charitable Trust against the approval of a scheme for addressing their claims without litigation and dismissal of the Trust's application to remove the NatWest bank as executor (Keith Rowley QC, Piers Feltham)

**AIB v Redler** [2014] UKSC 58 - Solicitors' liability for breach of trust in connection with mortgage advance monies (Jeremy Cousins QC)

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**Tregonwell Monro Smith v Herbert** [2014] EWHC 4177 (Ch) section 12 of the Trusts of Land & Appointment of Trustees Act 1996; purposes of the trust; unavailability and unsuitability of land for occupation by a beneficiary (Mark West)

**Appleby Corporate Services (BVI) Ltd v Citco Trustees (BVI) Ltd** (2014) 17 TT ELR 413 (BVI) – equitable compensation claim for losses to the fund caused by the Defendant’s breach of trust (Michael Heywood)

**Holden-Hindley v Holden-Hindley** [2013] EWHC 3053 (Ch) – trustees’ exercise of their powers of advancement under settlement deeds; procedure for trustees to follow when they require the assistance of the court (Kate Selway)

**Abdulla v Abdulla** [2013] EWHC 4281 (Ch) – action for account and replacement of trustees; trustees’ entitlement to indemnity out of estate; whether trustees acted reasonably (Mark Mullen)

**Lawson v Howard-Lawson** [2012] EWCA Civ 6 – construction of “name and arms” clause in will trust (Robert Pearce QC)

**Scarfe v Matthews** [2012] EWHC 3071 (Ch) – application of the doctrine of election to the will trusts of Bernard Matthews (Thomas Dumont)

**Green v Montagu** [2011] EWHC 1856 (Ch) – the children of the Duke of Manchester, though the product of a bigamous marriage, still qualified as beneficiaries under the ducal trusts (Thomas Dumont, William Moffett)

**Widd v Widd** [2011] EWHC 1420 (Ch) – application to set aside a trust made under a mistake (Joshua Winfield)

**Wright v Gaterr** [2011] EWHC 2881 (Ch) – application for approval on behalf of a minor of a deed of variation made on a double intestacy (Marcus Flavin)

**Adelaide Partnerships Ltd v Danison** [2011] EWHC 4090 (Ch) – breach of trust claim arising from an advance fee fraud; dishonest assistance and knowing receipt (Marcus Flavin)

**Killearn v Killearn** [2011] EWHC 3775 (Ch) – life tenant’s proposed sale of settled property (Thomas Dumont, Daniel Burton)

**Lui v Chong** [2010] EWCA Civ 398 - assents, bare trusts, gifts, intention and beneficial interests (Dov Ohrenstein)

**Jones v Firkin Flood** [2008] EWHC 2417 (Ch) - judicial control of trustees’ discretions, sale of trust property, and removal of trustees (Jeremy Cousins QC)

**Jasmine Trustees Ltd v Wells & Hind** [2007] EWHC 38 (Ch) – validity of trustee decisions and whether (i) a company was an “individual” under Trustee Act 1925 s. 37; and (ii) trustees *de ses torts* were “trustees” for the purposes of CGT legislation (Keith Rowley QC)

**Gillett v Holt** [2001] Ch 210 (CA) – *inter vivos* proprietary estoppel claim brought against wealthy farmer and landowner for alleged breach of promises to leave property by will (Keith Rowley QC)

**Re Thompson’s Settlement** [1986] Ch 99 – leading case on the application of the self-dealing rule to trustees (Keith Rowley QC)

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## Areas of Expertise

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### ■ Trusts

Wills and Estates  
Mediation and Arbitration  
International

## Members of Chambers practising in this area of law

Jeremy Cousins QC  
Keith Rowley QC  
Robert Pearce QC  
Francesca Quint  
Gordon Nurse  
Michael Heywood  
Stephen Acton  
Elizabeth Ovey  
Thomas Dumont  
Ulick Staunton  
Piers Feltham  
Mark West

Roger Mullis  
Katherine McQuail  
Shantanu Majumdar  
Marie-Claire Bleasdale  
Justin Holmes  
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