

Wills and Estates



“The barristers tick all the right boxes, they are on the ball and up to date” Chambers UK

“Radcliffe Chambers’ wide pool of talent is excellent at dealing with wills and trust disputes.” The Legal 500

Members of Radcliffe Chambers have extensive expertise in the law and practice concerning Wills, probate and the administration of estates.

The issues that may arise in relation to the estate of a deceased person range from purely technical problems, such as the failure of a testator to appoint an executor, to fierce conflicts over the validity of competing wills. Between these extremes, there may be uncertainty about the meaning of a particular bequest in a will or a need for guidance from the court on how to progress the administration of an estate. Creditors of a deceased person, or those dissatisfied with the devolution of his estate, may bring claims against personal representatives, and personal representatives may need to pursue claims on behalf of the estate. Members of Radcliffe Chambers are able to deal expertly with issues of all these kinds, and the many others that arise in this field.

Cases concerning wills and estates often require additional expertise in fields such as trusts, real property, landlord and tenant, company, insolvency, charity and tax law. Our members have expertise in complementary fields, and can advise comprehensively on and conduct cases which cross boundaries between subject areas.

Members of Radcliffe Chambers frequently act in negotiations and mediations to resolve disputes between those interested in a deceased person’s estate. A number of our practitioners in this field are themselves accredited mediators.

We are able to advise on the following areas:

- Administration of estates
- Contentious probate
- Inheritance (Provision for Family and Dependents) Act 1975
- Legacies to charities
- Non-Contentious probate
- Professional negligence

Publications

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

Cases of Note

King v. Dubrey [2015] EWCA Civ 581 – claims to a *donatio mortis causa* and under the Inheritance (Provision for Family and Dependents) Act 1975 (Mark Mullen)

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)

Re Huntley [2014] EWHC 547 (Ch) – rectification of will; observations on correct approach to construction of wills (Piers Feltham)

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Jeffreys v. Porter [2014] EWHC 2076 (Ch) – an action to recover estate funds from a former personal representative where he had presented two cheques when he was only entitled to present one (Josh Lewison)

Abdulla v. Abdulla [2013] EWHC 4281 (Ch) – action for account and replacement of trustees; trustees’ claim to indemnity; whether they had acted reasonably (Mark Mullen)

Jeffery v Jeffery [2013] EWHC 1942 (Ch) – testatrix had capacity to make a will disinheriting her son notwithstanding occasional anxiety and mild depression; allegations of fraud, undue influence and want of knowledge and approval rejected (Katherine McQuail)

Vallee v Birchwood [2013] EWHC 1449 (Ch) – a *donatio mortis causa* of a house by handing over the title deeds some 4 months before death was established where the donor had continued to live in the house during the whole of that interval (William Moffett)

Nesbitt v. Nicholson [2013] EWHC 4027 (Ch) – will challenged on the grounds that it was procured by fraudulent calumny or that the deceased lacked testamentary capacity (Josh Lewison)

Re Dharamshi, deceased [2013] EWHC 3917 (Ch) – challenge to will based on lack of capacity due to extreme bereavement reaction (Joshua Winfield)

Re Longman, deceased [2012] EWHC 666 (Ch) – construction of a gift of residue to a charity involved in a merger between the date of the will and the date of death, in light of what is now Charities Act 2011, s. 311 (Joshua Winfield)

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

Cushway v Harris [2012] EWHC 2273 (Ch) – will not proved for want of knowledge and approval (Thomas Dumont)

Re Guney, deceased [2012] EWCA Civ 1268 – co-habitee awarded an absolute interest as opposed to a life interest in the quasi-matrimonial home, and also the deceased’s shares in a private company rather than permit the beneficiaries an opportunity to purchase them (Ulick Staunton)

Phillips v RSPB [2012] EWHC 618 (Ch) – a failed legacy saved for charity and applied *cy-près* on the basis that there was a subsequent, rather than initial, failure of the legacy (Christopher Buckley)

Siaw v Lock [2011] EWHC 2926 (Ch) – the extent of the powers of a receiver appointed by the court to administer an estate considered (Kate Selway)

Ferneley v Napier [2010] EWHC 3345 (Ch) – unsuccessful claim to prove missing will by oral evidence (Nathan Wells)

Millburn-Snell v Evans [2011] EWCA Civ 577 – claim issued by administrators before obtaining a grant struck out (Joshua Winfield)

Kings v. Bultitude [2010] EWHC 1795 (Ch) – whether initial or subsequent failure of charitable gift by will (Mark Mullen)

Treasury Solicitor v Doveton [2008] EWHC 2812 (Ch) – will forgery (Kate Selway)

Johnson v Estate of Johnson [2006] EWHC 2568 (Ch) – want of knowledge and approval (Dov Ohrenstein)

Wright v Hodgkinson [2004] EWHC 3091 (Ch) – gift set aside for undue influence (Dov Ohrenstein)

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