



## Daniel Burton

Call: 2009

### Barrister

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**Daniel** is a chancery junior with a thriving practice in the main areas of chambers' work. He offers an *"intelligent and incisive"* (*The Legal 500 UK Bar*) approach to practice having gained experience both in-house, on secondment and on his feet in court.

Since October 2011, Daniel has developed a successful advisory and High Court practice with a particular focus on private client, pensions, financial services and commercial work. He is also well versed in property, professional liability and insolvency matters. He has recently been described as *"an excellent junior"*, *"a star of the future"* and *"an exceptionally good advocate"* by *Chambers UK Bar* and *Chambers HNW*.

#### WILLS AND ESTATES

Daniel accepts instructions in the full range of disputes concerning wills and the estates of deceased persons. He represents parties (whether beneficiaries or personal representatives) in relation to the interpretation, effect, administration, duties and liabilities arising out of wills and estates. He specialises in contentious probate disputes (including questions of testamentary capacity, undue influence and want of knowledge and approval) and non-contentious probate matters (including the appointment and replacement of personal representatives and revocation of grants), as well as the law of intestacy, proprietary estoppel and claims under the Inheritance (Provision for Family and Dependents) Act 1975. Much of his work has an international flavour and Daniel is happy to work as part of a team of UK and non-UK based lawyers.

Recent experience includes:

- Acting for seven charitable beneficiaries in contentious probate proceedings in which lack of testamentary capacity and want of knowledge and approval were alleged
- Acting for the executor of an estate in which issues have arisen concerning assets in three jurisdictions
- Acting as part of a team of lawyers in chancery proceedings in which independent joint administrators were appointed *ad colligenda bonato* collect and preserve assets of an estate with an estimated value of £50m (and subsequently on his own account securing a 'Re Yorke' order)

- Acting for parties involved in a series of highly contentious claims in the Business and Property Courts relating to the estate of an eminent Nigerian businessman, which have included applications for committal, summary judgment, strike out, security for costs, relief from sanctions and for a limited grant of letters of administration under section 116 of the Senior Courts Act 1981
- *Re Byford (Deceased)* [2019] EWHC 646 (Ch)
- *Haastrup v Haastrup* [2016] EWHC 3311 (Ch) – The defendants’ application to strike out a freezing injunction preventing them from dealing with the sale proceeds of a property connected with a deceased’s estate was refused. Their argument that the claimants, in seeking the injunction, had no standing when they brought the proceedings as they did not possess a grant of administration for the estate failed as the claimants had brought the proceedings as beneficiaries
- *Haastrup v Haastrup* [2016] EWHC 3311 (Ch) – Acting for the claimants in the latest decision in the long-running Haastrup estate litigation, where, on this occasion, the court considered the necessary *locus standi* required to bring an action against an *executor de son tort* who had received monies belonging to a company owned by the deceased
- Successfully resisting a claim for *Beddoe* relief on behalf of a beneficiary and obtaining a personal costs order against the claimant executor
- Acting in an administration dispute for a widow of a Lebanon domiciled businessman who died intestate leaving eight children by three women
- Securing good financial settlements on behalf of minors in 1975 Act claims, including appearing in infant approval hearings in the Family Division
- Acting for various beneficiaries of estates in highly contested administration proceedings against other family members and/or professional trustees
- Acting for an heir hunter business in derivative proceedings brought by a beneficiary of an intestate estate (including a Part 20 professional negligence claim)
- Acting for charities seeking to recover legacies from defaulting personal representatives
- Acting for a charitable beneficiary seeking to set aside a will on the grounds of undue influence and testamentary capacity
- Obtaining rectification of wills and appearing in construction claims under Part 64
- Obtaining extended *Beddoe* relief on behalf of an executor pursuing a claim to set aside an *inter vivos* transaction
- Making various successful applications to Court (both Chancery and Family) for the removal of executors and/or the appointment of administrators.

## TRUSTS

Daniel accepts instructions from beneficiaries or trustees in relation to the interpretation, effect, duties and liabilities arising out of trust instruments. In addition, he has experience with claims involving constructive trusts, both in a domestic and commercial context. Much of his work has an international flavour and Daniel is happy to work as part of a team of UK and non-UK based lawyers.

Recent work includes:

- Acting for replacement professional trustees in the preparation of an application for *Beddoe* relief in relation to a professional negligence claim against former solicitors
- Acting for professional trustees in relation to requests for disclosure from a stranger to the trust
- Obtaining settlement for a claimant asserting a *Pallant v Morgan* equity
- Acting for beneficiaries of a family settlement in relation to the exercise of a power of appointment and addition of beneficiaries
- *Attorney v Zedra Fiduciary Ltd* [2023] EWHC 838 (Ch) – A trustee was entitled to be indemnified out of trust assets in respect of its application for

permission to appeal to the Court of Appeal against the High Court's decision that a charitable trust's assets should be applied cy-pres by being transferred to the National Debt Commissioners. It was sufficiently arguable that the current scheme failed to satisfy the Charities Act 2011 Pt 6 s.67(3)(c) in that it required the trust to be applied for a purpose which produced no practical benefit, but the court capped the use of the trust funds for the purpose of pursuing the permission application at £52,000

- *Attorney v Zedra Fiduciary Ltd* [2022] EWHC 102 (Ch) – A fund which had been created by deed of trust in 1928 in order to discharge the national debt, and which was now valued at £600 million whereas the national debt was over £2,200 billion, was to be applied cy-pres to reduce the national debt rather than be applied to general charitable purposes
- *Attorney v Zedra Fiduciary Ltd* [2020] EWHC 2988 (Ch) – A deed had created a valid charitable trust with the principal purpose of benefitting the nation by accumulating a fund that would in time be applied to discharge the national debt. The original purpose of the charitable trust could not be carried out, constituting a subsequent failure of charitable purposes, and so the court had jurisdiction to make a scheme altering the charitable trust pursuant to its cy-pres jurisdiction. The question of whether the court should make such a scheme for the transfer of the fund to reduce the national debt was deferred to a subsequent hearing
- *Martin v Martin* [2020] EWHC 49 (Ch) – The court made an order for sale under the Trusts of Land and Appointment of Trustees Act 1996 in respect of five parcels of land owned by two brothers. It also ordered the partition of the remaining two parcels of land between the brothers
- *Killearn v Killearn & Others* [2011] EWHC 3775 (Ch) – Acting for the 4th defendant in successfully resisting a life tenant's proposed sale of trust property at a particular price to a particular purchaser, where Jeremy Cousins KC held that the evidence in relation to the property's value and condition did not support that approach, and it would be inconsistent with the trustees' duty to the beneficiaries to sell without a proper marketing campaign to maximise the price.

## **PENSIONS**

Daniel acts for scheme trustees, employers, individual members, insurers, scheme administrators and advisers and regulatory bodies in relation to occupational and personal pension schemes. He has acted for the Pensions Regulator and has experience of the Pensions Ombudsman (especially in relation to appeals). He is a member of the Association of Pension Lawyers.

Recent pensions experience includes:

- *HMRC v Bella Figura Ltd* [2020] UKUT 120 (TCC) – HMRC had the power to assess a taxpayer to a scheme sanction under the Taxes Management Act 1970 s.29 in relation to an unauthorised loan made to another company in its role as a sponsoring employer and scheme administrator of a registered pension scheme. The natural reading of the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 reg.4 was that it provided a standalone power to make assessments. However, the tribunal had failed to take into account relevant factors, for example that the taxpayer had tried to ensure that the loan met the requirements necessary to be an authorised employer loan or that it had been repaid with no loss to the Exchequer
- *FDR Ltd v Dutton* [2017] Pens. L.R. 14; [2017] EWCA Civ. 200 – Acting as junior to Keith Rowley KC on behalf of the Trustees of the FDR Limited Pension Scheme on the appeal to the Court of Appeal concerning the interpretation of an amendment dealing with increases in pensions in payment which had been frustrated by a proviso
- Acting in the Upper Tribunal for a company challenging a series of tax penalties levied by HMRC under the Finance Act 2004 in relation to alleged unauthorised pension payments
- Acting for trustees of two occupational pension schemes in relation to

questions on the construction of amendment and payment of benefit provisions in scheme rules

- Acting for trustees of an occupational pension scheme in relation to the construction of the calculation of annual pensions for certain classes of members
- *Wise v Sun Life Assurance (uk) Ltd* [2016] EWHC 3558 (Ch) – A pension provider successful in defending a claim of maladministration received its costs in the main dispute on the usual principle, but not in respect of its service of a respondent’s notice raising the issue of the deputy pension ombudsman’s jurisdiction, as it had a strong defence already and the notice raised an unnecessary legal complexity
- *Wise v Sun Life Assurance Co of Canada (UK) Ltd* [2016] EWHC 2814 (Ch) – Acting for the successful respondent company in an appeal to the High Court from a decision of the Pensions Ombudsman which concerned the loss of a guaranteed annuity rate
- Acting as junior to Keith Rowley KC for a claimant employer in two high value professional negligence actions against former advisors
- Acting for trustees in a claim for rectification of a pension scheme to correct a drafting error which inadvertently increased the level of benefits for a significant number of members (including appearing at the compromise hearing)
- Advising the trustees of three pension schemes in relation to their disclosure obligations in regulatory proceedings under section 72 Pensions Act 2004 (including assisting the supervision of the disclosure process)
- Acting as junior to Keith Rowley KC for the Pensions Regulator in relation to enforcement proceedings against trustees of an occupational pension scheme.

## **BANKING AND FINANCIAL SERVICES**

Daniel accepts instructions in relation to financial services and banking matters, including disputes over loan facilities and the mis-selling of financial products. He is also well versed in consumer credit issues involving the unfairness provisions in section 140A-C of the Consumer Credit Act 1974 and unfair terms, in which he has acted both for and against banks. In 2012, Daniel spent six months on secondment at the Office of Trading providing advisory and drafting services in respect of regulation and licencing of consumer credit businesses, Government ratification of mortgage products and anti-money laundering provisions. Before joining Chambers, Daniel spent a year in the Commercial Litigation department at Stewarts Law LLP, participating in particular in large-scale banking and finance litigation including the mis-selling of interest rate swaps and derivatives.

Recent work includes:

- Acting (with leading counsel) for a large group of claimants in professional negligence proceedings against solicitors arising out of a failed claim for consumer credit relief on so-called shared appreciation mortgages
- Acting (with leading counsel) for a different group of claimants against two high street banks relating to shared appreciation mortgages sold in the late 1990s
- Acting for a farming family who sought relief under the unfair relationship provisions in the Consumer Credit Act 1974 in relation to short-term finance provided by agricultural lenders
- *Various SAM Borrowers v BOS (Shared Appreciation Mortgages) No.1 Plc* [2022] EWHC 2594 (Ch) – In a claim involving 161 claimants, where the court gave directions for the trial of 15 lead claims, the value of the lead claims was not a helpful guide to the proportionality of the defendants’ costs budget. The purpose of trying the lead claims was to facilitate the resolution of all 161 claims, and the total value of those claims had to be taken into account when considering the proportionality of the defendants’ costs.

## COMMERCIAL DISPUTES

Daniel accepts instructions on a wide range of commercial disputes from pre-action advisory and drafting services to representation in court, including claims relating to the sale of goods, the supply of services and interference with goods, partnerships, joint ventures, interpleader claims and applications for pre-action, interim and injunctive relief.

Recent work includes:

- Acting (with leading counsel) in a contested dissolution action in respect of two complex UK partnerships
- Obtaining a successful settlement for a claimant company in Commercial Court proceedings in which it sought damages for breach of contract arising out of commercial agreements between the parties relating to travel agency sector bookings
- *Zoya Ltd v Ahmed* [2017] 2 W.L.R. 773; [2016] EWHC 1981 (Ch) – Acting for the successful defendant in the trial of a preliminary issue relating to the authority to issue proceedings in a Liberian company’s name, where William Trower KC held that the individual purporting to have authority on behalf of the claimant was neither a shareholder or a director and struck out the claim as an abuse of process
- *Zoya Ltd v Ahmed* [2016] 4 W.L.R. 174; [2016] EWHC 2249 (Ch) – Acting in a related third-party costs application, where William Trower KC found that, although solicitors had acted without authority in litigation brought by a company, they were not liable to the defendant for breach of warranty of authority, as he had not relied on the warranty, having argued from the outset that they lacked authority
- Obtaining an *ex parte* mandatory injunction in the High Court in relation to the sale, registration and trading of agricultural subsidies
- Acting for the ex-owner of an English football club in relation to disputes over service contracts and with an investment fund and advising a financial consultancy service company in a cross border contractual dispute with a hedge fund.

## RECOGNITION

- *“Daniel is excellent counsel. He is great with clients and provides thoughtful and practical written advice. In court, he is never flustered and argues his corner persuasively and tenaciously. He is a real team player who is always available.”* (Private Client: Trusts and Probate, *Legal 500 UK Bar 2024*)
- *“Daniel is clever, hugely helpful, and excellent at putting clients at ease.”* (Chancery: Traditional, *Chambers UK Bar 2024*)
- *“Daniel goes above and beyond with lay clients. He is always commercially aware and will always be reasonable with his fees. He is so well prepared – he knows the case back to front. There are no nasty surprises when he’s on the case.”* (Chancery: Traditional, *Chambers UK Bar 2024*)
- *“Daniel is clever, hugely helpful, and excellent at putting clients at ease. He is a first-rate chancery barrister who I use again and again.”* (Chancery: Traditional, *Chambers HNW London Bar 2023*)
- *“He is probably my favourite counsel at his level of call. Daniel is very reliable, has impressed our clients and staff alike and is absolutely someone we will recommend to clients again and again.”* (Chancery: Traditional, *Chambers HNW London Bar 2023*)
- *“Daniel goes above and beyond with lay clients. He is always commercially aware and will always be reasonable with his fees. He is so well prepared he knows the case back to front. There are no surprises. Daniel is my go-to barrister.”* (Chancery: Traditional, *Chambers HNW London Bar 2023*)
- *“Daniel is a go-to barrister. His legal expertise is second to none. He is brilliant with clients and sees things from a practical and cost-effective viewpoint. He is excellent.”* *“Passionate and pragmatic.”* (Private Client: Trusts and Probate, *Legal 500 London Bar 2022*)

- *"I think he is brilliant, not only has he got the intellectual skill that you need but he is also really client-friendly and really commercial."* (Chancery: Traditional, Chambers HNW London Bar 2022)
- *"Dan is an exceptionally safe pair of hands. He handles complex matters with ease and is able to deliver clear, concise and good-value advice and guidance to lawyers and clients alike."* (Chancery: Traditional, Chambers UK Bar 2022)
- *"Able to judge the capabilities of clients and tailor his demeanour appropriately. He's calm and sympathetic throughout." "Has a good manner and raises good, sensible points." "He does a good job for his clients."* (Chancery: Traditional, Chambers UK Bar 2021)
- *"He is great with clients and is a confident advocate. Really great with knotty problems."* (Private Client: Trusts and Probate, Legal 500 UK Bar 2021)
- *"He's able to judge the capabilities of clients and tailor his demeanour appropriately. He's calm and sympathetic throughout."* (Chancery: Traditional, Chambers HNW London Bar 2020)
- *"He has a good manner, and raises good and sensible points."* (Chancery: Traditional, Chambers HNW London Bar 2020)
- *"Does a good job for his clients."* (Chancery: Traditional, Chambers HNW London Bar 2020)
- *"Very bright but also practical and with a good grip on detail."* (Private Client: Trust and Probate, Legal 500 UK Bar 2020)
- *"His turnaround time is stupendous. He is incredibly conscientious and absolutely all over the detail." "An intelligent and incisive practitioner who is very easy to deal with."* (Chancery: Traditional, Chambers UK Bar 2020)
- *"His written work is clear as can be and he always addresses the key points in great detail." "He is persuasive in court and handles both the judges and clients very well."* (Chancery: Traditional, Chambers UK Bar 2019)
- *"An intelligent and incisive practitioner."* (Private Client: Trusts and Probate, The Legal 500 UK Bar 2019)
- *"'An excellent junior' and 'a star of the future.' He has a wide-ranging traditional chancery practice and is 'shaping up to be a brilliant lawyer ... He has strong knowledge of the law and has the ability to deal with a whole range of international disputes.'"* (Chancery: Traditional, Chambers HNW 2018)
- *"Incredibly hands-on, very highly skilled and also pragmatic ... with a commercial mind and turns around work very quickly to a high standard". "An exceptionally good advocate who takes judges through matters methodically and diligently. The court really appreciates his input."* (Chancery: Traditional, Chambers UK Bar 2018 and Chambers HNW 2017)

## **QUALIFICATIONS**

- 2002-05: BA in Egyptology, Wadham College, University of Oxford (First Class)
- 2006-07: M St in Oriental Studies, Wadham College, University of Oxford (Distinction)
- 2007-08: GDL at City University (Distinction)
- 2008-09: BVC at BPP Law School (Very Competent)

## **MEMBERSHIPS**

Chancery Bar Association; Association of Pension Lawyers; Inner Temple.

## **POLICIES AND OTHER DETAILS**

Read Daniel's [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#).

