



Josh Lewison

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Barristers

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Josh Lewison specialises in private client and insolvency litigation. He has extensive court experience, onshore and offshore, including High Court trial experience and appeals at all levels up to the Court of Appeal. In addition, he is experienced in non-contentious private client matters, particularly trusts and tax. Josh is recognised as a leading junior by both *Chambers UK Bar* and *The Legal 500 UK Bar*. He is also admitted to the state bar of California.

TRUSTS

Josh has a broad experience of contentious trusts work. He has acted in the full range of claims, including breach of trust claims, applications to remove trustees, *Beddoe* applications and applications for accounts and disclosure of trust documents.

On the non-contentious and semi-contentious side, Josh has acted in blessing applications, variations under the Variation of Trusts Act 1958 and s. 57 of the Trustee Act 1925 and compromises.

Josh has considerable experience of drafting trusts, including will trusts. He also advises trustees in relation to their duties in administering trusts, particularly discretionary trusts.

Josh has a special interest in beneficial ownership registers. He has advised extensively in relation to reporting requirements and has provided advice on structuring and restructuring with a view to managing information risk.

He has experience of offshore trusts work, particularly from Jersey and Guernsey. Josh was seconded to Ogier Jersey in October 2016 where he worked on a number of non-contentious trust projects. These included an exercise to harmonise the terms of a series of family trusts, designing a structure to hold high risk assets and establishing a charitable Jersey foundation.

Josh also completed a secondment to a well-known Jersey firm of advocates to assist in long-running litigation.

Josh's recent trusts cases include:

- *Re Aggregated Micro Power Infrastructure 2* (28th July 2020 – Chancery Division) – Application under s. 57 of the Trustee Act 1925 to add a power of sale to a trust deed under which sale of the trust assets was expressly forbidden.
- *Ball v. Ball* [2020] EWHC 1020 (Ch) – Defending a claim for an account on the basis that the trustees had already given a sufficient account.
- *Volpi v. Delanson & Volpi* [2018] 1 BHS J. No. 195 (Bahamas) – Application by a trustee to set aside a freezing injunction on the basis of jurisdiction and an arbitration clause. Led by Brian Simms QC and Gilead Cooper QC.
- *Macintyre v Oliver* [2019] W.T.L.R. 215 – Representing an NHS Trust in a case raising issues of construction of a gift in a will and the rule in *Lassence v Tierney*, where a gift was left to a hospital ostensibly for certain purposes, but those purposes had ceased.
- *English v Keats* [2018] W.T.L.R. 91 – Representing the trustees in a case confirming the continued existence of an equitable jurisdiction under which the court could correct a formal error in execution where only three of the requisite four trustees executed a deed of appointment.
- *Representation of RBC Trustees (Guernsey)* [2017] JRC 135 (Jersey) – Providing an English law opinion as to the effect of a sole trustee exercising an express power to retire and, following the failure of the settlor to appoint a successor, retaining the trust property. The Royal Court of Jersey considered and accepted Josh’s opinion as part of its decision as to whether to re-appoint the former trustee.
- *Hand v George* [2017] Ch. 449 – Representing the defendants in a trial in the Chancery Division considering whether the Human Rights Act permitted adopted children to benefit under a trust under which they would otherwise be excluded. The Court of Appeal granted permission to appeal, but the appeal was compromised before it could be heard.
- *Re A* – Advising in a Jersey case concerning assets misappropriated from an estate, which also raised issues as to whether *Bankers Trust v Shapira* relief should be sought.
- *Hanspaul v Ward* [2016] EWHC 1358 (Ch) – Acting in an ongoing dispute over the costs consequences arising out of an application to remove trustees and the correct approach for the court to take.

WILLS AND ESTATES

Josh has a wealth of experience of litigation arising out of wills and intestacy. He has experience of advice and representation in claims relating to the validity of wills due to want of testamentary capacity, want of knowledge and approval, undue influence and fraudulent calumny.

Josh has acted in claims concerning disputed paternity and in claims in family disputes centred on the division of assets. He has been instructed in claims under the Inheritance (Provision for Family and Dependents) Act 1975. Josh has acted in applications to remove executors and in proceedings brought by substitute personal representatives in support of their appointment.

He also has experience of raising proprietary estoppel in estate disputes, principally relating to farms.

He also appears in non-contentious probate matters, including applications for leave to swear death, the discontinuance of caveats and entitlements to grant.

Josh has drafted wills and clauses for wills and has frequently been instructed to draft deeds of variation.

Recent cases include:

- *Re Kelly deceased* [2020] EWHC 245 (Ch) – The first known case considering whether the English court can rectify a will executed abroad (it can).
- *Re Dunthorn deceased* (24th February 2020 – Chancery Division) – An application to set aside a deed of variation under the *Hastings-Bass*

jurisdiction, to which the consent of a beneficiary had not been sought.

- *Macintyre v Oliver* [2019] W.T.L.R. 215 – Representing an NHS Trust in a case raising issues of construction of a gift in a will and the rule in *Lassence v Tierney*, where a gift was left to a hospital ostensibly for certain purposes, but those purposes had ceased.

CHARITIES

Josh is frequently instructed in contentious and non-contentious charity matters. He has acted for charity trustees and for members and beneficiaries of charities in disputes relating to the governance, membership and termination of charities and has particular experience of religious charities, including mosques and Sikh temples. Josh also has experience of dealing with insolvent charities and charities in solvent winding-up.

Josh has assisted in advice and drafting relating to the establishment of charities, including the choice of appropriate charitable structure and in relation to their present and future governance. He has a particular expertise in relation to companies limited by guarantee, having co-written the third and fourth editions of *Companies Limited by Guarantee*, published by Jordans (now part of LexisNexis).

He has undertaken a secondment with a leading firm of solicitors, gaining valuable experience of working closely with solicitors, charity trustees and legacy managers.

Recent cases include:

- *Re L Trust* (2020) – Advising charity trustees about social investments.
- *Re DU* (2020) – Advising the charity trustees of a religious charity in a dispute about the correct constitution of the board of trustees.
- *Re D* (2020) – Advising the former trustee of two charities as to disqualification under the Charities Act 2011.
- *Re G* (2019) – A dispute arising in the winding-up of a charity, concerning the alleged liability to return a donation following the failure of the project for which the charity was established. Settled shortly before trial.
- *Re a Church* (2019) – Advising the liquidators of an insolvent charity on questions as to congregants' rights to the return of various kinds of donation.

TAX

Josh provides advice and drafting in matters relating to the taxation of trusts and estates, principally in relation to IHT and CGT.

His experience includes advice as to the CGT consequences of actual and deemed disposals of trust property and the creation and termination of trusts. He has provided advice in relation to the CGT and IHT consequences of variations of trusts and the IHT and CGT implications of compromising claims and disposing of property by way of lifetime gift.

In relation to IHT, Josh has experience of drafting trusts and will trusts for the benefit of disabled persons and bereaved minors. He has advised on trusts falling within the relevant property regime and on the tax treatment of trusts created before 22nd March 2006. He has experience of business property relief and agricultural property relief.

Josh has also been involved in drafting an employee benefit trust following a buyout of the relevant company.

INSOLVENCY

Josh is regularly instructed in matters arising out of corporate insolvency, including cross-border insolvency. He has particular experience of the conduct of administrations, including applications to extend the term of office, to be

discharged from liability, to disapply the prescribed part and for directions.

He has often appeared in claims relating to preferences and transactions at an undervalue and in property claims related to companies that have become insolvent, particularly forfeiture claims. He also has experience of applications for delivery up of books and papers and for oral examination.

Josh also acts in bankruptcy matters. He has represented creditors, debtors, bankrupts and trustees in bankruptcy. His experience includes applications for validation orders and to set aside statutory demands and claims relating to transactions defrauding creditors.

Recent cases include:

- *Re G* (2020 – ICC) – a bankruptcy in which the identity of the bankrupt is in dispute;
- *Re FD* (2020 – British Virgin Islands) – giving expert evidence on English company law for the Commercial Division of the BVI High Court on a company restoration application.
- *Lynch v. Cadwallader* (2020 – ICC) – s. 303 application challenging a trustee’s decision not to defend proceedings to enforce a security.
- *Re L* (2020 – Guernsey) – advising the trustees of a Guernsey retirement annuity trust following the bankruptcy of the member in England.
- *Re F* (2019 – ICC) – resisting recognition of a foreign insolvency proceeding on various grounds including fraud and public policy.
- *Armstrong v. Maud* (2019 – QB) – proceedings arising out of the bankruptcy of Glenn Maud.
- *Conqueror Holdings* [2019] GRC039 (Guernsey) – Advising the liquidators of a Guernsey company in an opinion for disclosure to the court concerning equitable security rights in a property development in England.

He is the author of the Insolvency Division of Butterworths Civil Court Precedents, a loose-leaf, which is regularly updated. In 2020, it was the first work to publish commentary and a suite of precedents for the new Moratorium introduced by the Corporate Insolvency and Governance Act 2020.

He contributed to “Insolvency Litigation: A Practical Guide”, which was authored by a number of members of Radcliffe Chambers and published in October 2016. Josh wrote the chapters about fraudulent and wrongful trading, applications to restrain presentation and advertisement of winding up petitions and the conflict between the insolvency jurisdiction and the matrimonial jurisdiction.

INTERNATIONAL

Josh’s international experience is principally in trusts and insolvency in the offshore centres. Recently, this has included:

- *Re FD* (2020 – British Virgin Islands) – giving expert evidence on English company law for the Commercial Division of the BVI High Court on a company restoration application.
- *Re L* (2020 – Guernsey) – advising the trustees of a Guernsey retirement annuity trust following the bankruptcy of the member in England.
- *Re F* (2019 – ICC) – resisting recognition of a foreign insolvency proceeding on various grounds including fraud and public policy.
- *Conqueror Holdings* [2019] GRC039 (Guernsey) – Advising the liquidators of a Guernsey company in an opinion for disclosure to the court concerning equitable security rights in a property development in England.
- *Volpi v. Delanson & Volpi* [2018] 1 BHS J. No. 195 (Bahamas) – Application by a trustee to set aside a freezing injunction on the basis of jurisdiction and an arbitration clause. Led by Brian Simms QC and Gilead Cooper QC.

He also has experience of non-contentious work involving trusts administered in Jersey, raising questions both of English law and Jersey law. He has given talks in Jersey and Guernsey about the beneficial ownership registers and their

implications for individuals who organise their affairs through offshore trusts and other structures.

Josh has appeared in applications challenging the jurisdiction of the courts of England & Wales under the Brussels Regulation, including the recast Regulation.

Josh is a Fellow of the Chartered Institute of Arbitrators. He has been appointed in a number of arbitrations, principally in property-related claims.

Josh speaks French, Spanish and Italian, which is often useful when there has not been sufficient time or justification to translate every available document. He is able to offer assistance from chambers or locally.

Josh was admitted to the Bar of California in November 2015, having passed the notoriously difficult July 2014 bar exam. He continues to practise from Radcliffe Chambers in London and is able to give advice in relation to Californian and cross-border issues.

MEDIATION AND ARBITRATION

Josh is a Fellow of the Chartered Institute of Arbitrators.

He has experience of submitting disputes, both domestic and international, to arbitration as well as enforcing and appealing against arbitral awards. In addition to acting as advocate, Josh is able to accept appointments. He has been appointed in a number of arbitrations as sole arbitrator, primarily in matters concerning damage to property.

Recent cases involving arbitration include:

- *Re N* (2020) – An application to the English court for directions to constitute an arbitral tribunal.
- *Re F* (2019) – An LCIA arbitration concerning a mining operation in Europe.
- *Re D* (2019) – An IFTA arbitration arising out of a dispute over a film.
- *Volpi v. Delanson & Volpi* [2018] 1 BHS J. No. 195 (Bahamas) – Application by a trustee to set aside a freezing injunction on the basis of jurisdiction and to an arbitration clause providing for trust arbitration. Led by Brian Simms QC and Gilead Cooper QC.
- *Re R* – ICC arbitration concerning a mining operation in South America.

He has been empanelled as an arbitrator of the Kuala Lumpur Regional Centre for Arbitration.

Josh has participated in a number of mediations, including mediations of claims relating to the maladministration of estates, undue influence and claims under the Inheritance (Provision for Family and Dependents) Act 1975.

RECOGNITION

- *“He is really good on his feet, his advocacy is excellent and he’s a really good, practical chancery barrister” and “Excellent technical ability and knowledge of his practice areas, which translates to being quick on his feet in court.”* (Chancery: Traditional, Chambers HNW London Bar 2021)
- *“Has good attention to detail. He shows great commerciality, and is able to identify the key points for the client.” “He’s very responsive and often goes above and beyond what he’s asked to do.”* (Chancery: Traditional, Chambers UK Bar 2021)
- *“Very good under pressure, he’s calm, methodical, and someone who picks up information very quickly; he produces the advice you need within the time allotted.” “He’s approachable and doesn’t deal in legalese. Instead he provides practical solutions that you can implement quickly.”* (Charities, Chambers UK Bar 2021)
- *“Accessible, thorough knowledge of charity and company law, gives clear*

and practical advice.” (Charities, Legal 500 UK Bar 2021)

- *“His command of the subject area enables him to be a real blue-sky thinker.” (Offshore, Legal 500 UK Bar 2021)*
- *“He has good attention to detail. I like his commerciality, and he’s able to identify the key points for the client.” (Chancery: Traditional, Chambers HNW London Bar 2020)*
- *“He’s very responsive, and he often goes above and beyond what he’s asked to do, providing further insight to his views.” (Chancery: Traditional, Chambers HNW London Bar 2020)*
- *“He is very good on highly technical matters. He drafts well and explains matters coherently to clients.” “He is very switched-on and precise.” (Charities, Chambers UK Bar 2020)*
- *“He provides a good, practical common-sense approach and clear advice.” (Chancery: Traditional, Chambers UK Bar 2020)*
- *“Hugely knowledgeable.” (Charities, The Legal 500 UK Bar 2020)*
- *“He has a track record of notable Channel Islands work.” (Offshore, The Legal 500 UK Bar 2020)*
- *“Really bright and very good on technical points.” (Charities, Chambers UK Bar 2019)*
- *“A really bright barrister in the trust dispute world.” “He makes concise points and comes up with memorable comments in court that really resonate with the judge.” (Chancery: Traditional, Chambers UK Bar 2019)*
- *“Responsive, commercial and to the point.” (Offshore, The Legal 500 UK Bar 2019)*
- *“Strong knowledge of subject area and attention to detail.” (Charities, The Legal 500 UK Bar 2019)*
- *“He stands out for his accessibility and his ability to grasp a problem very quickly. He is very quick to adapt to changing situations.” He’s very bright and knows his subject inside out.” (Charities, Chambers UK Bar 2018)*
- *“You are sure he will get it right as he knows his way around everything. He attends to matters speedily and can deal with the most technical aspects of a case with ease.” “Very quick on his feet and very eloquent in presenting his cases.” (Chancery: Traditional, Chambers UK Bar 2018)*
- *“He knows his subject very well and is a good strategist.” (Charities, The Legal 500 UK Bar 2017)*
- *“He is always happy to help, and his advice and manner are both excellent. He is also quite robust; you don’t get ‘I’m not sure’ answers with him.” (Charities, Chambers UK Bar 2017)*
- *“He has good common sense and quickly breaks down a seemingly complex scenario.” (Charities, The Legal 500 UK Bar 2016)*

COMMUNITY AND PRO BONO

Josh is a keen supporter of pro bono work and is an enthusiastic participant in the CLIPS scheme. Josh reviewed cases for the Bar Pro Bono Unit from 2013 to 2017. In 2013, Josh was nominated for the Bar Pro Bono Award. He was nominated again in 2015.

PUBLICATIONS AND SPEAKING

Josh is the author of the Insolvency division of Butterworths Civil Court Precedents. In 2020, it was the first work to publish commentary and a suite of precedents for the new Moratorium introduced by the Corporate Insolvency and Governance Act 2020.

He contributed chapters on wrongful and fraudulent trading, application to restrain presentation and insolvency and the matrimonial home to *Insolvency Litigation: A Practical Guide*, Sweet & Maxwell, 2016.

He is the co-author (with Mark Mullen, now an ICC Judge) of *Companies Limited by Guarantee*, 4th Edition, Jordans, 2014.

Josh enjoys giving seminars and conducting workshops. He has done so for firms of solicitors, local law societies and legal publishers and conference providers.

Suggestions for topics are always welcome.

QUALIFICATIONS

- MA (Cantab)
- FCI Arb
- Public Access

Josh supervised Land Law at Christ's College, Cambridge during the 2011 academic year.

MEMBERSHIPS

- Association of Contentious Trust and Probate Specialists (ACTAPS)
- California Lawyers' Association
- Chartered Institute of Arbitrators (FCI Arb)
- Insolvency Lawyers Association
- Society of Trust and Estate Practitioners (STEP)

POLICIES AND OTHER DETAILS

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