



## Josh Lewison

Call: 2005 (England and Wales); 2015 (California)

### 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 in relation to the PSC Register and the Register of Overseas Entities.

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:

- *Folds Farm Trustees v. Cutts* [2024] EWHC 12 (Ch) – Representing the

trustees in a contested blessing hearing, in which the court approved the unequal but fair provision for one of the beneficiaries. The costs judgment at [2024] EWHC 2143 (Ch) offers the first reported judicial guidance on PD3E, which concerns costs capping in trust and estates disputes.

- *Adams v. FS Capital* [2023] EWHC 1649 (Ch) – Defending a claim alleging that a sale by a trustee was a fraud on the power. Josh was led by James Morgan KC, and was responsible for arguing that *Cloutte v. Storey* was incorrectly decided and did not represent the law of Jersey.
- *Re I Trusts* (2023 – Jersey) – assisting in the representation of former trustees enforcing their indemnity against successor trustees.
- *Ball v. Ball* [2020] EWHC 1020 (Ch) – A claim for an account by a trustee-beneficiary of a will trust. Josh’s summary of the nature and content of an account was adopted by the court.
- *Re Aggregated Micro Power Infrastructure 2* (28<sup>th</sup> 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 KC and Gilead Cooper KC.
- *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:

- *Bourlakova v. Bourlakov* [2024] EWHC 1937 (Ch) – Assisting in the representation of the estate of Oleg Bourlakov. This judgment gives the most extensive guidance so far on the powers and duties of a representative appointed under r. 19.12 of the CPR. With Thomas Grant KC and Ryan Turner.
- *Ball v. Ball* [2020] EWHC 1020 (Ch) – A claim for an account by a trustee-beneficiary of a will trust. Josh's summary of the nature and content of an account was adopted by the court.
- *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* (24<sup>th</sup> 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 S* (2024) – Obtained urgent interim relief on behalf of the founding organisation of an English charity, in a claim alleging breach of duty by the charity trustees and the members. The injunction restrained the trustees and members from any exercise of their powers.
- *Re R* (2024) – Advising a charter corporation on aspects of its internal structure and governance.
- *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 a Company* [2024] EWHC 1070 (Ch) – An application to restrain a petition based on a foreign judgment, which was said to be time-barred.
- *Re a Company* (2024 – ICC) – An application by a liquidator to pay funds into court, when they would otherwise be payable to a sanctioned entity.
- *Re a Protected Cell Company* (2023 – Guernsey) – Advising a protected cell company as to the ability of the company to recalculate distributions to creditors.
- *Re G* (2023 – ICC) – Advising the shareholder and former director of a company to which provisional liquidators had been appointed.
- *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.

Josh is the author of the Insolvency Division of Butterworths Civil Court Precedents, a loose-leaf, which is now regularly updated by Andrew Brown.

He contributed to “Insolvency Litigation: A Practical Guide”, which was authored by several members of Radcliffe Chambers and published in 2016, with a second edition in 2018 and a third in 2022, of which Josh was a contributing editor, with Adam Deacock. 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 D Trust* (2024 – Jersey) – advising and assisting in the drafting of proceedings before the Royal Court of Jersey on behalf of a trustee preventing a beneficiary-fiduciary from draining the trust fund for his own benefit.
- *Re I Trusts* (2023 – Jersey) – assisting in the representation of former trustees enforcing their indemnity against successor trustees.
- *Re R Trust* (2023 – Jersey) – advising a trustee in relation to putting right the mistakes of its predecessor in acquiring and holding land in St Vincent and the Grenadines.
- *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 KC and Gilead Cooper KC.

From 2017 to 2022, Josh was a member of the Lord Chancellor’s panel of Court Examiners. He now accepts appointments privately, and advises on drafting letters of request for foreign courts to send to the English court, as well as obtaining orders to give effect to them.

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 and in claims to enforce foreign judgments.

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 big fan of early neutral evaluation, in which he has participated both as counsel and as evaluator.

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 KC and Gilead Cooper KC.
- *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**

- *“Josh is a forceful advocate who has a strong ability to distil complex issues clearly and logically. His written advice is refreshingly practical. He provides direction to complex cases, which clients value.”* (Private Client: Trusts and Probate, Legal 500 UK Bar 2024)
- *“A very personable junior.”* (Charities, Legal 500 UK Bar 2024)
- *“Calm and easy to work with, he’s responsive and really knows his stuff. He takes the time to explain things to you, d is very patient, and he thinks things through in a very practical way.”* (Chancery: Traditional, Chambers UK Bar 2024)
- *“A go to barrister for trust and probate disputes, Josh turns work around within the timescales given, sticks to budget, and produces clear advice without frills and jargon. He is decisive and easy to work with.”* (Chancery: Traditional, Chambers UK Bar 2024)
- *“Josh took on a very difficult matter for us and was able to provide great assistance in bringing it to a successful conclusion. He is consistently excellent, both as an advocate and in written advice and pleadings.”* (Chancery: Traditional, Chambers UK Bar 2024)
- *“He is really great to work with and delivers his advice in a really easy-to-understand manner.”* (Charities, Chambers UK Bar 2024)
- *“Josh has a calm, considered style and is adept in understanding the emotions in a case. The way he drafts is very sensitive to client needs.”* (Offshore, Chambers UK Bar 2024)
- *“Josh Lewison is a real star – he has the ability to digest complex information and provide easy to understand advice on relatively discrete issues in a case. Above all, he is an absolute pleasure to deal with.”*



(Offshore, Chambers UK Bar 2024)

- *"Josh is extremely reliable and always a pleasure to work with."* (Offshore, Chambers UK Bar 2024)
- *"I can't say enough good things about Josh. He is calm and easy to work with, responsive and really knows his stuff. What I really like is he takes the time to explain things to you and is very patient. He also thinks in a very practical way."* (Chancery: Traditional, Chambers HNW London Bar 2023)
- *"He is my go-to barrister for trust and probate disputes. Josh turns work around within timescales given; he sticks to budget, his advice is clear and without frills and jargon. He is decisive and easy to work with."* (Chancery: Traditional, Chambers HNW London Bar 2023)
- *"Josh took on a very difficult matter for us and was able to provide great assistance in bringing it to a successful conclusion. In other matters he is consistently excellent, both as an advocate and in written advice and pleadings."* (Chancery: Traditional, Chambers HNW London Bar 2023)
- *"An effective counsel for charities, contested trust and probate work. He's very reliable and turns around his work quickly."* (Charities, Chambers UK Bar 2023)
- *"Josh is a very gifted technical lawyer who is go-to on trust matters, particularly those with a foreign element and jurisdictional issues. He always makes himself available and is very collaborative in moving a case forward."* (Private Client: Trusts and Probate, Legal 500 UK Bar 2023)
- *"Josh is extremely bright and knowledgeable, and has been very accommodating in responding on urgent points and in a commercial manner."* and *"He is very knowledgeable about charities and wills. He's very good with clients, thorough in his advice and very personable."* (Charities, Chambers UK Bar 2022)
- *"A fantastic junior who's always reliable and quick to turn around advice. He has excellent technical ability and knowledge of his practice areas."* (Chancery: Traditional, Chambers UK Bar 2022)
- *"Extremely responsive and the quality of his work is second to none."* (Offshore, Legal 500 UK Bar 2022)
- *"He is responsive, thorough and easy to work with."* (Charities, Legal 500 UK Bar 2022)
- *"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)

## **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](#).