

CONTENTIOUS PROBATE UPDATE

Thursday, 28th September 2023

| 9.45am - 4.25pm

Exeter Racecourse

Cost: £225.50 + VAT (D&SLS members)

Our Wills & Trusts team are delighted to invite you to their annual conference with Devon & Somerset Law Society which includes an interactive session.

The seminar aims to bring practitioners up to speed with all the latest developments in the world of contentious probate.

It is principally targeted at solicitors who are (or would like to be) involved in contentious probate work, but it would also be of interest to non-contentious lawyers, will writing firms and professional executors.

Organised by



CPD: 4.5hours

Topics:

- 1975 Act Claims
- Undue influence
- A Practical Guide to Removing Executors
- Will rectification
- Where probate and company law collide
- Knowing your stuff
- Disposal of the deceased –the law
- Interactive session –applications for disclosure of trust/estate

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Contentious Probate Update



Thursday, 28th September 2023

9.45am - 10.00am Registration and refreshments

10.00am - 10.05am **Introduction by chair**
Oliver Wooding, Mediator and Barrister, St John's Chambers

10.05am - 10.35am **1975 Act claims**
Jody Atkinson, Barrister, St John's Chambers

Jody will provide an update concerning recent interesting and important cases in this ever developing area.

10.35am - 11.05am **Undue influence**
Daniel Soar, Barrister, St John's Chambers

Daniel will be exploring the implications of the High Court's recent decision in *Naidoo v Barton* [2023] EWHC 500 (Ch) for claims involving mutual wills and allegations of undue influence.

11.05am - 11.35am **A practical guide to removing executors**
Christopher Jones, Barrister, St John's Chambers

Belligerent beneficiaries or errant executors? When to issue and when to defend claims to remove executors can be difficult to decide. Christopher will consider recent decisions to see how the Courts are approaching such questions, and will set out some practical tips to assist with evaluating the merits of these claims in practice.

11.35am - 11.50am Refreshments

11.50am - 12.20pm **Will rectification**
Natasha Dzameh, Barrister and Mediator, St John's Chambers

Natasha will discuss claims made pursuant to section 20 of the Administration of Justice Act 1982 for will rectification, with particular focus on situations resulting from solicitor negligence.

12.20pm - 12.50pm **Where probate and company law collide**
Alex Troup KC & Charlie Newington-Bridges, Barristers, St John's Chambers

Charlie and Alex will consider company law issues of the kind which may affect the probate practitioner and will offer some tips on how to deal with them in practice.

12.50pm - 1.50pm Lunch

1.50pm - 2.20pm **Knowing your stuff**
Joss Knight, Barrister, St John's Chambers

Joss will examine the requirement that a testator must know and approve the contents of the will, as well as consider recent applications of the rule in *Parker v Felgate*.

2.20pm - 2.50pm **Disposal of the deceased – the Law**
Georgina Thompson, Barrister, St John's Chambers

In light of the Law Commission's announcement of its review into the archaic laws pertaining to the disposal of the Deceased's body, Georgina will discuss the rights and responsibilities which arise in relation to the Deceased's body, as well as what is to happen in the event of conflicting views.

2.50pm - 3.05pm Refreshments

3.05pm - 4.05pm **Interactive session: Applications for disclosure of trust/estate documents and accounts**

Team led by Annie Sampson, Barrister, St John's Chambers

Applications for disclosure and accounts frequently crop up in practice and there has been a good deal of recent case law on this topic. This session will give delegates a chance to discuss such applications with reference to a hypothetical scenario and Annie and her team will share tips on how to deal with them in practice.

4.05pm - 4.25pm Q&A session

Presenters



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Alex Troup KC
Head of Wills & Trusts, Barrister,
Call 1998, Silk: 2023
St John's Chambers

"Alex is extremely astute and robust. He commands respect in the courtroom."

LEGAL 500 2023, CHANCERY, PROBATE & TAX

Alex is ranked as the only "star individual" on the Western Circuit in chancery matters by Chambers UK, and is the Head of the Wills & Trusts Practice Group at St John's Chambers.

His practice includes both advisory and contentious work relating to trusts, wills and the administration of estates, including claims based on proprietary estoppel and under the Inheritance (Provision for Family and Dependants) Act 1975.

Alex has been trained as a mediator with the London School of Mediation and works both as a mediator and as a representative at mediations.

He has been consistently recommended as a leading junior in Chambers UK, Legal 500 and Legal Experts.



Christopher Jones
Head of Chancery & Commercial, Barrister, Call 2004
St John's Chambers

Chris is great on his feet – a real show stopper.' 'He is amazing at consolidating down information and presenting it in a fashion which puts across the client's strongest possible case.' 'Christopher can explain a tricky concept or issue in an understandable and relevant way. That is a valuable skill.' "

CHAMBERS UK, 2023, CHANCERY

Christopher is a chancery and commercial specialist with particular emphasis on trust litigation and advice, contentious and non-contentious probate applications, real property litigation (particularly in relation to easements, restrictive covenants and contracts for the sale of land) and commercial and agricultural landlord and tenant disputes. He also regularly advises on professional negligence claims, particularly in relation to claims against solicitors, accountants and tax consultants in relation to negligent conveyancing and tax advice as well as being a trained mediator.



Jody Atkinson
Barrister, Call 2005
St John's Chambers

"Jody is a hugely intelligent junior whose advocacy is compelling."

LEGAL 500 2023, DIVORCE AND FINANCIAL REMEDY

Jody is described in Chambers UK as "a very bright guy of singular ability with a massive intellect". Jody is a specialist private client barrister, and is therefore a member of both the wills, trusts & tax and financial remedy teams at St John's Chambers.

Jody is a popular matrimonial finance practitioner, and is often instructed in financial remedy cases that involve complicating factors (such as trusts, international issues, or third party interests). Jody is also renowned for his expertise in the Child Support Act, being the author of a text book on the subject.

Jody is well known for his experience in disputes concerning wills, trusts, and probate. Jody is a full member of the Society of Trusts and Estate Practitioners (STEP), having passed all four of the exams in one sitting. Due to his rare crossover expertise, Jody is often the first choice for Inheritance Act cases and disputes between cohabitants (proprietary estoppel). Jody is a qualified mediator



Oliver Wooding
Barrister, Call 2009
St John's Chambers

"Oliver is an excellent problem solver with a forensic eye for detail. His reassuring and calming style is a real asset."

**LEGAL 500 2023, CHANCERY ,
PROBATE & TAX**

Oliver's wills and trusts practice spans all contentious and non-contentious matters. He advises upon and acts, both as advocate and mediator, in disputes involving the validity of wills, claims under Inheritance (Provision for Family and Dependants) Act 1975, the removal of executors, construction of wills and trust documents, and for rectification of wills and trust documents. His expertise includes:

- Administration of Estates
- Disputed Wills
- Inheritance Act Claims
- Proprietary Estoppel
- Trusts
- Mediation

Oliver has a specialist practice that focuses on wills and trusts, and real estate matters, and the overlap between them. He is regularly instructed as an advocate, advisor, and mediator in a wide range of disputes.

Natasha Dzameh
Barrister, Call 2010, Deputy
Head of Commercial Team,
St John's Chambers

"Natasha is a great go-to counsel for complex matters – very responsive and approachable. 'Natasha has real technical brilliance, she is skilled at working through tricky cases and finding the best legal route to enable the client to achieve the desired outcome.' 'Natasha is excellent with the clients and able to put them at ease.' "

CHAMBERS UK, 2023 CHANCERY

Natasha is consistently ranked as a leading junior in Chambers UK and Legal 500 and is often instructed as sole counsel in high value, multifaceted commercial and chancery litigation. Her wills and trusts practice includes contentious and non-contentious matters.

Natasha has considerable experience of contentious probate and reasonable financial provision claims including cases involving allegations of abuse (physical violence, coercive control or sexual abuse) and matters involving charities. She is often instructed on administration disputes including the removal of personal representatives and/or trustees. Her wills and trusts practice also includes: challenging lifetime gifts and express declarations of trust; claims involving allegations of breach of trust, dishonest assistance and/or knowing receipt; claims pursuant to the Presumption of Death Act 2013 and/or the Guardianship (Missing Persons) Act 2017; disputes over beneficial interests in property due to proprietary estoppel, constructive trusts or resulting trusts; will construction and rectification claims; and will validity challenges due to lack of formalities, capacity issues, duress or undue influence.

Natasha is regularly instructed for mediations and has also been published in the Trusts and Estates Law & Tax Journal on a variety of wills and trusts topics.

Charlie Newington-Bridges
Barrister, Call 2011 Deputy
Head of Commercial Team, St
John's Chambers

"Charlie is a traditional chancery practitioner with a specialism in Inheritance Act 1975 claims and experience with high-value estates and complex wills. 'He is great with clients, pragmatic in his approach and advice, and prompt with production of advice.' 'Charlie provides very clear advice, understandable to the lay client and provides useful strategic input in guiding the litigation.' "

CHAMBERS UK 2023, CHANCERY

Charlie undertakes a wide range of commercial and chancery work in litigation, arbitration and mediation.

He has experience of substantial, complex and high-value litigation in the High Court and the Court of Appeal. He also has wide experience in the county courts and in injunction applications. His work is often court-based where he is recognised in the directories as 'brilliant, the hardest-working counsel I have seen'.

He regularly advises companies, partnerships, charities, trusts, and individuals. He worked in the investment banking industry for 15 years before coming to the bar and so has a particular interest and strength in company, investment, valuation and general financial services related matters.



Joss Knight
Barrister, Call 2014
St John's Chambers

"Joss provides a clear strategy in each case. He is confident in court and able to effectively put forward his client's position."

LEGAL 500, 2023
CHANCERY, PROBATE & TAX

Joss acts in a wide variety of wills, probate and estates matters. He has particular expertise in claims where the validity of the will is disputed, and claims for an interest in property on the basis of proprietary estoppel, resulting trust or constructive trust.

Joss advises on all matters relating to the estate administration, and has particular experience in applications for the removal of executors under s.50 of the Administration of Justice Act 1985, and the administration of insolvent estates. He was recently successful in obtaining the removal of the professional trustees and executors of a seven-figure will trust on the basis they had acted capriciously in the exercise of their discretion and had incurred excessive costs.

He has extensive experience of matters where the validity of the will is disputed on the grounds of forgery, lack of capacity or undue influence.

Joss regularly acts for claimants and defendants in claims under the Inheritance (Provision for Family and Dependents) Act 1975.



Annie Sampson
Barrister, Call 2015
St John's Chambers

Annie's experience encompasses a broad range of wills and trusts work, including both contentious and non-contentious matters. Annie has particular experience of advising in respect of the construction of wills and challenges to their validity; 1975 Act claims, including advising in respect of settlement where there are minor beneficiaries; applications for the removal of executors and trustees; trusts of land; and professional negligence arising in context of wills and trusts work, including claims by disappointed beneficiaries. Recent cases include:

Successfully proving an unsigned copy of a will.

- Obtaining permission to appeal a case management decision in the context of high-profile forfeiture claim.
- Advising trustees how to resolve an apparent stalemate between them and the beneficiary of a life interest.
- The mediation of a 1975 Act claim in respect of a multi-million pound estate.
- Advising in respect of the administration of a will trust where the fund was to be divided equally, but each of the beneficiaries obtained a vested interest at a different point in time.



Daniel Soar
Barrister, Call 2016
St John's Chambers

Daniel has a broad wills and trusts practice encompassing both contentious and non-contentious work. He has experience advising on the proper construction of wills, their formal and substantive validity, will challenges based on lack of capacity, want of knowledge and approval, and undue influence. Daniel also frequently advises in relation to claims for provision pursuant to the 1975 Act.

His recent caseload includes:

- A successful application for a vesting order of property subject to a will trust where the sole adult beneficiary was absolutely entitled to the property.
- Advising an executor in relation to a stalemate caused by the co-executor intimating, but refusing to pursue, a claim against the validity of the will.
- A dispute concerning claims for undue influence and proprietary estoppel where the deceased had unexpectedly changed his will to cut out a family member who had previously been promised the family home.
- Advising a child claimant in relation to a potential 1975 Act claim and the terms of a deed of variation.
- A dispute concerning the proper construction of a homemade will, particularly whether one provision gave a life interest in a property or simply permission to stay for a short period of time.



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Georgina Thompson
Barrister, Call 2017
St John's Chambers

Georgina is a commercial and chancery practitioner and a qualified mediator. She accepts instructions in all of the main areas of commercial and chancery law. Her main areas of expertise lie in commercial litigation, insolvency matters and contentious probate disputes.

Georgina joined chambers in October 2019 following the successful completion of her pupillage. Her pupil supervisors were Alex Troup and John Dickinson. During her pupillage she gained experience in all aspects of commercial and chancery law.

Since taking tenancy in October 2019, Georgina has appeared in the High Court on matters varying from construction adjudication and enforcement in the Technology and Construction Courts, to contentious probate disputes in the Business and Property Courts. Georgina also regularly appears in the County Court dealing with both trials and interim procedural hearings; such as applications to strike out, injunctions and applications to set aside default judgments. Georgina has also developed a busy paper practice advising on matters relating to company and contract law, sale of goods issues and insolvency proceedings.

Alongside her court practice, Georgina has attended a range of mediations acting on behalf of clients; such as beneficiaries in 1975 Act claims, companies involved in sale of goods and supply of services disputes, and trustees in complex, multi-party trusts and probate litigation. Georgina welcomes instructions to attend mediations concerning commercial and chancery disputes.

“ Leading regional heavy-weight, very strong in contentious probate and the leading set for trusts and estates work in the South West.”

LEGAL 500, 2023
CHANCERY, PROBATE
AND TAX

Jack Pankhurst
Barrister, Call 2021
St John's Chambers

Jack joined St John's Chambers in April 2022 following the successful completion of his specialist pupillage. His pupil supervisors were Nick Pointon, Charlie Newington-Bridges, Oliver Wooding, and James Pearce-Smith.

Since becoming a tenant, Jack has gained experience of a wide range of wills and trust work, including both contentious and non-contentious matters. His recent cases include:

- Advising on the validity of a purpose-like trust and the rules against perpetuity.
- Advising on the construction and effect of mutual wills.
- Advising on a 1975 Act claim by a disabled adult child.
- Advising a professional executor on a dispute with beneficiaries about the accuracy of the estate accounts.
- Acting in a pre-action disclosure application for disclosure of a will in the High Court.
- Drafting and advising on claims for CPR 64 directions.