

Contentious Probate



Date: Thursday 14th October 2010
Time: 9.45am - 1.00pm
CPD: 3 hours
Venue: Exeter Racecourse, Exeter
Speakers: St John's Chambers

Session One: Contentious Probate

Claims to challenge the validity of wills are ever popular, notwithstanding (and perhaps even because of) the current economic climate. There have been a number of recent decisions in this area with which practitioners need to be familiar, including recent authorities on testamentary capacity, undue influence, lack of knowledge and approval, and costs. Alex will be giving an update on the recent case law together with tips on how to deal with such claims in practice.



Alex Troup, (Call 1998) is a barrister at St John's Chambers, where he practises in the chancery and commercial fields with a particularly strong expertise in property and probate matters. He has extensive experience of both advisory and contentious work relating to wills, trusts and the administration of estates, including claims under the Inheritance Act 1975. He is specifically recommended in the chancery sections of both *The Legal 500* and *Chambers 2008*.

Session Two : Contentious issues arising in the administration of estates

The relationship between personal representatives and beneficiaries is not always easy. Conflicting interests and opinions can lead to an impasse in the administration of the deceased's estate, which often calls for Court directions. Christopher will discuss recent case law and Beddoe applications and applications to the Court for directions.



Christopher Jones (Call 2004) is a barrister at St John's Chambers, where he practises in real property, landlord and tenant, equity and trusts, wills and probate, intellectual property, insolvency, contract and professional negligence. Christopher regularly advises in cases involving the division of assets between cohabitees, disputed wills and the administration of estates.

Session Three : Deeds of Variation

Philip acted for the claimant (estate) in an application to set aside a gift of the deceased's house. The context of the claim was a disastrous IHT and CGT scenario arising from home made estate planning. In setting aside the gift, entering into a deed of variation and crafting an appropriate consent order, it is hoped there will be no charge to tax for the estate or (in due course) the estate of the surviving widow. A number of points of interest arise including the test for incapacity, the effect of incapacity on the part of the donor (void/able disposition?) and the interplay between estate planning and consent orders.



Philip Jenkins (Call 2003) joined St John's Chambers from 10 Old Square. His practice encompasses the full range of chancery and related commercial fields and his time is divided between advising, drafting (non-contentious and contentious) and litigating. He has particular expertise in real property matters (including trusts of land and mortgages), wills, probate and the administration of trusts and estates (including family provision), partnership disputes, personal insolvency, and landlord and tenant (business, agricultural and residential).

Session Four : Removal of Executors

This is a subject which frequently arises in practice. As such, this talk will examine the Court's approach to applications for the removal of executors and the test to be applied in cases of this nature. In particular, the recent cases of Kershaw v Micklethwaite & Ors [2010] EWHC 506 (Ch) and Alkin v Raymond and Whelan [2010] All ER (D) 48 (May) will be discussed.



Katie Dunkerton, Barrister, St John's Chambers (Call 2008) Katie joined Chambers in October 2009 following successful completion of her pupillage in Chambers. Katie has a general commercial and chancery practice and has particular interest in real property, contract, wills and probate, landlord and tenant, equity and trusts and insolvency.

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Thursday 14th October 2010

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