



**Robert M. Bailey**

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Robert is primarily a private client barrister, covering both contentious work and non-contentious advisory work (including tax). In addition to cases in England and Wales he regularly assists in cases offshore, particularly in Jersey and Man. He also undertakes work in the fields of insolvency and property. Experience and Expertise

Robert's practice is principally in the field of trusts and estates.

He is experienced both in non-contentious work, including drafting, construction, advising trustees and executors on proposed courses of action, advice on capital taxation matters, and applications for approval of variation and in contentious work including breach of trust cases, tracing claims, claims against trusts arising out of matrimonial litigation, construction cases, non-contentious probate applications and summonses, contentious probate claims, and applications under the Inheritance (Provision for Family and Dependants) Act 1975.

He has a particular interest in offshore work arising from spending several months on secondment to the trusts department of the Jersey law firm of Bailhache Labesse in 2006, advising clients on non-contentious trust matters (including pensions) and on trusts litigation and has advised on trust and company matters in BVI, Cayman, and Man as well as Jersey.

He is also experienced in insolvency matters, including personal, corporate and partnership matters, and in charities matters, particularly those arising out of the administration of estates and trusts.

## Cases and Work of Note

- ☐ Successful claim to remedy defective execution of a power of appointment 18 years ago, by reviving a jurisdiction previously last successfully relied on in England and Wales in 1908 and apparently consigned to history by Park J in *Breadner v Glanville-Grossman* in 2005: *English v Keats* [\[2018\] EWHC 673 \(Ch\)](#)
- ☐ instructed to assist the Jersey advocate for the trustee in a contested *Public Trustee v Cooper* application in Jersey concerning very substantial trusts and related removal proceedings: *Representation of G Trustees Ltd & In the matter of the H and J Trusts* [\[2017\] JRC162A](#); [\[2017\]JRC189](#) ; also the related Bermudan proceedings, *In the Matter of the E Trust* [\[2017\] SC \(Bda\) 103 Civ](#)
- advising trustees of a Jersey trust on litigation disclosure and other issues arising out of longrunning matrimonial litigation in Poland, France, and Canada (*Perczynski v Perczynski*);
  - application for approval on behalf of a minor of a deed of variation made on a double intestacy for tax and other reasons: *Wright & anor v Gater & anor* [2011] EWHC 2881 (Ch);
  - acting for the Revenue in the Court of Appeal in *HMRC v Chamberlin* [2011] EWCA Civ 271: claim by the bankrupt to annul her bankruptcy on the basis that the VAT returns on which the petition had been based were said to be incorrect. This was an appeal by the Revenue from the order of Mr Donaldson QC, who had granted an appeal from the original order of Chief Registrar Baister and had granted the annulment. The Court allowed the appeal and reinstated the bankruptcy order;
  - acting for the wife of the principal defendant in a breach of trust claim arising from an advance fee fraud in the sum of some \$16.5 million, on allegations of dishonest assistance and knowing receipt of the proceeds of the fraud: *Adelaide Partners & ors v Danison & ors* [2011] EWHC 4090 (Ch) [2011] AllER (D) (01) (M)

a dispute between two groups each claiming to be charity trustees brought before the Adjudicator to HM Land Registry, in which the Deputy Adjudicator had to consider whether the matters before him were proceedings within section 33 of the Charities Act and thus required Charity Commission consent to proceed: *Khan & ors v Khan & ors*;

- advising BVI trustees of a settlement holding land in England and shares in an insolvent English company on claims attacking the trust made by creditors of the bankrupt principal beneficiary and the insolvent company;
- an application for the removal of a trustee and executor (including appearing for the respondents on the removed executor's unsuccessful appeal: *Dobson v Heyman* [2007] EWHC 3503 (Ch) 2007) [2010] WTLR 1151;
- advising trustees of a Jersey trust holding substantial assets on a freezing order made in proceeds of crime proceedings in Belgium that was impeding major commercial decisions;
- a claim relying on the presumption of advancement *Musson v Bonner* [2010] WTLR 1369;
- representing trustees brought into ancillary relief proceedings in the Family Division in which the trust was said to be a sham, alternatively an ante-or post-nuptial settlement;
- successfully defending a claim that a will should be pronounced against on grounds of want of knowledge and approval said to arise from alleged forgery of a letter of instruction (*Organ & Another v McKeachie & Others* [2008] EWHC 2661 (Ch));
- *Nationwide Building Society v Wright and another* [2010] Ch.318 in which he appeared in the Court of Appeal for Nationwide on a claim by a trustee in bankruptcy to set aside a charging order obtained over a debtor's home shortly before the debtor was declared bankrupt;
- Advising on a claim against professional trustees for breach of trust, including allegations of over-charging and professional negligence;
- assisting Michael Heywood in advising on unfair prejudice and joint venture issues in Re: Teighmore Ltd (the "Shard of Glass" litigation) in Jersey;
- Assisting the Jersey Law Commission in preparing their report on the Jersey Law of Partnership.

## Recommendations:

- "He has a fine academic brain and an eye for detail." (Private Client: **The Legal 500, 2017**)

## Publications

Applications for variation of trust (Private Client Yearbook (2012))

## Qualifications

BVC (ICSL)

GDL (City)

Master's in Historical Research, Corpus Christi, University of Oxford BA History (1st Class Honours) UCL

## Memberships

Chancery Bar Association; The Society of Trust and Estate Practitioners; The Association of Contentious Trust and Probate Specialists.

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