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MARK DUBBERY

"Knowledgeable and articulate. He has an avuncular manner which judges find persuading."

Legal 500 2021

Call: 1996

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Mark Dubbery is the Head of the Inheritance, Wills & Probate team.

He is an expert in civil and family law, he is an accredited mediator and a member of the specialist inheritance mediators' group. He is also an enthusiastic speaker and writer on all his areas of specialisation.

Alternative Dispute Resolution

Mark is an experienced barrister and mediator adept at cutting through legal and factual complexities and focusing on the parties' real needs and motivations. He is an excellent communicator: sympathetic and measured where required but equally able to bring a robust, analytical approach to breaking through apparent barriers to settlement.

Mark joined Pump Court Chambers as a pupil in 1996 and now specialises in claims involving the Inheritance Act 1975, constructive trusts, contentious probate, proprietary estoppel, all manner of family financial claim and disputes relating to real property including boundary disputes and claims arising out of fraud, undue influence or misrepresentation.

Mark is a regular speaker at seminars organised by Pump Court Chambers, by MBL and by local law societies and practice groups.

Selected Cases

Bhusate v Patel & Ors. (2) [2019] EWHC 470 (Ch)

Permission to bring claim under the 1975 Act 25 years out of time.

Bhusate v Patel & Ors. [2018] EWHC 2362 (Ch)

Applicability of constructive trust to long unadministered estate.

Hilton v Cosnier [2018] EWHC 3728 (Ch)

Words necessary to declare oral trust of real property; route of appeal for case released to District Judge for trial.

Wells v Chorus Law and Ors. [2018]

Consideration of the ambit of s1(1)(d) and whether neighbours were members of a family

Chekov v Fryer [2015] EWHC 1642 (Ch)

Application to strike out a claim by cohabitee who had previously been divorced from the deceased, interpretation of s.1(1)(ba) and 15 of the 1975 Act.

Kentfield v Wright [2010] EWHC 1607 (Ch)

Formal validity of wills, quality of evidence required where dispute between attesting witnesses.

Parris v Williams [2008] EWCA Civ 1147

Adequacy of detriment in 'limb one' constructive trust claim.

Soulsbury v Soulsbury [2007] EWCA Civ 969

Public policy considerations in contract to leave lump sum by will in lieu of maintenance payments.

Broadway v Fernandes [2007] EWHC 684 (Ch)

Quality of evidence required to establish revocation of a will by a subsequent 'lost' will.

McMeekin v Long (2003) 29 EG 120

Misrepresentation in sale of dwelling house.

Inheritance, Wills & Probate

Mark joined Pump Court Chambers as a pupil in 1996 and is now the head of our Inheritance Wills and Probate

team specialising in claims involving contentious probate, administration of estates, the Inheritance (Provision for Family and Dependents) Act 1975, rectification and interpretation of wills, constructive trusts, proprietary estoppel, property and affairs matters before the Court of Protection and undue influence. Mark is a highly experienced mediator and mediation advocate and a contributor to Atkins Court Forms (Vol 32(1) Probate and Family Provision). Mark's cases often involve issues pertaining to companies, farms, family businesses, foreign assets, pensions and trusts.

Selected Reported Cases:

Amnir & Ors. v Bala & Ors. [2023] EWHC 1054: 1975 Act claims by widow, minor children and disabled adult child.

Dignam-Thomas & Bebbington v McCourt & Anor [2023] EWHC 546: 1975 Act – adult children.

Anaghara v Anaghara & Ors. [2020] EWHC 3091: Proprietary Estoppel, matrimonial home.

Bhusate (Deceased) Re [2020] EWHC 52 (Ch): 1975 Act claim, s.4 extension upheld on appeal.

Bhusate v Patel & Ors. [2019] EWHC 470 (Ch): 1975 Act, s.4.

Hilton v Cosnier [2018] EWHC 3728 (Ch): Oral declaration of trust, adequacy of words.

Bhusate v Patel & Ors. [2018] EWHC 2362 (Ch): Constructive and Resulting Trust, Self-Dealing.

Wells v Chorus Law and Ors. [2018] 8 WLUK 383: 1975 Act, ambit of s1(1)(d).

Chekov v Fryer [2015] EWHC 1642 (Ch): Interpretation of s.1(1)(ba) and s15 of the 1975 Act.

Kentfield v Wright [2010] EWHC 1607 (Ch): Formal validity of wills, quality of evidence required where dispute between attesting witnesses.

Parris v Williams [2008] EWCA Civ 1147: Adequacy of detriment in 'limb 1' constructive trust claim.

Soulsbury v Soulsbury [2007] EWCA Civ 938: Enforceability – contact to leave lump sum by will in lieu of maintenance payments.

Broadway v Fernandez [2007] EWHC 684 (Ch): Recovation by a subsequent 'lost' will, evidence.

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Bhusate v Patel & Ors. (2) [2019] EWHC 470 (Ch)

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Bhusate v Patel & Ors. [2018] EWHC 2362 (Ch)

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Public policy considerations in contract to leave lump sum by will in lieu of maintenance payments.

Broadway v Fernandez [2007] EWHC 684 (Ch)

Quality of evidence required to establish revocation of a will by a subsequent 'lost' will.

McMeekin v Long (2003) 29 EG 120

Misrepresentation in sale of dwelling house.

Stoker v Rose (Re Krzystofowicz (deceased) [2001] W.T.L.R. 883

Use of caveat to delay grant in context of 1975 Act claim.

Court of Protection

Mark is regularly instructed in a wide variety of Property and Affairs cases both in London and regionally. He has a

particular interest in Statutory Wills in his role as leader of chambers' Inheritance Wills and Probate team. His recent cases include: the successful representation a donor who wished to resist the registration of an LPA on the grounds that the application was premature; dealing with the consequences of a loss of capacity in the midst of a complex family arrangement to purchase and develop property, and dealing with rival applications for deputyship. He has also recently appeared for the children of a patient in a contested contact and residence matter and for a father seeking to establish contact with an adult child who lacked capacity.

Property Law

Mark's practice encompasses a broad range of property disputes particularly those relating to constructive and resulting trusts (he has particular experience and expertise in complex claims involving extended families), proprietary estoppel, undue influence, boundaries and easements, estate agents' commission and misrepresentation by vendors of residential property. Mark recently successfully defended both at first instance and on appeal a claim arising out of an alleged oral declaration of trust over a dwelling house subsequently gifted by a father to his daughter (*Hilton v Cosnier*).

Selected Cases

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Family Finance

Mark specialises in matrimonial finance (with particular expertise in advancing or resisting claims by third parties), claims under the Trusts of Land and Appointment of Trustees Act 1996 and Schedule 1 of the Children Act 1989. He has a particular expertise in representing third parties to claims for financial remedies and regularly speaks on that subject at seminars.

Selected Cases

Hilton v Cosnier [2018] EWHC 3728 (Ch)

Whether daughter bound by alleged oral declaration of trust prior to gift of real property by father.

Chekov v Fryer [2015] EWHC 1642 (Ch)

Applicability of clean break on death in final order where subsequent cohabitation

Parris v Williams [2008] EWCA Civ 1147

Adequacy of detriment in 'limb one' constructive trust claim.

Soulsbury v Soulsbury [2007] EWCA Civ

Applicability of Hyman v Hyman to a contract to leave a lump sum by will in lieu of maintenance payments.

Qualifications

- BSc (Economics), University College, London
- LLB (First Class), City Law School
- Qualified Mediator (ADR Group)

Professional associations

- Appointed a Recorder of the South Eastern Circuit in 2023
- Chancery Bar Association
- Family Law Bar Association

- Western Circuit

Professional activities

- Mark is a regular speaker at Chambers' and external seminars.
- Contributor to specialist publications on and off line.
- Speaker, trainer and lecturer at chambers' events and those arranged for or by solicitors, regional practice groups, HMRC and commercial providers including CLT, CPDcast, MBL and Lips Legal.

Outside Interests

Travel, sport, food and drink, preferably in combination.

Publications

- Stands to Reason – PS Magazine (Law Society), November 2012
- Communication Breakdown – Private Client Advisor, March 2012
- **Cohabitants and the IPFD – Lawskills, June 2010**
- **You can't take it with you – or leave it behind: Roberts & Milbour v Fresco [2017] EWHC 283 (Ch) – Family Law, March 2017**