



PUMP COURT

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OLIVER FOY

"He gives straightforward advice that clients can easily understand. His drafting is strong and he is a convincing advocate."

Solicitor

Call: 2016

For enquiries please call +44(0)1962 868 161 or email

Oliver Foy is a civil and family practitioner. He has a broad and busy practice, with a particular focus on financial remedies, trusts of land, property, inheritance and employment. Ollie has developed a reputation for straightforward advice and robust representation.

Ollie undertook a common law pupillage and has experience across all areas of Chambers' work. He brings a diverse and complementary skill set to his advice, drafting and court representation.

Ollie accepts instructions at any stage of litigation, or contemplated litigation, across civil and family. This includes mediation and other forms of ADR.

Family Finance & TOLATA

Ollie is regularly instructed in family finance matters. He has built up considerable experience in all stages of financial remedies, from first appointment to final hearing.

Ollie's experience extends across the full range of associated applications. He has dealt with contested divorces, freezing injunctions and jurisdictional issues.

Ollie has a growing TOLATA practice, having successfully advised and represented clients in numerous and varied TOLATA instructions.

Ollie enjoys the intellectual depth of these subjects and is able to get to grips with the complex factual and legal

aspects of family finance and TOLATA cases.

Selected Cases

SV v AV v UV

Ollie was instructed to represent the intervenor to establish beneficial ownership of a substantial property portfolio. The case involved an interesting application of familiar trust principles, with the court relying on second-hand evidence to ascertain the intentions of the Husband's late father.

U v U

Final hearing which centred on the transfer of a tenancy into the husband's sole name to enable the wife to re-house. The case involved consideration of a High Court injunction to prevent a transfer of the tenancy and associated contested divorce proceedings.

L v L

Ollie was instructed by the Official Solicitor, who was appointed after it was determined that the wife lacked capacity. The case centred on various health assessments of the wife and the impact on housing needs.

T v T

Application for maintenance pending suit necessitated by the stark increase in mortgage rates. Ollie secured monthly payments for the wife in light of deficiencies in the husband's disclosure and the bounty of an outsider in the form of the husband's mother. Ollie also successfully opposed the husband's reliance on a gambling addiction to justify expenses.

S v O

Advice and representation in long-running applications for a nullity and financial remedy order. The case had a tortuous procedural history, including orders impermissibly made during a stay of the divorce petition.

I v A

2-day final hearing chiefly concerned with the beneficial interests in foreign property situated in Pakistan. The case centred on expert evidence and the influence of non-disclosure.

O v O

An FDR, culminating in settlement, in which the parties had 10 properties between them, in both sole and joint

names.

A v A

Application for a financial remedy based on a (disputed) concluded agreement, the key issues being the existence of a concluded agreement and whether that agreement was fair within the meaning of the MCA 1973.

S v S

Application to discharge an undertaking given in a consent order to make child periodical payments. Ollie successfully opposed the application and secured a costs order on behalf of his client.

K v T

Enforcement application relating to an order for sale dating back to 2006. The application was complicated by the fact that the property had been re-mortgaged without the knowledge of the other party.

W v W

Variation application to reduce periodical payments after the pandemic had a significant impact on the applicant's business interests.

A v A

Application for an occupation order under s.36 FLA 1996 and injunctive relief under FPR 20.2 in order to protect ongoing Schedule 1 proceedings by preventing a scheduled eviction.

N v G

TOLATA cross-applications with both parties asserting a beneficial interest in the other's property. Aside from classic common intention constructive trust and proprietary estoppel arguments, the case involved an interesting abuse of process argument. Ollie successfully argued that the other side's case amounted to a collateral attack on an earlier decision of a court.

N v D

Application for sale of the family home made by a trustee in bankruptcy, involving establishing beneficial interests under TOLATA and the possibility of a transfer at an undervalue.

Property Law

Ollie provides advice and representation across the spectrum of property matters, both residential and commercial. His experience ranges from possession claims to boundary disputes.

Ollie enjoys writing and speaking about the subject. He has written articles for the University of Oxford Property Law Blog and the Property Law Journal. He was one of the speakers at Pump Court's 2022 property update.

Selected Cases

S v R

Successful application to the High Court for an interim injunction restraining the sale of a property by receivers.

T v P

Advice on a transfer of land including an apparent unilateral increase to the scope of dominant land benefitting from an easement and the availability of a prescriptive right of way.

N v R

Advising the purchasers of a property which was affected by the undisclosed presence of Japanese knotweed. The particular issues in the case were the requirements of fraudulent misrepresentation and the associated measure of damages.

R v FSL

Application for the renewal of a business lease, complicated by the fact that the landlord company had been struck off and it was unclear whether the freehold had been assigned or reverted to the Crown Estate by escheat.

E v B

Advising a tenant through the Dilapidations Protocol, with the contested issues involving large differences in the obligations under the lease, the value of the repairs and possible supersession.

L v B

Claim made by the neighbour of a pub alleging that a right of way over the pub's car park had been acquired by prescription, under common law and/or the Prescription Act 1832.

P v W

Boundary dispute involving the interpretation of the nature and extent of an easement granted by a predecessor in title.

C v B

Forfeiture proceedings arising after a leaseholder's insolvency, complicated by the fact that the leaseholder had granted a number of sub-leases out of the leasehold estate.

S v C

Provided in-depth written advice, drafting and representation for a dispute concerning the enforceability of a restrictive covenant dating back to 1893.

C v O

Advice on an equitable claim for restitution by contribution arising from a joint obligation to pay rent under a lease.

C v S

Advice on the existence of a business lease and whether it had been surrendered or forfeited, as well as the consequent liability for rent and business rates.

A v C

Application for an order for sale, appearing on behalf of the defendant. The order for sale was suspended despite no payments having been made for over 2 years and no engagement with proceedings until the hearing.

Inheritance, Wills & Probate

Ollie has a growing inheritance, which fits well with his established family finance and property practice. Ollie can advise or represent clients across the full range of contentious probate.

Selected Cases

C v W

Acting for the claimants of an additional claim within proceedings for the administration of an estate. The initial

claim was premised upon overvaluation of liabilities relating to a property and the binding nature of an agreement reached in matrimonial proceedings. The additional claim was brought by the occupants of the property and introduced further issues of proprietary estoppel and unjust enrichment.

Estate of JL

Advice on whether an estate had any interest in a property which had been purchased as part of a sub-selling arrangement in 2008 but title was never registered and whether the estate had any right to claim a proportion of the rent paid by the tenants in situ.

W v S

Advice on a claim against an estate arising from monies sent to the deceased shortly before his death. The estate's liability was disputed on the ground that the monies were a gift rather than a loan.

Estate of SC

Advice as to the interpretation and effect of a holographic will and the necessity of a construction claim pursuant to CPR 64.

Estate of SB

Advice on testamentary capacity and procedural elements of a probate claim, with concomitant issues arising where the will was prepared by solicitors.

Business & Commercial

Ollie has a very good grounding in civil work having been a County Court Advocate prior to commencing pupillage.

Ollie has built on this experience by advising and representing clients in a diverse range of commercial matters. This includes breach of contract claims, bankruptcy, Company Act claims and claims under the Consumer Credit Act 1974.

Ollie has experience representing creditors & debtors in bankruptcy petitions, winding up petitions, and applications to set-aside statutory demands.

Selected Cases

L v S and S

Application to the High Court for an injunction to restrain the respondents from presenting or advertising a winding-up petition. The dispute related to the application of a share purchase agreement, in particular whether the parties had waived or amended terms pertaining to determination of the price payable for the shares.

A v B

Claim made by a selling agent seeking damages for an unpaid invoice when the sale of a development site collapsed after exchange of contracts. The key issues were incorporation of terms and promissory estoppel.

B v A

Drafting the defence and counterclaim for a multi-track claim between two commercial parties involving the supply of goods alleged to have been of unsatisfactory quality and not fit for purpose.

C v G

Drafting the defence in response to a claim for a purported introduction agent's commission, the central issue being the existence of actual or ostensible authority to act on behalf of the principal.

F v R

Advice on a proposed claim arising out of defective building works. The works were completed over six years previously and a breach of contract claim was time-barred. The advice concerned the availability of a tortious claim for pure economic loss.

H v C

Claim seeking to recover significant sums paid from one partner to another in the context of a relationship. The ultimate question for determination was whether the sums were a gift or a loan. Ollie succeeded in obtaining judgment for the full amount paid by his client.

Employment & Discrimination

Ollie has particular experience in employment law having been under the supervision of Heather Platt during pupillage. Ollie has therefore been exposed to the full spectrum of employment work and is building on his knowledge gained as a pupil. He appears regularly in the Employment Tribunal and has a budding paperwork practice, which includes written advice and drafting.

Selected Cases

S v G

Appeal to EAT focusing on whether allegations of paedophilia can fall within the definition of sexual orientation in the Equality Act 2010 and, consequently, whether the claimant's pleaded case included a harassment claim.

H v K

Appeal to EAT based upon the employment judge's failure to assess the reasonableness of the decision to dismiss an employee, instead substituting his own view, and the elision of the test for unfair dismissal with the test for a Polkey deduction.

M v AF

4-day final hearing, representing the respondent. The claimant brought claims of unfair dismissal, race discrimination/harassment and sex discrimination, which were successfully opposed in their entirety. The interesting feature of the case was the extent to which the claimant was complicit in "banter" that was later relied on as harassment related to race.

P v LGTS

2-day final hearing, representing the claimant. The claimant succeeded in his claim for unfair dismissal after being dismissed for ill-health capacity arising from an injury sustained in the workplace. It was found that there was inadequate medical evidence before the respondent on which to base its decision to dismiss, as well as various breaches of its own policies.

B v A

Preliminary hearing considering whether a purported notice of termination of employment was admissible in proceedings given that it was contained in a without prejudice email.

A v C

5-day final hearing, appearing on behalf of the respondent. The claimant brought claims of constructive unfair dismissal, direct race discrimination, unlawful deduction from wages and breach of contract. All claims were dismissed.

V v B

2-day final hearing, appearing on behalf of the respondent. The hearing was to determine the employment status of

the claimant. The claimant opted to settle the case at the beginning of day 2 after Ollie had concluded his cross-examination.

E v F

3-day final hearing, appearing on behalf of the claimant. The respondent did not take up the opportunity to respond to Ollie's closing submissions and instead settled the case prior to the remedy hearing.

P v H

Preliminary hearing to determine disability, appearing on behalf of the respondent. The judge found that the claimant was not disabled within the meaning of the Equality Act 2010, thereby removing the overwhelming majority of the claimant's claims.

A v R1, R2, LBH

Drafted grounds of appeal to the EAT after an employment judge held that the respondent, rather than the local authority, had employed the claimant to care for her disabled son. The judge had failed to consider the judgment in *South Lanarkshire Council v Smith* UKEAT/873/99 and the significance of the local authority's statutory duty to care for disabled people.

Personal Injury

Ollie is regularly instructed in small claims and fast track trials arising from road traffic accidents, often involving credit hire and fundamental dishonesty.

Selected Cases

D v J and S

Fast track trial, acting for the co-defendant, in which Ollie successfully secured a Sanderson costs order in favour of his client.

D v M

Small claims trial to determine quantum (diminution in value), appearing on behalf of the defendant. The claim was dismissed after Ollie persuaded the court that the engineer's report was insufficient to establish diminution in value without the repair invoice.

Children Law (Private)

Ollie has acted in all stages of private law children proceedings, from preliminary advice to final hearings. Ollie has represented parents at numerous fact-finding hearings, both alleging and defending serious allegations. Ollie has dealt with cases involving physical abuse, sexual abuse, emotional abuse and parental alienation.

Selected Cases

D v D

2-day fact-finding hearing, representing the respondent father against whom 17 separate allegations had been made. No allegations were proved beyond the admissions made by the respondent.

P v P

4-day fact finding hearing, representing the applicant mother in a hearing involving extensive police disclosure. The applicant made 11 allegations, of which 10 were proved. Cafcass ultimately supported an order for no contact with the respondent father.

P v W

1-day final hearing, appearing on behalf of the respondent mother. The respondent's case focused on the section 7 report's incompatibility with PD 12J and Ollie conducted lengthy cross-examination in relation to the same. The judge agreed that the report was defective in this respect.

W v B

1-day final hearing, appearing on behalf of the respondent mother. Ollie secured a shared care order notwithstanding the respondent mother's conviction for assault occasioning ABH against the father and consequent eviction from the family home.

Qualifications

- LLB (Queen Mary University of London)
- LLM (University College London)

Professional associations

- Family Law Bar Association
- Employment Lawyers Association

Professional activities

- Buchanan Prize (Lincoln's Inn)
- Excellence Scholarship (BPP Law School)
- Oxford University Press Prize (Highest mark in Equity and Trusts at Queen Mary University of London)
- Queen Mary Commonwealth Placement (Cape Town, South Africa)
- CBA Bursary Award for Excellence in Advocacy
- University of Oxford Property Law Blog
- Property Law Journal
- BVL Moot Mentor

Outside Interests

Ollie is a fervent football fan who loves to play and watch the beautiful game. He is a steadfast Sunderland supporter, which means he is imbued with an eternal sense of optimism.

Publications

Detrimental reliance and the common intention constructive trust – (Property Law Journal – December 2022)

Receipt of property subject to an undertaking in the domestic context – (University of Oxford Property Law Blog – August 2020)

R v Jogee and Ruddock v R [2016] UKSC 8 (joint enterprise liability) – case commentary [2016] 7 B.P.P.H.R.J. 105

R v O [2019] EWCA Crim 1389 (test on appeal for victims of trafficking) – case comment (Pump Court Crime Team Newsletter – Winter 2019)

R v RT & Anor [2020] EWCA Crim 155 and *R v Reece (David)* [2020] EWCA Crim 44 – implied warnings to trial counsel” (Pump Court Crime Team Newsletter – Spring 2020)