

Peter John OBE

Called: 1989
peterjohn@fivepaper.com



PROFILE

Peter John is an experienced civil law barrister at Five Paper specialising in all aspects of Contentious Probate, Trusts & Property Litigation in high profile cases in the High Court and County Courts.

Peter advises in all areas of non-contentious probate practice and the preparation of wills. He advises and acts in cases concerning the beneficial ownership of property and Inheritance Act claims, and has experience in all forms of real property disputes. Peter also frequently and successfully represents clients in mediations.

Peter has been an elected Councillor in the London Borough of Southwark since 2002, was the Leader of the Council between 2010 and 2020, and Chair of London Councils from 2018 – 2020. He is a member of the Board of the Old Vic Theatre, a Trustee of the St Olave's and Bermondsey United Charities and Chair of Governors at a Southwark primary school.

EXPERTISE

Wills, Trusts & Probate

Peter John has a great deal of experience as a probate and property practitioner specialising in and advising professional and lay clients on:

- Disputes over the validity of Wills – including compliance with the provisions of the Wills Act 1837
- Testamentary Capacity – especially concerning the wills and estates of elderly and vulnerable testators suffering from vascular dementia and Alzheimer's Disease
- Want of knowledge and approval – reviewing all of the circumstances in which wills have come to be

executed and challenges arising from the involvement of potential beneficiaries

- Undue influence – both in respect of presumed undue influence of lifetime gifts and actual undue influence for wills
- Deeds of variation and rectification – where a will has not achieved its intended objective or the beneficiaries agree to amending the distribution
- The liability of Estates, Executors and Personal Representatives and proceedings under Part 64 of the Civil Procedure Rules
- The construction and meaning of Wills
- Claims under the Inheritance (Provision for Family & Dependents) Act 1975 and the suitability of settlements for children and protected parties
- The validity of lifetime gifts
- Trusts and disputes concerning the beneficial ownership of property both during life and arising on death
- Distributions and the priority of payment from insolvent estates
- Non-contentious probate practice
- Proceedings before the Court of Protection
- Real property and boundary disputes

Important Cases

Re- Stimpson, Deceased [2020] – The limits of pre-action disclosure under CPR 31.16 in a claim seeking the payment of a legacy from a deceased parent's estate, in circumstances where a will is subject to a challenge for validity.

Re: H (A Minor) – [2020] – The balance of financial provision for a minor, her mother and half-siblings in large estate, where the minor was the primary beneficiary. Multiple competing claims under the Inheritance (Provision for Family & Dependents) Act 1975. Advising and negotiating settlement for ultimate approval by the court.

In the Estate of Briggs, Deceased [2018]

Complex mediation concerning the will and estate of a deceased farmer, the interpretation of the meaning of 'vacant possession' within the will and the rights to succession of an agricultural tenancy.

In the Estate of Michael John Chantrey Inchbald, Deceased – Inchbald v Inchbald & Others [2017] EWHC 616 (Ch) [Costs]

Where a person challenged a will on grounds of want of knowledge and approval of its contents by the testator, but failed to show that he had acted on the basis of reasonable suspicion, the court declined to relieve him of the costs of his unsuccessful opposition.

In the Estate of Michael John Chantrey Inchbald, Deceased – Inchbald v Inchbald & Others [2016] EWHC 3215 (Ch)

A claim of want of knowledge and approval failed and a will was admitted to proof where the court was satisfied that the deceased was fully aware of the nature and effect of what he was doing when he executed it. The deceased had been told in a letter from his solicitor what the will would contain, then taken through the will in detail on the date of its execution, and then told in a second letter what the terms were of the document that he had executed.

Jacqueline Aldine Leslie Baroness Killearn v (1) Victor Miles George Aldous Lampson Baron Killearn (2) Sydney Michael Kalinsky (3) Philip Anthony Sapsford (4) Miles Henry Morgan Lampson [2011] EWHC 3775 (Ch)

In the circumstances, the court did not approve a life tenant's proposed sale of trust property at a particular price to a particular purchaser. The evidence in relation to the property's value and condition did not support

that approach, and it would be inconsistent with the trustees' duty to the beneficiaries to sell without a proper marketing campaign to maximise the price.

Maurice Clark v (1) Ian Clark (2) Wilfred Clark (As executors of the Estate of Kathleen Clark (Deceased)) [2011] EWHC 2746 (Ch)

The trustees of a will had not been entitled to request a reconsideration of a surveyor's valuation in respect of an option to purchase property under the terms of the will. It was implicit that the intention and effect of the will was that once a valuation was issued it would be final and could not thereafter be amended.

Vivian v Koningsveid Ch D (John Randall QC) 29/10/2010

Rectification of a deed of variation of a will to allow for severance of a joint tenancy was ordered where there was a common intention concerning how fiscal benefits were to be achieved which involved using the nil-rate band for inheritance tax purposes to increase funds in the estate.

In the Matter of the Estate of Vera May Gale (Deceased) sub nom Janice Susan Gale v David John Gale[2010] EWHC 1575 (Ch)

Codicils to a will were not effective to bequeath certain property to the claimant. There was expert evidence that the signatures on the codicils were forged and not written by the testatrix, and one codicil had apparently been signed at a date when the testatrix no longer had testamentary capacity.

(1) Bernard Hinton (2) Patricia Hayes v (1) Susanna Leigh (2) Simon Reeve – In the Estate of Victor Reeve, Deceased [2009] EWHC 2658 (Ch) 27.10.09 LTL

A testator did not have capacity to execute a Deed of Revocation as he was suffering from a mental illness which caused insane delusions which poisoned his affections. A previously executed Will was upheld and probate granted.

Shantaben Durgashanker Bhatt v Hasmita Durgashanker Bhatt & Others (2009) LTL 3/4/2009

Application to set aside Deed of Variation and other post-death variation documents on the ground of mistake.

Bedeau v London Borough of Newham [2009] EWHC 293 (QB) LTL 13/3/2009

Appeal against finding of contempt of court for publication of confidential material relating to family proceedings on the internet.

In the Matter of the Estate of Bertha Hemming (Deceased) sub nom Raymond Saul & Co (A Firm) v (1) Jolyon Holden (as personal representative of Bernard Leslie, Deceased) (2) Louise Mary Britten (as trustee in bankruptcy of the estate of Bernard Leslie Hemming)[2008] EWCH 2731 (Ch) LTL 12/11/2008 [2009] Ch 313.

Rights of a trustee in bankruptcy to the residue of an estate bequeathed to a bankrupt but not ascertained before his bankruptcy had been discharged.

Re Edwin John Watson Deceased – Carr & Others v Beaven & Others [2008] EWCH 2582 (Ch) LTL 5/11/2008.

Testamentary capacity and the validity of Wills.

Deceased did have testamentary capacity at date of execution of Will despite suffering mild to moderate dementia.

Shah v Joshi [2008] All ER (D) 156 (Aug).

Validity of Wills – Forgery.

Court declared against the validity of a Will on the basis that insufficient evidence of due execution.

Clark v Clark & Others [2007] All ER (D) 186 (Dec).

Construction of Wills.

Construction of a Will and the meaning of a disputed clause concerning the Testatrix's farm.

Alan Glanville & Michael Glanville (Executors of the estate of Horace Winston Glanville, Deceased) v Jean Mabel Glanville [2002] EWCH 1271 (Ch) LTL 1/7/2002.

Lifetime gifts; undue influence.

A deed of gift by the deceased, whereby he transferred his house into the joint names of himself and his wife as beneficial joint tenants, was not vitiated by undue influence.

FURTHER INFO

Qualifications

LLB Hons Queen Mary College, University of London