

## Partner

**Offices:** London

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**Email:** paul.hewitt@withersworldwide.com

**Education:** University of Kent at Canterbury, Law with a Contemporary Language (French)

**Admitted:** England and Wales, 1997

**Languages spoken:** French

**Year joined:** 1998

**Year became partner:** 2003



## Overview

Paul, having started his career as a private client practitioner, is a partner in the Contentious Trust and Succession group and also heads the firm's work for charities and not for profit organisations on legacy income.

He specialises in all types of trust and probate disputes including claims about the validity, construction and rectification of wills and trusts, *Inheritance (Provision for Family and Dependents) Act 1975* claims, removal of executors and trustees, and contentious estate and trust administrations. He is the Court appointed administrator in a number of contentious estates.

Paul also advises on contentious Court of Protection matters, both financial, and health and welfare, involving those unable to manage their own affairs. These include statutory will applications, disputes over the appointment or conduct of attorneys and deputies, and applications for gifts and other transactions. Occasionally he acts as 'litigation friend'.

He also advises on professional negligence claims arising out of trust and estate administration, and failed estate and tax planning.

Paul is listed as a leading practitioner in Chambers Global, Chambers and Legal 500. He is described as an *'impressive and proactive tactician'* in Chambers 2011, as *'highly commercial and straight-talking'* in Chambers 2012, and as noted for his *'in-depth knowledge and sensitive handling of the issues'* in Legal 500 2011. Citywealth Leaders List 2012 says:

*'..of the highest competence and judgement and a formidable opponent... one of the leading advisors in the area..''..quite simply, one of London's leading trust and estates litigation solicitors...if I were a client with a contentious trusts or probate claim, I would, without hesitation, go to Paul.'*

## Highlights

- In *Burgess v Hawes*, reported at [2012] WTLR 423, Paul and [Natasha Owen](#) acted for the successful claimants in overturning a purported will of their late mother's and securing recovery of lifetime transfers in favour of their sister and her immediate family. [Click here](#) to view our briefing or visit the Daily Telegraph article.
- In *Semmens v Hards & another* (2011), Paul and [Jag-Preet Kaur](#) acted for the applicant to secure relief from forfeiture and ensure that he received his uncle's entire estate notwithstanding his assistance in his uncle's final trip to the Dignitas Clinic.
- Paul and [Beatrice Goford](#) act for the trustees in the Hastings Bass matter of *Futter v Futter* in their application to set aside an advancement as a result of incorrect tax advice. The first instance decision is reported at [2010] WTLR 609. The Court of Appeal decision is reported at [2011] 2 All ER 450. The case goes before the Supreme Court in March 2013.
- In *Clark v World Wildlife Fund and others* reported at [2011] WTLR 961 Paul Hewitt and [Natasha Owen](#) represent the charities who successfully argued that English law governs the validity of a will dealing with English immovable property (thus confirming the rule in Dicey for the first time). The court also held that England rather than Alabama is the appropriate forum for the dispute, despite the testatrix's nephew, Mr Clark, having obtained letters of administration in Birmingham County, Alabama.
- Paul and [Stephen Richards](#) acted for the charity in *RSPCA v Sharp and Others* in which the Court of Appeal unanimously upheld the RSPCA's case that its benefactor, the late George Mason, intended his estate to pass free of inheritance tax. [Click here](#) to view our briefing or [visit the Civil Society website](#). The first instance decision is reported at [2010] WTLR 855. The appeal is reported at [2011] STI 253 and [2011] WTLR 311.
- In *Re MN*, reported at [2010] WTLR 1355, a dispute over the enforcement of a Californian Order that MN be returned to California, Paul and [Stephen Richards](#) represent MN's niece. It is the leading authority on cross-border welfare disputes in the Court of Protection.
- In *Natalia Morley-Clarke v MT Brooks & Others*, reported at [2011] WTLR 297, Paul and [Stephen Richards](#) represented Mrs Natalia Morley-Clarke, whose husband had died intestate. The judgment is the first on a widow's application to capitalise her life interest. The application was contested by one of the husband's sons from a previous marriage, who was subsequently ordered to pay costs of the entire dispute.

- In *Esson v Esson and Others*, reported at [2010] WTLR 187, Paul and Isabel Moreton acted for the successful claimant in an application for construction and rectification of his mother's homemade codicil. The Judge agreed that the words 'should I predecease him' in the codicil were not intended to be a condition of the gift of a bank account to the testatrix's grandchildren.
- In *ITW v Z, M, and various charities*, reported at [2009] WTLR 1791, Paul and Stephen Richards represented the charities in support of ITW's application for a statutory will.

## Publications and speaking engagements

### Publications

- Co-author of the Law Society's *Inheritance Act Claims*
- Co-author of *Probate Disputes*, second edition published by Jordans
- Author of the Tolley's *Charities Manual* chapter on legacy income published by LexisNexis
- Contributor to *Practical Will Precedents* and *McCutcheon on Inheritance Tax* (both Sweet and Maxwell)
- Co-author of the regularly published Institute of Legacy Management *Wills and Probate Update*, and the New Law Journal *Wills and Probate Update*
- Contributor to Legal Network Television programmes including *Private client: troublesome trustees, executors and beneficiaries* 2008; *Will and Trusts: Mistakes* 2009; *Private Client: Contested Legacies* 2010; and *Trusts and Mistakes* 2010
- Contributor to the Law Society Probate Section/ILM *Charities as Beneficiaries* guidance

### Speaking engagements

- Law Society webinar - *The latest on contentious probate* (September 2012)
- Jordans Wills Trust and Probate Update 2011 - *Contentious Probate - the Golden Rule revived?* (November 2011)
- STEP Cheshire *Charities as beneficiaries - friend or foe?* (September 2011)
- Surrey Law Society 2011 Private Client Conference - *Construction of wills - when words don't always mean what they say* (September 2011)
- Solicitors Group Wills and Probate *Trustee Errors - Hastings Bass and other remedies after the Court of Appeal* (May 2011)
- LexisNexis Webinar *Charities as Beneficiaries under wills: drafting, administering and litigating* (April 2011)
- Legacy Labyrinth (January and February 2011)
- STEP Cross Border Incapacity Conference *The Case of Re MN* (December 2010)
- STEP Norwich and Norfolk *Family disputes: pre and post death* (November 2010)
- Surrey Law Society Private Client Conference *The Court of Protection in Practice* (September 2010)
- Solicitors for the Elderly *Putting Tax Mistakes Right* (June 2010)
- STEP Lakes and Lancaster *Confusion in Wills - the modern approach to construction* (May 2010)
- Advising The Elderly Conference 2010 *Court of Protection Issues including Lasting Powers of Attorney* (April 2010)
- Jordans Wills, Trusts & Probate Seminars Autumn 2009 *Personal Representatives and Joint Accounts and No Contest Clauses*
- Law Autumn 2009 *When Tax Planning Goes Wrong* (September 2009)
- STEP Seminar The Mental Capacity Act 2005 and the Court of Protection (January 2009)
- 4me Convention Nationale des Avocats 2008 *Reformes des tutelles: La protection en Common Law, Illustrations transfrontalière (France/Grande Bretagne)*, October (Lille)

### Memberships

- ACTAPS
- STEP
- Law Society Private Client Section
- Charity Law Association
- AIJA (International Association of Young Lawyers)
- Solicitors for the Elderly



