

Paul Hewitt

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Paul is a partner in the trust, estate and inheritance disputes team.

Top ranked in the directories, Paul is described as a 'star litigator' and 'a formidable opponent.'

Paul specialises in all types of trust and probate disputes. This includes 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.

The Court has appointed him administrator in a number of contentious estates. A barrister interviewed by the leading independent legal directories commented: 'if I were a client with a contentious trusts or probate claim, I would, without hesitation, go to Paul'.

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 and disputes over the appointment or conduct of attorneys and deputies. Occasionally he acts as a 'litigation friend'.

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

Paul Hewitt enjoys an excellent reputation for his work on complex private client disputes. "There is a uniquely commercial aspect to his work and he is exceptional at judging whether something is worth running," observes one source. Another comments: "He really knows what he's doing and is absolutely determined to do the best with his clients."

The Lawyer says "There aren't too many lawyers who can claim to have acted in a case spanning more than 70 years concerning two countries, a bank and a former state. However, that is precisely what Paul Hewitt did when representing the 8th Nizam in High Commissioner for Pakistan In the United Kingdom v Prince Muffakham Jah & Ors last year, a

dispute linked to a £1m fee that eventually ballooned to £35m."

He heads the firm's work for charities and not-for-profit organisations on legacy income with [Stephen Richards](#).

Track record

Mercy killing and relief from forfeiture

In 2023, Paul and Alexandra Dix acted for Withers Trust Corporation in the estate of Adrian Berry, securing full relief from the forfeiture rule in the light of the tragic circumstances. Mr Berry had assisted in the death of his terminally ill wife, before taking his own life. As a result of the relief granted, Mr Berry's estate receives the benefit of his wife's estate, such that all their assets pass to their intended charity, free of inheritance tax. [Click here](#) to read the judgment and [here](#) to read our briefing note.

Defeating attempt to exclude charities by way of rectification

In *Pead v Prostate Cancer UK & Others*, reported at [2023] WTLR 1089, the deceased's stepson tried to exclude three cancer charities from sharing in the residuary estate, arguing that his stepfather had intended the residue to go solely to family members. Paul and Rosalind Russell represented the charities in successfully defending their entitlement to residue. (The dispute then mutated into a widely-reported argument over costs, which didn't involve the charities, between the drafting solicitor and the stepson.) [Click here](#) to read the original judgment.

Out of depth executor removed

In *Klein v Adler and Klein*, Paul and [Alexandra Dix](#) acted for the successful claimant, Mrs Klein, in an action to replace the executor with an independent administrator, the Deputy Master holding that there had been a '*real failure to progress the administration*' resulting in part from her lack of modern technological ability which served to emphasise why she was '*not a suitable person to carry through the administration of the estate*'. [Click here](#) to read the judgment

Meaning of 'free of tax'

Paul represented Sightsavers, acting under its formal name as representative for twenty other charities, in *Royal Commonwealth Society for the Blind v Beasant and others* [2021], an application to determine that a legacy expressed to be equal to the maximum passing free of tax has a nil value where there are already gifts to non-exempt beneficiaries exceeding the tax free element. Sir Anthony Mann upheld the decision on appeal in *Beasant v Royal Commonwealth Society for the Blind* [2022]. [Click here](#) to read our briefing note on the case, [click here](#) to read the appeal and [here](#) to read the original judgment.

Representation of Dame Zaha Hadid beneficiaries

Paul Hewitt and [Sarah Aughwane](#) advised the nominated representative of the former employees of Zaha Hadid Limited in *Schumacher v Clarke and others* [2020] in which the executors and trustees of Dame Zaha Hadid's estate sought the Court's blessing of a decision to pass significant assets to an Employee Benefit Trust. The Court accepted submissions made on behalf of the former employees and other representative parties that the decision should not be blessed. Click [here](#) to read the judgment.

Nizam of Hyderabad

Paul, [Deborah Nicholls-Carr](#) and [Olivia Turner](#) represented Prince Mukarram Jah, His Exalted Highness Nizam VIII of Hyderabad, in a dispute over funds frozen at Natwest Bank for over 70 years (the subject of a 1958 House of Lords decision *Rahimtoola v Nizam of Hyderabad*), involving the governments of India and Pakistan. Pakistan issued a new claim in 2013. The High Court decided in *Pakistan v Natwest and Ors* that the Nizam's claim to the funds should be allowed to proceed. In 2019, the Judge finally upheld the Nizam's claim (along with those of his younger brother and India) which he had assigned to his grandfather's funds. Read the Judgment [here](#). The case was one of The Lawyer's 'Top 20 Cases of 2019'. In July 2020 we succeeded in ensuring applications to set aside the Judgment and seeking disclosure of various documents were dismissed. See the Times of India's report [here](#).

Widow allowed to bring claim record-breaking 26 years out of time

Paul and [Alexandra Dix](#) acted for Mrs Bhusate in her claim for financial provision from her late husband's estate more than 25 years after her husband passed away. Despite the lengthy delay (the previous record of just under six years was set in 1993) Chief Master Marsh ordered that Mrs Bhusate's claim should be allowed to proceed. Click [here](#) to see his judgment. In January 2020, reported at [2020] WTLR 691, the High Court upheld Chief Master Marsh's decision (the appeal judgment [here](#)) meaning Mrs Bhusate's claim could proceed. Shortly after the defendant stepchildren conceded the claim. Click [here](#) to read our briefing note.

Widow allowed to bring financial provision claim out of time

Reported at [2020] 2 WLR 61, Paul and [Sarah Aughwane](#) represented Mrs Cowan in her claim for reasonable financial provision from the estate of her late husband. In July 2019, the Court of Appeal unanimously gave her permission to bring her claim out of time. Here is a link to the Court of Appeal [judgment](#) and to our [article](#). The defendants subsequently conceded her claim and settled with Mrs Cowan.

Claim to have been treated as a child

In *Wells v Chorus Law and Others* [2018], Paul and [Alexandra Dix](#) acted for the successful defendants in the first 'child of a single parent family' 1975 Act claim following amendments to the legislation in 2014. The Judge agreed that the deceased had never treated the claimant (his former neighbour, twenty years his junior) as part of his family. She was therefore refused permission to bring a financial provision claim. Click [here](#) to read our briefing note on the case.

Mercy killing and suicide – impact on wills

In *Macmillan Cancer Support v Hayes and Another* [2017], Paul succeeded in ensuring that relief from forfeiture was granted by the Judge notwithstanding that the husband had killed his wife in tragic circumstances, meaning that both husband and wife's intended beneficiaries benefitted. Click [here](#) to read our briefing note on the case.

Setting aside 1975 award on basis of fundamental mistake

In *British Red Cross and Others v Werry and Others*, reported at [2017] WTLR 441, Paul, together with [Richard Walker](#) successfully appealed a 1975 Act order made six years earlier on the basis that it resulted from a fundamental mistake (namely a belief that the deceased had died intestate when, five years later, it was discovered he had made a will). Click [here](#) read our briefing note on the case.

Extending the meaning of 'United Kingdom' for specific Will

In *Royal Society v Robinson & Others* reported at [2015] WTLR 299 Paul acted for the Royal Society in its successful application to extend the meaning of 'United Kingdom' to include Jersey and the Isle of Man in the context of the Will of the eminent physicist, Michael Crowley-Milling. [Click here](#) to read our briefing note on the case.

Proprietary estoppel claim to privately owned village

In *Bourke v Favre* [2015], Paul acted for the owner of Chettle in Dorset, one of a handful of privately owned villages in England, in response to her nephew's claim that she was required to leave him the entire village based on a purported 50-year-old oral family agreement. We persuaded the Court to reject the nephew's attempt to suddenly introduce a significant new claim, proprietary estoppel, after witness statements had been exchanged. Click [here](#) to see the decision. The substantive dispute settled shortly thereafter.

Securing two shares of residue for charity in Jersey

In the matter of the estate of *Nicholas Turquand-Young* reported at [2013] JRC 235, Paul, working with Jersey advocates, advised Macmillan Cancer Support on an application before the Royal Court of Jersey about the correct interpretation of a will. Under the will, two shares of residue were left to Macmillan, but under different former names. The executor considered Macmillan only took one share. The Royal Court, applying English law, held that Macmillan was entitled to both shares.

Domicile of origin saves validity of Jersey will

In the matter of the representation of Hawksford Executors, reported at [2013] JRC 188, Paul and Phineas Hirsch working with Jersey advocates advised RSPCA, Cancer Research UK and RAF Benevolent Fund to establish to the satisfaction of the Royal Court that Mrs Ivelaw had retained her domicile of origin after more than 30 years living in Belgium, even though she had continued living there after the death of her husband and died in a retirement home in Belgium. This enabled them to secure an Order that Mrs Ivelaw had not revoked an earlier will benefiting the three charities when making a later Belgian will dealing with Belgian assets

Meaning of religious worship in Supreme Court

Paul acted for Louisa Hodkin in a judicial review of the Registrar General of Births, Deaths and Marriages' refusal to register a Church of Scientology Chapel as a place of religious worship (thereby denying Louisa and her fiancé the right to a legally recognised marriage in their own church). Ouseley J refused the application, reported at [2013] ACD 32, because he was bound by a 1970's Court of Appeal authority, but recognised that Scientology is a religion. In a separate judgment the Judge gave permission to seek leave to appeal direct to the Supreme Court (leapfrog). The Supreme Court expedited the hearing and in December 2013 unanimously upheld the appeal. [Click here](#) to view Lord Toulson summarising the Court's decision, which is reported at [2014] AC 610 and [2014] WLR 23.

Successfully replacing executors with an independent professional

Paul and [Natasha Stourton](#) acted for the first defendant in *re Goodman, decd*, reported at [2013] 3 WLR 1551, where Newey J, on appeal from Master Bragge, upheld the first instance decision on removal of executors (Paul was the successful advocate before Master Bragge).

Court of Appeal upholds decision that Will invalid

In *Burgess v Hawes*, Paul and Natasha Stourton acted for the successful claimants, first instance decision reported at [2012] WTLR 423 and Court of Appeal decision reported at [2013] WTLR 453, in overturning a purported will of their late mother's and securing recovery of lifetime transfers from their sister and her immediate family. [Click here](#) to view the Court of Appeal decision. [Click here](#) to read our briefing note on the case.

Setting aside trustee mistake in the Supreme Court

Paul acted for the trustees in the Hastings Bass matter of *Futter v Futter* in their application to set aside an advancement, the result of incorrect tax advice, which went to the Supreme Court. The first instance decision is reported at [2010] WTLR 609, the Court of Appeal decision at [2011] 2 All ER 450, and the Supreme Court decision at [2013] WTLR 977. [Click here](#) to read the Supreme Court decision

Will interpretation and ambiguous comma

In *Spurling & another v Broadhurst & Others*, reported at [2012] WTLR 1813, Paul represented the executors who sought a declaration to determine which of four possible constructions was the correct interpretation of the will.

Dignitas and relief from forfeiture

In *Semmens v Hards & Another* (2011), Paul acted for the deceased's nephew to secure relief from forfeiture and ensure that he received his uncle's entire estate, notwithstanding assistance in his uncle's final trip to the Dignitas Clinic.

Securing England as appropriate forum for will validity dispute

In *Clark v World Wildlife Fund and Others*, reported at [2011] WTLR 961, Paul Hewitt and [Natasha Stourton](#) represented the charities who successfully argued that English law governs the validity of a will dealing with English immovable property (the first judicial approval of the rule in Dicey). The court also held that England rather than Alabama was the appropriate forum for the dispute, despite the testatrix's nephew, Mr Clark, having obtained letters of administration in Jefferson County, Alabama.

Establishing meaning of 'maximum without inheritance tax'

Paul together with [Stephen Richards](#) acted for the charity in *RSPCA v Sharp & Others* [2010] in which the Court of Appeal unanimously upheld the RSPCA's case that its benefactor, the late George Mason, had intended his estate to pass completely free of inheritance tax. Click [here](#) to read the Judgment.

Cross border Court of Protection dispute over residence

In *Re MN*, a leading authority on cross-border welfare disputes in the Court of Protection, reported at [2010] WTLR 1355, Paul and [Stephen Richards](#) represented MN's niece and only surviving relative, PLH. MN had made an Advance Health Care Directive in her niece's favour and PLH wanted to care for her aunt in Surrey. However, MN's Californian attorney had secured an Order that MN be returned to California (notwithstanding the lack of family or support network). The Court of Protection had to decide whether to recognise and enforce that order requiring her return to California. Click [here](#) to read the judgement.

Establishing true intention behind words in a Will

In *Esson v Esson*, reported at [2010] WTLR 187, Paul acted for the successful claimant in an application for construction and rectification of his late mother's homemade codicil. The Judge agreed that the words 'should I predecease him' were not intended to be a condition of the gift of a bank account to the testatrix's grandchildren. Click [here](#) to read the judgment.

Talks

- ThoughtLeaders4, *Nizam: Nuclear powers face off in High Court over English trust law principles speaker* - 21 April 2021
- Informa India Disputes, *Representing the Nizam: India v Pakistan in the English High Court* - 19 November 2020
- Contentious Trust and Probate Ceremony - James v James - 8 February 2018
- The Law Society Private Client Cross Border Conference 2016, [Cross Border Contentious Probate](#)
- Law Society, *Will drafting post Illot v Mitson*(2015) - 9 October 2015
- Contentious Trust and Probate Conference, *Removal of Personal Representatives* - 8 October 2015
- Institute of Fundraising, Legacy Fundraising Summit, *What happens when your legacy gift is under dispute?* - 14 September 2015
- IBC's UK & Cross Border Contentious Wills & Probate Conference, [Examining the Role of the Personal Representative in Probate Litigation](#) - January 2015
- Legacy Labyrinth, *Chattels as a source of discord* - January and February 2015
- Law Society webinar, *Contentious probate* - September 2014

- Legacy Labyrinth, *Deathbed Gifts* - January and February 2014
- 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
- 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 *No Contest Clauses*
- 4me Convention Nationale des Avocats 2008 *Reformes des tutelles: La protection en Common Law, Illustrations transfrontalière (France/Grande Bretagne)*
- Contributor to Legal Network Television programmes including Private client: troublesome trustees, executors and beneficiaries; Will and Trusts: Mistakes; Private Client: Contested Legacies and Trusts and Mistakes

External publications

'Inheritance Act Claims' - Law Society, third edition, co-author, 2022

'UK Court of Appeal Rules British Tycoon's Widow Can Bring Will Claim.' WealthManagement.com, August 2019, quoted

'Probate Disputes and Remedies', Jordans third edition - March 2014, co-author

'Strength of Will', Law Society's PS Magazine - May 2013, co-author

'A matter of Record', Private Client Advisor - April 2013, co-author

'The Court of Protection, Charities and the Evolution of Best Interests', Elder Law Journal - 2012, co-author

'Legacy Income', Tolley's Charities Manual,

'Practical Will Precedents' and *'McCutcheon on Inheritance Tax'* (both Sweet and Maxwell),

'Charities as Beneficiaries' guidance, Law Society Private Client Section/ILM, contributor

Admissions

England and Wales, 1997

Education

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

Languages

English

Memberships

Association of Contentious Trust and Probate Specialists

Society of Trust and Estate Practitioners

Law Society Private Client Section

Charity Law Association

Key dates

Year joined: 1998

Year became partner: 2003

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