

Losing counsel series: Kelly v Brennan

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EVENTS



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Rectification – evidence, late applications and the relevance of domicile in *Kelly v Brennan*

Josh Lewison of Radcliffe Chambers acted for one of the unsuccessful grandchildren in *Kelly v Brennan*.

The deceased had left an estate of over £2 million divided equally between siblings and the children of a deceased sister. His brother, and executor, belatedly sought to rectify the Will asserting that the children were only intended to take the share their mother would have taken equally between them.

Involving consideration not merely of whether the Will should be rectified, but the impact of domicile and whether permission should be given for despite the application being several years outside the six month time limit.

The deceased was Irish and, although living in England, the Will had been drafted in Ireland.


The case is the first on out of time rectification claims since the recent spate of decisions permitting late claims under the 1975 Act jurisdiction such as *Thackare v Bhusate* and *Cowan v Foreman*.


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