

Increased property values, more complex domestic arrangements and the public's improved awareness of their rights generally have all contributed to the rise in disputes about private wealth, particularly after death. This area of law is complex and specialised. The courts prescribe specific rules unique to claims of this type, so it is important to seek legal advice from those skilled in the area at the outset.

Our Contentious Trust and Probate Team comprises members and associate members of the following professional bodies; The Association of Contentious Trust and Probate Specialists (ACTAPS), The Society of Trust and Estate Practitioners (STEP) and the Professional Negligence Lawyers Association (PNLA).

Our experts can provide clients with the specialist advice they need to not only litigate, but to also resolve, these unique types of dispute. Our strength lies in our experience and the high level of collaboration between our private client team and our litigation team which means that our clients benefit from expertise across the board. Examples of issues we can help to resolve include:

Disputes about the validity of a will

A will can be invalid for a number of reasons. There are prescribed rules of practice and procedure for dealing with such claims. Our team of specialists advise and guide clients through the process and can cost effectively collate evidence and investigate a claim early on so that an assessment of its merits can be made at the outset and unnecessary costs avoided, if possible.

Disputes and uncertainties about the meaning of a will or trust document

Debates about the construction of a will or a trust document can be contentious or non-contentious. Either way, the court will usually need to determine the meaning. Again, there are prescribed rules of procedure for seeking that determination with which we can assist.

Disputes in the Administration of an Estate and associated negligence claims

These sorts of dispute are wide ranging. They can include disputes between executors, between beneficiaries and executors, between beneficiaries and each other, and disputes between solicitors and executors (or beneficiaries) or those who are disappointed to discover that they are not beneficiaries. We also deal with disputes between Estates and creditors to the Estate. Executors or Trustees may need to apply to the Court so that their proposed course of action on behalf of the Estate is sanctioned and breach of trust claims avoided. We also deal with claims in professional negligence against those who advised the deceased (e.g. the will draftsman) and those who have given professional advice to executors, or trustees.

We recognise that disputes about family wealth can be emotional and unpleasant for those involved – more so than most other types of dispute.

Breach of Trust claims

These claims can arise during the course of an estate administration as against Executors, or during, (and subsequent to), the administration of a Trust. They can have serious consequences for Trustee or Executor defendants and it is important to ensure advice is sought early on.

Validity of Trust claims

Claims challenging the validity of a trust, or alleging a trust to be a sham are most frequently brought by disinherited heirs, creditors, former spouses or HMRC where the settlor of the Trust has, on the face of it, put assets outside of his or her ownership. We can assist in bringing and defending such claims.

Claims for reasonable financial provision under The Inheritance (Provision for Family and Dependents) Act 1975

It is sometimes the case that despite the contents of a will (or the rules of intestacy), a person is entitled to more than has been provided for him (or her) in that will (or by the intestacy), or, if not a beneficiary at all, to a share of the estate anyway. This is on the basis that (a) the person in question falls within the definition of an “eligible claimant” under this piece of legislation and (b) reasonable financial provision has not been made for him or her. We have considerable experience in bringing and defending claims under this Act and have seen an increase in them in recent years.

Proprietary Estoppel/Constructive Trust Claims

Where a Deceased made promises about an inheritance, and the person to whom the promise was made relied on it but the inheritance did not then materialise the disappointed person may have a claim against the estate to effectively enforce the Deceased’s promise. We can help in defending and bringing such claims.

Obtaining information and resisting requests for information

Requests for information are most frequently made of Trustees, Executors or professionals (e.g. the solicitor who drafted a will) by family members of Deceased persons or by beneficiaries of an estate or trust. Disclosure of information is sometimes at odds with duties of confidentiality so disclosure is rarely made easily. We know our way around the relevant law and disclosure obligations which enable us to advise and advance issues falling in this category of ‘dispute’ relatively quickly.

Related Services

In addition to the broad range of disputes we identify in this literature, we can also assist with related disputes such as death and burial disputes, disputes between Attorneys and claims to set aside lifetime transactions or gifts on the basis of undue influence.

Helping You

We recognise that disputes about family wealth can be emotional and unpleasant for those involved – more so than most other types of dispute. We aim to guide our clients through the process with this at the forefront of our minds and, above all, try to help the parties reach a resolution whilst remaining committed to fighting our clients corner and achieving the best possible result we can for them.

Find out More

If you would like to know more about these services and how we could help you – contact us now.

Deborah Cain, Associate
deborah.cain@adams-remers.co.uk
Direct dial: 01273 403211

Adams & Remers
Trinity House
School Hill
Lewes
Sussex
BN7 2NN