

XXIV

OLD BUILDINGS

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# Owen Curry

Call: 2009



Owen Curry specialises in commercial and traditional chancery litigation.

He has regularly appeared in trials and interlocutory matters in the High Court and County Court. His trial experience includes:

- ***Aeroflot v Beresovsky and others* [2018] EWHC 1735**: led by Francis Tregear QC with Alex Pelling for the active defendants in a claim for over USD100 million. The claimant discontinued the claim on the eve of trial and was ordered to pay indemnity costs.
- ***Knight v Gorst* [2018] EWHC 613; [2018] 2 P&CR 8**: led by Alan Steinfeld QC for the successful landlord in a dispute regarding the ownership of subsoil into which the tenant wished to b
- ***Kunicki v Hayward* [2016] EWHC 3199**: a probate dispute involving allegations of fraudulent calumny and lack of testamentary capacity
- ***Hamilton v Hamilton* [2016] EWHC 1132**: a two week trial led by Steven Thompson QC concerning the disputed inheritance of a Lichtenstein foundation.
- ***Kaki v Kaki* [2015] EWHC 3692** a trial concerning the validity of a trust.
- ***Skala v Via Servis* [2014] EWHC 3069 (Ch)**: a six day trial concerning a dispute between shareholders involving cross examination through an interpreter and over video link.

He has also been involved in off-shore litigation in both the Caribbean and the Channel Islands and has spent time assisting law firms in London and the Channel Islands. As a result he has gained a broad experience of contentious probate trust and estate disputes and well as document heavy commercial litigation and commercial litigation involving the application of traditional equitable principles in modern contexts.

His particular experience can be seen by clicking on the areas of practice below.

## Expertise

### Banking & Financial Services Disputes

Owen has experience of financial services law and regulation. He has recently spent several months assisting a bank with claims for consequential loss arising out of mis-sold interest rate hedging products. His other experience includes:

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- Advising on the meaning and effect of FSA (now FCA) Rules
- Assisting with the preparation of a claim by a large class of claimants following the collapse of a tax scheme.
- Advising on right under a guarantee which had been assigned

## Civil Fraud & Asset Recovery

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Many of Owen's cases involve elements of fraud and require steps to be taken to trace and recover assets. He is currently involved in high value fraud claim concerning funds allegedly misappropriated over ten years ago.

## Commercial Litigation

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Owen has experience of commercial work both in court and on paper. He experience includes:

- *Aeroflot v Berezovsky* [2018] EWHC 1735; [2017] EWHC 2403; [2017] EWHC 150: a hard fought commercial fraud claim for over \$100 million
- *Rodriguez v Henley Property* (2014) a commercial dispute over unpaid fees
- *Ackerman v Ackerman* [2011] EWHC 3428 assisting on of the defendants in preparing his defence and in preparation for the trial.
- Acting in a dispute regarding payments under a franchise agreement which involved alleged misrepresentations made to the franchisees.
- A dispute between an investment bank and its former online advertising agents.
- Advising investors of their rights and obligations under a joint venture agreement regarding investments in Eastern Europe.
- Assisting an off-shore law firm in a disclosure exercise.
- Acting and advising on interlocutory applications, including applications for specific disclosure applications for relief from sanctions and applications for security for costs.

## Company

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Owen has experience of company disputes and non-contentious advice of all kinds. He appeared for the petitioner in *Skala v Via Servis* [2014] EWHC 3069 (Ch), the six day trial of an unfair prejudice petition in the Chancery Division involving cross-examination over a video link and through an interpreter. He has continued to advise regularly on shareholder disputes of all sorts. His other experience includes:

- Advising on the risk inherent in a proposed joint venture involving various offshore companies.
- Advising on the effect of a subsidiary owning shares in its holding company.
- Advice on the validity of the declaration of dividends.
- Advising on shareholders' agreements.
- Assisting with a just and equitable winding up petition in an off-shore jurisdiction.
- Applications regarding the rectification of the register of company charges.
- Appearing for a director on a successful application for interim and subsequently permanent leave to act following a disqualification undertaking.

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## Court of Protection

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Owen has appeared the Court of Protection since joining chambers. He has experience of contested property and affairs deputyship applications, applications to revoke powers of attorney, and remove attorneys. These applications often involve further disputes about the validity of lifetime dispositions and appointments.

He has also appeared in health and welfare cases.

## Insolvency

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Owen frequently appears in insolvency matters before judges and ICC judges. His experience includes:

- Re Fit Out Leisure (2016) a claim by a liquidator against the former directors of a company under s. 212 and 214 of the Insolvency Act 1986.
- Company and personal insolvency petitions involving disputed debts including disputes regarding the court's jurisdiction.
- Applications to set aside statutory demands.
- Applications to restrain the presentation of winding up and bankruptcy petitions.
- Applications for the appointment of provisional liquidators.
- Applications (such as Re Ceart Risk Services Ltd [2012] EWHC 1178 (Ch), [2012] BCC 592, [2012] 2 BCLC 645, [2013] Bus LR 116) regarding the validity of the appointment of administrators.
- Applications for the extension of administrations.
- Acting for a liquidator in claims against the former officers of a company.
- Advising shareholders and directors of a company on the validity of dividends and upon other claims which a liquidator might bring against them.
- Advising a liquidator on steps to protect his personal position from claims by highly speculative and disputed contingent creditors.
- Advising and appearing in application for bankruptcy restriction orders and director's disqualification proceedings.

## Real Estate Litigation

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Owen appears in and advises on real property disputes. This includes commercial and residential leasehold litigation. He also has experience of advising on technical and historic real property questions. Owen's experience includes:

- Knight v Gorst [2018] EWHC 613; [2018] 2 P&CR 8: appearing and led by Alan Steinfeld QC on appeal for the successful landlord in a dispute concerning whether a tenant owned the subsoil beneath his flat to permit a basement extension
- Kaki v Kaki [2015] EWHC 3692 a trial concerning the validity of a trust of land
- A professional negligence claim arising out of the granting of an option to purchase freehold property
- Advising on the effect of a pre-1925 conveyance under the School Sites Act 1841
- Appearing in a co-ownership dispute in which a claim was made by the former partner of the sole legal owner of the property to an interest in it.
- Appearing for both landlords and tenants in possession proceedings and dilapidation claims, including proceedings involving arguments under the Human Rights Act 2006.
- Advising on and appearing in applications under the Trusts of Land and Appointment of Trustees Act 1996.
- Advising on the effect of an option to purchase contained in a will.
- Advising regarding the enforceability of an option to purchase which pre-dated the 1925 property law reforms
- Advising on the effect of the surrender of a head lease on a contract for the sale of the under-lease.

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- Advising a landlord on its position against the holder of a charge over a surrendered sublease.
- A claim for damages following an allegedly wrongful eviction in which the main issue was whether the claimant, the purported assignee of a previous tenant, was in fact a tenant of the landlord at all.

Application regarding charging orders and orders for sale.

## Trusts, Probate & Estates

Owen regularly advises on and appears in disputes involving trusts, the administration of estates and probate claims, and on questions of the construction of wills and trusts. He also has experience of applications made under the Inheritance (Provision for Family and Dependants) Act 1975.

He also advises and acts for charities in the context of contentious probate disputes, construction questions, schemes and technical charity law questions

He has advised and acted in application under the Variation of Trusts Act 1958

His recent experience includes:

- Re Collins (2017): a dispute which turned on the limitation period applicable to claims by executors to recover wrongly paid legacies
- Kunicki v Hayward [2016] EWHC 3199: a probate dispute involving allegations of fraudulent calumny
- Hamilton v Hamilton [2016] EWHC 1132 a two week trial led by Steven Thompson QC concerning whether a Lichtenstein foundation fell into the residuary estate of the deceased.
- Kaki v Kaki [2015] EWHC 3692 the trial of a dispute between siblings regarding the trusts on which property purchased by their father was held.
- Re Raglan (deceased) a dispute involving a claim to the deceased estate based on the doctrine of proprietary estoppel.
- A successful application for summary judgment regarding a allegedly forged will
- Advising on the use and scope of a power of appointment in a will to create charitable trusts Advising on the effect of a conveyance under the School Sites Act 1841
- Advising charitable residuary beneficiaries regarding whether property did or did not fall into residue when the will referred to a deed of trust which was not in fact executed
- Advising charitable beneficiaries regarding the effect of a conditional gift of property – the condition in that case being void as a repugnant condition against alienation
- Advising regarding the gifts to different charities in a will from the 1930s including questions of lapse, Cy-pres and perpetuity
- Advising on the validity of a testamentary trust including on the question of remoteness and perpetuity.
- Advising on the construction of a will containing poorly identified gifts to charity.
- Assisting an off-shore law firm with an extensive disclosure exercise in a claim by beneficiaries against the trust's former trustees.
- Advising on the validity of exercise of powers by trustees; one case involved the question of whether the trustees of a death in service pension has power to pay the fund to beneficiaries that the deceased had not nominated.
- Applications by personal representatives for directions in the administration of an estate.
- Applications for a Re Benjamin type order.
- A dispute regarding the incidents of the deceased's tax liabilities on his estate in circumstances where the deceased had made a specific bequest of his business.
- Obtaining an order removing an executor under s. 50 of the Administration of Justice Act 1985; the order including provision for the delivery up of estate papers.
- An Inheritance Act claim by the brother of the deceased and his family in respect of a farm owned by the deceased.

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