



## Gilead Cooper QC

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### Clerks' Details

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### Qualifications and Appointments

- Gilead practised as a litigation solicitor at Freshfields before coming to the Bar. He is an CEDR Accredited Mediator and has been called to the Bar of the BVI.

*“Intellectually brilliant”*

Chambers & Partners, 2016

## Memberships

- Chancery Bar Association
- Association of Pension Lawyers
- Professional Negligence Bar Association
- Professional Advisers to the International Art Market
- ACTAPS

## Publications

- "Cultural Divisions: the rivalry between family and chancery", *Trusts & Trustees* (2014) Vol 20, Issue 8, 815
- [Lost in translation: community property and the common law trust](#) (*Trusts & Trustees*, 2013)
- Case Note: *Re The St Andrew's (Cheam) Lawn Tennis Club Trust*, *Trusts & Trustees* (2012) Vol 18, Issue 8, 816.
- Contributor to *Palmer on Bailment*
- Contributor to *Tolley's Pensions Law*
- "How (not) to get rich on the Internet"; (1999) *NLJ*
- "Negligent Valuation: Damages"; (1995) *Int. I.L.R.*

## Practice Overview

Described in *Chambers & Partners* as *"an unsurpassed advocate at the Chancery Bar,"* Gilead has appeared in many high-profile cases in recent years, both in the UK and abroad.

Gilead is consistently ranked and independently recommended in both *Chambers & Partners* and *The Legal 500*. The recent *Chambers 2016* edition recommends him as a *'leading silk'* in *Trusts, Chancery Traditional, Offshore, and Art and Cultural Property*, commenting that *"He gives incisive, well-crafted opinions and is a fearless advocate."* The *Legal 500* described him as *"a genius and a great strategist,"* commenting that he is *"fast becoming one of the most sought-after senior Chancery practitioners"*.

Gilead specialises in complex, high-value disputes, often involving allegations of fraud, breaches of trust and fiduciary duties, and professional negligence. In *Jones v Firkin-Flood*, Gilead represented two of the beneficiaries of a trust in removing all but one of the trustees and in setting aside a purported disposition in favour of a third beneficiary (who was shown to have diverted funds into other businesses from which his siblings were excluded). More recently, Gilead acted for the Earl of Cardigan in his dispute with the trustees of the *Savernake Estate*: in one action, which went to the Court of Appeal, the trustees sought the court's sanction for a sale of the trust's prize asset, *Tottenham House*; in a separate action, the Earl of Cardigan succeeded in removing one of the trustees, and obtained repayment of unauthorised remuneration as well as compensation for breach of trust.

In another recent case, *Slutsker v Haron*, Gilead successfully resisted the claim by Vladimir Slutsker, a former Russian Senator, to go behind the terms of a Cayman trust that had been set up by his former wife to hold (via an English company) their matrimonial home, a valuable house in *The Boltons*. The case involved a conflict between Russian matrimonial law and UK domestic law. Another of Gilead's cases, *Sharp v Adam*, is one of the leading modern authorities on testamentary capacity. Gilead's experience also includes appearances in the Court of Protection.

Gilead is independently recommended in the directories for his expertise in *Art and Cultural Property*, and has been involved in a number of restitution claims before the *Spoliation Panel*. He acted for the *Tasmanian Aboriginal Centre* in a dispute over some human remains that formed part of the collection of the *Natural History Museum*.

His skills as an advocate have been employed in a diverse range of cases and issues, such as the effect of the *Rule in Hastings-Bass*, the construction of share option agreements, and the revocability of a *Power of Attorney* granted for the purpose of pursuing claims in Germany for War reparations.

Gilead's practice has a strong international element, and he has appeared in the courts of Hong Kong, the BVI, Bermuda and Cayman. He is featured in *Who's Who Legal 2016* and in *Legal Week's 'International Trusts & Private Client Elite'* list of 100 specialists across Europe, the US and Asia.



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## Practice Overview continued

*"His submissions are always reduced to the most lucid and persuasive arguments and, what really sets him apart, is his ability to read the court and adapt his approach to circumstances."*

*"He is intellectually brilliant and very easy to work with."*

*"Charming and a free thinker who is not afraid of putting forward controversial perspectives."*

*"A first-rate lawyer with tremendous clout, he has acted in many of the leading cases over the past ten years."*

*"A very knowledgeable, creative barrister, whose very fine advocacy is incisive and rapier-like."*

Before coming to the Bar, Gilead enjoyed a brief career in publishing, editing books on photography, popular science and astronomy. He also spent a couple of years teaching in pre-revolutionary Iran. After completing his pupillage, he worked in the Litigation Department of Freshfields before taking up a tenancy at 7 New Square. He joined Wilberforce Chambers in December 2015.

## Commercial

A highly experienced litigator, Gilead has appeared in a number of high-value, high-profile cases in recent years, involving claims against trustees, executors, company directors and partners for breaches of fiduciary duty and civil fraud. His practice has a strong international element, and has appeared in the courts of Hong Kong, the BVI, Bermuda and Cayman.

In *Jones v Firkin-Flood*, Gilead acted for the beneficiaries of a will trust in removing trustees and blocking their resolution to distribute the fund in unequal shares between the family members. The trust had been set up by the beneficiaries' father, "Dougie", who was reputed to have been a member of Manchester's notorious "Quality Street Gang". Money (the source of which was obscure) had been used to set up accounts in Liechtenstein, and large sums had been invested in a hotel and country club. It was alleged that funds had been diverted to set up a casino business, from which two of the three children were excluded. The case raised issues of dishonesty as well as breaches of fiduciary duties under both company law and trust law.

In *Khan v Gany Holdings*, the settlor had been a successful businessman who had made his fortune in Pakistan, Malaysia and Hong Kong. He had been highly secretive, and had established a number of opaque corporate and trust structures around the world to hold and manage the family wealth. After his death, his younger son had taken control of the family businesses, to the exclusion of his sister and her family. There were allegations that one of the trustees (a BVI company controlled by the son) had acted dishonestly and had misappropriated assets that rightfully belonged to the estate. Gilead represented the sister and her family at the trial before the Eastern Caribbean Supreme Court in the BVI.

*C v D* concerned a Bermuda Trust set up using funds from a Swiss foundation. One branch of the family alleged that the entire trust (which had been in existence for several decades) had been created fraudulently, in violation of Swiss law, and was void ab initio.

Gilead also acted for the successful Defendants in *Slutsker v Haron*, a claim by high-profile Russian former politician, Vladimir Slutsker. Mr Slutsker had challenged the transfer of a valuable London property into UK company, whose shares were held by a Cayman settlement. Mr Slutsker and asserted that under Russian joint property rules he was the beneficial owner of a 50% share.

Last year Gilead led James Weale in the Earl of Cardigan's claims against the trustees of his estate, obtaining an order for the removal of one of the two trustees, together with compensation and the repayment of unauthorised remuneration.

Other notable cases include acting for Robin Birley in his claim against the estate of the late Mark Birley, the proprietor of Annabel's and other well-known London clubs.



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## Commercial continued

Gilead is ranked as a leading silk in Chambers & Partners, where he is described as "*intellectually brilliant and very easy to work with.*" He is "*methodical and diligent in his approach, and able to argue clearly and concisely.*"

## Professional Liability

Gilead's key cases include:

- ***Stuart v Goldberg Linde*** [2008] WLR 823. Court of Appeal guidelines on the rule in *Henderson v Henderson*. Neither the merits of the second action, nor delay in starting it, are relevant factors in deciding whether it is an abuse of process to bring separate proceedings.
- ***Gloyne v Richardson*** [2001] 2 BCLC 669, [2001] EWCA Civ 716 (Court of Appeal). Construction of share option agreement.
- ***Gloyne v Richardson*** [2002] All ER (D) 447, [2002] EWCA Civ 1980. Strike-out of claim against solicitor who had failed to serve proper notice under share option agreement.
- ***Ebert v Venuil*** [2000] Ch. 484 (Court of Appeal). Jurisdiction of the High Court to make an order prohibiting a litigant from issuing vexatious proceedings.
- ***Bristol & West v Baden, Barnes and Groves*** [2000] Lloyd's Rep PN 788. Solicitor under no obligation to disclose confidential information obtained under previous retainer.
- ***Summit Property v Pitmans*** [2000] All ER (D) 1226. Solicitors' duty to two clients when a conflict of interest arises; one client wishing to exploit confidential information belonging to the other.
- ***Summit Property v Pitmans*** [2001] Lloyd's Rep PN 16 (Court of Appeal). Defendant successfully defending claim but ordered to contribute to loser's costs.
- ***Raybould v Jameson*** [2000] All ER (D) 1679. Solicitor failing to advise client of risk of committing blackmail.
- ***Turner v Plasplugs Ltd*** [1996] 2 All ER 939 (Court of Appeal). Liability of legally aided party to order for costs.
- ***Wapshott v Davies Donovan*** (1996) 72 P & CR 244 (Court of Appeal). Measure of damages in claim against negligent solicitors.
- ***Hemmens v Wilson Browne*** [1995] Ch 223. Liability of solicitor to non-client third party in inter vivos transaction.
- ***Re Moonbeam Cards Ltd*** [1993] BCLC 1099. Directors' disqualification.
- ***Moore v Khan-Ghauri*** [1991] 2 EGLR 9 (Court of Appeal). Contract for sale of land by auction.



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## Property

According to Chambers & Partners, Gilead "Offers masterful guidance on trust and property litigation, and has an excellent track record in high-profile disputes." He has wide experience in dealing with real property issues, including title disputes, easements, restrictive covenants, land options and pre-emption rights, mortgages, joint property and professional negligence relating to conveyancing. He is frequently instructed on matters concerning large landed estates, and recently acted for the Earl of Cardigan in relation to the trustees' alleged mismanagement of the Savernake Estate.

He has appeared in numerous property cases, including *Jones v Cameron Management Ltd*, a claim for rectification of Land Register; *Padgham v Rochelle*, concerning an agricultural tenancy; and *Winsper v Perrett*, in which the issue was whether property was held on beneficial joint tenancy or tenancy in common.

*"He is a very persuasive advocate and a brilliant speaker."*

*"He is very measured and very impressive. Very good at looking at the overall strategy, he is insightful and very impressive on his feet."*

## Trusts, Tax, Probate and Estates

Trusts and estates litigation, both in the UK and offshore, has formed the mainstay of Gilead's practice since he took Silk in 2006. He specialises in contentious trial work.

Gilead has also been involved in numerous Cultural Property cases, including disputes falling within the jurisdiction of the Spoliation Panel.

*"'Class Act' Gilead Cooper QC is always in demand for his prowess at bringing trust and succession disputes to a swift and satisfying resolution for his clients. A regular fixture in Bermuda and the Cayman Islands, he is appreciated for the quality of his 'straightforward, commercial advice' and the forcefulness with which he puts his case."*

*"Charming and a free thinker who is not afraid of putting forward controversial perspectives."*

### Cases include:

- *Cotton v Earl of Cardigan* [2015] W.T.L.R. 39. Appeal against trustees' application under Public Trustee v Cooper for approval of the sale of Tottenham House.
- *Brudenell-Bruce v Moore* [2014] EWHC 3679 (Ch). Removal of trustees and claims for breaches of trust and repayment of unauthorised remuneration.
- *Khan v Gany Holdings* BVIHC (Com) No. 10 of 2012. Claim for an account against trustee of a BVI trust.
- *Al-Sadi v Al-Sadi* [2013] EWHC 2379 (Ch). Costs on the claimants' discontinuance of their action.
- *Slutsker v Haron* [2013] EWCA Civ 430 (CA). Challenge to a Cayman trust of real property in London by the husband of the settlor claiming rights under Russian family law.
- *In the Estate of Mong Man Wai William* [2012] CACV 34/2012. Hong Kong Court of Appeal decision in Beddoe proceedings directing executors not to use estate funds to oppose the interests of the beneficiaries of the estate.
- *Scarfe v Matthews* [2012] W.T.L.R. 1579. Will construction; the application of the doctrine of election where rights of forced heirship are asserted under French law.
- *Cripps Trust Corp Ltd v Sands* [2013] W.T.L.R. 579. Beneficiaries successfully oppose a Beddoe application where the trustees sought permission to use trust funds for arguably unnecessary litigation.
- *Al-Sadi v Al-Sadi* [2011] EWHC 976 (Comm). Whether claimant can rely on amended pleading when defendant applies to set aside service out of the jurisdiction.
- *Howell v Lees-Millais* [2011] EWCA Civ 786. Court of Appeal decision on CPR Part 36 offers.



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- *Re Servoz-Gavin, Deceased* [2011] Ch 162; [2010] 1 All ER 410. Nuncupative Wills: Validity of an oral will made by a merchant seaman in service with a foreign vessel.
  - *Jones v Firkin-Flood* [2008] EWHC 2417 (Ch). Removal of trustees for breaches of duty including failure to supervise business assets controlled by the trust.
  - *Sharp v Adam* [2006] WTLR 1059 (Court of Appeal). Testamentary capacity of testator with advanced multiple sclerosis.
  - *Abacus Trust (Isle of Man) Co v Barr* [2003] Ch 409. Application of the Rule in Hastings-Bass. The origin of the principle that the court would only intervene where there had been a breach of fiduciary duty, which was subsequently upheld in *Futter v Futter* in the Supreme Court.
  - *Schindler v Brie* [2003] WTLR 1361, [2003] EWCH 1804 (Ch). Power of attorney granted to pursue claim in Germany for War reparations; whether power was revocable; whether claimant should continue as personal representative.

## Art, Antiquities and Cultural Property

- *Re Claim for Beaching a Boat* [2014]. Claim before the Spoliation Panel for the restitution of a painting.
- *Schoyen v UCL*. A case concerning disputed antiquities.
- *Trustees of the Natural History Museum v Tasmanian Aboriginal Centre*. A dispute about a collection of human remains in the custody of the Natural History Museum.
- *Humblestone v Martin Tolhurst Partnership* [2004] P.N.L.R. 26, *The Times*, 27 February 2004, [2004] EWCH 151 (Ch). Claim by disappointed beneficiary against solicitors where testator failed to sign will.

## Charities

- *Re St Andrew's (Cheam) Lawn Tennis Club Trust* [2012] 3 All ER 746. Gift of land intended to provide tennis club for members of Presbyterian Church; trust deed held void for perpetuity; land held on resulting trust for estate of the settlor.
- *Re Horley Football Club* [2006] WTLR 1817. Validity of gift to unincorporated association. Construction of rules of amateur football club.