



Michael Ashdown

Call: 2013

mashdown@wilberforce.co.uk

Clerks' Details

Danny Smillie +44(0) 20 7306 0102
Ben Rippengale tcj@wilberforce.co.uk
Nancy Lee
Antonia Matthew

Qualifications and Appointments

- MA, Christ's College, Cambridge, First Class
- BCL, Merton College, Oxford, Distinction
- DPhil, Merton College, Oxford
- Awarded a number of University and College prizes, including the James William Squire Scholarship and the prize for the best paper in Equity and Trusts
- Lecturer in Law, Somerville College, Oxford

Memberships

- Chancery Bar Association
- APL associate membership
- Society of Legal Scholars

Publications

- ['Professional Advice' in PS Davies, S Douglas and J Goudkamp \(eds\), Defences in Equity \(Hart Publishing 2018\) \(forthcoming\)](#)
- ['Publication Review: Current Issues in Succession Law' \[2017\] Conveyancer and Property Lawyer 158](#)
- [Trustee Decision Making: The Rule in Re Hastings-Bass \(OUP 2015\)](#)
- ['Crociati v Crociati' \(2014\) Wilberforce Legal Digest \(Issue 1\) March 2015](#)
- ['Laches and limitation' \(2014\) Trusts & Trustees 20 \(9\): 958-965 \(with Clare Stanley\)](#)
- ['Publication Review: The Law of Unincorporated Associations' \(2012\) 128 Law Quarterly Review 616](#)

Practice Overview

Michael has a busy and diverse practice, encompassing all of Chambers' areas of traditional and commercial chancery work. He appears regularly in the High Court and County Court, both as sole counsel and as a junior in a larger team.

Michael's particular interests are in all aspects of litigation and advice relating to trusts law. This encompasses both traditional private client work and pension schemes, together with professional negligence in those fields.

Recent notable instructions include:

- *British Airways v Airways Pension Scheme Trustee Ltd*. Acting for British Airways in a long-running claim against the trustees of the Airways Pension Scheme for alleged breaches of trust in the exercise of discretionary powers, culminating in a 7-week trial before Morgan J, reported at [2017] EWHC 1191 (Ch) (with Michael Tennet QC and Sebastian Allen)
- Acting (as sole counsel) for a minor beneficiary in two sets of contested High Court proceedings, first pursuant to *Schmidt v Rosewood Trust Ltd* to obtain trust accounts and other information to explain the diminution of the trust fund, and secondly to remove and replace the existing trustees.
- Acting (as sole counsel) in High Court proceedings for a beneficiary seeking to establish his entitlement to a half share in a substantial trust fund, and to value and realise that share.
- Acting (as sole counsel) for the claimant firm of solicitors in the County Court trial of their claim to recover unpaid fees from a client for whom they had acted in Proceeds of Crime Act proceedings.
- Advising the defendant administrator on claims under the under the Inheritance (Provision for Family of Dependents) Act 1975 concerning overseas property, the validity of UK and foreign marriages and divorces by both claimant and deceased, and the recognition in England of foreign polygamous marriage.
- Advising trustees on the CGT treatment of a chose in action when the trust is exported from England to Australia.

Michael is also Lecturer in Law at Somerville College, Oxford, where he teaches property law to undergraduate students. Before coming to the Bar, he spent six years as Fellow and Tutor in law at Somerville College. His research concerned trustees' powers and duties and the remedial consequences of breaches of trust, with a particular focus on the so-called "rule in Re Hastings-Bass", and was cited in the Court of Appeal in *Pitt v Holt* [2011] EWCA Civ 197. He lectured, examined and gave tutorials on the law of trusts, land law and Roman law.



Publications

- 'Pitt v Holt: What Next for the Rule in Re Hastings-Bass?' (2011) Elder Law Journal 291
- 'In defence of the rule in Re Hastings-Bass' (2010) 16 Trusts & Trustees 826

Trusts, Tax, Probate & Estates

Michael has a busy traditional chancery practice across all aspects of trusts, probate and estates, and private client tax. He is often instructed as sole counsel on both contentious and advisory matters, including those with a foreign element, but is equally happy working as part of a team in substantial disputes. He is often instructed to appear as sole counsel before the High Court, but also has substantial experience of acting as a mediation advocate, and is always pleased to achieve a negotiated settlement for clients who wish to avoid the cost, risk or publicity attendant upon litigation.

Michael's recent trusts experience includes:

- Acting (as sole counsel) for a minor beneficiary in two sets of contested High Court proceedings, first pursuant to *Schmidt v Rosewood Trust Ltd* to obtain trust accounts and other information to explain the diminution of the trust fund, and secondly to remove and replace the existing trustees.
- Appearing as mediation advocate in a substantial family trust dispute concerning alleged misappropriation of trust investments.
- Appearing (as sole counsel) in a dispute over sums retained in a solicitor's client account and the identity of the beneficiary for whom they are held
- Appearing as mediation advocate in a family trust dispute concerning failure to invest substantial sums and misappropriation of trust assets

Trusts, Tax, Probate & Estates continued

- Acting (as sole counsel) in High Court proceedings for a beneficiary seeking to establish his entitlement to a half share in a substantial trust fund, and to value and realise that share.
- Advising on a wide variety of questions arising from the creation and administration of the trusts of a large landed estate. These included the rights of a life tenant to both valuable chattels and real property, the exclusion of beneficiaries, issues arising from earlier IHT planning and previous settlements, and possible breach of trust and removal claims against trustees.
- Advising on the taking of trust accounts in the context of substantial insolvency proceedings

Michael's recent probate and estates experience include:

- Advising on, drafting and successfully settling claims brought by the administrator of a deceased's estate against both previous sets of professional personal representatives for the negligent administration of the estate, overpayments made to beneficiaries, and the assessment under the Solicitors Act 1974 of fees paid out of the estate.
- Advising the defendant administrator on claims under the Inheritance (Provision for Family of Dependents) Act 1975 concerning overseas property, the validity of UK and foreign marriages and divorces by both claimant and deceased, and the recognition in England of foreign polygamous marriage.
- Appearing as mediation advocate in a probate dispute concerning lack of testamentary capacity and knowledge and approval.
- Advising on the construction of ambiguously drafted will trusts where difficulties arose 40 years after the death of the testatrix.
- Advising on the construction of poorly drafted and internally contradictory wills, and on possible challenges to their validity.
- Acting for the deceased's son in linked claims to substitute personal representatives in respect of one estate, and to obtain a grant of probate in a second, against a background of allegations of forgery of a will.
- Advising on and drafting proceedings for an account and inventory.
- Advising on and drafting proceedings for a subpoena to bring in a will and other testamentary documents.



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- Advising on and drafting proceedings in contentious probate claims concerning allegations of lack of capacity, duress and undue influence

Michael has particular experience of acting as sole counsel for both claimants and defendants under the Inheritance (Provision for Family of Dependents) Act 1975, including acting for common law spouses and both adult and minor children, in estates ranging from the very small to those exceeding £10 million.

He has appeared in the High Court in 1975 Act claims, but also has significant experience of settling such disputes via mediation and negotiation, and often appears as a mediation advocate. He also has experience of advising on 1975 Act claims with a substantial foreign element, and where the validity of marriages and divorces is called into question.

Michael's recent tax experience includes:

- Advising executors on the IHT consequence of a Deed of Variation (entered into more than two years after death) in connection with the settlement of an Inheritance Act dispute.
- Advising trustees on the CGT consequences of their trust being exported to another jurisdiction

Prior to coming to the Bar, Michael spent six years as a trusts law academic, as Fellow & Tutor in law at Somerville College, Oxford. He has written widely on the law of trusts, and his published work includes the first book on the so-called "rule in *Re Hastings-Bass*" following the decision of the Supreme Court in *Pitt v Holt* [2013] UKSC 26: *Trustee Decision Making: The Rule in Re Hastings-Bass* (OUP 2015) ([Trustee Decision Making: The Rule in Re Hastings-Bass](#))

