

## Stephen Willmer

Call 2004

Telephone [020 7831 0222](tel:02078310222)

Email [clerks@42br.com](mailto:clerks@42br.com)



Stephen Willmer accepts instructions across the gamut (see below) of chancery and commercial practice in England and Wales. There is in his practice an emphasis on disputes concerning houses, albeit the disputes arise for different reasons, personal and professional, and may be couched in different terms.

Stephen likes to think that his advice is practical and that his representation in court is firm. He is always keen to get under the skin of a problem and to consider it from all angles.

His practice is focused on London and the South East, but he travels all over the country as required.

## Business Law

Stephen's work in business law centres on insolvency, shareholder and (quasi-) partnership disputes, usually in privately owned businesses, often at the somewhat grey crossing point between personal relationships and un- or semi-documented agreements and frequently where there is more than a hint of deceit in a disintegrating business relationship.

Accordingly, he advises and appears in unfair prejudice and winding-up petitions, derivative actions and those more nebulous actions involving breaches of contract and of trust.

### Recent Cases:

- Presently instructed on a winding-up petition contested on the basis that it arises from a fraud.
- Advising an angel investor where his investment had been abused and, on a separate occasion, advising the company owner accused of similar misconduct.
- Successful representation at trial of a husband and wife 'bilked' over many years by a business associate.
- Advice and representation for multiple former company directors accused of executing preferential transactions/transactions at an undervalue.
- Representation in an application to rescind a winding-up order.
- Advice and representation in multiple applications to restrain presentation of winding-up petitions.
- Advice and representation in multiple different business breakdowns, where the underlying business was both documented and undocumented, and up to and including the use of freezing orders.
- Advice and representation in multiple cases of (usually) domestic construction firms claimed against by owners for work done (or not done), and also as between contractors.
- See also: Khan -v- Khan – a case on undocumented partnerships, constructive trusts and fiduciary duties: <https://www.bailii.org/ew/cases/EWHC/Ch/2015/2625.html>

## Property Law

In the field of property law, Stephen's instructions tend to fall into three categories, with some occasional overlap between them.

The first category centres on the 1975 Inheritance (Provision for Family & Dependents) Act, contentious probate claims, claims under the Trusts of Land and Appointment of Trustees Act 1996 (ToLATA) and breach of trust/proprietary estoppel claims. As indicated above, these disputes overwhelmingly involve houses (although this is sometimes true of his business law practice as well).

The second category comprises commercial and domestic landlord and tenant disputes, leasehold disputes and mortgagees' possession claims.

The third category arises out of disagreements between neighbours which usually arise over a boundary and develop into complaints of harassment (and sometimes more sinister behaviour).

### Recent Cases:

- Multiple instructions over many years in 1975 Act cases, for both parties, and likewise with contentious probate claims (and applications regarding personal representatives). In all cases, early advice is recommended.
- Stephen is currently instructed to advise and represent in several ToLATA cases involving a variety of settings from the familial to the commercial and, in two cases, a crossover between the two settings.
- Advice and representation in possession claims of all kinds, too many cases to mention. One recent case of note involved a complex counterclaim and receivers.
- One recent leaseholder dispute of particular interest involved an unfair prejudice petition against a property management company.
- Currently instructed to represent in three neighbour boundary disputes on the periphery of London, two of which involve easements. Another recent case of note involved a sizeable strip of land in the shires and the interpretation of a deed limiting its use.
- See also: Re. Hendry – a case on the 1975 Inheritance (Provision for Family & Dependents) Act, with a focus on claims being out-of-time (i.e. late).

[https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Ch/2019/1976.html&query=\(hendry\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Ch/2019/1976.html&query=(hendry))

## Public Access

Stephen Willmer has been public access qualified for the best part of 15 years and, where appropriate, has handled hundreds of cases on this basis.