

## Paul Emerson

CALL 1984



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## Areas of Expertise

• Commercial Litigation and Disputes • Employment • Arbitration • Partnership • Professional Negligence • Fraud • Restrictive Covenants & Injunctions • COVID-19: Commercial Litigation & Disputes • Banking and Financial Services • Alternative Dispute Resolution (ADR)

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Paul is an enormously experienced specialist in the fields of **commercial dispute resolution** and **employment**. He has substantial experience of complex and high-value cases in the Business and Property Courts as well as in **international and domestic arbitrations**, including a number of ICC and Ad Hoc Arbitrations.

Outside of his arbitration practice, Paul has extensive expertise in the Chancery and Commercial Division. Paul's vast experience in the commercial arena allows him to advise with gravitas not just on the legal aspects of **business disputes**; he is often also in a position to advise clients on strategic and commercial issues in relation to their businesses.

Paul's practice also extends into Asia where he regularly advises various parties in proceedings before the Federal Court in Malaysia, which is their Apex Court, on matters which touch upon English Law topics or Concepts.

Paul has very considerable knowledge of disputes concerning **probate** issues, in addition to related areas of the law, including the challenge to life time gifts and claims under the Inheritance Act. His experience also extends to **professional negligence** actions arising from the handling of estates, related tax liabilities and applications to the Court of Protection as well as related claims concerning equitable estoppel.

Paul has been involved in a range of Probate disputes, involving cases where over £400,000 has been hidden in a family home for some years with the existence of the monies only being admitted on the 1st day of the Trial, it was hidden on the advice of the family solicitor.

Other experience in this area includes acting on behalf of a well-known comedian and comic

actor suing his accountant about various aspects arising with his personal affairs and film production. Paul was also instructed in the Jemma Trust Litigation that involved a combination of negligence by accountants and executors, which got as far as the Court of Appeal, in which Paul was led by Robert Ham KC. Others that have got as far as the Court of Appeal include a claim against a firm of Accountants in the RSM network. Permission to appeal was revoked and Paul got costs on an indemnity basis.

### **Recent practice**

Over the last 15 years Paul has been involved in a series of long trials in the Business and Property Courts, as well as disputed Unfair Prejudice Petitions and Probate actions. As well as international and domestic arbitrations. Other cases over that period are set out below and include Partner and Shareholder disputes and contractual disputes.

### **Recent Contract Cases:**

- (2025) Dispute re sums due under a significant Loan Agreement between friends;
- (2025) Dispute concerning a School seeking fees based on an improper contract variation;
- (2024) Dispute concerning the Group 1975 and their performance at a concert in Malaysia;
- (2024) Dispute concerning a School acting in breach of Contract;
- (2023) Dispute concerning the operation of an Onlyfans service and the division of the income;
- (2023) Dispute concerning Marketing and advertising Company

### **Recent Probate Matters include:**

- (2024) A dispute arising from a contract to purchase land by individuals pretending to be the deceased;
- (2024) A dispute concerning a very aged couple with issues concerning the capacity of the Claimant;
- (2024) A dispute concerning an Estate where the Executors delayed the sale of the property and allowed it to be occupied by relatives on a rent free basis;
- (2024) A dispute concerning failures by a Court appointed Administrator to progress the Probate and supply inaccurate reasons for a delay of over a year;
- (2024) A dispute concerning allegations that a Professional Executor had failed to prepare accurate and complete Estate Accounts;
- (2023) A dispute concerning an estate involving properties and caravans with allegations of undue influence;
- (2023) A dispute concerning a refusal to allow beneficiaries access to the property of the Deceased;
- (2023) A dispute concerning allegations that a Professional Executor had not acted properly or promptly;
- (2023) A dispute concerning a claim by a wife who was divorcing her husband when he died.

Paul advises on all aspects of non-contentious and contentious **employment** matters,

representing clients in the Employment Tribunal and related High Court Litigation. This includes advising clients in advance of potential issues arising; preparing clients faced with the challenges of starting a business or advising with regard to the demise of a business and the challenges created by TUPE and the Acquired Rights Directive. In the past he has also advised on large scale collective redundancy plans, high level discrimination claims, jurisdiction issues as well as the enforcement of restrictive covenants and garden leave clauses.

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## Expertise

### Commercial Litigation and Disputes

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Over the last 7 years Paul has been involved in a series of long Chancery trials and disputed Unfair Prejudice Petitions, as well as international and domestic arbitrations. Other work includes insolvency-related matters, partnership, shareholder, internal company as well as contractual disputes and professional negligence claims arising out of such disputes.

#### Recent Commercial Litigation:

- (2025) Re: a dispute concerning sums claimed by an International Letting Agency;
- (2025) Re: a dispute arising from the demise of Ince;
- (2024) Re: a dispute concerning Company with various businesses in South London;
- (2024) Re: a dispute concerning Dissolution of Partnership running a trading Estate and surrounding land;
- (2024) Dispute concerning Partnership operating a car rental and supply business;
- (2024) Dispute concerning agency providing letting services;
- (2023) Dispute concerning Partnership with allegations of cash income being withheld.

#### International:

- Advising in disputes in Malaysia about issues concerning English Law or English Law Concepts including Federal Court (i.e. Apex Court decisions)
- *A v B (2014)* - Federal Court case about need for finality and inconsistent decisions.
- *C v D (2014)* - Federal Court case about Equitable Damages and measure of damages against a trespasser.

#### Fraud

- *Re A v B (2017)* - Advising on dispute with allegations that properties had been transferred as part of a fraudulent scheme
- *Re AA Limited (2017)* - Advising on claim based on fraudulent misrepresentation on sale of a company
- *Re AB LLP (2017)* - Advising on claim against Members who were diverting funds and clients of the LLP

- *Re BB Limited* (2017) - Advising directors on allegations that they were misappropriating company funds and misusing company assets
- *CC v DD* (2016) - Advising on claims based on conspiracy and diverting contracts from Company
- *Re Accountant Partnership* (2016) - Advising partner on fraud by partner and recovering assets
- *Re Solicitors Partnership* (2016) - Advising partner on misappropriation of monies by fellow partner
- *EE v FF* (2016) - Advising on claims arising from wrongful use of a Power of Attorney and abuse of Position
- *Re a PLC* (2015) - complex dispute about a substantial PLC involving serious allegations involving a senior director and millions of pounds of missing funds.
- *A v B* (2015) - obtaining enforcement of judgment by setting aside a sham transfer.
- *A V B* (2015) - dispute about false Silver Hallmarks.
- *Mead v Simcocks* (2014) - complex dispute where Executors were found to have removed and hidden in excess of £400,000 of cash so as to frustrate claim and avoid tax liability.
- *A Ltd V B Ltd & B* (2014) - multi million pound claims for Breach of Agreements and fraud.
- *Re a Company* (2014) - claim against Senior Director for removing company assets and under declaring income.
- *Re Spearmint Rhinos* (2013) - allegations of fraud and dishonest receipt.
- *A v B* (2013) – representing shareholders on claims arising from monies being diverted to other companies beyond the control of the main shareholders.
- *A v B* (2013) - disputing fraudulent claim for over of £500,000 worth of alleged works and services allegedly provided.
- *A v B* (2013) - advising on a claim against a struck off solicitor who had diverted substantial funds for own benefit.
- *Re Topworkman.com Limited* (2011) - allegations of fraudulent misrepresentations.
- *JD Weatherspoon PLC v Van Ber Berg* [2009] EWHC 639 Ch - fraud by land agents over JD Weatherspoon chain and the duties owed by directors to clients of their company.

### **Recent Unfair Prejudice Petitions**

- *Re AA Limited* (2017) - Advising on an unfair prejudice petition where petitioner forced to leave and attempts to reduce shareholding.
- *Re BB Limited* (2016) - Advising on merits of claim after dismissal of Petitioner as employee
- *Re a Company* (2015) - advising on the appropriate remedies for the actions of the Board of the Holding Company Board and sister companies.
- *Re a Company* (2015) - advising on a petition based on exclusion with dispute as to validity of shareholding.
- *Re a Company* (2015) - advising on status and effect of leaver provisions and impact on section 994 Petition.
- *Re a Company* (2014) - advising on merits of a petition commenced after

shareholder/director removed due to gross misconduct.

- *In the Matter of NCS Holdings (UK) Limited* (2013) - a Section 994 Petition that raised issues with regard to the conduct of subsidiary companies and the appropriate remedy.
- *In the Matter of Kilopress Ltd* (2010) - dealt with the impact of Part 36 Offers in the context of Petitions.
- *In the Matter of CV Holdings* (2010) - dealt with refusal to create a level playing field of information and conflicts between the petitioners.

## Recent Chancery disputes

- *Re AAA Deceased* (2017) - Dispute about Estate with allegations that a Will had been lost or destroyed
- *M K Patel v B Patel and others* [2017] EWHC 1398 - Dispute concerning allegations in respect of a worldwide Estate worth many millions of pounds. Claim against a property in England defeated and claim for a worldwide account not accepted by the Court.
- *Re Estate of BBB (Deceased)* (2017) - Dispute about Estate and whether married couple still lived as man and wife and possible Inheritance Act Claim.
- *RE Estate of H S Simcock* (2017) - Dispute about an application to vary an Order made as a result of an Application under the Inheritance Act where increased tax liability on the estate as a result of incorrect IHT returns being made by earlier executors
- *Re Estate of CCC (Deceased)* (2017) - Advising of merits of claims that family members had taken money and assets from unwell mother.
- *Re Estate of DDD (Deceased)* (2016) - Advising on merits of claims arising from Executors refusal to provide accurate information about Estate and their decision to allow a claim by the Estate to be struck out
- *Re Estate of EEE* (2016) - Advising on possible claims arising from relative with Dementia making substantial presents to friends
- *Re Estate of FFF* (2016) - Advising on a claim under the Inheritance Act by adult child
- *Re Estate of GGG* (2016) - Advising on claim based on allegations of sibling excluding contact with parents
- *Re a Property* (2015) - a complex dispute conserving estoppels arising due to rent agreements before purchase of property.
- *P v P* (2015) - multi party dispute with allegations concerning allegedly multi-million point estate spread around many jurisdictions and applications re foreign executors.
- *Re Noddings* (2015) - attempts made to remove executor by token applicants directed by the killer of the deceased.
- *Harts v Burbidge* [2013] EWHC 1628 (Ch) and Court of Appeal [2014] EWCA Civ 992 - challenges to life time gifts made by deceased to her daughter.
- *Parkinson v Fawdon* [2009] EWHC 1953 Ch - Court's ability to construe or rectify a will when the named executor did not exist.
- *Noddings v Noddings* (2013) - allegations against executors with regard to dissipation of assets and failure to insure estate property.
- *Re An Estate* (2015) - extracting estate accounts from reluctant executors.

- *Re an Inheritance Act Claim (2015)* - advising on claim by estranged step daughter claiming via Estate of Mother.
- *Re an Inheritance Act Claim (2015)* - advising on claim by widow and stepchildren against adult children following a badly drafted will and agreement.
- *Re an Inheritance Claim (2014)* - advising on claim by cohabitee against adult children involving missing assets.
- *Re an Estate (2014)* - equitable claim for compensation by Legacy Hunters.
- *Re A Partnership (2014)* - claims arising from dishonest acts of deceased partners discovered after death.
- *Re an Incorporated Association (2014)* - disputes about operation of Articles and termination provisions.

### Earlier cases

- *Jemma Trust v Kippax Beamont Lewis* [2005] EWCA Civ 248 - Court of Appeal decision about solicitors negligence in Court of Protection Application.
- *Clinicare v Orchard* [2004] EWHC 1964 QB - misrepresentation claim about the treatment of dry rot.
- *Colonial Finance Limited v KSC Trading* [2003] EWCA Civ 1593 - Court of Appeal decision about construction of a commercial agreement.
- *Bellamy v Central Sheffield University* (2003) - Court of Appeal decision about a failed Wasted Costs Order and the costs.
- *Sharif v Garrett* [2001] EWCA Civ 1269 - Court of Appeal decision about assessing loss of chance in a solicitors negligence case.
- *Barratt Homes v BBF Consultancy* [2001] EWCA Civ 1155 - Court of Appeal decision about whether exchange of letters created a contract.
- *Profinance Trust v Gladstone* [2001] EWCA Civ 1031 - Court of Appeal decision about award of interest in Unfair prejudice petitions.
- *Scottish Equitable v Derby* [2001] EWCA Civ 369 - Court of Appeal decision about change of position defence and payments made under mistake.
- *Hylton Potts v Gemshore* (2001) - application to rectify charge register as charge a sham.
- *Tanfern Ltd V Cameron-MacDonald* (2000) - leading Court of Appeal Decision on Appeals under the CPR and related Procedure.
- *Roberts v Bentley Jennison* (2000) - Court of Appeal decision revoking permission to appeal granted when Court not informed of all facts.
- *Target Holding v Oxborough* (2000) - Court of Appeal decision about strike out for want of prosecution.
- *Ebert v Birch* (1999) - Court of Appeal decision about vexatious litigants.

## Employment

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Paul advises on all aspects of non-contentious and contentious employment matters,

representing clients in the Employment Tribunal and related High Court Litigation. This includes advising clients in advance of potential issues arising; preparing clients faced with the challenges of starting a business or advising with regard to the demise of a business and the challenges created by TUPE and the Acquired Rights Directive. In the past he has also advised on large scale collective redundancy plans, high level discrimination claims as well as the enforcement of restrictive covenants and garden leave clauses.

#### **Employment disputes include:**

- Many TUPE issues arising out of the relation between English subsidiaries of American/other Parent Companies and the problems of explaining TUPE to non-European employers.
- ET Jurisdiction re employee working on a ship, yet never worked in the UK.
- Determining the apportionment of liability under TUPE in respect of a fluctuating work force.
- Claims of senior director to retirement package and shareholding where disputes as to correct version of agreement.
- Claims arising in multi jurisdictions due to 5 agreements about or related to the employment of CEO with different applicable law.
- Claims relating to "forced" relocation to Germany and use of without prejudice communications.
- Claims of discrimination and bullying.
- Claim arising from demise of Lehman Brothers in administration.

#### **Recent employment cases**

- (2025) A dispute about whether acts amounted to gross misconduct and the consequences;
- (2024) A dispute concerning enforceability of covenants;
- (2024) A dispute about sums due under a contract and notice provisions.

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## **Memberships and Associations**

International Bar Association

Member since 2006, Committee Member and Officer since 2008

COMBAR

Employment Lawyers Association

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# Academic

London University 1980-1983

Council of Legal Education 1984

Ver Heyden de Lancey Prize in Forensic Medicine 1984

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# Publications

The Consumer Contracts (Information Cancellation, and Additional Charges) Regulations 2013

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# Additional Information

Presented numerous lectures and seminars on a range of English Law topics at Annual Conferences in the UK and Far East.

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# Personal Interests

Fly fishing, walking in the Lake District, entertaining/amusing/infuriating my children.

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# For enquiries & instruction please contact



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