



Rodney Stewart Smith

Call: 1964

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"A well-regarded junior."

Legal 500 UK Bar 2020

"A seasoned member of the Chancery Bar, who has broad knowledge and is a very worthy opponent."

Chambers UK Bar

Practice Overview

Rodney is a *"veteran of the Chancery Division"* (Chambers UK Bar) and *"an experienced chancery counsel with a broad range of expertise"* (Chambers UK Bar).

His special strength is his ability to provide speedy and reliable advice on specific and unusual problems which suddenly arise in the course of a transaction. He is also a *"veritable fount of knowledge"* (Chambers UK Bar) about erudite areas of chancery law and practice.

His practice covers all aspects, litigious and non-litigious, of the administration of trusts, domestic and offshore, and estates, including related tax questions, and probate and family provision disputes.

His practice also extends to most aspects of property disputes, including those about titles and boundaries, easements, public rights of way and village greens and landlord and tenant issues.

Property

Besides dealing with all the traditional and commercial aspects of property disputes such as easements, restrictive covenants and landlord and tenant matters Rodney has special expertise in the historical aspects of land law and is considered to be *"very good on technically difficult matters"* (Chambers UK Bar).

He has been recently involved in advice and litigation concerning the ownership of the bed of a tidal river and the rights of local inhabitants to fish in the river. This involved the consideration of documents going back to 1147 as well as the history of the use of the river over the succeeding centuries.

He appeared with George Laurence QC in the Supreme Court in *R v Redcar and Cleveland Borough Council* [2010] 2 AC 70, a definitive decision on the meaning of use "as of right" in the context of the village green legislation. He also appeared with Mr Laurence QC in *Powell and Irani v Secretary of State for Environment, Food and Rural Affairs* [2014] EWHC 4009 (Admin) which raised a similar issues in the highway legislation. In both these cases Rodney made significant contributions to the oral and written arguments.

Trusts, Wills & Estates

Over his long professional life Rodney has been engaged in advising and litigating in all the major areas of this field. He has a reputation for being *"extremely thorough on all trust issues"* (Legal 500) and having a *"knack for*

straightening out the most Gordian of trust problems" (Chambers UK Bar).

Recent acknowledgements states that Rodney is:

"*He has a first-class brain, and is practical, quick and very, very sensible.*" Chancery: Traditional (Chambers UK Bar 2016)

"*An expert on trust administration*" (Legal 500, 2016).

He has considerable experience in advising trustees on their appropriate course of action when they find themselves involved in disputes between rival beneficiaries. His article "Serving Two Masters" in the Trust Quarterly Review (March 2010) explored the conflict of interest problems which can face trustees of two or more related trusts. He recently extricated an executor, who had no assets available to him to finance his participation, from litigation in which the beneficiaries were disputing whether a particular asset belonged to the estate.

In recent years he has been involved in a number of applications for rescission or rectification of settlements on the ground of mistake (for example, *Whalen v Kelsey* [2009] W.T.L.R. 1297) and his article "Mistakes by trustees need not be fatal" in the Trust Quarterly Review (March 2014) discussed some of the implications of the *Pitt v Holt* decision including the tax consequences of a transaction being set aside.

Additional Information

Qualifications / Education

B.A. - Cambridge (first class) (1963)

LL.B - Cambridge (first class) (1964)

Awards

Middle Temple Astbury Scholar

Professional Appointments

Recorder 1990-2004

General Commissioner of Taxes (Chairman of the Middle Temple Division) 1991-2009

Assistant Boundary Commissioner 1993, 1997 and 2004

Master of the Bench of the Middle Temple since 1998 (Reader 2011)

Member of the Land Registration Rule Committee since 1990

Member of the Qualifications Committee of the Bar Standards Board 2006-2009

Memberships

Chancery Bar Association

Member of the Society of Trust and Estate Practitioners

Articles

Date	Title	Contributors
04 Sep 2020	Tax consequences of setting aside a voidable transaction on the ground of mistake Published in <i>Trusts & Trustees</i>	Rodney Stewart Smith

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