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Marilyn Kennedy-McGregor

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PRACTICE AREAS

Wills, Trusts and Probate

Property

Commercial

PROFILE

Before she became a barrister, Marilyn taught on a postgraduate course in business computing at City University Business School, and also ran her own computer advisory company.

She joined 11 Stone Buildings, also in Lincoln's Inn, in 1990, and was in practice there until 2015, when she joined Enterprise Chambers.

She remains fascinated by the law, but outside that her main interests are politics, the theatre and birdwatching.

Wills, Trusts and Probate

Marilyn acts only in matters which are, or may become, contentious (preferably very contentious). However, matters involving wills usually also involve families at war, and therefore need to be managed with empathy and an understanding that there is usually more than money in issue. It is always preferable to settle such matters, but if they cannot be settled in a satisfactory manner, then they must be litigated with energy and tenacity.

Actions under this heading include claims under the Inheritance (Provision for Family and Dependents) Act 1975, usually involving widows and widowers, mistresses and lovers, and children of the Deceased; claims that a will was procured by undue influence, and/or that the testator lacked capacity, and/or that the testator did not know and approve of the contents of the will; and actions to remove trustees or executors and to hold them to account.

Recent Cases include:

- Acting for a widow in an Inheritance (Provision for Family and Dependents) Act 1975 claim against the very high value estate of her late husband, who had left her a relatively small sum outright and a life interest in the remainder. She obtained a substantial settlement which meant that she could live as she wished without the consent of the adult children of an earlier marriage of the Deceased's.
- In a long trial, successfully defending an adult only child by the first marriage of the Deceased against the claim by the Deceased's widow, his second wife, for a large share of her late husband's estate in circumstances where the majority of his estate consisted of shares in a company which he had built up largely prior to his second marriage.
- Acting for the executors in a case involving an Inheritance (Provision for Family and Dependents) Act 1975 claim by a mistress against the estranged wife of the Deceased, and subsequently on the administration of the estate where the beneficiaries were in dispute with each other about its assets.
- Acting for a successful defendant, the only beneficiary of his father's estate, in a claim brought by all his siblings alleging initially lack of testamentary capacity and lack of knowledge and approval, but ultimately alleging only undue influence.
- Acting for the divorced wife of the Deceased, who died young, in an Inheritance (Provision for Family and Dependents) Act 1975 claim in respect of their minor children against the Deceased's widow. This involved questions of domicile and whether an estate was in fact considerable or insolvent.
- Acting in a claim, which was settled, including disputed beneficial interests in properties, as well as a claim that a will was procured by undue influence and that the testator lacked testamentary capacity, and which involved a protected party.
- Negotiating a settlement for beneficiaries of a trust who were in dispute with the trustees and with the other beneficiaries.

Property

Marilyn advises on non-contentious matters relating to beneficial interests, proprietary estoppel, options, easements, covenants, boundaries, mortgages and all the multifarious aspects of residential and commercial property questions, as well as litigating the same subjects when it becomes necessary.

- Acting for the successful defendants against a claim in relation to the exercise of an option, in which it was necessary for the defendants to prove that a document had been manufactured for the purposes of litigation
- Acting for the successful party in a boundary dispute involving two ultra high value homes in central London
- Acting for the successful defendant in an enforceability of covenants case
- Acting in a successful claim for breach of contract relating to overage
- Acting for the successful applicant in a trial involving the registration of a restriction to protect the applicant's interest in a property
- Acting for a sibling in a dispute involving inter alia the beneficial interests in the family estate
- Acting for the successful party in a claim relating to easements and covenants

Commercial

Marilyn advises on and litigates about a wide variety of commercial, primarily contractual, disputes.

- Acting for one of the siblings in a dispute about beneficial interests in various assets and in a family company
- Acting for the ultimately successful parties in a series of long running actions relating to the nature of a joint venture and the ownership of what were claimed to be its assets
- Acting for the successful party in a claim involving the ownership of commercial premises and the assets of a business
- Achieving a satisfactory settlement in a series of claims relating to property purchased by a joint venture

SIGNIFICANT CASES

Simonetta v Lowell-Tomon [2018]

EHWC 3904 (Fam)

A claim under the Inheritance (Provision for Family and Dependents) Act 1975 arising from the death of an entrepreneur who had divorced his wife, with whom he had two small children, and married again, dying before he had completed the financial arrangements of the divorce. The deceased was a US citizen, and his widow asserted that he was not domiciled in the UK. The main asset of the estate was the substantial price realised for the deceased's company, which had been transferred into the widow's name, and which the widow said was a gift to her, which if correct would have left the estate insolvent. There was also a question of possible US tax on the sale of the company. The ex-wife and the minor children lived in Australia. The claim was compromised and the compromise was agreed on behalf of the minor children by the court.

Streather v Bodker [2016]

EWHC 1311 (Ch)

Abuse of process; flying freeholds; market value; multiplicity of proceedings; parallel proceedings; striking out.

Singh v Singh [2014]

EWHC 2762 (Ch)

A claim involving beneficial interests, lack of capacity and undue influence brought by a protected party. The claim was settled and the settlement approved on behalf of the protected party by the court.

Souglides v Tweedie [2012]

EWCA Civ 1546

Assignment; deeds of variation; options; rule against perpetuities; underleases.

Daniels v Deville [2008]

EWHC 1810 (Ch)

Accounts and inquiries; assets; breach of duty of care; development; fraud; funding; joint ventures; loans; misappropriation.

Boyle v Collins [2004]

2 WLUK 460

Assets; industrial and provident societies.

CAREER AND ASSOCIATIONS

BA (Hons); Postgraduate Diploma in Law (Distinction)

Called to the Bar 1989

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