

## Timothy Wigglesworth

Barrister

### Overview

**After being admitted as a solicitor in 1999, Timothy practiced in general company and commercial matters, principally acting in the sale and purchase of companies and businesses, and in banking and finance matters.**

Since transferring to the Bar in 2007, Timothy has developed a broad Chancery practice and will happily represent clients in Court, provide written advices and opinions, advise in conference or on site, where the location of the dispute is of relevance, as well as drafting pleadings and other documents required during the course of litigation, to ensure that clients obtain the best result possible.

Over the course of his career at the Bar Timothy has built a reputation for his objective approach to the commercial and practical realities of litigation and is unafraid of providing 'robust' advice when required. He is highly regarded by the Judiciary on circuit as an extremely capable and well-prepared advocate who assists the Court in getting quickly to the heart of disputes.

Timothy undertakes work in the following areas, appearing regularly in the County Court and High Court, and also gives lectures and seminars on these subjects, most recently on the joint ownership of property and of issues in contested probate litigation:

#### **Probate and Inheritance Act claims**

Timothy regularly deals with a wide variety of matters in connection with the administration of estates and situations where a person feels that a will has not made reasonable provision, including:

- The interpretation of wills, including where the intentions of the testator are not clear due to a change in circumstances after making the will;
- The administration of estates where beneficiaries are in dispute, as they were in *Petterson v Ross* [2013] EWHC 2724 (Ch); [2014] W.T.L.R. 321, where Timothy was instructed to represent one of three siblings whose mother had died leaving a will containing a number of specific bequests of properties to her children, but where there were insufficient assets to cover the liabilities of the solvent estate. The siblings did not agree on how the estate should be distributed. The court had no discretion to decide otherwise than according to the rules set out in the Administration of Estates Act 1925. Once the liabilities had been determined, the specific bequests were abated proportionately;



Year Of Call:

**2007**

#### Practice Areas

[Civil](#)

[Company and  
Commercial](#)

[Property Dispute  
Resolution](#)

[Trusts and Probate](#)

- Claims where executors will not cooperate;
- The removal and substitution of executors;
- Disputes concerning the disposal of cremated remains;
- The finalisation of estate accounts that are disputed by one or more beneficiaries;
- Advising executors whether proceedings should be issued, including Beddoes applications;
- The use of Caveats and limited Grants of Probate;
- The substantial validity of wills, testamentary capacity and undue influence;
- The formal validity of will and their execution;
- The rectification of wills and Deeds of Variation;
- Claims under the Inheritance (Provision for Family and Dependants) Act 1975, including advising on the merits of a claim, the procedure, the grounds and basis of a claim and advising on making a claim out of time;

### **Real Property and Landlord and Tenant claims**

Timothy also advises and represents clients on a broad range of freehold and leasehold property issues and claims, including:

- The enforcement of mortgages and charges;
- Disputes as to easements and rights of way and their creation and extent;
- Adverse possession of property and claims of limitation;
- Party Wall disputes;
- Disputes as to the location of boundaries;
- Claims concerning adopted public highways and rights claimed thereon;
- Co-ownership of property and claims under the Trusts of Land and Appointment of Trustees Act 1996, particularly following the breakdown of a relationship where the parties did not marry and a property was purchased in the name of only one of them;
- The rectification of registers, leases and transfers.

### **Appointments:**

Legal Adviser to the Church of England Guild of Vergers since 1999.

Churchwarden of the Cathedral Church of St Nicholas, Newcastle upon Tyne, since 2009.

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### **Memberships**

Member of the North Eastern Circuit

Member of the Ecclesiastical Law Society

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As well as real property disputes, Timothy advises as to a wide range of residential and commercial landlord and tenant claims, including:

- The extent and effect of leasehold covenants;
- Being instructed by landlords regularly in claims for unpaid service charges, including claims before the Residential Property Tribunal;
- Advising and representing landlords as to claims for forfeiture, and advising tenants as to relief from forfeiture;
- Representing clients in claims for the possession of property;
- Advising and representing local authorities and social housing providers in claims for possession and injunctive remedies against nuisance tenants and applications to commit for breach of an injunction;
- Dilapidations;
- Business tenancy renewals; and
- Leasehold enfranchisement and the grant of new leases.
- Opposing applications to set aside statutory demands;
- Injunctions to restrain the advertisement of winding up petitions;
- Dealing with costs issues on applications by trustees in bankruptcy;
- Advising on the distribution of a bankrupt's estate; and
- Dealing with insolvent estates.

### **Bankruptcy and Insolvency**

Timothy acts for both creditors and debtors in individual and corporate debt issues, advising and representing clients in claims including:

- Defending bankruptcy petitions and setting aside statutory demands, including representing the debtor in *Lundy and Haslam v Stockhill* (unreported, High Court, Chancery Division, Leeds District Registry) in an appeal against a bankruptcy order, which had been made after the debtor failed to complete the purchase of an off-plan leasehold property. The Petitioning Creditors were not entitled to seek the debtor's bankruptcy where the property had not been transferred to the debtor;

- Advising on petitions seeking bankruptcy or insolvency;
- Opposing applications to set aside statutory demands;
- Injunctions to restrain the advertisement of winding up petitions;
- Dealing with costs issues on applications by trustees in bankruptcy;
- Advising on the distribution of a bankrupt's estate; and
- Dealing with insolvent estates.

#### **General Contractual, Commercial and Civil disputes**

Timothy has acted for clients in a very wide range of commercial disputes, including:

- The winding up of partnerships and the settlement of final accounts;
- Shareholder disputes;
- Claims in relation to defective goods including mobile homes, boats and telephone systems, including recently representing a client in a three-day trial concerning the defective installation of a telephone system that was supposed to connect between two offices but which had to be replaced at significant cost;
- Disagreements as to the payment of agents' commissions and other agency claims;
- Applications to dispute the Court's jurisdiction;
- Claims against third party guarantors;
- Professional negligence by accountants; and
- Claims for summary judgment and strike out where there is no real prospect of success;

#### **Ecclesiastical law**

- Being a Churchwarden of the Cathedral Church of Saint Nicholas in Newcastle upon Tyne, Timothy is continuing to build on his experience of ecclesiastical matters and his knowledge of ecclesiastical law. He successfully represented the Vicar and Churchwardens in *Hooper v Alnwick District Council and Holy Trinity Church Embleton* (unreported, 24 May 2011) in a claim for personal injuries where the Claimant sustained injuries after tripping over a cast iron gate stop which was alleged to be a hazard, but which was found to be an obvious part of the churchyard furniture which did not need to be illuminated or painted to make it more visible.
- He is also currently representing a local Parochial Church Council in a long-running claim to recover property let to a licensee who claims to have a protected tenancy. He has acted on a pro-bono basis for many years as the Legal Advisor to the governing body of the Church of England Guild of Vergers.