



Elaine Palser

Year of Call: 2002

Direct Access: No

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Elaine Palser has an extensive **chancery and commercial** practice, with an emphasis on **contentious probate, trusts, insolvency**, and related **professional negligence**.

"An excellent advocate", "technically superb", "very good with clients", "a team player", and "a seasoned legal gladiator" (Legal 500), Elaine is recommended as a Leading Junior for Private Client: Trusts and Probate, Insolvency, and Professional Negligence.

With degrees in both law and business, Elaine is uniquely placed to handle the complex commercial and financial issues that arise in all of her practice areas.

Elaine is also a CEDR-accredited **mediator**, and a former lecturer in Trusts, Land and Tort at Oxford University.

Areas of Expertise

Private Client & Trusts

Elaine has a strong contentious probate and trusts practice, including Inheritance Act claims, challenges to the validity of wills, proprietary estoppel, constructive and resulting trusts, the interpretation of wills and trusts, removal of personal representatives, TOLATA claims, charitable trusts, statutory wills, and the administration of estates. She is also highly sought after for related insolvency and professional negligence claims, and has experience in dealing with children and vulnerable parties in litigation and in the Court of Protection.

Elaine is "a seasoned legal gladiator" who is "technically superb" on the law and "an excellent advocate" in court (Legal 500). She is "very good with clients" and is equipped with the necessary "robust intellect, empathy and pragmatism" to deal sensitively and effectively with private client disputes (Legal 500). Elaine is recommended as a Leading Junior for Private Client: Trusts and Probate.

Elaine is a full member of **STEP, ACTAPS** and **ConTrA**, a former lecturer in Trusts at Oxford University, and a **CEDR**-accredited mediator.

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Notable Private Client & Trusts cases

Acting for the claimant in a proprietary estoppel and constructive trust claim for a beneficial interest in her late father and step-mother's property: *Morley v Morley* [2022].

Acting for two children in a claim under the Inheritance (Provision for Family and Dependants) Act 1975 for reasonable financial provision from their estranged father's estate: *Re R (Deceased)* [2021] EWHC 936 (Ch).

Acting for a beneficiary in a claim under CPR 64.2 to determine several disputed issues in the administration of two substantial estates: *Papadopolous v Papadopolous* [2021].

Acting for the deceased's brother in a challenge to the validity of the deceased's will on grounds of lack of capacity, want of knowledge and approval, and undue influence.

Acting for the deceased's son in a claim under the Inheritance (Provision for Family and Dependants) Act 1975 by his mother's partner: *Banfield v Campbell* [2018] EWHC 1943 (Ch).

Acting for a beneficiary in a claim to remove the executors of his mother's estate on grounds of impropriety and delay.

Acting for a beneficiary in a dispute concerning the interpretation and rectification of a trust contained in a life insurance policy.

Acting for a Russian businessman in a US\$2 billion claim concerning breach of trust and dishonest assistance: *Gaydamak v Leviev* [2014] EWHC 1167 (Ch).

Acting for the trustee in a multi-million pound claim by his father for an account in light of alleged breaches of trust

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spanning several decades.

Acting for a high-profile businessman in a Quistclose trust dispute.

Acting for the trustee in bankruptcy in applications for possession and injunctive relief in respect of English and foreign properties purportedly held on trusts containing a power of revocation.

Insolvency & Restructuring

Elaine Palser's insolvency practice covers:

- corporate and personal insolvency;
- related professional negligence;
- insolvency claims containing a trusts dimension; and
- commercial and contractual disputes arising within the insolvency context.

Elaine is "a tenacious advocate", "very analytical", "technically excellent", and "very astute and commercial" (Legal 500). She is "a top choice for professional negligence claims against insolvency practitioners" and "clearly an expert in her field" (Legal 500). Elaine is recommended as a Leading Junior for Insolvency, as well as for her crossover specialisms of Trusts and Professional Negligence.

With degrees in both law and business, Elaine understands businesses and is well placed to deal successfully with the complex commercial and financial issues that arise in insolvency cases.

Elaine is a full member of [ILA](#), [COMBAR](#), [ChBA](#) and [ConTrA](#).

Notable Insolvency & Restructuring cases

Acting for stylist and influencer, Caroline Stanbury, in a long-running claim about director duties and personal goodwill: Reynolds (as liquidator of CSB123 Ltd) v Stanbury [2021] EWHC 2506 (Ch).

Acting for a publicly-listed company in an urgent application in private for an injunction to restrain advertisement of a winding up petition and to strike it out as an abuse of process.

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Acting for the neutral trustee in bankruptcy in two connected multi-million pound appeals against the admission of a proof of debt, involving the construction and interpretation of several agreements: *Claims Direct Plc (in liquidation) v Hinton* [2021] EWHC 1613 (Ch) and *Poole v Hinton* [2019] EWHC 2331 (Ch).

Acting for the former administrators in a substantial misfeasance claim by the liquidator, involving allegations of the disposal of numerous assets at an undervalue.

Acting for an Italian judgment creditor in a multi-million pound appeal against the registration of an Italian judgment in England, forming the basis of a subsequent bankruptcy petition: *Percival v Motu Novu* [2019] EWHC 1391 (QB).

Acting for a trustee in a claim involving the exercise of a trust power of revocation so as to reclaim properties in several jurisdictions for the bankrupt estate, and related freezing injunction applications.

Securing the dismissal of a winding up petition against a company on the basis that the debt was disputed on bona fide and substantial grounds: *Re a Company* [2016] EWHC 1046 (Ch).

Acting for a trustee in bankruptcy in a claim involving sham trusts, transactions at an undervalue, and transactions defrauding creditors.

Acting for a company and its liquidator in a claim by a former high profile tax advisor for alleged conspiracy, abuse of process, and malicious prosecution of civil proceedings.

Acting for several sports clubs in insolvency matters, including Cardiff City Football Club.

Commercial and Chancery

Elaine Palser has a broad commercial practice, including claims involving contentious trusts and those arising in the insolvency context.

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Elaine is “very astute and commercial”, “with a good eye detail”, “technically superb” and “an excellent advocate” (Legal 500). She is recommended as a Leading Junior for Insolvency, Private Client and Professional Negligence.

With degrees in both law and business, Elaine understands businesses and is uniquely placed to deal successfully with complex commercial and financial issues.

Notable Commercial and Chancery cases

Acting for stylist and influencer, Caroline Stanbury, in a long-running claim about director duties and personal goodwill: Reynolds (as liquidator of CSB123 Ltd) v Stanbury [2021] EWHC 2506 (Ch).

Acting for a property development company and its directors in a claim concerning alleged breaches of a joint venture agreement, including alleged breaches of fiduciary duties and the duty of good faith.

Acting for a commercial agent in a multi-million pound damages claim concerning risk-analysis software.

Acting for the neutral trustee in bankruptcy in two connected multi-million pound appeals against the admission of a proof of debt, involving the construction and interpretation of several agreements: Claims Direct Plc (in liquidation) v Hinton [2021] EWHC 1613 (Ch) and Poole v Hinton [2019] EWHC 2331 (Ch).

Acting for an Italian judgment creditor in a multi-million pound appeal against the registration of an Italian judgment in England: Percival v Motu Novu [2019] EWHC 1391 (QB).

Acting for a creditor in a Quistclose trust claim arising out of the liquidation of an international retail company.

Acting for a Russian businessman in a US\$2 billion claim concerning Angolan diamonds, breach of trust, dishonest assistance, and conspiracy: Gaydamak v Leviev [2014] EWHC 1167 (Ch).

Acting for a major investment company in a claim by a Texan company for breach of an oil and gas exploration contract.

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Acting for a company and its liquidator in a claim by a former high profile tax advisor for alleged conspiracy, abuse of process, and malicious prosecution of civil proceedings.

Acting for an Israeli businessman in a multi-jurisdictional contractual dispute worth over US\$100 million concerning mining ventures in the DRC and the enforcement of securities in the BVI and Gibraltar.

Professional Negligence

Elaine Palser's professional negligence practice focuses principally on claims arising out of her main practice areas, namely insolvency, probate, and trusts.

"Clearly an expert in her field", Elaine is "very efficient" and "thorough", with "great technical ability" in professional negligence law (Legal 500). She is recognised as "a top choice for professional negligence claims against insolvency practitioners" (Legal 500) and is recommended as a Leading Junior for Professional Negligence, as well as Insolvency and Private Client: Trusts and Probate.

As a former lecturer in both Tort and Trusts at Oxford University, Elaine has considerable academic strength in this area.

Notable Professional Negligence cases

Acting for a child and the new executors in a claim against an executor who negligently distributed the deceased's estate to the wrong parties: *Re K* [2022].

Acting for stylist and influencer, Caroline Stanbury, in a claim about director duties, alleged negligence, and personal goodwill: *Reynolds (as liquidator of CSB123 Ltd) v Stanbury* [2021] EWHC 2506 (Ch).

Acting for the former administrators in a paragraph 75 misfeasance claim by the liquidator of a company claiming disposal of assets at an undervalue.

Acting for LPA receivers against a mortgagor alleging a sale at an undervalue of commercial and residential premises.

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Acting for a large professional body in a negligence dispute involving insolvency bonds.

Acting for the former trustee in bankruptcy in a section 304 claim concerning alleged negligence in the disposal of an asset held on trust.

Acting for the trustee in a multi-million pound claim by his father for an account in light of breaches of trust spanning several decades.

Acting for a beneficiary in a claim that a deed of variation was negligently drawn up, necessitating rectification.

Acting for a beneficiary in a dispute over whether payments of capital ought to have been made out of a settlement.

Advising professional indemnity insurers on a potential multi-million pound claim arising from hundreds of defective appointments of LPA receivers.

Mediation

Elaine Palser is a CEDR-accredited mediator.

Elaine accepts instructions to act as a mediator principally in cases involving her areas of practice as a barrister, namely:

- Private Client and Trusts (e.g. Inheritance Act claims, testamentary capacity and undue influence validity challenges, and constructive trust and proprietary estoppel claims)
- Insolvency
- Commercial and Chancery
- Professional Negligence (e.g. of personal representatives and insolvency practitioners)

Where appropriate, Elaine will also accept instructions to mediate in other areas of law.

Elaine's strengths as a mediator lie in identifying the issues which are most important to the parties, helping them to appreciate all the risks, and dealing sensitively with the intense emotions inherent in most disputes. A strong advocate of

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mediation as a successful means of resolving many disputes, Elaine will work hard to help the parties find a resolution with which they will all feel comfortable.

Elaine is able to conduct effective mediations both in person and online.

Memberships

- **STEP** (Society of Trust and Estate Practitioners)
- **ACTAPS** (Association of Contentious Trust and Probate Specialists)
- **ConTrA** (Contentious Trusts Association)
- **R3** (Association of Business Recovery Professionals)
- **ChBA** (Chancery Bar Association)
- **COMBAR** (Commercial Bar Association)

Publications

- "Proprietary estoppel and the position of the stranger" [2023] *Trusts and Trustees*, Vol 29, No 3, pp1-11.
- "Remote Mediation: The New Normal and the Future" [2020] ACTAPS newsletter, July 2020, and *OTC Insights*.
- "The super power of the revocable discretionary trust" [2019] *Corporate Rescue and Insolvency*, August, 145.
- "The court's approach to claims against an estate by a cohabitee" [2018] Lexis Nexis Legal Analysis, 13 Sept 2018.
- "Bold Petitioning Creditors Beware" [2016] Lexis Nexis Case Analysis, 8 June 2016.
- "A trust by any other name" [2015] *New Law Journal*, 23 October, 15.
- "Costly consequences: who bears the costs of statutory demands?" [2015] *New Law Journal*, 22 May, 18.
- "Appointment of Administrators Out of Court: Clarity at Last?" [2012] *Insolvency Intelligence* 25(8) 113.
- "Appointing administrators out of court: validity problems and retrospective administration orders" [2011] *Insolvency Intelligence* 24(8) 113.
- "The duty of care in gross negligence manslaughter" (with Jonathan Herring) [2007] CLR 24 (described by the Court of Appeal in *R v Evans* [2009] EWCA Crim 650 as "an illuminating analysis").

Awards

- Outstanding Expertise in Commercial and Chancery Law 2020, Women in Law Awards
- Contentious Trusts and Probate Lawyer of the Year 2017, Women in Law Awards
- Contentious Trusts and Probate Lawyer of the Year 2016, Women in Law Awards
- Commercial Disputes Barrister of the Year 2015, the Lawyer Monthly Awards
- Highly Regarded in Insolvency Law – UK 2015, Corporate LiveWire Awards
- Outstanding Expertise in Contentious Trusts and Probate 2015, Women in Law Awards
- MA (Oxford)
- MA (Cambridge)

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- BBusSc (Cape Town)

Recommendations



Privacy Policy

Read Elaine's [Privacy Policy](#).



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