

# Representation Walmsley Trust

<b>Jurisdiction:</b>	Jersey
<b>Judge:</b>	P.R. Le Cras, Jurats Le Ruez, Le Brocq
<b>Judgment Date:</b>	12 July 2001
<b>Neutral Citation:</b>	[2001] JRC 145
<b>Reported In:</b>	[2001] JRC 145
<b>Court:</b>	Royal Court
<b>Date:</b>	12 July 2001

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## Text

[2001] JRC 145

ROYAL COURT

(Samedi Division)

Before:

P.R. Le Cras, **Esq., Commissioner, and** Jurats Le Ruez **and** Le Brocq.

Representation Walmsley Trust

**Advocate J.P. Speck for the Trustees.**

**Advocate C.G.P. Lakeman for the minor beneficiaries.**

**No Authorities**

In the matter of the Representation of John Barbenson Barrett and Rathbone Jersey, Ltd as the Trustees of the C.H. Walmsley Will Trust.

And in the matter of the Trusts (Jersey) Law, 1984.

Application by the Trustees to rectify a variation of a Trust.

### **THE COMMISSIONER:**

- 1 The present application is one for the rectification of a variation of a Trust. The Trustees are resident in Jersey so that it is quite clear that the Court has jurisdiction. However, the beneficiaries are all resident in England and it is common ground that the law which governs the Trust is English law. Much advice was sought in order to ensure that any variation had the best possible result – if that is the correct expression – for tax purposes for the beneficiaries. The variation has, however, had a disastrous result clearly due to an oversight in drafting, following advice.
- 2 Equally clearly, from the opinion of Mr. Legge, the question of rectification is a difficult one and the law relating to it is likely to turn on a fine point. As it will be English law it would fall to be a matter of fact for the learned Jurats to find. Clearly there would be no cross-examination as all the parties before the Court earnestly wish to see the Deed rectified. The question which therefore arises for the Court is whether such a question should in the present circumstances be dealt with in this way.
- 3 Although the Court has jurisdiction there must be a discretion in the hands of the Court in any case where there is an overlapping jurisdiction as to whether or not it should be exercised in any particular case. In the present case the Court has come to the view that this application should not be heard here but should rather go before the Courts in England.