

Date and Time: Thursday, 16 February 2023 2:10:00AM SGT

Job Number: 190417210

Document (1)

1. [*In Practice: Wills & Probate: Establishing Fraudulent Calumny*](#)

Client/Matter: -None-

Search Terms: "fraudulent calumny"

Search Type: Natural Language

Narrowed by:

Content Type

UK Secondary Materials

Narrowed by

-None-

In Practice: Wills & Probate: Establishing Fraudulent Calumny

Document Information

Issue date: 4 December 2017

Published date: 6 December 2017

Publication: Law Society Gazette

Citation: (2017) LS Gaz, 4 Dec, 22

Author: Kate Selway

Jurisdiction: England; Northern Ireland; Scotland; Wales

Related Cases: Christodoulides v Marcou [\[2017\] EWHC 2632 \(Ch\)](#); Re Hayward [\[2017\] 4 WLR 32](#)

Law Society Gazette, 4 December 2017: In *Christodoulides v Marcou* [2017] EWHC 2632 (Ch), it is possible that the judge's observations on the 'purpose' argument might in future be seen as an invitation by some to argue that purpose should be an additional element in the test for establishing ***fraudulent calumny***

Considers whether the trial judge applied the correct legal principles for establishing ***fraudulent calumny*** in *Christodoulides v Marcou* [\[2017\] EWHC 2632 \(Ch\)](#). In refusing permission to appeal, Morgan J held that the new point now being taken as to Niki's purpose was not taken at trial and that the established approach of an appeal court is not to allow a point of this kind to be taken for the first time on appeal. As to the argument that the calumny had to be the only causal factor, Morgan J clarified that this is not a correct statement of the relevant test: 'The question for the court is one of causation or inducement. It is, however, extremely difficult to see the justification for the introduction of such a subjective component into the test merely because a specific type of fraudulent misrepresentation has occurred. The true harm surely lies in the causative effect of the calumny not in the particular purpose or motive of the fraudster.'

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Cases considered in this article

Christodoulides v Marcou

26/10/2017
Ch D

[\[2017\] EWHC 2632 \(Ch\)](#)

Kunicki v Hayward

16/12/2016
Ch D

[\[2017\] 4 WLR 32](#)