

# K NEWS

ALL THE LATEST NEWS AND EVENTS FROM KERSEYS SOLICITORS



*His Beloved Orwell by Jenny George*

## Every Picture Tells a Story

*Two well-known local artists are holding a FREE exhibition in Ipswich – exploring the stories behind the artwork.*

*Every Picture Tells a Story features 20 works from Jenny George and Anthony Wooding, whose art has been snapped by buyers in the past.*



*Lavender Bee by Anthony Wooding*

Anthony, who is also the managing partner of Kerseys Solicitors, has previously displayed work inspired by the Native American thinker Lame Deer at the Town Hall.

The exhibition will be held at the law firm's headquarter's in in Lloyds Avenue from mid-February for six months.

Anthony, who has practised law for over 30 years, has a history of supporting the arts in the area and regularly promotes local artists at Kersey's offices. The former Oxford University student, whose work goes under the name of 'Ant Artist,' said: "The work is not intended to simply adorn a wall, but to create a relationship with the viewer. We hope it will resonate with people and give pause for thought. We've previously exhibited the work of local artists and the time was right for me to exhibit some of my own work. I'm grateful to the team at Kerseys for all their support."

The work on display will explore the use of colour and texture and invite people to reflect on the subjects portrayed. It will look at history, culture and nature.

Jenny, whose quirky take on a well-known local landmark, The Wine Rack, proved a hit, has exhibited her work at galleries across Suffolk. She added: "We want to convey a story with a work. Within the paint and the ink, within each brush stroke and line, there is the intertwined story of history, of family, of local and distant cultures, of existence, and of nature."

*Every Picture Tells a Story* exhibition will be held at Kerseys Solicitors, Lloyds Avenue, Ipswich, and will run for six months. It will be open daily from 9am to 5.15pm.

An opening event, with refreshments, will be held on Thursday, February 15 and booking is required. For more information, visit [eventbrite at <https://www.eventbrite.co.uk/e/every-picture-tells-a-story-an-exhibition-of-unique-art-by-ant-jenny-tickets-39444085321>](https://www.eventbrite.co.uk/e/every-picture-tells-a-story-an-exhibition-of-unique-art-by-ant-jenny-tickets-39444085321)

### Exhibition background

Anthony looks at local history, duty and service. He also explores the family unit and its fundamental place in history.

His work includes Chinese-style ink paintings, inspired by his long-time interest in Daoism and a recent trip to China for his son's wedding. While in China, Anthony was taught by Winnie Sui Davies, an artist trained in the traditional Chinese style.

He also looks at our connection with nature, dealing with injustices and experiences which form part of the human story.

Jenny George's oil paintings, which are mostly related to architecture and our place in history, form a connection between the past and present. Her collection of ink drawings, inspired by Suffolk Villages, revisit the past, while her acrylic work on nature examine its beauty and fragility.

The collection is not yet complete and will be added to as and when Jenny completes new drawings.

Anthony has included his personal sketchbooks, which are not for sale, for those who wish to have further insight into his creative process.

Whether you are generally interested in the law or not, many of you will have heard of the case of the 'monkey selfie'. There had been a long-running battle in the US courts over who owned the copyright, which has just been settled.



# No more *Monkey Business*

## **PETA vs David Slater**

In 2011, Welsh wildlife photographer David Slater, from Monmouthshire, was working in the Indonesian jungle. He was trying to gain the trust of macaque monkeys in order to take some good photos of them. Suddenly, a monkey picked up his camera and took some selfies. One of the selfies is shown here (with copyright permission – see below). Understandably they went viral when David Slater published them.

The monkey in question is referred to in the media as Naruto, but during the court case his exact identity was in dispute.

## **Can a monkey own copyright?**

In 2015, a well-known animal rights group PETA (People for the Ethical Treatment of Animals) issued proceedings 'on behalf of the monkey'. They claimed that the monkey had taken the photo and therefore owned the copyright. Therefore, it followed that David wasn't entitled to publish (presumably unless he had permission, which would be hard) or keep any proceeds from such publication.

The case by PETA could have broken new legal ground, at least in the States (and we often follow their lead in things). It would have established that (a) animals have civil rights and (b) humans can enforce such rights on their behalf.

A distinction needs to be made here with criminal law. There are lots of animal rights which we humans (rightly) have determined exist and are enforceable by criminal prosecution. The RSPCA and many others are doing it every day, bringing cases for cruelty and mistreatment generally. Civil law rights would be breaking new ground.

## **Court settlement**

San Francisco judges dismissed the case by PETA. But PETA appealed. Finally, a settlement was reached. According to media reports, David Slater has agreed to donate 25 per cent of any future revenue to registered charities 'dedicated to protecting the welfare or habitat of Naruto'.

This contrasts with an earlier 2015 ruling in New York concerning chimpanzees kept for research. The court then held that they did at least have the 'right' not to be held in captivity.

## **A history of civil rights for animals**

So civil rights for animals still have to be established, and certainly there are no cases which go that way in the UK.

By contrast, sadly, a lot of animals have appeared as Defendants, albeit only in criminal trials. Historically there are many examples, with charges wide-ranging. The earliest recorded is a pig executed after a trial in France in 1266.

Another pig and her piglets were put on trial for murder in 1457. The sow was convicted and her piglets acquitted.

Surprisingly, cases continue to the present day. In 2013, a case was filed against a cat after it was apprehended smuggling mobile phones and chargers into a Russian prison.

In 2010, a pigeon was arrested in India for spying on behalf of Pakistan, having flown in, with a Pakistani number stamped on its body with red ink (if it was in fact a spy, clearly it was not a very good one). It was eventually discharged for lack of evidence.

As recently as June 2016, India rounded up 18 lions on a charge of murder. The sentence of the culprit was life imprisonment (in a zoo) which at least shows we live in more enlightened times than the Middle Ages.

## **Naruto**

The pictures of Naruto (or whichever other monkey is the selfie monkey) have of course appeared everywhere on the net since first published, including on household name sites.

## **Legal consequences**

Many people obviously took advantage of the case and banked on the monkey not enforcing copyright (although might PETA or another charity have done so on its behalf if the case had been successful?).

The case is specific to its facts – selfies by animals are new to law, but the court has applied traditional principles. The creator of a work owns the copyright (subject to any exceptions in law) and David Slater was confirmed as the creator here, it was all part of his creative 'photographic' process in effect.

Assuming he even had the appetite, we may wonder if David Slater is now making any claims retrospectively for breach of copyright, or whether that was dealt with in the settlement terms.

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*Image above of Naruto the monkey, under license from Caters News Agency Ltd*



## Chinese business delegation visits Kerseys

*A group of 13 people from Xuzhou, in the province of Jiangsu Xuzhou City, visited Kerseys Solicitors to learn more about industry in Suffolk. The meeting was organised by the Anglo Chinese Cultural Exchange (ACCE,) based in Ipswich.*

Lydia Tse, who runs ACCE, contacted Kerseys managing partner and artist Anthony Wooding – after she viewed his Chinese inspired art exhibition at the Ipswich and Suffolk Club.

Anthony said: "The event was quite spontaneous and good fun all round. We were happy to host the group and learn more about each other's home towns and working practices.

"We have a lot of synergy here as we are both based in agriculture areas. It was an opportunity to reap the benefits of our different experiences and viewpoints."



The group came from various corporations and were led by Madam Ding Chuan, Vice Chairman of Jiangsu Xuzhou City Federation of Industry and Commerce. This is similar to the British General Chamber of Commerce.

The group visited to learn more about industry and commerce as the most important industries of Xuzhou are machinery, energy and food production – particularly wheat-maize rotation.

Agriculture continues to be an important industry in Suffolk, as reflected in the annual Suffolk Show.

Invest in Suffolk reports that the region's economy is worth £400 million from 'field to fork', including growing, production, processing, packing, distribution, festivals and tourism.

Lydia, a BME (black, minority, ethnic) Suffolk award-winner for charity of the year, said: "We hope that by engaging in the exchange of cultures and arts with others, we will create a greater understanding, grow and be stronger.

"We have a Chinese saying that 'when societies are harmonious, all peoples can work together as one.'"

"We are grateful to Kerseys for hosting the event, particularly at short-notice, and for their contribution to the community."

This year marks the 45th anniversary of the establishment of ambassadorial relations between China and the UK.

ACCE is approved and supported by the Chinese Embassy in the UK. It has received a Gold Award certificate from the National Resource Centre for Supplementary Education (NRCSE), the national champion for excellence, innovation and partnership in supplementary education.

For more information about ACCE, visit [www.accesuffolk.org.uk](http://www.accesuffolk.org.uk)

## Toblerone v Poundland and distinctive chocolate

*Towards the end of 2016 Toblerone reduced the amount of chocolate within some of its distinctive packaging in order to keep its price down.*

The need to keep the price point was very important for Poundland. However, it became increasingly difficult to keep a supply of Toblerone which they could sell for £1 so they decided to design their own product, to be made in the UK.

The result was the proposed 'Twin Peaks' bar. A bar of similar shape and packaging but with two chocolate peaks rather than one and weightier than the shrunk Toblerone.

The owners of Toblerone were not happy about that and started a High Court claim for breach of its trademark in the shape, colouring of the packaging and mountain logo. Poundland countered that the distinctiveness has been lost by the changed spacing between the peaks in the shrunk version and in doing so they trademark had been abandoned.

It has been reported that an agreement has been reached between the two parties.

Apparently Poundland will modify the shape of its 'Twin Peaks' bar before they can sell it. However, Toblerone has agreed that the 500,000 bars already produced or in production can be sold as long as the packaging is distinctive and different to the Toblerone packaging – 'Twin Peaks' bars appeared in Poundland in December.

This resolution is a good illustration of how disputes can settle before they are determined by court. If this case had continued it could well have taken many months to resolve (with 500,000 chocolate bars in storage), each party in the meantime incurring legal costs. I do not know what happened before the court action was taken but sometimes formal action needs to be taken to get to the point where an agreement can be reached.

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# It's not you – and it's not me: the case for 'no-fault' divorce

Fresh calls have been made for 'no-fault' divorces, following a high profile case where a wife was refused a divorce despite having separated from her husband.

Mrs Owens made headlines when the Court of Appeal refused to grant her a divorce from her husband of 37 years. She had moved out of the family home in February 2015 and asked the Court to grant her a divorce on the grounds that the marriage had irretrievably broken – citing the fact of her husband's unreasonable behaviour.

Mr Owens defended the divorce – and His Honour Judge Tolson QC refused to grant it having decided that the unreasonable behaviour allegations were at best flimsy "minor altercations of a kind to be expected in a marriage".

This decision was upheld by the Court of Appeal. It has meant that Mrs Owens will have to remain locked into an unhappy marriage until she can establish she has lived separately from her husband for a continuous period of at least five years – unless her Appeal to the Supreme Court succeeds.

## Finding fault

Under current law, divorce is based on fault – whereby one party must blame the other unless they wish to have been separated for a number of years.

The Family Law Act 1996 did attempt to introduce a system where it was not necessary to blame the other, but the provisions were never implemented.

## Five reasons for a divorce

Currently, a judge will grant a divorce if a person can prove that a marriage has irretrievably broken down. For this to be accepted, one of five facts must be proven:

1. Adultery
2. Unreasonable behaviour
3. Desertion after two years
4. Two years' separation with the consent of both parties
5. Five years' separation without mutual consent.

In the event that both parties want to end the marriage, it can make the process more difficult than necessary. The couple may be stuck in an unhappy marriage for years or feel forced to exaggerate behaviours in order to show that the relationship has irretrievably broken down.

Mrs Owens has now been given permission to appeal to the Supreme Court which has reignited calls for a no fault divorce system to be

implemented in England and Wales as a matter of urgency.

## Previous calls for no-fault divorce

This is not the first time those in the legal profession have called for reform. In 2014, Sir James Munby, the most senior family judge in England and Wales, called for 'divorce by consent'.

And earlier this year, research carried out by family law group Resolution found that nine in 10 practitioners believe divorce law needs to be modernised to allow for no-fault divorce.

## The future of divorce

Supreme Court decisions will set a precedent for the future interpretation of Divorce Law by the Courts.

The ground of appeal is simple "the Law does not require unreasonable behaviour but simply behaviour that Mrs Owen cannot reasonably be expected to live with".

If Mrs Owen wins her appeal, the emphasis is going to be subjective, namely what the Petitioner can or cannot reasonably be expected to live with rather than what the Judge determines to be unreasonable.

If the Supreme Court does not find for Mrs Owen, there is likely to be an increased clamour for no fault divorce as the implications will be that one spouse can prevent, or at least significantly delay, a divorce, if it suits them to do so.

When divorcing on the fact of unreasonable behaviour, parties will feel that they have to make more serious behaviour allegations to ensure that they achieve a divorce, which runs contrary to what Divorce Lawyers have been promoting in recent years in an attempt to reduce acrimony between divorcing spouses.



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