



## Barnaby Hope

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Barnaby has a broad commercial chancery practice, with an emphasis on company and partnership matters, commercial disputes, insolvency, real property, landlord and tenant and professional negligence. He also has considerable experience in costs issues.

Barnaby prides himself on delivering exceptional service, whether through advice, drafting or advocacy. He is efficient and able to work to tight deadlines. Both his solicitor and lay client appreciate his personal and pragmatic approach. Having worked for a national firm of solicitors for four years dealing with commercial, property, personal injury and costs disputes before coming to the Bar, Barnaby is experienced beyond his 2011 call. In addition, Barnaby fully understands the pressures of a solicitor's practice and is always on hand for informal advice when the need arises. He strives to be approachable, sensitive and accessible to both professional and lay clients, working closely with solicitors and litigants in person from the beginning to the end of a case.

In 2018 Barnaby was nominated by the Bar Pro Bono Unit for Pro Bono Junior of the Year and regularly undertakes direct access instructions.

Barnaby is called to the Bar of the Eastern Caribbean (BVI). He also sits as a Deputy District Judge on the South Eastern Circuit and is a qualified mediator.

In September 2024, Barnaby will be appointed to the Attorney General's London B Panel.

## Banking

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Barnaby often deals with cases involving mortgages, other loans, guarantees and indemnities, the Consumer Credit Act 1974 and Financial Conduct Authority issues.

Examples of recent/notable cases include:

- **Seculink v Barnes** (2024, unrep.): instructed in complex claim by lender over residential property. Capacity issues, fraud and forgery of documents.
- **ABFS2 v Ponsford** (2024, unrep.): multi day trial relating to undue influence and subrogation in connection with commercial loan, value approximately £600,000.
- **RE: A Mortgage Company** (2024): Advising a national second—charge lender on matters arising from its failure to properly register mortgages as legal mortgages. Questions of priority, restrictions on rights of equitable mortgagees.
- **Seculink Ltd v Salih** [2023] EWHC 1706 (KB): consideration of appropriateness of trial judge’s approach to proving a claim relating to unfair credit relationships and penalty clauses in circumstances where the defendant did not attend but required the claimant to prove the claim.
- **Co—Operative Bank v Francis** [2015] EWCA Civ 1208 (led by Martin Hutchings KC): Appeal against refusal of trial judge to make an order suspending a warrant of execution on a mortgage case.

## Civil Fraud and Asset Recovery

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Barnaby is regularly instructed in matters involving civil fraud, whether that be arising out of business disputes, in relation to insolvency proceedings or in the family context, with forged/sham documents or other dishonest dealings. He has experience of dealing with cases with cross-jurisdictional elements. He regularly obtains and resists freezing injunctions.

Examples of recent/notable cases include:

- **L v C** (2024, unrep.): claim by property owner directly against company director in circumstances where building company purporting to do the works did not exist. Value circa £500,000.
- **A v V** (2024, unrep): claim in relation to building defects. Economic duress, proper parties to contract, deceit, phoenix companies, transactions defrauding creditors.

- **TMF Ltd v Monkman** (2023, unrep.): claim by retailer for monies stolen by former employee. Claim in conspiracy against husband based upon receipt of stolen monies into family companies.
- **ICE Cleaning v Hemming** (2022, unrep.): freezing injunction and subsequent claim for conversion arising out of sale of pub/restaurant.
- **Hookey and Ors v Bailey and Ors** (2022, unrep.): freezing injunction arising out of fraud relating to acquisition of fine art.
- **Barrazone and Ors v Broadbent** (2022, unrep.): deceit claim relating to investment in property scheme in Sierra Leone.

## Commercial

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A significant portion of Barnaby's practice is commercial work. This includes drafting of and interpretation of contracts/instruments, breach of contract and related claims in the business context, claims upon guarantees/indemnities, supply and sale of goods.

Examples of recent/notable cases include:

- **RE: A Hotel**: advising a hotel in relation to termination provisions in a £7m per annum contract for the housing of migrants.
- **Outsourced ACC v Montrosehouse** (2023, unrep.): 2—day trial. Whether party entitled to remuneration under oral agreement for introducing purchase of London college for £11m.
- **Hussain v Razaq** (2022, unrep): multi—day trial relating to personal loans and breach of licence agreement for running a taxi firm. Value circa £300,000.
- **Cavadore v Jawa** [2021] EWHC 3382 (Ch): application for relief from sanctions arising out of failure to provide security for costs in significant dispute concerning franchise agreements for restaurants in the Middle East, pleaded at over £20m.
- **Arora v Moshiri** [2021] EWHC 2230 (Ch): trial concerning repudiatory breach of an oral agreement to acquire prime properties in London for investment.

## Company & Partnership

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Barnaby is frequently instructed by directors, shareholders and partners both in relation to non-contentious and contentious work. He has experience of matters throughout the life of a company/partnership, including drafting/construction of incorporation documents, disputes

at meetings, shareholder disputes, derivative claims, unfair prejudice petitions and accounts following dissolution of partnerships.

Examples of recent/notable cases include:

- **RE: HRP Complete Solutions LLP** [2024] EWHC 522 (Ch): Ongoing derivative action by LLP comprising trust claim to various properties removed from LLP by former director. Abuse of process arguments, ultra vires actions by LLP, dishonest assistance and knowing receipt.
- **RE: Moyses Stevens Flowers** (2023, unrep.): shareholder dispute over valuable flower selling company. Application concerning Part 18 request and appropriate level of particularity of plea of settled accounts.
- **RE: Ride LLP** (2023, unrep.): unfair prejudice petition in the context of popular rock band. Settled before trial.
- **Bahia v Sidhu** [2022] EWHC 875 (Ch): led by Ian Clarke KC. Three—week trial of partnership dispute involving properties estimated at £20m in Southall. Retained as sole counsel to draft appeal to the Court of Appeal.

## Insolvency

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Barnaby has significant experience and expertise in insolvency proceedings. He regularly acts for debtors, creditors and office holders in both personal and corporate insolvency proceedings. In 2019, he was involved in the leading case relating to Income Payments Orders and whether they fell within a bankrupt's estate.

Examples of recent/notable cases include:

- **RE: JB Building Ltd** (2024, unrep.): representing directors of various building companies in claims made by liquidator of preferences and misfeasance, valued at over £1m. Settled day before trial.
- **RE: WP Ltd**: advising officeholders on the validity of a proof of debt for over £300m arising out of the pollution of rivers in the US.
- **RE: Sidi Executive Tickets Ltd** (2024, unrep.): application for vesting order of valuable stall in Covent Garden market, listed for 3—day trial.
- **RE: A bankrupt** (2023, unrep.): advising a bankrupt as to whether substantial compensation arising out of the HBOS scandal could be claimed by the TiB.
- **Azuonye v Kent** [2019] EWCA Civ 1289: sole counsel in appeal regarding whether income payments orders fall within bankrupt's estate.

- **Durkan v Patel** [2018] EWHC 3231 (Ch): trial of claim that various payments made were transactions defrauding creditors.
- **Rafferty v Sealants International** [2018] EWHC 1380 (Ch): appeal against refusal to grant annulment order.
- **Lord v Pearse** [2015] EWHC 3046 (Ch): question of liability for liquidator's costs arising out of s236 examination.

## Landlord and Tenant

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Barnaby is regularly instructed in a wide range of landlord & tenant disputes, including possession claims, forfeiture claims, dilapidations claims, interpretation of leasehold and freehold covenants, service charge disputes, collective enfranchisement and lease extension actions and various tortious claims, such as trespass/nuisance and misrepresentation relating to the acquisition and/or enjoyment of leasehold property.

Barnaby has experience in advising on matters concerning the Building Safety Act 2022, including determination of the “relevant person” in the context of “relevant defects” and remediation orders.

Examples of recent/notable cases include:

- **M v H** (2024, unrep.): acting for ‘tenant’ in claim for possession. Allegation of sham AST, proprietary estoppel claim over £1m London home.
- **Rotherhithe v McNeil and Asim** (2024, unrep.): claims resulting in 2x multi day trials by administrators for possession of London properties. Consideration of requirements for valid option agreements, restitutionary claims for sums paid thereunder.
- **RE: Northolt House** (2024): advising tenant in relation to circa £500k dilapidations claim.
- **Govani v Bedford Estates** (2023, unrep.): claim for declaration of unlawful forfeiture and/or relief from forfeiture in relation to 2 hotels in London in the context of purported disrepair.
- **RE: MH** (2023): advising on various interpretation matters under the Building Safety Act 2022, including remediation orders, in the context of a large development which requires substantial works.
- **RE: Ambreen Properties** (2023, unrep): application by local authority for various penalties arising out of unlawful HMOs, settled before multi—day trial.

## Professional Negligence

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Barnaby has a strong professional negligence property with a particular emphasis on solicitors' negligence and issues relating to the recovery and quantum of costs. He acts both for clients and professionals and is quick to assimilate information in specialist professional areas.

Examples of recent/notable cases include:

- **Hayes and Card v Goody Burrett LLP** (2024, unrep.): circa £200,000 claim against solicitors wrongly drafting declaration of trust which gave family member unintended rights of occupation of family home.
- **IAT v D (A firm)** (2023, unrep.): advised and drafted claim in complex loss of a chance circa £1m claim against solicitors relating to development of property in Fulham. Settled at mediation prior to case management.

## Real Property

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Barnaby is instructed in a large range of real property claims concerning boundary disputes, restrictive covenants, easements, profits à prendre, trusts, land registration, matters relating to the validity and priority security interests, rectification and adverse possession. He is also a contributor to the Encyclopaedia of Forms and Precedents (Sale of Land) and Practical Law Company (Orders for Sale).

Examples of recent/notable cases include:

- **Baylis & Anor v Haider & Ors** [2024] EWHC 187 (Ch): trial to determine ownership of substantial residential property. Total value around £1m. Complex legal issues of *non est factum*, mistake, invalid execution of deeds, dishonest breach of duty by conveyancing solicitors and sale—and—rent—back agreements under FSMA.
- **Taylor v Elliot—Smith** (2024, unrep.): multi—day trial concerning interpretation and enforcement of Tomlin Order purporting to resolve earlier boundary dispute.
- **Moss v Nwator** (2024, unrep.): multi—day trial arising out of misrepresentations in connection with sale of residential property.
- **Russon v Halley** (2024, unrep): ongoing proprietary estoppel appeal following trial. Quantum of damages in light of Guest v Guest.
- **RE: A Supermarket** (2024): acting for national supermarket in trespass claim against shisha lounge.
- **Page Homes v Faulkner** (2023, unrep): over £1m dispute relating to development of luxury flats, involving negligence of previous solicitors. Relief from sanctions, *Tibbles*

applications, abuse of process in reissuing counterclaim, multi—day trial, bankruptcy proceedings.

- **Stevens v (1) Sihan and (2) Romero** (2023, unrep.): acting for debtors in enforcement proceedings following high—profile trial of nuisance claim involving Premiership footballer.
- **Tily v Lodge** (2023, unrep.): multi—day trial relating to acquisition of easement in private development.
- **Armitage v Stevens** (2022, unrep.): multi—day trial concerning boundary dispute.

## Costs

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Barnaby has considerable experience of costs disputes, both inter partes and solicitor—own client. Since his time before coming to the Bar, he has been instructed on assessments over £1m and has advised on difficult issues relating to funding, terms and enforceability of retainers, professional negligence in the context of claims for costs, enforcement/recovery of costs.

Examples of recent/notable cases include:

- **Re: Spaul (Deceased)** (2023, unrep.): Advising professional trustee on likely outcomes of High Court appeal and underlying litigation with a view to accepting a settlement on behalf of beneficiaries of the deceased’s will.
- **PQR v Barts Health NHS Trust** (2021, SCCO): multi—day detailed assessment hearing.

## Notable Cases

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**Re HRP Complete Solutions LLP** [2024] EWHC 522 (Ch)

**Baylis & Anor v Haider & Ors** [2024] EWHC 187 (Ch)

*Seculink Ltd v Salih* [2023] EWHC 1706 (KB)

**Evans v Muxworthy and Evans** [2022] EWHC 2866 (Comm)

*Bahia v Sidhu* [2022] EWHC 875 (Ch)

**Cavadore v Jawa** [2021] EWHC 3382 (Ch)

**Arora v Moshiri** [2021] EWHC 2230 (Ch)

**Azuonye v Kent** [2019] EWCA Civ 1289

**Durkan v Patel** [2018] EWHC 3231 (Ch)

**Rafferty v Sealants International** [2018] EWHC 1380 (Ch)

**Lord v Pearse** [2015] EWHC 3046 (Ch)