

# Barnaby Lowe

Year of call: 2019  
Degree: BA (Cantab) (Law, First Class); LLM (Cantab) (First Class, 2nd in year); BPTC (Outstanding)



Barnaby has a broad practice covering all of Chambers' main practice areas, with a particular focus on commercial matters.

Before joining Blackstone, Barnaby taught Conflict of Laws and Contract Law at Gonville and Caius College, Cambridge. Barnaby also spent two years working part-time for a private company providing litigation analysis services; his role involved researching, and gathering information on, decisions of the Commercial Court.

## EXPERIENCE

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### Commercial

Barnaby accepts instructions in all areas of Chambers' commercial litigation practice. He has been involved in a range of commercial disputes and advisory work, including high-value, complex, and multi-jurisdictional matters. Barnaby has also draws on his experience teaching Conflict of Laws and Contract Law.

### Cases

#### **Transworld Payment Solutions U.K. Ltd. & anor. v. First Curaçao International Bank N.V. & anor.**

Chancery Division, ongoing

Acting (with Andrew Scott) for the First Defendant in its applications: (i) challenging the English Court's jurisdiction in relation to the majority of the Claimants' claims; and (ii) seeking a stay in relation to the remainder of the claims. The applications are based, in large part, on the existence of ongoing parallel proceedings in Curaçao. The claims, said to be worth over £400 million, concern allegations of dishonest assistance and fraudulent trading.

### **Bushby v. Galazi & ors.**

Chancery Division, ongoing

Acting (with Shane Sibbel) for the First, Second, Sixth, and Seventh Respondents to an appeal against the award, in the Respondents' favour, of a non-party costs order pursuant to s. 51 of the Senior Courts Act 1981.

### **Jinxin Inc. v. Aser Media PTE Limited & ors.**

Commercial Court, ongoing

Acting (with Andrew Hunter Q.C. and Shane Sibbel) for the First and Tenth Defendants to a claim for deceit and unlawful means conspiracy worth over US\$700 million. The claim, brought by a Chinese consortium, arises out of the sale and purchase of 65% of the majority shareholding in a leading media sports rights agency. Claims in contract pursuant to a tax deed have also been made against certain of the Defendants.

### **VTB Commodities Trading DAC v. JSC Antipinsky Refinery (Petraco Oil Company S.A. intervening)**

Commercial Court, ongoing

Acting (with Andrew Scott) for the Intervener in an action to determine the rights and obligations of the Claimant and the Intervener in respect of oil cargoes and/or secured sums paid into Court pursuant to cross-undertakings given by the Claimant to the Intervener and the Court. The claim and counterclaim, worth c. US\$90 million, involve allegations of fraudulent double-selling and diversion of oil cargoes, as well as complex issues of contractual interpretation and foreign law.

### **ID v. LU & anor.**

[2021] EWHC 1851 (Comm); [2021] 1 W.L.R. 4992

Acted (with Adam Baradon) for the successful second defendant on its application to set aside service out on the basis that the 'necessary or proper party' jurisdictional gateway (CPR PD6B, para. 3.1(3)) cannot be used to bring a foreign defendant into the jurisdiction where the anchor defendant could have contested jurisdiction but voluntarily accepted service of the claim form.

### **Canterbury of New Zealand Ltd. v. 210 Brands Inc.**

Chancery Division, 2021

Acted, as sole counsel, for the Claimant in its claim for contractual and assigned debts of US\$1.2 million, as well as an order for the transfer of property. The case included a successful application for default judgment.

### **[A Marketing Management Company] v. [An Oil & Gas Field Exploration and Development Company]**

HKIAC Arbitration, 2021

Acted, as sole counsel, for a leading oil & gas field exploration and development company, sued by a marketing management company which sought to recover an alleged debt. The case included a counterclaim raising issues of misrepresentation and rectification of contracts.

**Pleshakov v. Sky Stream Corporation & ors.**

[2021] UKPC 15

Acted (with Barbara Dohmann Q.C. and Ajay Ratan) for the Second and Third Respondents to a Privy Council appeal from a decision of the Eastern Caribbean Court of Appeal. The appeal concerned issues regarding the creation of bare trusts, the distinction between bare trustees and nominees, and the ability to run an allegedly new case before a final appellate court.

**Heinrich von Pezold v. Border Timbers Ltd.**

(London Circuit Commercial Court, 2020-2021)

Acted (with Robert Anderson Q.C. and Dominic Howells) for the Defendant to a claim brought by one of its former directors, seeking damages and a final injunction to prevent the Defendant from enforcing an ICSID arbitration award obtained against the Government of Zimbabwe.

**[Real Estate Development Group] v. [Real Estate Development Group]**

(ICC Arbitration, ongoing)

Acting (with Adam Baradon and Carmine Conte) for a leading real estate development group in its multi-jurisdictional US\$3 billion breach of trust and breach of contract claim against its former joint venture partner.

**Re. Cintep Development Limited**

[2020] EWHC 3210 (Ch)

An unfair prejudice petition arising from the decision of an investor to cease spending, and indefinitely suspend planned further investment, on a joint venture to take a recycling shower product to market (assisting Fraser Campbell).

**Arcadia Petroleum Limited & ors. v. Bosworth & ors.**

(Commercial Court, 2019)

An application seeking additional disclosure in support of a worldwide freezing order, in the context of a US\$139 million fraud claim against the former executive directors of a major oil and gas company (assisting Robert Anderson Q.C. and Andrew Scott).

**AXA S.A. v. Genworth**

[2020] EWHC 2024 (Comm)

A quantum hearing following AXA's success at a liability hearing concerning a claim for hundreds of millions of pounds of losses, relating to historic PPI mis-selling, from the vendor of subsidiary insurance businesses (assisting Andrew Green Q.C. and Fraser Campbell).

**Re. a finance house**

(QBD, 2020)

Applications seeking disclosure of an alleged third-party funder, the payment of specific monies, and enforcement of the terms of an allegedly binding debenture. These applications were made in the context of claims concerning various alleged breaches of contract, as well as alleged fraudulent behaviour entitling the Claimant to repayment of certain sums (assisting Fraser Campbell).

**SAS Institute Inc v. World Programming Ltd**

[2020] EWCA Civ 599

An appeal against the imposition of a wide-ranging anti-enforcement injunction in respect of the enforcement of a foreign judgment (assisting Monica Carss-Frisk Q.C. and Andrew Scott).

**Município de Mariana & ors. v. BHP Group plc & anor.**

[2020] EWHC 2930 (TCC)

An action resulting from the collapse of the Fundao Dam in Brazil, involving a range of jurisdictional and foreign law issues (assisting Shaheed Fatima Q.C. and Hanif Mussa).

**Daimler AG v. MOL (Europe Africa) Ltd & ors.**

[2019] EWHC 3197 (Comm)

Applications for strike out/summary judgment of part of a claim, or for a stay of proceedings pending a reference to the CJEU. The claim concerned a major damages action arising from the global Ro-Ro Shipping cartel (assisting Brian Kennelly Q.C. and Andrew Scott).

**Vestel Elektronik Sanayi Ve Ticaret AS & anor. v. HEVC Advance LLC & anor.**

[2019] EWHC 2766 (Ch)

A challenge to the jurisdiction of the English Courts in relation to a claim by Vestel for alleged abuses of dominance by HEVC and Philips (assisting Andrew Scott).

**Sabbagh v. Khoury & ors**

[2019] EWHC 3004 (Comm)

Applications concerning whether the Claimant could withdraw concessions made when presenting her factual case in contested jurisdiction proceedings. These applications took place in the context of a claim alleging a conspiracy to deprive the Claimant of over US\$500 million of assets (assisting Andrew Scott).

## Civil Fraud, Asset Recovery & Injunctive Relief

Barnaby accepts instructions in all areas of Chambers' civil fraud practice. He has been involved in a number of multi-jurisdictional fraud disputes, often raising complicated issues of private international law.

## Cases

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### **Re. a finance house**

(QBD, 2020)

Applications seeking disclosure of an alleged third-party funder, the payment of specific monies, and enforcement of the terms of an allegedly binding debenture. These applications were made in the context of claims concerning various alleged breaches of contract, as well as alleged fraudulent behaviour entitling the Claimant to repayment of certain sums (assisting Fraser Campbell).

### **SAS Institute Inc v. World Programming Ltd**

[2020] EWCA Civ 599

An appeal against the imposition of a wide-ranging anti-enforcement injunction in respect of the enforcement of a foreign judgment (assisting Monica Carss-Frisk Q.C. and Andrew Scott).

### **Arcadia Petroleum Limited & ors. v. Bosworth & ors.**

(Commercial Court, 2019)

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**Sabbagh v. Khoury & ors**

[2019] EWHC 3004 (Comm)

Applications concerning whether the Claimant could withdraw concessions made when presenting her factual case in contested jurisdiction proceedings. These applications took place in the context of a claim alleging a conspiracy to deprive the Claimant of over US\$500 million of assets (assisting Andrew Scott).

## Private International Law

Many of the matters on which Barnaby has worked involve cross-border disputes that raise questions of jurisdiction and applicable law. He has experience of jurisdiction challenges, under both the Common Law and European regimes, anti-suit and anti-enforcement injunctions, and the recognition and enforcement of foreign judgments and arbitral awards.

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Chancery Division, ongoing

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**SAS Institute Inc v. World Programming Ltd**

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**Vestel Elektronik Sanayi Ve Ticaret AS & anor. v. HEVC Advance LLC & anor.**

[2019] EWHC 2766 (Ch)

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**Município de Mariana & ors. v. BHP Group plc & anor.**

[2020] EWHC 2930 (TCC)

An action resulting from the collapse of the Fundao Dam in Brazil, involving a range of jurisdictional and foreign law issues (assisting Shaheed Fatima Q.C. and Hanif Mussa).

**Jefferies International Limited & ors. v. Cantor Fitzgerald & Co & ors.**

[2020] EWHC 1381 (QB)

Applications by three Cantor Fitzgerald employees seeking a stay of English High Court proceedings against them on the basis that any such proceedings should be brought in the State of New York (assisting Diya Sen Gupta Q.C.).

## Arbitration

Barnaby accepts instructions in all areas of Chambers' arbitration practice. He has been involved in a number of high-value arbitrations, as well as the enforcement of arbitral awards and other litigation brought in aid of arbitral proceedings.

## Cases

**[A Marketing Management Company] v. [An Oil & Gas Field Exploration and Development Company]**

HKIAC Arbitration, 2021

Acted, as sole counsel, for a leading oil & gas field exploration and development company, sued by a marketing management company which sought to recover an alleged debt. The case included a counterclaim raising issues of misrepresentation and rectification of contracts.

**[Real Estate Development Group] v. [Real Estate Development Group]**

(ICC Arbitration, ongoing)

Acting (with Adam Baradon and Carmine Conte) for a leading real estate development group in its multi-jurisdictional US\$3 billion breach of trust and breach of contract claim against its former joint venture partner.

**Re. a multi-billion pound investment firm**

A claim by the founder of an investment management business, alleging breach of fiduciary duty by co-founders in various proposed restructuring transactions (assisting Andrew Green Q.C. and Fraser Campbell).

**[Confidential Seller] v. [Confidential Buyer]**

(LMAA Arbitration, 2019)

A multi-million Dollar dispute arising from the termination of a written agreement providing for the sale and purchase of a motor yacht (assisting Andrew Scott).

## Employment

Barnaby accepts instructions in all areas of Chambers' employment law practice. He has a particular interest in employment matters raising commercial and private international law issues.

## Cases

### **Tim Sarnoff v. YZ & ors.**

[2020] UKEAT/0252/19/LA

An appeal concerning the extent of the Employment Tribunal's power to make a disclosure order against a person outside Great Britain (assisting Diya Sen Gupta Q.C.).

### **Jefferies International Limited & ors. v. Cantor Fitzgerald & Co & ors.**

[2020] EWHC 1381 (QB)

Applications by three Cantor Fitzgerald employees seeking a stay of English High Court proceedings against them on the basis that any such proceedings should be brought in the State of New York (assisting Diya Sen Gupta Q.C.).

### **Uber B.V. & ors. v. Aslam & ors.**

[2021] UKSC 5

An appeal concerning whether Uber drivers can be said to be workers and whether they are therefore entitled to receive the national minimum wage and paid annual leave (assisting Dinah Rose Q.C. and Fraser Campbell).

### **Liebenberg v. DS Smith Packaging Ltd & ors.**

(Employment Tribunal, 2020)

The Employment Tribunal unanimously rejected the complaints of victimisation, and direct and indirect sex discrimination brought by a former employee of a FTSE 100 company (assisting Diya Sen Gupta Q.C.).

## ACHIEVEMENTS

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### Education

BA (Cantab) (Law, First Class)

LLM (Cantab) (First Class, 2nd in year)

### Prizes and Scholarships

- Buchanan Prize, Lincoln's Inn (2019)
- CMS Prize for Advanced Private Law (2018)



- Allen and Overy Prize for International Financial Law (2018)
- Emlyn Wade Prize for Law, Gonville and Caius College, Cambridge (2018)
- Lord Denning Scholarship, Lincoln's Inn (2018)
- BPP Advocacy Award (2018)
- BPP Excellence Award (2018)
- Tapp Postgraduate Scholarship, Gonville and Caius College, Cambridge (2017)
- Frere-Smith Prize for Law, Gonville and Caius College, Cambridge (2017)
- Senior Scholar, Gonville and Caius College, Cambridge (2016)
- Exhibition Award, Gonville and Caius College, Cambridge (2015)

## Teaching

Barnaby taught Conflict of Laws and the Law of Contract at Gonville and Caius College, Cambridge.

## Moots

- Willem C. Vis International Commercial Arbitration Moot 2018 (second place; honourable mention for Best Individual Oralist)
- Ludwig-Maximilians-Universität Vis Pre-Moot 2018
- LSE-LCIA Vis London Pre-Moot 2018
- ICC Vis Pre-Moot 2018
- Fox Williams Vis Pre-Moot 2018 (winner)
- Blackstone Chambers De Smith Moot 2016 (finalist)
- Cambridge University Fledglings Moot 2016 (runner-up)
- Sir William McNair Moot 2015

## Memberships

- COMBAR
- The Young Fraud Lawyers Association
- The Financial Services Lawyers Association

VAT registration number: 447008068

Barristers regulated by the Bar Standards Board