



Barbara Antoinette Barnaby

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Barbara is a property litigation specialist, practicing in all aspects of commercial and residential property law, with a particular emphasis on agriculture. She is described as “extremely good”; knowledgeable, focused and “particularly adept at forensic cross examination.” She is a compelling advocate, “able to see both legal and tactical sides of cases”, and has appeared in courts at all levels, both at first instance and on appeal. She also regularly represents clients in the various property tribunals, at arbitration and in mediation.

Her practice encompasses all areas of real property and landlord and tenant litigation, including development agreements, restrictive covenants, land registration, easements, service charges and dilapidations, and business tenancies. She has developed particular expertise in agricultural and rural disputes: agricultural holdings (especially succession and notices to quit); agricultural partnerships and partnership dissolutions; farming, and farm business tenancies. A selection of reported cases appears below.

Barbara is praised for her responsiveness and dedication, and for going the extra mile for her clients.

She is a Fellow of the Chartered Institute of Arbitrators, and sits as a Deputy District Judge in the county court: a valuable insight into litigation from another angle. She is the joint editor of *Muir Watt on Agricultural Holdings* (14th edition); a contributing author to *Atkins Court Forms* volume 4, *Agricultural Land*; and co-

editor of the quarterly Woodfall Landlord and Tenant Bulletin. She regularly lectures to professional organisations and solicitors' firms.

Education

- Worcester College, Oxford: BA Jurisprudence. (1993)
(Andrew Dixon Scholar)
- Worcester College, Oxford: B.C.L. (1994).

Professional

- Inns of Court School of Law, Bar Vocational Course: Outstanding (8th in year)
- Princess Royal Scholarship from Inner Temple for Vocational Course
- Winner of Inner Temple Mooting Championship (1995)
- Called 1995, Inner Temple
- Deputy District Judge 2013
- Fellow of Chartered Institute of Arbitrators.

Recent Cases

- Kingsley v Kingsley [2019] EWHC 1073 (Ch). Issues arising from an order permitting the surviving member of a farming partnership to buy farm land which had owned in equal shares with the deceased partner.
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- Abberley v Abberley [2019] EWHC 1654 (Ch). Whether heads of terms agreed at a mediation constituted a binding contract.
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- Marshall v. Scaman and others [2017] (High Court, Bristol District Registry). A s.68 challenge to an arbitrator's award under the Arbitration Act 1996: concerned issues as to the use of legal assistance by the arbitrator; whether agreed procedures had been departed from and

whether this was a procedural irregularity causing substantial injustice; also s.24 applications for removal of the arbitrator.

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- The Crown Estate v Wakley [2016] EWHC 3610 Ch (Bristol District Registry). An application by the landlord for forfeiture of a farm business tenancy of a dairy farm; and a counterclaim by the tenant for misrepresentation, breach of covenant and unfair contract terms (UCTA 1977). Involved issues of damages for misrepresentations under s.2 of the Misrepresentation Act 1967, and questions of causation and quantification of loss in a complex case involving expert veterinary, herd production and accounting evidence.
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- Kerai, Re [2014] UKUT 153 (LC) (Modification; Restrictive covenants)
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- Nigel Monkman v. Peter J. Mitchelson and John D. Mitchelson, ALT/Y/S/59: Agricultural Land Tribunal (Yorkshire and North Humberside), September 1 2009. The issue for the Tribunal was whether Mr Monkman was eligible to be granted a new tenancy of a farm in North Yorkshire in succession to his father; in particular whether he satisfied the "livelihood test" contained in s.36(3)(a) of the Agricultural Holdings Act 1986.
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- Andrew Duffield and another v. Winifred Gandy [2008] NPC 46. When considering an application to modify or discharge a restrictive covenant against building a residence in the garden of a property, the lands tribunal had been entitled to conclude that the practical benefits of the restriction to the neighbour were of substantial value or advantage by preventing the erection of a bungalow, which would also involve the ancillary use of the garden adjoining her property.
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- Cameron Ltd v. Rolls-Royce plc [2008] L & TR 22. A licence to occupy commercial premises granted under an agreement for lease pending the grant of the lease itself, was not severable from the lease, was granted in the context of the acquisition of a larger interest and therefore was not capable of amounting to a protected lease under the Landlord and Tenant Act 1954 Pt II.
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- J. D. Wetherspoon v. Jay Mar Estates [2007] BLR 285. A commercial tenant unsuccessfully invoked the Arbitration Act 1996 s.68(2) to remit a rent review arbitration award for reconsideration. The tenant had not established an irregularity and, even assuming an irregularity, there was no further evidence that would have made a substantial difference to the result. Accordingly, the 'substantial injustice' test in s.68 had not been met.
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- In Davies and others' application [2001] 1 EGLR 111. A restrictive covenant was not obsolete merely because the person entitled to the benefit of it was prepared to negotiate terms for its release. An objection to an application under s.84(1)(c) Law of Property Act 1925 for the discharge or modification of such a covenant would inevitably fail if the only loss to the objector was the loss of any opportunity to share in the development value of the subject land.
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- Platt v London Underground Ltd, The Times 13.03.01 (derogation from grant of lease of a kiosk at exit of underground station by closure of exit)
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- Ropac Ltd v Intrepneur Pub. Co (CPC) Ltd, [2001] L&TR 93 (the courts jurisdiction to extend time for compliance with a consent order under the CPR's)
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- In Davies Application [2001] 03 EG 134 (modification of restrictive covenant under ground (c) of S84 (1) of the Law of Property Act 1925)
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- McDonnell v Griffey [1998] EGCS 70 (declaratory relief as to the interpretation of a covenant refused where the exercise purely hypothetical).
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- Re Priceland Limited Waltham Forest London Borough Council v. Registrar of Companies [1997] 1 BCLC 467 (factors relevant to the exercise of the Court's discretion to restore a company to the Register under section 653 of the Companies Act 1985).

Publications

- General Editor, Muir Watt & Moss: Agricultural Holdings, 15th edition, Sweet & Maxwell 2018
- Assistant Editor, Muir Watt & Moss on Agricultural Holdings, 14th edition, Sweet & Maxwell 1998
- Contributor to Woodfall "What's New?" Property Update Service
- Editor, Atkins Court Forms, Vol.4 (Title: Agriculture)
- Co-editor of quarterly Woodfall Landlord and Tenant Bulletin.