



## Barry Smith

"He is unflappable. He's fantastically persuasive and very easy to get on with."  
"Exceptionally bright, very user- friendly and punches well above his weight for his year of call." Chambers UK 2017

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Barry is a commercial and property Attorney, with particular expertise in all aspects of banking and finance law. He is recommended by Chambers UK (2013) as one of only 4 practitioners on the Western circuit for banking and finance work.

## PRACTICE AREAS

- Commercial
- Banking & Finance
- Property & Estates
- Professional Negligence
- Technology & Construction
- Admin & Public Law

## COMMERCIAL

Barry bring a wealth of expertise in commercial dispute resolution and litigation with him. His client base ranges from large institutional bodies, including banks and governmental bodies, to individuals and sole traders. Over recent years he has developed a particular interest in and experience of matters involving information technology. His expertise and experience includes:

- Sale of goods and supply of services
- Banking and finance
- Commercial fraud

Agency  
Franchising  
Restrictive covenants and restraint of trade  
Company / corporate and shareholders' disputes  
Insurance coverage and claims  
IT disputes

Although principally a litigator, Addison takes the view that many commercial disputes are susceptible to sensible resolution out of court, and often acts for his clients at mediations and round-table negotiations. Addison is happy to advise on and appear in arbitrations and associated arbitration claims relating to all the main subjects of Addison ' commercial experience.

## SIGNIFICANT CASES

General Asset Management Ltd v Halligan (September 2014): Successfully acting for the Claimant lender in a complex claim for the enforcement of security alleged to be affected by undue influence. Issues included the nature of the evidential presumption of undue influence, the extent of the Claimant's guidance with the Etridge protocol and the Shah v Shah estoppel in circumstances in which the mortgage deed was not signed in the presence of a witness.

Royal Bank of Scotland plc v Evans (May 2016): Successfully appearing for the Claimant bank in a claim to possession under a mortgage given as security for a guarantee. Issues involved the extent and nature of the Claimant's equitable duty towards the Defendants and the credibility of the Defendant's key witness.

General Asset Management Ltd v Ramsden (June 2016): Successfully acting for the Claimant lender in a tricky mortgage claim involving allegations of common interest constructive trust, undue influence, overreaching, an overriding interest arising under a farm business tenancy and a TOLATA order for sale. Rudolf' cross-examination of the Defendants' three witnesses enabled the Claimant to succeed notwithstanding that the court found a deed of postponement to be vitiated by undue influence.

Osteopathic Education and Research Ltd v Purfleet Office Systems Ltd  
(formerly NCS Management Ltd) [2010] EWHC 1801 (QB)

Barry represented the successful Claimant in a complex case involving a series of leasing agreements for photocopying equipment supplied by the Defendant to the Claimant and funded by asset finance agreements with leasing houses. The judge found the Defendant liable for breach of contract and misrepresentation, saying that its business in so far as it involved the Claimant was "fundamentally dishonest".  
Balmoral Group Ltd v Borealis (UK) Ltd [2006] 2 Lloyd's Rep 629

- Sale of goods; breach of conditions as to quality and fitness for purpose in multi-million pound commercial contracts; construction of contract terms and incorporation of terms; unfair contract terms; meaning of "international supply contract"; damages, including wasted managerial time.

Walsh v Cambrian Boat Centre Ltd (2009), Mercantile Court, Cardiff

District Registry- Sale of goods, claim by buyer to return of price, acquisition costs and consequential loss following purchase of allegedly defective boat, breach of condition as to satisfactory quality, rejection and affirmation, relevance of Part 5A of Sale of Goods Act 1979 to delay and rejection, effect of manufacturers' warranties on rights and obligations of seller and buyer.

Successfully representing a client in a complex multi-million pound dispute concerning the development of a care home and an entitlement to share in the equity of a related corporate vehicle.

Successfully representing a range of lenders in claims concerning fraudulent equity-release schemes and allegations of overriding interests made by property occupiers.

## BANKING & FINANCE

Addison is one of only 4 practitioners recommended by Chambers UK (2013) for banking and finance work on the Western circuit. He undertakes advisory and litigation work across the whole spectrum of banking and finance practice, and has represented all of the major UK banks. His particular specialist knowledge and experience of the asset finance market and of consumer credit has consistently been noted in both Chambers and Partners and the Legal 500 since 2010. He is often called upon to act for lenders and borrowers in complex security-realisation cases.

His expertise and experience includes:

Commercial credit and banking, including:  
Enforcement of loans and other facilities  
Guarantees and bond enforcement and coverage  
Cheques, bills of exchange and other payment instruments  
Regulation and authorization  
Inter-bank disputes  
Financial Services and Markets Act 2000  
General debt recovery  
Asset finance and leasing, including:  
Commercial leasing and lease-purchasing  
Default and enforcement  
Contract drafting  
Quality and fitness issues  
Claims by and against financiers, customers and suppliers

Fraud

Consumer credit and finance, including:

Consumer credit and hire

Pre- and post- contractual obligations

Default and enforcement

Regulation and licensing / authorisation (including the new Financial Conduct Authority regime)

Unfair relationships and other Consumer Credit Act 1974 challenges

All aspects of mortgage and securities law, including:

Priorities and land registration

Subrogation

Appointment, powers and duties of receivers

Marshalling

Undue influence

Mortgage fraud

Financial services and advice and financial products, including claims by and against advisors

Complaints to the Financial Ombudsman Service

Non-contentious business

## PROPERTY & ESTATES

Barry is recommended for property work by the Legal 500 (2013). He advises and represents clients in all manner of property disputes, covering commercial and residential premises. He is particularly known for his specialist knowledge of land registration, and has often represented clients before the Adjudicator to the Land Registry (now the First Tier Tribunal).

His expertise and experience includes:

Sale of land

Mortgage disputes

Land registration

Boundary disputes

Rights of way and other easements

Restrictive covenants

Overage and development

Residential and commercial landlord and tenant

Significant Cases

Significant Cases

Nobes v Lloyds Bank plc

(Property Tribunal, May 2016): Successfully opposing a claim

before the Property Tribunal for the reinstatement of two registered long leaseholds, whose removal enabled the Defendant lender to realise an unencumbered freehold interest.

Issues included the distinction between surrender and merger of leasehold estates and the extent to which a party's intention was relevant to surrender.

## PROFESSIONAL NEGLIGENCE

Barry ' professional negligence practice covers the range of his principal practice areas, and includes:

Claims involving financial advisors and lenders

Claims involving solicitors and other lawyers, particular in relation to property and corporate transactions

Claims involving mortgage fraud

Claims involving architects, surveyors and valuers

## TECHNOLOGY & CONSTRUCTION

Barry provides advice and representation in disputes in the Technology and Construction Court and before arbitrators, and has particular expertise in matters which overlap with his other principal areas of practice.

Recent cases and instructions include:

Representing an architectural practice in a multi-party professional negligence claim. Advising on injunctive relief in support of a construction arbitration claim in order to prevent a beneficiary from making a call on a performance bond.

Representing an asset finance lessor in various claims concerning the performance and quality of funded office software.

## ADMIN & PUBLIC LAW

Barry has advised and represented clients in a wide range of challenges to administrative decisions including cases of significant complexity and importance. He has a particular interest in the overlap between commercial and public law, and in disputes involving the financial services industry. He is frequently involved at an early stage in consideration of challenges to decisions of the Financial Ombudsman Service.

## REPORTED CASES

R (Usk Valley Conservation Group) v Brecon Beacons National Park Authority [2010]

EWHC 71 (Admin). An important and high-profile challenge to a long-standing planning

permission involving a caravan park in the heart of the Brecon Beacons.

R (Hollis) v Association of Certified Chartered Accountants) [2014] EWHC 2572

(Admin). A challenge to the internal process of the ACCA's disciplinary process made by an insolvency practitioner, concerning the ambit of admissibility of evidence of judicial findings and comments in disciplinary proceedings.

## **RECENT CASES**

Premier v PwC & Lloyds [2016] EWHC 2610 (Ch)

## **RECOMMENDATIONS**

Chambers UK 2014

Chambers UK 2013

Legal 500 2013

Chambers UK 2012

Chambers UK 2010

Legal 500 2010

## **MEMBERSHIPS:**

Chancery Bar Association

SRA ID:105024

## **EDUCATION:**

BVC, College of Law

CPE, City University

MA, London

BA, Cantab