



Zoë Barton QC

Call: 2003

QC: 2020

zbarton@wilberforce.co.uk

Clerks' Details

+44 (0)20 7306 0102

practicemanagers@wilberforce.co.uk

Qualifications and Appointments

- MA (Hons) (Edin)
- Postgraduate Diploma in Law, City University
- Awarded scholarships by Gray's Inn and City University
- Member of the Chartered Institute of Arbitrators

“An impressive and formidable new silk.”

The Legal 500 2021

Memberships

- Chancery Bar Association
- Property Bar Association
- ACTAPS and ConTrA
- Professional Negligence Bar Association
- MCI Arb

Practice Overview

Ranked as a leading barrister in multiple practice areas, a strength that makes her well-suited to litigation that straddles disciplines, Zoë is “an impressive and formidable new silk” (Legal 500 2021) particularly noted for advocacy and client skills. Her practice is grounded in a strong technical understanding of property and trusts. In addition to her practice spanning the breadth of those areas, this technical expertise serves as the foundation of her civil fraud practice, which forms a significant element of her work and where the ability to establish or challenge proprietary interests and trust structures can be decisive. Zoë also practises in professional liability, typically related to her other practice areas.

Zoë is “an impressive and formidable new silk” and “astute tactician” whose “client-craft in conference is second to none” (Legal 500 2021). She is “very bright, proactive and innovative” (Legal 500 2020), “a great advocate who is very commercial and tenacious”, “brilliant tactically” (Chambers & Partners 2021) and who has “real presence” (Chambers HNW), shows “exceptional attention to detail” and “gets straight to the point and is very knowledgeable” (Chambers & Partners 2020).

Zoë is especially well-regarded for her advocacy having been described as “a concise, effective and tenacious advocate”, “a superstar advocate in the making” and somebody who “understands complex legal issues quickly and flawlessly demonstrates this through her persuasive advocacy” and “is extremely eloquent and can think quickly on her feet” (Legal 500 2019) with one solicitor commenting “she’s absolutely fabulous and is very persuasive before the court. I would not want to be on the end of a cross-examination by her” (Chambers & Partners).

Zoë “has a discerning eye for the important points in a case” (Chambers & Partners) and applies herself assiduously to her clients’ cases, combining being “very quick to get to grips with matters” with “a keen eye for detail” and being “sharp, concise and very approachable”, such that “her work is flawless”. But what sets Zoë apart from her peers is her “excellent rapport” and the way in which she “builds incredible faith in her clients”. She is “good at keeping everybody focused”, “very calm”, “very approachable, and very keen to see a good result for the client”. Zoë understands and reflects her clients’ objectives and as a fan of saying what she thinks, she “provides forthright, unwavering advice”, “does not shy away from difficult issues and gives her opinion without fear or favour” (Chambers & Partners) in “a nice manner ... that clients appreciate”, leaving “[clients] ... very impressed with her”. She knows that litigation is a war of attrition, understands the importance of strategy and uses her ability to “[deal] with the technical issues very well” to that end, creating and exploiting weaknesses in her opponents. Zoë is frequently instructed in cases that call for equitable remedies as her appreciation of where the merit lies lends itself particularly well to cases concerning the exercise of discretion.

Zoë is also a Member of the Chartered Institute of Arbitrators.



Property

Zoë's property practice encompasses all aspects of disputes related to property, ranging from landlord and tenant and real property. However, it also includes commercial and insolvency disputes with a tangential property angle, such as frauds or insolvency cases which seek to establish or undermine proprietary interests and commercial and regulatory disputes concerning property. Her clients include major infrastructure providers such as Network Rail, utility companies, government departments, commercial investors, high street retailers, developers, lenders, insolvency practitioners and even a sovereign state.

Zoë regularly accepts invitations to speak to the Property Litigation Association, both regionally and at the annual conference in Oxford, and has also spoken to the RICS Dilapidations Forum.

Examples of Zoë's related work include:

Development

- Acting in a claim concerning breach of restrictive covenants, their discharge and variation and in respect of the Open Spaces Act 1906.
- Appearing in claims concerned with negotiating damages in connection with developments, including in connection with the construction of a residential development on a constrained dock site where the extent of a right of way and associated trespass by the developer and the basis of calculation of £8m sought by way of negotiating damages was in dispute.
- Advising in connection with development agreements, options, overage and clawback payments and their protection.
- Advising in respect of a high-profile Central London development site in respect of rights of light and restrictive covenant against a background of multiple transfers of parts of land.
- Advising developers in respect of rights of access and development rights in connection to land, including in relation to the establishment of an easement over (arguably) railway land and subject to statutory exceptions.
- Acting for Network Rail in proceedings concerning various easements at Manchester Piccadilly and issues of excessive user in the context of redevelopment at and around the site.

Insolvency

- Advising and appearing for and against receivers and insolvency practitioners in respect of vesting orders, disclaimers, disputes as to the beneficial ownership of property, void property dispositions, shams, transactions to prejudice creditors, property expenses as administrations expenses and the proper execution of deeds for sale of land.
- Acting for and against trustees in bankruptcy in respect of claims relating to property, including as to possible s.423 claims.
- Acting in claims concerning disclaimer, including for parties seeking vesting.
- Advising in respect of CVAs.
- Advising as to the effect on proprietary interests in cases involving bona vacantia and escheat.

Real Property (inc. disputes as to ownership and mortgages)

- Appearing in claims concerned with the contracts for the sale of land, including in respect of their validity, rescission, practical completion, good title, notices to complete and forfeiture of deposits and specific performance.
- Acting in a case concerned with whether various titles had been subject to merger.
- Advising as to beneficial ownership and / or equities which arise by reason of constructive trust, proprietary estoppel, including in respect of failed joint ventures in a commercial context and nuptial settlements / financial resources in a matrimonial context.



Property continued

- Defending in a three-week Chancery division trial of two competing proprietary estoppel claims in respect of land in Berkshire, settled after cross-examination of both claimants' cases.
- Acting in High Court proceedings for the registered proprietor of a charge securing sums advanced for a property development venture after the charge was fraudulently removed from the register. Issues of voidable transactions, tacking on, priority and the availability of subrogation to earlier charges.
- Acting in claims to rectify the title for mistake, including in cases of fraud, and in claims for indemnities from the Land Registry.
- Acting in a claim concerned with the proper construction and rectification of conveyances by which land was 'double-conveyed'.
- Acting for a claimant in respect of claims in negligence, nuisance and the rule in *Rylands v Fletcher* arising from chemical pollution that emanated from neighbouring land.
- Obtaining judgment for a defendant wife whose marital home had been charged as security for repayment of sums by her husband who had guaranteed a company's borrowing facility where the land was held by the couple on trust, the transaction was void by reason of a presented bankruptcy petition and / or voidable by reason of undue influence (*Goldcrest Distribution v McCole* [2016] EWHC 1571 Ch).
- Obtaining first registration before First Tier Tribunal of farmland with significant development potential where the legal and beneficial ownership was disputed and there were allegations of forgery in respect of a conveyance and declaration of trust and assertions of adverse possession (*Caston v Farnese* [2015] UKFTT 0629 (PC)).
- Acting for a claimant in the recovery of a central London property he had transferred to a blackmailer who had threatened to reveal their homosexual relationship to the claimant's family and prominent members of his religious community; importantly, anonymity was maintained for the claimant, his name not appearing even on the face of proceedings.
- Mortgage fraud cases, including for a Premiership and England international footballer, typically involving forged documents often by a husband or father.
- Obtaining possession in 'difficult' cases, such as of a crack whore house in a suspected case of cuckooing of the tenant who had resided since the 1940s and in cases, often in the High Court, where there are safety or public order concerns.
- Claims for accounts and related equitable remedies in cases of breach of trust or fiduciary duty in the context of property ownership e.g. in cases of joint ownership and in relationships of landlord and agent.
- Acting in claims for vesting orders and appointment of trustees in respect of land, and which involve allegations of sham trusts and void dispositions.
- Acting in claims concerned with rights of way, trespass and adverse possession, including appearing in claims between registered proprietors of possessory title and former paper title owners.

Commercial and regulatory

- Defending a claim brought by the former F1 boss for fraudulent misrepresentation for contracts for the sale of land and design services, alternatively repudiatory breach of contract against a developer of prestigious 'superhomes' and related land-owning parties. Raises interesting issues as to the degree of connection between the contracts and the availability of rescission.
- Advising in connection with proper construction of loan agreements as to the necessity for strict compliance with repayment provisions.
- Acting in a claim concerned with the remuneration of one party, including in quantum meruit, in connection with a property investment scheme.



Property continued

- Advising against the background of a conflict of interests in respect of a property collective investment scheme operated via a limited partnership as to the duties of good faith owed by limited partners and the general partner.
- Mercantile Court trial for a claim in contract and quantum meruit for a brokerage fee arising out of the introduction of a lender to a large property development project in Oxfordshire.
- Acting in proceedings concerning sale and purchase agreements, including where breach of warranty and fraudulent misrepresentation / deceit are alleged.
- Trial for assignee of lender in a claim concerning a buy-to-let property portfolio which stood as security for lending which included mis-sold interest-rate hedging products and the true extent of a previous settlement of claims relating to the mis-selling.
- Advising as to the effect on enforcement of a transfer of a registered charge from a sole proprietor to joint ones where those parties treated the underlying debt as assigned in shares between them.
- Advising and appearing at trial in claims concerning FSMA regulated activities (such as regulated mortgage contracts) and permission of the Court to enforce where the lender is not an authorised person.

Landlord & Tenant (inc telecoms)

- Acting in claims regarding the renewal / termination of business tenancies.
- Appearing in trials as to whether a tenant was a protected tenant or tenant at will of premises.
- Appearing for and advising telecoms operators in connection with the new Code, including in respect of the interaction between the Code and the 1954 Act.
- Advising a prominent educational institution in respect of the true extent of interests of various parties in a library building in circumstances where an 1855 long lease had been enlarged by the lessee.
- Advising in respect of the enforceability of restrictive covenants, including in relation to the Competition Act 1988.
- Acting in claims concerned with the exercise of break notices and rent review provisions and their construction, disrepair claims and other landlord and tenant covenants including claims concerning consent for alterations or assignment.
- High Court trial for the successful claimant in a dilapidations claim concerning industrial premises affected by the Buncefield oil depot explosion (*Twinmar Holdings Limited v Klarius UK Limited* [2013] EWHC 944 (TCC)).