Barry Isaacs KC

KC 2011, Called to the Bar 1994
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Barry specialises in insolvency and restructuring, banking and finance, commercial litigation, and company law. He is an Associate of the Society of Actuaries and has particular expertise in cases of financial complexity and company valuation. He often appears as an advocate or expert in overseas jurisdictions.

Barry has appeared in numerous substantial and high-profile cases in the Supreme Court/House of Lords (eg *Lehman Brothers (Waterfall), Nortel (Expenses), Rubin/New Cap Reinsurance, Sigma Finance, Mainstream Properties, Three Rivers v Bank of England),* in the Court of Appeal (eg *Prudential/Rothesay (Pt VII transfer), Rosesilver v Paton, Woolworths, Davenham Trust, FKI v Stribog, Golden Key, Whistlejacket Capital, OT Computers),* and at first instance, including several major trials and arbitrations.

Barry has acted in relation to numerous schemes of arrangement/restructuring plans, including *Cimolai, Atento, Smile Telecom, Amigo Loans, Provident Financial, Premier Oil, Noble Group, Castle Trust, HSBC (ring-fencing scheme), Stronghold Insurance, APCOA Parking, Rodenstock, Equitable Life, Lehman Re (Bermuda), Ansvar (New Zealand), Orion Insurance, Stemcor, Borsodchem, British American Insurance (Bermuda), Phoenix and London Assurance, Energis, WFUM Pools, Highlands Insurance.*

Other recent cases of note include *Greensill, Debenhams, Intu, VB Football Assets v Blackpool Football Club, Carillion, International Bank of Azerbaijan, Ve Interactive, MF Global, Punch Taverns, Travelodge, BTA Bank v Ablyazov*.

Cases in overseas jurisdictions include (in the Cayman Islands) *Trina Solar, Elatec, iKang, Sky Solar, Qunar, Abraaj Capital, Nord Anglia, Medimpact, Platinum Partners, China Branding, Weavering, Eurasia Drilling, Homeinns, Pacific Harbor Asia Fund, CHC Group, Primeo Fund, FFC Fund, China Fishery, Sterling Macro Fund, Caledonian Bank;* (in Bermuda) *Omnia, PDVIC, Caroline Bay, VL Insurance, Lehman Re, Saab Financial, Millennium Asset Management, KIC;* (in the British Virgin Islands) *Kingate Fund, Chagala, Kaupthing, Monarch Pointe Fund, Thema Fund;* (in the Bahamas) *British American Insurance;* (in Hong Kong) *Noble Group, Mongolian Mining Corporation;* (in the DIFC) *Abraaj Capital;* and (as an expert witness in New York) *Lehman Brothers, Hellas Telecommunications, Mill Financial v Hicks,* and *Deutsche Bank v Serengeti.*

Barry is a past winner of Chambers and Partners Insolvency/Restructuring Silk of the Year. He is recommended in the Bar Guides as a leading silk in insolvency and restructuring; banking and finance; company and partnership; and offshore. Barry is described as “incredibly knowledgeable, insightful and commercial, practical and very user-friendly”, “a great advocate, both orally and on paper” and a “razor sharp cross examiner.”

Insolvency and Restructuring

Significant cases include:

- ***Cimolai*** [2023] EWHC 923 (Ch), Cross-Border Insolvency Regulations 2006/stay of

proceedings/restructuring plan

- ***Chandrasekaran v Fisher*** [2023] EWHC 522 (Ch), out-of-court appointment of administrators/defects/contractual interpretation
- ***ALL Scheme*** [2022] 3 WLUK 189**,** retail scheme of arrangement/ alternative schemes/misselling
- ***Provident SPV*** [2022] 1 BCLC 540, retail scheme of arrangement/misselling
- ***Castle Trust*** [2021] 2 BCLC 523, scheme of arrangement/ coronavirus/ remote meetings
- ***Debenhams*** [2020] 5 WLUK 398, administrators/ contributories petitions/investigations
- ***London Oil & Gas*** [2020] 1 WLUK 47, validity of appointment/ locus standi/ retrospective effect
- ***Ve Interactive*** [2019] BPIR 438, removal of administrators from office
- ***VB Football Assets v Blackpool Football Club*** [2019] BCC 896, equitable execution/receivers
- ***Bakhshiyeva v Sberbank of Russia*** [2018] 4 All ER 964, Cross-Border Insolvency Regulations, rule in *Gibbs*
- ***Lehman Brothers International (Europe)*** [2018] 1 All ER 205 (SC); [2016] Ch 50 (CA); [2015] Ch 1 (Waterfall Application), priority of subordinated debt/potential liability of members for liabilities of company/currency conversion claims/interest
- ***APCOA Parking*** [2014] 2 BCLC 285, scheme of arrangement/change of governing law
- ***Nortel; Lehman Brothers International (Europe)*** [2014] AC 209 (SC); [2012] BCC 83 (CA); [2011] BCC 277, provable debts/expenses
- ***Rubin v Eurofinance; New Cap Reinsurance v Grant*** [2013] AC 236 (SC); [2012] Ch 538 (CA); [2010] 1 All ER (Comm) 81, mutual recognition and assistance/enforcement of foreign insolvency judgments
- ***Bank of Scotland v Targetfollow Property Holdings*** [2013] BCC 817, contested administration
- ***European Directories*** [2012] BCC 46, pre-pack administration/change of COMI
- ***Stanleybet UK Investments*** [2012] BCC 60, removal of administrators/wishes of creditors
- ***Rodenstock*** [2012] BCC 459, solvent scheme of arrangement/foreign company
- ***Shah v Patel*** [2010] BPIR 496 (CA), contempt of court by company director/appropriate sentence
- ***Perpetual Trustee Co v BNY Corporate Trustee Services; Butters v BBC Worldwide*** [2010] Ch 347 (CA); [2009] BPIR 1315, anti-deprivation principle/joint ventures

  Other significant cases include ***Amigo Loans, Premier Oil, Intu, Arcadia, Carillion, Co-operative Bank, Cory Environmental***, ***Punch Taverns***, ***Travelodge***, ***Portugal Telecom***, ***NCP***, ***Quinn Group, Southern Cross***, ***Tele Columbus***, ***Alitalia***, ***Borsodchem*** and ***IMO Car Wash***.

Banking and Finance

Significant cases include:

- ***Greensill***
- ***Galapagos***
- ***HSBC Bank,*** ringfencing transfer scheme
- ***iKang Healthcare; Qunar*** [2019 (1) CILR 611]; ***Nord Anglia; Eurasia Drilling; Homeinns Hotel Group,*** dissenting shareholders/appraisal of fair value
- ***Caledonian Bank***, disputed sanction application/construction of facility agreements
- ***US Bank Trustees v Titan Europe 2007-1***, servicing agreement/identity of controlling party
- ***Mill Financial v Gillett***, expert on English finance law in New York Supreme Court
- ***AWAL Bank***, GRMA close out and misrepresentation claims
- ***MF Global*** [2013] Bus LR 1030 (Hindsight Application), client money rules/hindsight principle
- ***Davenham Trust v White*** [2012] 1 BCLC 123 (CA); [2011] BCC 77, guarantees/security
- ***Lehman Brothers,*** ISDA close out and related disputes
- ***Monarch Pointe Fund v Somers Dublin*** HCVAP 2011/040 (BVI CA) and BVIHCV 2008/197, redemption payments
- ***Landsbanki***
- ***Kaupthing***

Structured finance and investment vehicles, CFOs, CLOs and CDOs, RMBS and CMBS, including:

- ***Titan Europe 2006-1, 2006-2, 2007-2***
- ***NorthLake CDO I***
- ***White Tower***
- ***Clio European CLO***
- ***Sigma Finance*** [2010] 1 All ER 571 (SC); [2009] BCC 393 (CA)
- ***Eurosail*** [2009] EWHC 513 (Ch)
- ***Bank of New York v Montana Board of Investments (Orion Finance)*** [2009] 1 All ER (Comm) 1081
- ***Whistlejacket Capital*** [2008] 2 BCLC 683 (CA)
- ***Golden Key*** [2009] All ER (D) 18 (CA); [2009] All ER (D) 40
- ***Cheyne Finance (No 2)*** [2008] 2 All ER 987
- ***Cheyne Finance (No 1)*** [2008] 1 BCLC 732
- ***Sciens CFO***
- ***Rhinebridge***
- ***Mainsail***

Commercial Litigation and Arbitration

Barry has wide-ranging commercial experience and has appeared in a number of major trials, including ***Three Rivers DC v Bank of England*** (2 year commercial trial), the ***Bermuda Fire & Marine Insurance*** litigation (9-month trial in Bermuda), and ***NEMGIA v AGF***.

Other significant commercial cases include:

- Confidential arbitration, $150 million claim for professional negligence/breach of contract against valuation agent (6 week trial with 28 witnesses)

- Confidential arbitration, $350 million fraud claim against investment manager and manager of two Bermuda hedge funds
- ***Rosesilver v Paton*** [2018] EWHC 103 (Ch), setting aside judgment obtained by fraud/pre-action disclosure
- ***Rosesilver v Paton*** [2017] EWCA Civ 158, [2015] EWHC 1758 (Ch), breach of fiduciary duty/specific performance/equitable remedies
- ***Stainer v Lee*** [2011] 1 BCLC 537, derivative action/breach of directors' duties
- ***FKI Engineering v Stribog*** [2011] 1 WLR 3264 (CA); [2010] 2 All ER (Comm) 906, declaration of incompatibility/Judgments Regulation
- ***Stornoway v SIV Portfolio*** [2011] All ER (D) 98, scope of indemnity clause
- ***BTA Bank v Ablyazov***, fraudulent misappropriation of funds
- ***OBG v Allan, Douglas v Hello! (No 3), Mainstream Properties v Young*** [2008] AC 1 (HL), inducing breach of contract/interference with contractual relations/causing loss by unlawful means
- ***Alfa Petroleum***, dispute with BP relating to TNK-BP joint venture
- ***Brunei Investment Authority v Price Jefri***, misappropriation of funds
- ***Leaderguard v MF Global***, breach of duty and dishonest assistance
- ***Amadeo Hotels v Zaman*** [2007] EWHC 295 (QB), worldwide freezing order

Barry has particular expertise in relation to legal privilege, disclosure and civil procedure, having appeared in numerous cases arising from the BCCI collapse, including 7 appeals in the Court of Appeal or House of Lords:

- [2005] 1 AC 610 (HL); [2004] QB 916 (CA); [2003] All ER (D) 40, legal professional privilege
- [2005] CP Rep 47 (CA), judgments in private
- [2005] CP Rep 46 (CA), restriction of cross-examination
- [2003] All ER (D) 76, conduct of proceedings/exclusion of witnesses
- [2003] All ER (D) 78, amendment of pleadings
- [2003] QB 1556 (CA); [2002] CP Rep 34, scope of legal advice privilege
- [2003] 1 WLR 210 (CA); [2002] All ER (D) 524, third party disclosure/meaning of "likely"
- [2003] 2 AC 237 (HL), test for summary judgment
- [2002] All ER (D) 130, disclosure/confidentiality
- [2002] All ER (D) 207, public interest immunity/summary of report of British Intelligence services

Offshore

Barry frequently appears in overseas jurisdictions in the fields of insolvency/restructuring, banking/finance, and commercial law, and as an expert on English law. He has been called to the Bars of the Cayman Islands, Bermuda, and the British Virgin Islands and registered as a legal practitioner in the Dubai International Financial Centre.

Recent cases in the Cayman Islands include:

- ***Trina***, s 238 appraisal action

- ***Medimpact***, just and equitable winding up petition
- ***iKang***, s 238 appraisal action
- ***Sky Solar***, strike out of winding up petition
- ***Qunar***, s 238 appraisal action
- ***Platinum Partners Value Arbitrage Fund***, sanction of litigation funding agreement
- ***Abraaj***, commercial and insolvency disputes
- ***Nord Anglia Education***, s 238 appraisal action
- ***FFC Fund***, just and equitable winding up
- ***Weavering Macro Fixed Income Fund***, preference claim
- ***China Branding Group***, appeal against rejection of proof
- ***Eurasia Drilling***, s 238 appraisal action
- ***Pacific Harbor Asia Fund***, appointment of official liquidators
- ***CHC Group***, validation order/provisional liquidation
- ***Primeo Fund***, third party disclosure/liquidator's duties
- ***Homeinns Hotel Group***, s 238 appraisal action
- ***China Fishery Group***, appointment of provisional liquidators
- ***Sterling Macro Fund***, just and equitable winding up
- ***Caledonian Bank***, commercial disputes/sanction application

Other recent cases in overseas jurisdictions include:

- DIFC: ***Abraaj Capital***
- Bermuda: ***George's Bay; VL Assurance; Lehman Re; Saab Financial (Bermuda)***; ***KIC***; ***Millennium Asset Management***
- British Virgin Islands: ***Chagala Group; Kaupthing; Monarch Pointe Fund***; ***Thema Fund***
- Hong Kong: ***DMX Technologies, Noble Group, Mongolian Mining Corporation***
- New York: ***Lehman Brothers International Europe; Mill Financial v Hicks***; ***Hellas Telecommunications v TPG***; ***Deutsche Bank v Serengeti***
- Bahamas: ***British American Insurance***
- Luxembourg: ***Hellas Telecommunications***

  Barry's expert evidence on cross-border insolvency and transaction avoidance was accepted by the US Bankruptcy Court, Southern District of New York in *Re Hellas Telecommunications, TPG Capital Management v Hosking* (Case No 12-10631, 29 January 2015).

Insurance

Extensive experience of insurance and reinsurance insolvencies and restructurings, solvent and insolvent schemes of arrangement and business transfer schemes, including:

- ***Stronghold,*** scheme of arrangement
- ***Prudential, Rothesay*** (CA) [2021] Bus LR 259, Part VII transfer
- ***Scottish Widows***, Part VII transfer

- ***Royal London Mutual***, Part VII transfer
- ***Enstar*** *(Bosworth, Knapton, Marlon, Mercantile, Indemnity, Unionamerica, River Thames*), Part VII transfers
- ***British American Insurance Co*** (Bermuda), scheme of arrangement
- ***KIC Insurance*** (Bermuda), disputed proof of debt, *Wrotham Park* damages
- ***Orion***, cut-off scheme of arrangement
- ***Enstar*** (*Cavell, Fieldmill, Hillcot Re, Longmynd, River Thames, Unione Italiana (UK) Re*) [2014] WLUK 1016, Part VII transfers
- ***Ansvar*** (New Zealand)***,*** contingent solvent/insolvent scheme of arrangement
- ***Lehman Re*** (Bermuda), subrogation/set-off/restructuring scheme
- ***Equitas Insurance*** [2010] Lloyd's LR 69, the largest transfer of insurance business, covering all 1992 and prior nonlife business of members of Lloyd's
- ***Phoenix and London Assurance*** [2009] EWHC (Ch) 3502, scheme of arrangement compromising guaranteed pension rates and changing future investment strategy
- ***Equitas Insurance*** [2009] Bus LR 509, dispensation of notification requirements under Part VII before finalisation of independent expert's report
- ***WFUM Pools*** [2007] EWHC 1781 (Ch), contested solvent schemes of arrangement
- ***Sompo***, contested Part VII transfer
- ***Highlands***, direct solvent scheme and cedant scheme for insolvent company
- ***Minster***, 7 solvent schemes of arrangement
- ***World Marine***, solvent scheme of arrangement
- ***Equitable Life*** [2002] 2 BCLC 510, scheme compromising guaranteed annuity rates and mis-selling claims
- ***Equitable Life*** [2002] BCC 319, whether three classes appropriate/split voting

Other

Other reported cases include:

- ***Dolphin Quays v Mills*** [2008] 1 WLR 1829 (CA); [2007] 4 All ER 503, third party costs
- ***Crompton's Leisure*** [2007] BCC 214, exit from administration
- ***Three Rivers DC v Bank of England*** [2003] 2 AC 1 (HL), misfeasance in public office/First Bank Coordination Directive (77/780/EEC)
- ***Company*** (No 2507 of 2003) [2003] 2 BCLC 346, costs
- ***Stallton Distribution*** [2002] BCC 486, administration/wishes of creditors
- ***Munns v Perkins*** [2002] BPIR 120, remuneration
- ***Society of Lloyd's v Waters*** [2001] BPIR 698, annulment of bankruptcy
- ***Mathew*** [2001] BPIR 531, statutory demand
- ***Cevello v Currys Group*** [2000] BPIR 976, statutory demand/fresh evidence
- ***BCCI v Al-Kaylani*** [1999] ILPr 278, discovery/domicile
- ***Judd v Brown*** [1999] BPIR 517 (CA); [1997] BPIR 470, sale of matrimonial property/benefit to creditors

- ***Raval*** [1998] BPIR 389, sale of matrimonial home/mental illness
- ***Salters Hall School*** [1998] BCC 503, remuneration/successive liquidators
- ***McMahon v AGF*** [1997] 2 BCLC 191, damages
- ***Pendigo*** [1996] BCC 608, costs

Awards and Recommendations

Chambers & Partners

Past winner of Insolvency/Restructuring Silk of the Year

- "One of the smartest and also nicest people you could ever hope to work with"
- "On his feet, during cross-examination, he was astounding"
- "On his feet he is incredibly impressive"
- "When he stands up, people listen"
- "Barry's ability to get to the crux of the matter and address it is phenomenal"
- "He never gets flustered; an absolute dream to work with"
- "Fantastic – easy to deal with, gives very good advice and a really good operator in court"
- "He will always go the extra mile to give clients what they need"
- "Very hard working with meticulous attention to detail and willingness to get stuck into the toughest of matters"
- "Very persuasive, both to clients and the Courtroom"
- "Tenaciously fights his client's corner and is willing to roll up his sleeves and get stuck into the material"
- "Very thoughtful and pragmatic; he is just top-drawer"
- "His knowledge of the area is absolutely encyclopaedic"
- "Very diligent and very thorough. No stone is left unturned and every single point is dealt with as fully as it can be. He doesn't miss anything"
- "Incredibly impressive"
- "Incredibly responsive, easy to deal with and an excellent lawyer"
- "really delightful to work with and has a tremendous work rate"
- "has an incredible work ethic, an incisive mind and great client-handling skills"
- "really builds a rapport with his client"
- "Highly rated for his tremendous work rate, his exhaustive knowledge of insolvency law and his excellent client-facing skills"
- "Meticulous in his preparation for trial and impressed with his ability to manipulate small pieces of data with accuracy and focus"
- "Has excellent technical knowledge and an impressive ability to distil complex issues into manageable chunks"
- "A very clever lawyer, he really knows his stuff"
- "Applauded for his attention to detail and diligence. He's very good at getting on top of a brief so that he has total recall of all the detail in the case"
- "He's so into the details that he cannot be caught out"

- “Incredibly knowledgeable, practical and accessible”
- “Praised for his important work on cross-border insolvency”
- “Well respected by judges”
- “Very well received by judges”
- “second-to-none at dealing with technical financial issues, particularly in respect of complex business valuations. His cross-examination is superbly incisive, and his written and oral advocacy is always perfectly measured and to the point’
- “the best that I’ve come across in complex financial and valuation issues. He’s fantastic in his cross-examination. I think everyone probably comes away thinking he’s more expert than the expert”
- “Barry is fantastic when it comes to things involving complex valuations and financial things, I don’t think you can find anyone better”

Legal 500

- “A calm courtroom presence, which is devastatingly effective”
- “A great advocate, both orally and on paper: he is concise, incisive, well-measured, nimble, and judges like and appreciate his style”
- “Unflappable in court”
- “Clinical as a surgeon in his preparation – knows a case like the back of his hand and is able to think strategically and outside of the box. A go to silk in the prime of his career”
- “Razor sharp cross examiner”
- “adopts an extremely thorough and methodical approach to trial preparation and is totally across the details”
- “his oral advocacy is always perfectly measured’
- “Wonderfully measured advocacy style combined with a phenomenal work ethic”
- “Barry’s prodigious work ethic and attention to detail is second to none”
- “Barry is impressively meticulous. No point goes unconsidered. This is also reflected in his advocacy, which is polished and incisive”
- “Barry has meticulous attention to detail and a ferocious work-rate”
- “Really rolls his sleeves up and cares about delivering excellence”
- “Tenacious in arguing his client’s case in court but does so in a manner that is persuasive and doesn’t offend the judge”
- “Barry’s manner in court is excellent, meticulous and persuasive even when under intense fire from the judge”
- “meticulous when it comes to preparing for hearings, offers sound strategic advice at all stages of a matter, and is a pleasure to work with”
- “Excellent on strategy and attention to detail”
- “Incredibly bright and thorough, and able to focus in on the key issues”
- “At the top of his game, and extremely accessible and good with clients”
- “Has a proven ability to navigate a clear path through the most complex of matters”
- “At the top of his game in offshore insolvency and involved in most of the big matters”
- “Outgoing, charming and fun, and is part of the team from day one”
- “Has excellent client relationships and is very good to work with”

- “Strong numeracy skills and a willingness to grapple with esoteric legal and financial issues”
- “Barry has a brilliant way of getting into the intricacies of financial details on a matter”
- “Exceptional on technical business valuation matters, particularly in cross-examination of experts on the subject”
- “an excellent cross-examiner of both factual and expert witnesses”
- “Barry is an excellent advocate. His cross-examination skills of expert valuation witnesses are second to none”
- “He is like a human calculator when it comes to numbers”

Career

2018	Registered practitioner in the Dubai International Financial Centre
2015	Called to the Bar of the Cayman Islands
2012	Called to the Bar of the British Virgin Islands
2011	Appointed King’s Counsel
1999	Called to the Bar of Bermuda
1994	Called to the Bar of England and Wales
1991-1993	Henderson Investors plc, Investment Manager, private equity
1989-1991	Bain & Company, Strategy Consultant

Publications

Contributor to ***Company Directors: Duties, Liabilities and Remedies*** (1st Edition, OUP)

Education and Qualifications

1989Associate of the Society of Actuaries
1989Harvard University, MA; Teaching Fellow
1987Oriel College, Oxford University, MA