

David Bartos



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David Bartos has extensive advocacy experience in the area of property, commercial and trust, succession and executry litigation. He is ranked as a leading junior (Tier 1) in the current edition of the Legal 500 for commercial litigation; company & insolvency; property, construction and agriculture; and tax, trusts and pensions. 'He is approachable, communicative and knowledgeable.' (Legal 500, 2016)

Biography

David specialises in all forms of inheritance (succession) and trust/executry litigation and advisory work. Having nearly 25 years of experience in this field, he is the co-author of the well-known book *Bartos & Meston on The Succession (Scotland) Act 1964*. He has acted as court-appointed reporter, curator *ad litem*, provided expert advice on Scots trust law to the English Family Court and given evidence to the Scottish Parliament's committee on the Succession (Scotland) Act 2016. He is one of a small number of specialist counsel in this field. He has a special interest in international issues.

Complementing this, David acts in insolvency, partnership and property disputes.

His insolvency practice covers gratuitous alienations, unfair preferences, ranking of claims, remuneration of insolvency practitioners and issues of vesting.

His partnership practice covers partners' disputes, often with inheritance element, frequently involving agricultural property.

David's experience in and knowledge of, property litigation is extensive. It includes all aspects of landlord and tenant disputes (including rent review), land registration, access and other servitude and real burden rights, boundary and missives disputes. He has been appointed as arbitral-tribunal appointed expert in a commercial lease dispute.

David is enthusiastic in acting as arbitrator to resolve disputes in his specialist areas. He is co-author of the leading work on Scottish arbitration. *Dundas & Bartos on The Arbitration (Scotland) Act 2010* (two editions).

Since 2011 he sits as a judicial chair in what is now the Housing and Property Chambers of the First-Tier Tribunal for Scotland.

First, prior to calling at the Bar, David gained a first class degree at the University of Edinburgh and worked as Legal Assistant to the Lord President, Lord Hope of Craighead. He is a Fellow of Chartered Institute of Arbitrators (2007).

David is fluent in Czech and has lectured in Czech on arbitration.

Appointments

Chairman of TrustBar (The Trusts Fiduciaries and Executries Bar Group): 2012 to 2015.
Chair of Housing and Property Chamber of the First-Tier Tribunal for Scotland: January to date.
Standing Junior Counsel to the Department of Work and Pensions: 2000 to 2015.
President, Glasgow Juridical Society 1993.
Chairman, 60th Morningside Scout Group: 2010 to 2014.

Memberships

Member, Committee of TrustBar (The Trusts Fiduciaries and Executries Bar Group): 2006 to 2009 (Treasurer) and 2012 to date.
Fellow, Chartered Institute of Arbitrators.
Member of Faculty of Advocates Dispute Resolution Service (FDRS).
Member, Council of the Faculty of Advocates: 2002 to 2005.

Publications

Bartos & Meston on The Succession (Scotland) Act 1964 (6th ed.) (co-author).
Dundas & Bartos on The Arbitration (Scotland) Act 2010 (2nd ed.) (co-author).
"Appeals, Corrections and Rent Review Reasoning", 2014 September - CI Arb Scottish Branch Newsletter.
"Recovery of Documents: Teething Difficulties" 2013 March - CI Arb Scottish Branch Newsletter.
Legal Error Appels: "The First Shoot Appears", December 2011, CI Arb Scottish Branch Newsletter.
"Old Wine in New Bottles: Common Good in the 21st Century", 2012 SLT (News) 233.
"Advance to Free Parking": Scottish Law Gazette, December 2007.
"Real Burdens - Their effect on development": Greens Property Law Bulletin, 1997.
Greens' Annotated Rules of the Court of Session 1994 - Co-annotator (including chapters on judicial factors and trust petitions).

Recent Articles and Events

B and B 2 Real Burden 0
Advance to Free Parking

Recent Cases

Dooneen Ltd, trading as McGinnes Associates v. Mond [2016] CSIH 59, 2017 S.C.L.R. 199; [2017] B.P.I.R. 380, 13 July 2016 (reversion of PPI payment to debtor on termination of trust deed for creditors).

Taylor v. Latif, 26 May 2017, Hamilton sheriff Court (unreported) (extension built on neighbour's ground whether encroachment, whether neighbour entitled to demolish).

Carpentright plc v. Caledonian Property Investments Ltd 2 May 2017, Glasgow sheriff Court (unreported) (extension of shop unit lease under Tenancy of Shops (Scotland) Act 1949).

Liu v. Hastings, 24 March 2017, Glasgow Sheriff Court (unreported) (challenge to trustee in sequestration's adjudication, whether duty of care, whether negligent adjudication).

Mackay v. Mackay, 12 July 2016, Tain Sheriff Court (unreported) (challenge to executor's undervaluation of asset in confirmation, valuation of croft for succession purposes).

Arbitration Application No.1 of 2013 [2014] CSOH 83, 9 May 2014 (rent review arbitration, whether arbitrator acting as expert, whether serious irregularity or obvious error of law).

Gillies v. Sutherland-Fisher, 31 July 2013, Tain Sheriff Court (unreported) (breach of trust by trustee in unauthorised investment).

Johnston's Trustee v. Baird [2012] CSOH 117 (whether trust or contractual relationship and adequacy of consideration for bankrupt's alienation).

Rennie v. Cullen House Gardens Ltd (Lands Tribunal for Scotland) LTS/TC/2011/09 (whether real burden should be varied for development in a historic listed building complex).
Hardie v. Morrison & Ferris, 2011 Kirkcaldy sheriff Court (10 July 2012 affirming 5 October 2011) (undue delay in prosecution of partnership claim sisted for c. 10 yrs).
Smyth v. Rafferty [2011] CSIH 27 (interim interdict against wrongful distribution of estate; beneficiary's entitlement to property rather than sale proceeds).
Hamilton v. Nairn [2010] CSIH 77; 2011 S.C. 49 (access across road verge).
Forbo-Nairn v. Murrayfield Properties [2009] CSIH 94 (construction and interpretation of missives).
Park, Petitioners 2009 S.L.T. 871 (whether faxed missives are binding).
Yaxley v. Morrison and Others 2007 S.L.T. 756 (rectification of servitude in Land Register).