

## **Vicarious Liability after *Barclays* and *Morrison* – A New Direction?**

### **Time & Date**

14.00 - 16.00

Wednesday 18th November

### **About this Event**

The Supreme Court decided this April two cases dealing with important aspects of vicarious liability. *WM Morrison Supermarkets plc v Various Claimants* [2020] UKSC 12; and *Barclays Bank v Various Claimants* [2020] UKSC 13, dealing respectively with the connection and relationship tests. The seminar will evaluate the decisions by three expert panel members specialising in vicarious liability.

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Chairing: Dr David Benbow, University of Sheffield

### **Speakers**

Prof Paula Giliker, University of Bristol ‘**Is it too late to stop the juggernaut of vicarious liability?**’

### **Abstract**

On 1 April 2020, the Supreme Court gave two judgments: *Barclays Bank plc v Various Claimants* [2020] UKSC 13 and *Wm Morrison Supermarkets plc v Various Claimants* [2020] UKSC 12. In these cases, the Supreme Court examined the two limbs of the test for vicarious liability – the relationship giving rise to vicarious liability and the close connection needed with the tortfeasor’s employment – and in both cases rejected the claim for vicarious liability. In itself, this, given the expansive case-law on this topic since 2001, was surprising, but the Supreme Court in *Barclays Bank* and *Morrison* went further to provide guidance resolving any misunderstandings that had arisen in the lower courts on the application of the two-limbed test.

This paper will examine whether the judgments are likely to be successful in preventing further extension of a doctrine that the Supreme Court in 2016 accepted was still on the move. What were the misunderstandings affecting the courts’ application of vicarious liability and have they been resolved? And where do these decisions leave the parallel doctrine of non-delegable duties?

Elizabeth-Anne Gumbel QC – I COR, ‘**Vicarious Liability – on the move? where have we got to and where are we going?**’

## Abstract

This paper will look at the history since *Lister v Hesley Hall* with particular reference to sexual abuse and deliberate assault claims. It will discuss the policy considerations in the current social climate and how recent decisions reflect this.

Mr James Brown, Ph.D Candidate, University of Sheffield, **‘The turning tides of vicarious liability: sweeping away theoretical considerations in the wake of Barclays and Morrison?’**

## Abstract

In rejecting the imposition of vicarious liability in both *Barclays Bank plc v Various Claimants* [2020] UKSC 13 and *Wm Morrison Supermarkets plc v Various Claimants* [2020] UKSC 12, the Supreme Court in April 2020 sought to put an end to the extensive scope of liability in this area of law. In so doing, they rejected a policy-based approach in favour of a more ‘principled and consistent law’ that only considers the theories of employer liability – such as deep pockets, loss spreading, enterprise risk and deterrence - in so-called ‘doubtful cases’. This paper examines whether the more restrictive intentions of the judges in both *Barclays* and *Morrison* are likely to come to fruition and, if so, whether this is in fact a desirable development in the law on vicarious liability.