

Nicola Rushton KC

Call: 1993 | Silk: 2018 | Head of Chambers



Overview

Nicola Rushton KC is Head of Chambers.

Nicola specialises in professional negligence and commercial claims, especially those with a property or finance dimension. Her areas of expertise include: professional negligence of surveyors, solicitors and accountants; lender claims and all issues connected with secured lending; all types of claim arising from commercial contracts; director and officer (D&O) claims; insolvency, individual and corporate; freezing orders, fraud, tracing and constructive trusts. She has a niche specialism in enforcement of legal aid regulations and legal aid costs.

Clients instruct Nicola because of her collaborative and practical approach to problems. She is engaging and robust and enjoys getting her teeth into complex commercial disputes. She is adept at dealing with numerical and financial data, and has a knack for making complicated issues or concepts easy for her clients and others to understand. She communicates clearly and has a keen awareness of commercial realities. She prides herself on being accessible, friendly and prompt with her advice.

Nicola also sits as a Deputy High Court Judge, in the Chancery Division, and as a Fee-Paid Judge of the FTT Property Chamber.

Professional liability

Nicola has a very high level of expertise and experience in professional negligence claims, including those against lawyers; surveyors and valuers; financial professionals such as accountants and auditors; IFAs, brokers and insolvency practitioners. She has particular expertise in claims with a commercial, property or insolvency dimension. She has extensive experience of lender claims arising from mortgages and has acted and advised on many key issues arising from lending-related negligence and breach of trust. She acts for both claimants and defendants.

Commercial law

Nicola is very experienced in handling commercial disputes, for institutional clients, large and small businesses, and individuals. She has particular expertise in:

- claims arising from loans, mortgages, charges and debentures, including fixed charge receiverships;
- commercial claims arising in a property context;
- freezing orders, asset recovery and enforcement of judgments;
- fraud, tracing and constructive trusts;
- directors' duties, restrictive covenants and director and officer (D&O) claims;
- insolvency, both individual and corporate, including transaction avoidance and wrongful trading;
- claims arising from agency agreements;
- insurance.

She also has experience of contentious and non-contentious company law matters, including minority shareholder claims and issues arising from articles of association and shareholder agreements, including company restructuring.

Costs

Nicola has for many years been the preferred counsel of the Legal Aid Agency's Debt Recovery department (formerly the Legal Services Commission) in its costs enforcement claims. She has particular expertise in the legal aid regulations and statutory charge.

Notable cases

Attorney General v. Zedra Financial Services [2020] EWHC 2988 (Ch)

Representing certain descendants of the donors in a dispute as to whether the £500m National Fund, set up in 1928 to discharge the National Debt, was a valid charitable gift or was void ab initio for impossibility/failure of condition precedent.

Re Walsham Chalet Park Ltd (in liquidation) [2019] EWHC 3095 (Ch)

Claim against directors for breach of duty and wrongful trading in connection with holiday chalet business. Obtained freezing orders against all directors at contested hearing. Ongoing.

Discovery Land LLC v. Jirehouse (2019)

Claim against solicitors, associated companies and directors for breach of trust and

dishonest assistance arising from multi-million diversion of client assets in property transaction. Cross-jurisdictional claims, including obtaining freezing orders in England in parallel with BVI proceedings.

Lord Chancellor v. Halberstadt-Twum [2019] EWHC 2021 (QB)

Multi-million claim for Legal Aid Agency against dishonest solicitor and her husband for overpayments under legal aid contracts, including obtaining freezing orders.

Hersi v. Lord Chancellor [2018] EWHC 941 (QB)

Successful strike out, maintained on appeal, of solicitor's counterclaim for misfeasance in public office and conspiracy; dismissed on grounds of witness immunity and abuse of process.

Barclays Bank Plc v. TBS & V Ltd [2016] EWHC 2948 (QB)

Claim by bank for professional negligence in connection with the valuation of a care home. Considered issues as to correct valuation method, reliance and causation of loss.

Barclays Bank plc v. Christie Owen & Davies (trading as Christie & Co.) [2016] EWHC 2351 (Ch), [2017] PNLR 8

Represented the Claimant bank in its successful claim for negligent over-valuation of three amusement arcades. Included determination of the correct basis for carrying out a trading valuation; relevance of purchase price agreed to the valuation; that the bank did not need to give credit for sums paid from an overdrawn account or proceeds of sale used to discharge pre-existing lending; and issues of contributory negligence.

Lord Chancellor v. Charles Ete & Co. [2016] EWHC 275 (QB)

Successful claim on behalf of the Lord Chancellor (operating as the Legal Aid Agency) to recover over-claimed payments on account under contract, statute and in restitution where the solicitors had failed to submit any proper final bills.

Legal Services Commission v Lonsdales LTL 3.8.12

Succeeded in fully contested claim for a freezing order against solicitor, where evidence of systematic dishonesty in failing to report receipt of settlement monies to the Commission.

Legal Services Commission v Henthorn [2011] EWCA Civ 1415 (Court of Appeal); [2012] 1 W.L.R. 1173; [2012] 1 Costs L.R. 169; [2011] EWHC 258 (QB) (High Court)

Successful appeal, led by Jeremy Morgan KC on behalf of the Commission concerning the date on which time begins to run in claims against barristers or solicitors for overpaid fees.

Levy v. Legal Aid Board, CA [2001] 1 All E.R. 895; [2000] B.P.I.R. 1065

Bankruptcy petition; enforcement of costs order. Whether the Board could petition for bankruptcy on the basis of a costs order made in matrimonial proceedings.

What others say

“She has a brilliant knack of explaining complex issues to the judiciary so that they trust her advocacy completely.” *Chambers UK, 2023*

“Nicola is a class act who leads by example in every respect. Superb technical knowledge matched with pragmatism throughout. A formidable advocate who quickly wins the judge’s ear. She is exceptionally hard-working and client friendly. An integral part of the team.” *Legal 500, 2023*

“She’s user-friendly and responsive, and is prepared to challenge existing thinking.”
“Phenomenal. She’s very client-friendly, gives clear advice and communicates really well with everyone involved.” *Chambers UK, 2022*

“Nicola is unbelievably brilliant at professional negligence claimant work. She can simplify the most complex of matters, and find a solution that is practical and economical.” *Legal 500, 2022*

“A fantastic barrister. Nicola is very impressive on her feet, and has a unique advocacy style which is both calming and tenacious.” *Chambers & Partners 2021*

“She gives extremely thorough advice which really breaks down the claims and their subject matter. She has a forensic and analytical approach.” *Chambers & Partners 2021*

“She can help make even the most stressful situations seem manageable. Nicola provides thorough detailed notes that help us and our client understand clearly where we stand. She is one of the most well-organised and tech-savvy KCs that I have encountered. I wish there were more like her.” *Legal 500 2021*

“Her advice is always spot on, and she can advise on what the Court of Appeal are thinking before they deliver the judgment. Clients trust her completely.” *Chambers UK, 2020*

“She is always very approachable and is happy to pick up the phone. She understands the whole lending process.” *Chambers UK, 2020*

“She is a splendid advocate” *Legal 500, 2020*

“She is someone who genuinely takes an interest in her clients and instructing solicitors. She is very progressive and understands that it is a team effort. When it comes to complex, technical areas of law, she is one of the few people I would go to” *Chambers UK, 2019*

“Very impressive” *Legal 500, 2019*

“Amazing. She has a real knack for sorting out the most knotty of cases and is a winner with clients. She is particularly well regarded in lender claims” *Chambers UK, 2018*

“Calm, methodical and charming with clients.” *Legal 500, 2017*

“An exceptionally safe pair of hands who also innovates in terms of strategy and practical suggestions. The advice she provides is robust and concise.” *Chambers UK, 2017*

“She delivers excellent attention to detail” *Legal 500, 2016*

“Nicola really understands the client and how they operate. Her written work is excellent and her advocacy is exceptional. She turns work around very quickly when necessary, but always maintains a very high standard.” *Chambers UK, 2016*

Publications

Contributor to “the Law of Solicitors Liabilities”, Flenley & Leech (4th edition) - Chapter 10, Lenders’ Claims

How not to snaffle a CMBS: BMF6 v. Greencoat (*JIBFL - Feb 2020*)

X-class loan notes and avoiding moral hazard (*JIBFL - Apr 2017*)

The consequences of an issuer in a CMBS having its own rights of action (*JIBFL - Jan 2015*)

Teaching new dogs old tricks; the remedies available to unhappy noteholders on a CMBS default (*JIBFL - Dec 2012*)

Further information

Education: St John’s College, Cambridge: BA (Law); Dalhousie University, Nova Scotia, Canada: LLM; Rotary Foundation Scholarship; Gray’s Inn Scholarship; St John’s College Larmor Award.

Memberships: Nicola is a member of the Chancery Bar Association, the Professional Negligence Bar Association and the Commercial Bar Association. She chaired the Equality and Diversity subcommittee of the Chancery Bar Association from 2019 to 2022

Nicola is Head of Pupillage at Hailsham.

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