



Miles Harris

Education

MA, Trinity College, Cambridge University; Dip. Law, City University; David Karmel and William Shaw Awards from Gray's Inn



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Profile



Miles specialises in professional liability, insurance, property damage and commercial litigation.

Recognised as a leading junior by Chambers & Partners and Legal 500, he has been described by Chambers as “an absolute gem” who is “fabulous with clients and incredibly on top of the detail” (2014) and “an outstanding barrister whose personal skills are superb. He has a great ability to make you feel comfortable...” (2015). Chambers also states that he “Consistently delivers high-quality work, goes the extra mile and is very approachable.” And that “He is very, very polished - he really goes through all the papers and he thinks outside the box.” (2016).

The Legal 500 has described him being “Extremely bright but user-friendly, commercial, hardworking and reliable”; “he provides silky smooth drafting skills and a very calm and measured approach, an absolute joy to work with”. (2016)

He strives to provide his clients with effective advocacy and advisory services that combine diligence, efficiency, knowledge of the law, approachability and commercial sense.

Miles acts in a wide range of cases within his areas of expertise, led and unled, from straightforward to complex high value multi-party disputes, from the County Court to the High Court and the Court of Appeal. He has also been published and lectured widely, especially in matters related to the civil liability of lawyers and insurance. Miles is also an established accredited mediator, accepting instructions in a range of civil disputes. He is described in Chambers 2016 as having “extensive experience as a mediator and arbitrator”.

Miles is a member of the Professional Negligence Bar Association, the British Insurance Law Association, COMBAR and the Bar Pro Bono Unit.

Publications and Seminars

Miles has written a number of articles on issues of importance in professional liability and insurance law and has been published in the Journal of Professional Negligence, the New Law Journal, Insurance Law Monthly and the Sweet & Maxwell Civil Procedure Rule Reports and by the Practical Law Company. He is the author of the Practical Law Company's practice note on the duty of fair presentation owed by business insureds under the Insurance Act 2015.

Professional Liability

Miles is recommended by the Chambers and Legal 500 in the field of professional negligence.

Chambers comments that he “handles defendant and claimant professional negligence cases, and is celebrated for his knowledge of insurance-related negligence claims” and that he is an “an outstanding barrister whose personal skills are superb. He has a great ability to make you feel comfortable...” (2015) and “An absolute gem” who is “fabulous with clients and incredibly on top of the detail” (2014).

The Legal 500 (2015) described Miles as *having "Great commercial awareness, as well as technical ability which sets him apart"* and being *"extremely bright but user-friendly, commercial, hardworking and reliable"; "he provides silky smooth drafting skills and a very calm and measured approach, an absolute joy to work with"* (2016).

He has wide experience of all issues relating to professional liability. He has represented both claimants and defendants in matters involving solicitors, barristers, licensed conveyancers, surveyors, managing agents, insurance brokers, financial advisers, tax consultants, accountants, auditors, architects and veterinary surgeons.

Miles has experience of claims involving all aspects of a professional's potential liability, including allegations of breach of duty, retainer and trust, breach of fiduciary duty, deceit, dishonest assistance, fraudulent conspiracy and breaches of relevant regulatory provisions, such as the Financial Services and Markets Act 2000.

He has also provided training to firms on solicitors' and surveyors' liability generally and written and spoken on specific issues of importance in professional liability including limitation, privilege, the assessment of quantum in lenders' claims, the SRA Solicitors' Code of Conduct and coverage issues.

Accountants, Auditors & Actuaries

Miles acts both for and against accountants, auditors and tax advisers. On a number of occasions this has involved acting in multi-party, group-style litigation by investors against accountants and tax advisors involved in advising upon and/or promoting tax avoidance schemes, in particular relating to film finance. In this litigation, Miles has assisted clients in meeting allegations of negligence, breach of contract, misrepresentation, breach of trust, joint venture liability and liability under FSMA 2000. Most prominent was Miles's involvement on behalf of Castle Tax consultants in connection with a film finance scheme operated from Jersey.

Other examples of his experience in this area include acting for/advising:

- Auditors defending a claim by investors and depositors in connection with the collapse of a bank in a foreign jurisdiction.
- Claimant charity alleging negligence by auditors permitted continued thefts by its chief-executive.
- A claimant alleging negligent valuation of a business by an accountant.
- Accountants in connection with alleged failure to provide competent financial advice.

An accountant resisting an attempt to compel answers to questions arising from an expert determination.

Financial Services Professionals

Miles is regularly instructed in claims involving financial services professionals including allegations such as failure to recommend appropriate investments and life insurance and breaches of the conduct of business rules under the Financial Services and Markets Act 2000.

By way of example, Miles has in recent times:

- Acted on behalf of Castle Tax consultancy, one of a number of defendants to a multi million pound claim brought by film finance investors, alleging negligence and breaches of FSMA 2000 in connection with a tax avoidance investment operated out of Jersey. The case also entailed allegations of breach of trust, misrepresentation and breach of contract.
- Acted for SIPP administrator in connection with claims of breach of FSMA 2000 and negligence by investors relating to the suitability of underlying investment contained within the SIPP vehicle.
- Acted in numerous cases for Claimants and Defendants in cases involving allegations concerning failure to recommend appropriate investments.
- Acted for Defendant IFA in relation to a claim alleging failure to investigate the Claimant's domicile for inheritance tax purposes when establishing off-shore trusts.

Insurance Brokers & Agents

Miles has acted and advised in connection with in numerous claims involving insurance brokers.

Chambers comments that he *"is celebrated for his knowledge of insurance-related negligence claims"* (2015).

Miles work in this area has included:

- Acting for defendant in defence of alleged failure to advise on scope of obligation to give disclosure pre-inception.
- Advising a claimant in relation to a failure by a broker to recommend loss of rent cover in connection with commercial property insurance against flood risks.
- Acting for the defendant broker in action alleging failure to bring to the claimant's attention an endorsement relevant to cover against fire.

- Acting for a broker defending a claim by solicitors alleging failure to place cover in reasonable time and seeking compensation for higher premium.
- Advising a broker on claim alleging negligent failure to recommend sufficiently wide cover against electricity disruption.
- Acting in numerous claims alleging failure to place cover at all or to place it in time, leading to loss without any insurance cover.

Lawyers

Miles has extensive experience of claims against lawyers, from the Court of Appeal, to the High Court to working in the professional liability department of a city firm of solicitors, to a secondment in the claims handling section of a major professional liability insurer.

Miles has often undertaken wasted costs work, again for both solicitors and barristers. He also has extensive experience of coverage issues arising from claims against solicitors and the operation of the Minimum Terms and Conditions.

He is presently instructed as junior to Jamie Smith QC defending solicitors against a claim in conspiracy and deceit for £130m and as sole counsel defending solicitors against a claim in negligence brought by a claimant whose conviction for attempted rape was quashed after he had served 17 years in prison.

The following is a selection of Miles' other work in this field:

- Acting as sole counsel and a junior for both claimant and defendant in relation to a vast number of claims arising out of negligence by solicitors in non-contentious commercial, probate and real property work, including but not limited to conveyancing, often acting for lenders.
- Acting for German insolvency practice bringing claim for negligence against its Guernsey Advocates arising from their conduct of proceedings brought in the name of an insolvent German company.
- Acting for Claimant in multimillion pound claim for breach of fiduciary duty and negligence against 'magic circle' firm. Resolved on satisfactory terms.
- Acting as sole and junior counsel on both sides in connection with claims alleging negligent handling of litigation, including acting for as sole counsel for defendant solicitors in a High Court action also brought against leading counsel and alleging negligence in connection with commercial fraud litigation.
- *Russell v Cornwell* [2014] EWHC 1509 (QB): successfully defeated claim against firm of solicitors on grounds of limitation. Claimant, represented by leading counsel, unsuccessfully argued that the approach in *Law Society v Sephton* applied.
- *Olden v Bishop & Light* (2014, HHJ Vosper QC), successfully defended solicitors in two related actions after 8 days of trial. Claimant alleged negligence, breach of fiduciary duty and breach of statutory duty and sought both damages and an account of profits. In one of the two claims argued successfully that the claim should be dismissed on grounds of *ex turpi causa*, abuse of process and/or on the basis the claimant did not have clean hands because he effectively sought to recover the proceeds of crime.
- Acting for the claimant in High Court negligence action against both solicitors and a barrister in connection with their handling of ancillary relief proceedings.
- *The TAG Litigation*: high-profile case examining solicitors' responsibility toward ATE insurers in the wake of the collapse of 'The Accident Group' claims management scheme, led by Graeme McPherson QC, but also appearing as sole advocate on behalf of the panel firm.
- Acting for defendant solicitor accused of involvement in a fraudulent conspiracy to defraud the claimant of his beneficial interest in a high value portfolio of properties. Led by David Halpern QC.
- *R (on the application of AB) v X Crown Court* [2009] PNLR 30: Represented the barrister applicant in the Administrative Court who successfully quashed a trial judge's refusal to recuse himself from hearing a wasted costs application on the grounds of apparent bias. Led by Sue Carr QC. Miles has also represented solicitors and barristers in substantive wasted costs proceedings.
- Acting for defendant solicitors in a multi million pound claim alleging negligence and breach of confidence in connection with a complex commercial property transaction. Led by John McGhee QC of Maitland Chambers.

Miles has also lectured and written in this field and both devised and provided a training programme on the law in relation to solicitors' liability on behalf of a firm specialising in claims against solicitors.

Surveyors & Valuers

Miles has acted in numerous claims against surveyors and valuer. He has not only acted for both lenders and solicitors in connection with particular claims, but has also provided lenders with high level advice on generic issues to assist them with recovery strategy. Miles has been involved in claims raising all the major issues thrown up by lenders' claims including contributory negligence, fraud, coverage, syndication and the applicability of the SAAMCo 'cap'.

By way of example, Miles has:

- Acted as sole counsel for a lender in multi-million pound claim against a surveyor for fraudulent provision of an inaccurate valuation of an industrial estate.
- Advised in connection with claim for over €50m arising from allegedly negligent valuation of commercial retail premises in an another European jurisdiction.
- Acting for claimant alleging fraud by the defendant valuer causing losses in excess of £3.5m.
- Acted for a defendant valuer in claim arising from allegedly inaccurate valuation of buy-to-let portfolio and its potential rental yield.
- Advised a lender on its standing to bring claims against professionals as assignee of a portfolio of mortgage loans and related quantum issues.
- Acted and advised in numerous structural surveying cases, e.g. failures to detect visible defects, to follow the 'train of enquiry' and to indicate the need for further expert investigation.
- Acted for a valuation company being sued for conversion in connection with the liquidation of a company whose assets it valued.

Commercial Dispute Resolution

Miles advises and appears regularly in commercial disputes including cases concerning sale of goods, supply of services, mortgages, credit agreements and guarantees. He has particular experience of representing lenders and financial institutions.

Present instructions include:

- Acting as junior to Jamie Smith QC for defendants to a Commercial Court claim in conspiracy for £130m; and
- Acting for a vehicle management company defending allegations that it overcharged the claimant national company over a period of years for the maintenance of its fleet of vehicles.

Past claims have included:

- Acting for the seller of goods in a claim for conversion and inducement of breach of contract against the directors of a purchaser company, alleging removal of goods subject to a retention of title clause for personal profit upon the insolvency of their company.
- Acting for a pension company seeking recovery of mistaken payment made to a SIPP, addressing a change of position defence.
- Acting for a distributor of motor tuning equipment seeking damages from a supplier for breach of an exclusive distribution agreement.

Insurance & Reinsurance

Miles is experienced in insurance disputes, both as advocate and arbitrator.

Chambers 2015 comments that he is "celebrated for his knowledge of insurance-related negligence claims". This knowledge is founded on considerable experience of acting in insurance disputes involving a wide range of risks including property, D&O, ATE legal expenses insurance, business interruption, life and long-term sickness. Miles has frequently lectured on insurance law and been published in the Insurance Law Monthly. He is the author of the Practical Law Company's practice note on the business insured's duty of fair presentation under the Insurance Act 2015 which came into force on 12 August 2016 (<http://uk.practicallaw.com/0-568-1347>)

Recent cases include:

- *IHC & Anr v AmTrust Europe Ltd* [2015] EWHC 257 (QB): successfully defending declinature by ATE insurers on the basis of non-disclosure and/or breach of warranty, defeating argument AmTrust was barred by equitable estoppel.
- Successfully acting for an insured lender in a contested arbitration against a legal title insurer that sought to decline liability arising from a mortgage fraud. Declinature was on the basis of an alleged breach of a condition precedent obliging the insured to comply with money laundering regulations.
- Advising second layer insurers in connection with control over monies paid over by primary layer insurers by way of discharge of their liability.
- Representing insured at trial in dispute in connection with claim under home insurance after declinature on the basis of fraudulent exaggeration of the claim. Leading counsel instructed for opponents.
- Successfully acting for commercial property insurers in defence of claim on the basis of failure by insured to prove loss. Claim withdrawn on drop hands basis.
- Advising insured in connection with declinature on the basis of an alleged failure to disclose previous relevant insolvency history.

Miles also has significant experience of professional liability insurance, especially issues arising from the Minimum Terms and Conditions for solicitors. By way of example he has:

- Advised insurers of construction professionals in connection with late notification and material non-disclosure.
- Acted for successful insurers in arbitration seeking reimbursement on the basis of material non-disclosure and/or misrepresentation on submission of proposal. Leading counsel instructed by opponent.
- Acted for insurers in arbitrations seeking reimbursement on the grounds of prejudice attributable to late notification.
- Acted for insurers seeking declarations that insurers are entitled to refuse indemnity on the grounds of dishonesty.
- Frequently advised on common coverage issues such as aggregation, double insurance, successor practices, what constitutes the making of a claim and sham partnership.
- Advising insurers in connection with coverage issues arising from lender claims.

Mediation

Miles has established a strong and growing reputation as an accredited mediator. This area of his practice has built on his experience of mediations as an advocate covering disputes up to very complex, multi-party, multi-million pound, multi-day mediations. He has had particular experience in disputes arising from the areas in which he practises, but accepts instructions in connection with a very wide range of civil disputes.

Recently, Miles has mediated to settlement: partnership disputes, multi-party professional negligence disputes involving professionals, clients and banks, multi-party disputes involving clients, professionals and a trust fund and numerous two party professional negligence claims.

Property Damage

Miles has extensive experience of property damage claims for both claimant and defendant.

He has dealt with claims arising from flood, fire, electricity outage, water penetration, subsidence and heave (including tree root damage) based on various causes of action including contract, negligence, nuisance, *Rylands v Fletcher* and the Consumer Protection Act 1987.

For example, he is currently instructed on behalf of a claimant seeking damages of over £1m for destruction of wood intended for use in a power station, and for a defendant alleged to have caused major damage by flooding as a result of the way it has used agricultural land.

By way of further example, Miles has also acted in connection with claims involving:

- The destruction of a warehouse by fire, causing damage allegedly exceeding £20 (as junior to Graham Eklund QC) in the defence of claims put in excess of £20m arising from the destruction of a warehouse by fire.
 - Defendants seeking to defeat subrogated claims by alleging insurance fraud by insured (acting for the insured party and its insurers denying such fraud).
 - Flood damage to a city solicitors office arising from negligent installation of an air conditioning system;
 - Property damage and high value business interruption caused to manufacturer by electricity outage as a consequence of negligence;
 - Water penetration caused to central London flats by contractors employed by developer;
 - Fire damage to neighbouring property caused by a negligent building contractor;
 - Fire damage to residential property caused by a negligent heating contractor;
 - Water penetration caused by negligent maintenance of premises by owner and managing agent.
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