

## Miles Harris

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*He's utterly charming, with very efficient and polished drafting, and he is strategically far-sighted.*

- Chambers & Partners

**Miles Harris conducts a wide range of commercial litigation specialising in professional liability, insurance, property damage and disciplinary work.**

He is praised in Chambers & Partners for providing “strategic advice and procedural support... you want him in your corner for a tricky application hearing” (2019), being “exceptionally bright and very commercial... he’s calm and excellent on his feet” (2018), “...utterly charming...and...strategically far-sighted...He gives brilliant advice...just a joy to work with” (2017). “Consistently delivers high-quality work, goes the extra mile and is very approachable.” “He is very, very polished – he really goes through all the papers and he thinks outside the box” (2016). “An outstanding barrister whose personal skills are superb. He has a great ability to make you feel comfortable...” (2015), as “an absolute gem” who is “fabulous with clients and incredibly on top of the detail” (2014).

The Legal 500 has described him being “very bright” (2019), “extremely likeable” (2017), “extremely bright but user-friendly, commercial, hardworking and reliable” (2016). “He provides silky smooth drafting skills and a very calm and measured approach – an absolute joy to work with” (2017).

Miles 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 and 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 PNBA’s Adjudication Panel and can accept appointments as an adjudicator under the PNBA Adjudication Scheme.

### **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.

## Privacy Policy

Click here for a **Privacy Policy** for Miles Harris.

## Areas of Expertise

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### 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.

#### Recent instructions have included:

- Acting as junior to Jamie Smith QC for one of the defendants to a Commercial Court claim in conspiracy seeking damages for £130m (see *Accident Exchange Limited & Anr v McLean & Ors* [2018] 4 WLE 26 (disclosure application) and [2018] EWHC 1533 (Comm)); and
- Acting for director defending claim by his employer for breach of s.174 of the Companies Act 2006 arising out of thefts from the company by a former employee
- 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.
- 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

**“Extremely client-focused, very friendly and open to deal with.”** – *Legal 500, 2020*

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>)

Miles has been providing ongoing advice to a major international insurer on business interruption, professional indemnity and travel coverage issues relating to Covid-19. He is providing both high level coverage advice on a rolling basis as the situation and government position changes and also upon coverage issues arising from specific cases.

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.
- Advising insurers upon whether its conducted amounted to an election to reinstate an insured’s property rather than pay an indemnity

- 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 considerable 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.

## Professional Liability

**“All that he does is measured, wise and calm.”** – *Legal 500, 2020*

**“He is very client-friendly, very practical and great at driving a case forward.” “He is a really skilled advocate who gets to the core of cases quickly, is very commercial and focused, and makes complex issues look very easy.”** – *Chambers & Partners, 2020*

**“He successfully provided strategic advice and procedural support.” “He is good in writing and I like him for his advocacy most of all. You want him in your corner for a tricky application hearing....”** – *Chambers & Partners, 2019*

**“Absolutely user friendly and very bright.”** – *Legal 500, 2019*

Miles has been recommended by the Chambers and Legal 500 in the field of professional negligence for many years.

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.

Miles is a member of the PNBA’s Adjudication Panel and can accept appointments as an adjudicator under the PNBA Adjudication Scheme.



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## 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 advisers 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 recently acted (led by Jamie Smith QC) for one of the solicitor defendants to the high profile unlawful means conspiracy claim by Accident Exchange: *Accident Exchange & Anr v McLean & Ors* [2018] 4 WLR 26 (disclosure application) and [2018] EWHC 1533 (Comm) (security for costs). Miles was also sole counsel for solicitors defending a well-publicised claim in negligence brought by Victor Nealon, 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.
- Extensive experience of claims involving allegations of undue influence and the application of *Royal Bank of Scotland v Etridge*. Over the course of his career, Miles has acted for a whole range of parties involved in such actions: allegedly unduly influenced guarantors/property owners, lenders seeking to enforce their security, solicitors accused of negligence and mortgage intermediaries. On a number of occasions Miles has also acted as a mediator in cases involving such issues.
- 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*
- *Olden v Bishop & Light* (2014, HHJ Vosper QC and [2016] EWCA Civ 201), successfully defended solicitors in two related actions. Claimant alleged negligence, breach of fiduciary duty and breach of statutory duty and sought both damages and an account of profits. Argued successfully that one the claims should be dismissed on grounds of *ex turpi causa*.
- 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.

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, securitisation and the applicability of the SAAMCo 'cap'.

Examples of Miles' work:

- Acting in the successful defence of £12.5m claim in deceit and unlawful means conspiracy relating to an investment in a hotel site (*Libyan Investment Authority & Ors v Warwick Street (KS) LLP & Ors* [2018] EWHC 2877 (Ch)).
- Acted as sole counsel for a claimant 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 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.

## 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 in relation to damage caused during the maintenance of a power station.

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.
- Acting for a claimant seeking damages of over £1m for destruction of wood intended for use in a power station
- Acting for a defendant alleged to have caused major damage by flooding as a result of the way it has used agricultural land.
- Defendants seeking to defeat subrogated claims by alleging insurance fraud by insured (acting for the insured party and its insurers denying such fraud).



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- 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.

## Disciplinary

Miles is developing his practice in the regulation and discipline of solicitors, barristers, accountants, financial service providers, surveyors and other professionals. This is a natural extension of the large amount of work he carries out in the field of professional liability. Miles recognises that liability and disciplinary concerns often interlock and have to be dealt with at the same time.

He has recently:

- Successfully represented a member before the Disciplinary Committee of the Association of Chartered Certified Accountants (ACCA);
- Appeared on behalf of a respondent before the Inns of Court Conduct Committee; and
- Advised in connection with proceedings before RICS and the CICAIR.

## Qualifications & Memberships

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

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

## Publications

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### Introduction to the SRA's 2019 Standards and Regulations

14 October 2019

A summary look at the main changes brought in by the SRA's new November 2019 Standards and Regulations and their potential impact on practitioners.

### Review of 2018 Insurance Law

24 May 2019

Informa have published Insurance law in 2018: a year in review, written by Alison Padfield QC and Miles Harris. The review highlights some of the more important and interesting developments in insurance law in 2018, and is available to i-law insurance law package subscribers here.

### Review of 2017 Insurance Law for Informa

12 April 2018

The article considers some of the more important and interesting developments in insurance law, both case law and legislation, in 2017. In addition to high profile developments such as the decisions of the Supreme Court in *AIG v Woodman and Gard Marine*, the review focuses on particular aspects of a number of cases which may be less well known, and which contain one or more points of real interest or practical use to those involved in the daily application of insurance law.

### 4 New Square members elected to the PNBA Executive Committee

19 December 2016



**Insurance: the precontractual duty of fair presentation under the Insurance Act 2015**  
6 September 2016