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## Nicholas Broomfield

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*Very bright and intellectually able, and always comes up with a good solution for problems. He is also very good on his feet in court and able to change tack when circumstances demand.*

- Legal 500

**Nicholas Broomfield has a broad commercial chancery practice, with particular emphasis on commercial litigation, the law of trusts and real property, banking, financial and mortgage related disputes, insurance claims, professional negligence and civil fraud.**

Nick is an experienced trial advocate with a reputation for his legal analysis. He relishes tackling complex points of law, both in writing and by way of submission, and is often instructed by solicitors, insurers and lay clients for his commercial, client-friendly, approach. Nick undertakes advisory and court work, regularly appearing in trials, appeals and arbitrations, either on his own or as a member of a larger counsel team.

Nick is described as a "go to" junior for banking, mortgage and property related work. His considerable experience is underlined by his appearance in a number of significant cases, including *Scott v Southern Pacific Mortgages Limited* in the Supreme Court, *Mortgage Express v Lambert* and *Pathania v Adedeji* in the Court of Appeal and *Landmark Mortgages Ltd v Bamrah* on appeal to the High Court. Nick is also a contributor to the 4<sup>th</sup> edition of *Cousins, The Law of Mortgages*.

Nick is regularly instructed to act in insurance disputes (including coverage issues, policy interpretation, non-disclosure, fraud, misrepresentation and FSMA/ICOB), recovery actions and claims following thefts and damage to property (including fires, floods and impact claims). Nick (led by Graham Eklund QC) recently acted for the successful insurers in *Bluebon Ltd v Ageas (UK) Ltd* and was instructed (led by Mark Cannon QC) in a significant dispute concerning coverage under a contractor's professional indemnity policy.

Ranked as a Leading Professional Negligence Junior by Legal 500, Nick is described as being "*exceptionally bright, tactically astute, very easy to work with and is great with clients*". He has experience of professional liability claims in the UK, the Channel Islands and the British Virgin Islands. Nick has acted in claims against lawyers (including barristers and solicitors), trust companies and trustees, valuers and surveyors, construction professionals (including architects) and engineers, agents (commercial agents and estate agents), brokers (mortgage and insurance), financial professionals (IFAs, accountants, fund managers and auditors) and management companies.

Nick is also instructed in claims arising from breaches of trust (including claims seeking to recover trust assets). His experience includes claims against trustees in this jurisdiction and offshore, and claims concerning the recovery and preservation of trust assets.

Before being called to the Bar, Nick read Jurisprudence at Mansfield College, Oxford, where he was awarded an Exhibition, the Mansfield College Essay Prize, the Worsley Prize and a number of Collections prizes. He studied for the BVC at BPP Law School



and was graded Very Competent. Nick is a member of Lincoln's Inn and has been awarded Hardwicke, Denning and Shelford Scholarships.

## Privacy Policy

Click here for a **Privacy Policy** for Nicholas Broomfield.

# Areas of Expertise

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## Commercial Chancery

Nick has a broad commercial chancery practice which includes the law of mortgages and real property, banking and financial matters, trust disputes (and claims against trustees) and the administration of estates. He has particular knowledge and experience of real property and mortgage related disputes, appearing for the successful parties in high profile appeals in the Court of Appeal and Supreme Court.

## Mortgage Law

Nick has significant experience of disputes involving mortgages and the rights of mortgagees. He is regularly instructed by banks, building societies, private lenders, receivers and secured creditors to advise and act in cases at all levels from the County Court and First Tier Property Tribunal to the Supreme Court. Nick has appeared in a number of high profile cases, including *Scott v Southern Pacific Mortgages Limited* in the Supreme Court, *Mortgage Express v Lambert* in the Court of Appeal and *Landmark Mortgages Ltd v Bamrah* on appeal to the High Court, and is a contributor to the 4<sup>th</sup> edition of *Cousins, The Law of Mortgages*.

Examples of issues that have arisen in Nick's recent cases include:

- claims by mortgagees for possession of land (against mortgagors and third parties) and the recovery of secured and unsecured lending;
- enforceability of legal and equitable charges;
- overriding interests, land registration and title rectification;
- sale-and-rent-back agreements and overreaching;
- trusts of land;
- subrogation, sub-subrogation and restitution;
- mortgage fraud (by borrowers and third parties), forgery, misrepresentation, undue influence (including the implications of *Royal Bank of Scotland v Etridge (no 2)*), duress and unconscionable bargains;
- the death or insolvency of a mortgagor (including claims by and against the mortgagor's estate);
- claims against mortgagees pursuant to Financial Services and Markets Act 2000 (including claims for breach of MCOB), the Consumer Credit regime and the Equality Act 2006;
- claims against mortgagees and receivers following the sale of residential, commercial and buy-to-let properties and portfolios;
- claims against mortgagees and receivers arising from the management of properties/portfolios in possession, including resisting applications for interlocutory relief (often at short notice).

## Cases

- Landmark Mortgages v Bamrah
- Mortgage Express v Lambert
- Southern Pacific Mortgages Limited v Scott

- Pathania v Adedji

## Real Property

Nick acts for property owners, tenants, banks and building societies, insurers and trustees (onshore and offshore) to advise on all aspects of English property law and claims involving registered land, including:

- overriding interests;
- land registration and priority of interests in land;
- title rectification (including the rectification of leases);
- proprietary estoppel and constructive trusts;
- co-ownership, trusts of land and applications under the Trusts of Land and Appointment of Trustees Act 1996;
- claims involving fraud and equitable wrongs (e.g. forgery, misrepresentation, undue influence, duress and unconscionable bargains);
- landlord and tenant (including forfeiture and claims for possession of land);
- easements and restrictive covenants;
- the construction of leases and leasehold covenants;
- all aspects of the law of mortgages;
- Law of Property Act receiverships.

## Cases

- Isaaks v Charlton Triangle
- Mortgage Express v Lambert
- Southern Pacific Mortgages Limited v Scott

## Banking and Financial Services

Nick is frequently instructed to act on behalf of banks, building societies, financial institutions and finance houses in claims arising from secured lending (see Nick's CV for mortgage work), contractual disputes (including claims under guarantees), financial services (including claims for breach of MCOBs) and consumer credit agreements.

## Wills, Probate and the Administration of Estates

Nick advises personal representatives, beneficiaries, solicitors and insurers on issues arising from the administration of estates, including:

- the interpretation and rectification of wills and testamentary documents;
- the removal and appointment of executors;
- statutory wills;
- gifts and donatio mortis causa;
- claims pursuant to the Inheritance (Provision for Family and Dependants) Act 1975;
- claims against third parties (including attorneys and deputies) for actions taken, and gifts given, during the lifetime of the deceased;
- claims by and against trustees and personal representatives;
- other issues arising in the administration of estates.



## Insurance & Reinsurance

**“Very bright and intellectually able, and always comes up with a good solution for problems. He is also very good on his feet in court and able to change tack when circumstances demand.”** – *Legal 500, 2021: Leading Insurance and Reinsurance Junior*

**“He is creative and good at thinking out of the box.”** – *Legal 500, 2020: Leading Insurance and Reinsurance Junior*

Nick has a strong insurance practice and is regularly instructed in cases involving issues of coverage (policy interpretation, non-disclosure, fraud, misrepresentation and FSMA/ICOB), aggregation, and claims following thefts and damage to property (including significant fires, flooding and collision damage) and recovery actions. He has acted for clients in insurance disputes in the County Court, High Court, Court of Appeal and in arbitration, as well as appearing for insurers in contempt proceedings brought against a fraudulent insured.

Nick’s recent and notable cases include:

- Acting (led by Jonathan Hough QC) in an arbitration arising from a coverage dispute;
- Advising (with Nicole Sandells QC) on questions of aggregation arising from a significant number of fraudulent mortgage/conveyancing transactions;
- Appearing as junior counsel (led by Graham Eklund QC) for the successful insurers in *Bluebon Ltd v Ageas (UK) Ltd* [2017] EWHC 3301 (Comm);
- Acting as junior counsel (led by Mark Cannon QC) in a significant coverage dispute arising from a contractor’s professional indemnity policy;
- Acting as junior counsel (led by Graeme McPherson) on behalf of professional indemnity insurers in a recovery action against an insured;
- Acting as sole counsel in an arbitration concerning a coverage dispute between two professional indemnity insurers;
- Acting for insurers in a claim arising from
- Acting in several claims involving disputes over insuring obligations in leases;
- Acting on behalf of insurers in a number of claims arising from damage to commercial property (including damage caused by fires, flooding/water ingress and collision damage) and claims for business interruption/loss of rent;
- Acting in a series of coverage disputes arising from thefts (or purported thefts) from residential and commercial premises;
- Acting as junior counsel (led by Graham Eklund QC) for the successful insurers in *Bate v Aviva Insurance (UK) Limited* in the High Court ([2013] EWHC 1687), Court of Appeal ([2014] EWCA Civ. 334) and related contempt proceedings ([2014] EWHC 4065 (QB)).

Nick also acts in subrogated claims and professional negligence disputes with underlying insurance issues. By way of example, Nick is currently instructed (led by Clare Dixon) in a significant claim against insurance brokers involving a number of underlying coverage issues and as sole counsel in subrogated proceedings against a landlord for breach of the insuring obligations in a commercial lease and owners of commercial premises following significant impact damage.

Nick is a contributor to British Insurance Law Association journal and regularly writes for the 4 New Square Insurance Blog.

### Cases

- *Bluebon Ltd v Ageas (UK) Ltd*
- *Bate v Aviva Insurance UK Limited*
- *Bate v Aviva Insurance (UK) Ltd*
- *Bate v Aviva Insurance (UK) Limited*



## Property Damage

Nick is regularly instructed on behalf of companies, individuals and insurers in claims arising from fires, flooding and water ingress, impact/collision damage, electrical damage and subsidence. His experience in the fields of insurance, real property and professional negligence are often brought to bear when considering property damage claims.

Nick also acts in subrogated claims and professional negligence disputes with underlying property damage and insurance issues. By way of example, Nick is currently instructed in subrogated proceedings against a landlord for breach of the insuring obligations in a commercial lease following water ingress and owners of commercial premises following significant impact damage.

## Commercial Dispute Resolution

Nick is regularly instructed in cases spanning the whole spectrum of domestic and international commercial dispute resolution. Nick has experience of cases involving:

- banking and finance (including claims by banks and building societies, peer-to-peer lending, private lenders);
- insurance;
- contractual disputes, including disputes arising from the sale of goods and supply of services;
- claims on behalf of, and against, trustees (including offshore trustees);
- civil fraud and recovery claims;
- large IT projects;
- Financial services and consumer credit issues;
- jurisdictional issues;

## Professional Liability

**“He is extremely thorough and does not miss a trick.”** – *Legal 500, 20210: Leading Professional Negligence Junior*

**“He is thorough in his approach whilst being commercial and practical with his advice.”** – *Legal 500, 2020: Leading Professional Negligence Junior*

**“He is exceptionally bright, tactically astute, very easy to work with and is great with clients.”** – *Legal 500, 2019: Leading Professional Negligence Junior*

Nick has experience of professional liability claims both in the UK and offshore. He has acted in claims against lawyers (including barristers and solicitors), trust companies and trustees, valuers and surveyors, construction professionals (including architects) and engineers, agents (commercial agents and estate agents), brokers (mortgage and insurance), financial professionals (IFAs, accountants and auditors) and management companies.

## Lawyers

The largest part of Nick’s professional liability practice comprises claims against lawyers and barristers. He is regularly instructed in claims against solicitors and barristers arising from both contentions and non-contentious work. By way of example, Nick has been instructed in claims arising from:

- conveyancing and property transactions (including claims by lenders and matters involving mortgage fraud, title defects/rectification and land registration, sale-and-rent-back agreements, covenants and easements);
- probate and the administration of estates (including claims against trustees and executors for dissipation of assets and devastavit, lost 1975 Act claims and the tracing of assets);
- non-contentious work and drafting (including the drafting of leases, wills, trust deeds, options, company documents and commercial agreements);
- breaches of trust (including claims by lenders and private clients following the dissipation of client funds);
- breaches of solicitor’s undertakings;
- matrimonial and family disputes;



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- lost litigation (including lost civil and criminal litigation) and lost opportunity claims (e.g. loss of business opportunities and failure to renew business leases);
- under settlement of claims;
- fees claims.

## Trustees

Nick has experience of acting for and against family, professional and commercial trustees (both onshore and offshore), often in claims by financial institutions against their solicitors, recovery actions and claims involving issues of real property. By way of example, Nick has been instructed:

- in claims for breach of trust by financial institutions and borrowers against solicitors following the dissipation of mortgage/trust monies;
- to act in claims involving constructive and resulting trusts and claims against constructive trustees;
- claims by trustees to recover trust assets/monies paid away in breach of trust;
- to advise Channel Island trustees on questions of fraud, title rectification and land registration;
- with David Halpern QC in a dispute with Channel Island trustees over the management of significant trust assets in the UK;
- claims by beneficiaries against their trustees for breach of trust;
- claims arising from the administration of estates;

## Valuers and Surveyors

Nick has experience of acting for claimants, defendants and insurers in claims against valuers and surveyors arising from the valuation of residential and commercial property (including property portfolios), often in mortgage-related actions. He has acted in claims ranging from high value actions by lenders against their professional advisers following the valuation of real property and development land to claims by disappointed homeowners following the purchase of their home.

## Construction Professionals and Engineers

Nick is regularly instructed in claims against construction professionals (including architects and project managers), often in the context of claims by freeholders and leaseholders. He has been instructed in cases ranging from high value multi-party disputes caused by construction/design defects in well-known London commercial premises to claims by dissatisfied homeowners against their builders and architects following work at their private houses.

Nick is often instructed in engineering disputes and has acted in claims in the UK and the Channel Islands on such diverse subjects as steam locomotives and domestic boilers.

Examples of Nick's recent cases include:

- several disputes between leaseholders of London residential blocks and the freeholder, developer, sub-contractors and building insurers caused by defective design and/or workmanship and/or inherent defects in the block;
- claims by the freehold owner of commercial premises against builders and sub-contractors arising from defective design and/or workmanship which had resulted in potential liability to the tenant;
- a claim against specialist engineers arising from the inspection and subsequent restoration of a steam locomotive;
- a dispute between an architect and a homeowner caused by the design and construction of a basement under a residential property;
- claims by homeowners against architects, main contractors, sub-contractors and surveyors arising from damage caused by rising damp, dry rot and defective works;
- claims against specialist contractors, architects and project managers arising from defective works carried out at investment and commercial premises.
- claims against specialist engineers following damage to property caused by the defective installation of domestic boilers.

## Accountants, Auditors and IFAs



Nick has acted in claims against accountants, auditors, fund managers and IFAs, both in the UK and offshore. He has been involved in cases ranging from long-running claims against accountants in the Chancery Division of the High Court to claims by companies and individuals against their personal tax advisers.

Examples of Nick's recent cases include:

- acting for successful accountants (led by Nicole Sandells QC) in *Scriven v Scriven* [2015] EWHC 1690 (Ch);
- advising liquidators (with Nicole Sandells QC) in a claim against auditors in the Caribbean following the loss of significant funds by investors;
- advising liquidators in a potential claim against fund managers in the Caribbean following the loss of significant funds by investors;
- acting in a claim against an accountant arising from negligent tax advice;
- advising on a claim against auditors arising from the negligent valuation of a departing shareholder's shares;
- advising on an issue of quantum in a referral to FOS.

## Cases

- *Scriven v Scriven*

## Agents, Brokers and Management Companies

Nick has significant experience of acting in claims against agents (including commercial agents and estate agents), receivers (including, notably, Law of Property Act receivers and the legal questions surrounding the identity of their principal), brokers (including mortgage and insurance brokers) and management companies. By way of example, Nick is currently instructed (led by Clare Dixon) in a significant claim against insurance brokers and several cases in which allegations are made against LPA Receivers for breach of duty.

## Offshore

Nick has represented clients in a number of offshore jurisdictions, including the Caribbean and the Channel Islands, in a range of commercial disputes. His recent cases include:

- advising Channel Islands trustees on questions of breach of trust and land registration;
- advising Channel Island trustees on title rectification issues arising from fraud;
- advising a well-known offshore retailer on questions of jurisdiction;
- acting (with David Halpern QC) in a dispute with Channel Island trustees over the management of significant trust assets located in the UK;
- advising liquidators (with Nicole Sandells QC) in a claim against auditors in the Caribbean following the loss of significant funds by investors;
- advising liquidators in a potential claim against fund managers in the Caribbean following the loss of significant funds by investors;
- acting in a professional negligence claim in the Channel Islands following a fire purportedly caused by a boiler/heater at residential premises.

## Sports Law

Nick has appeared for athletes, agents, investors, national and international governing bodies and insurers in commercial, doping, regulatory, selection and disciplinary matters, both on his own and alongside other members of Chambers' successful sports team. His cases have covered a diverse range of sports, including boxing, horseracing, football, rugby, motor racing, wrestling, athletics,



gliding and cycling and he has represented clients in arbitrations, before tribunals, in court in the UK and (led by Rick Liddell) in the Court of Arbitration for Sport in Switzerland.

## Qualifications & Memberships

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B.A. (Oxon).

## Insights

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### **Vicarious Liability: whose liability is it anyway?**

20 April 2020

Vicarious liability is "on the move", but how far has it gone? Amanda Savage QC and Nick Broomfield explore the development of the doctrine of vicarious liability in light of the recent decisions of *Barclays Bank plc v Various Claimants* [2020] UKSC 13 and *MW Morrison Supermarkets plc v Various Claimants* [2020] UKSC 12.

### **Mears Limited v Costplan Services (South East) Limited & Others [2018] EWHC 3363 (TCC)**

10 December 2018

Simon Hale of 4 New Square represented Costplan Services (South East) Limited. The decision of Waksman J is considered by Nicholas Broomfield of 4 New Square.