

OUR PEOPLE

Nicola Shaldon

CALL 1994



✉ n.shaldon@4newsquare.com

☎ [+442078222113](tel:+442078222113)

Nicola Shaldon specialises in commercial dispute resolution and her practice is centered on construction, professional liability, costs and insurance, in which fields she has a wealth of experience.

She is well known and popular for her commitment and for the clarity of her legal analysis which has attracted a loyal following of clients including insurers, banks, building societies, trade unions and individuals. As an advocate she has substantial experience from the County Court to the Court of Appeal and regularly conducts advocacy in the Chancery Division and the TCC.

Nicola brings from the outset an acute sense of the commercial implications for her clients, rigorous legal analysis and focussed attention to detail. Her approach is to identify the key issues at an early stage and to achieve the swiftest and most cost-effective solutions for her clients. Her specialist costs practice is an invaluable aide in achieving this aim.

Nicola is a contributor to Insurance Law Monthly and regularly lectures and gives seminars including advocacy training.

Privacy Policy

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Expertise

Professional Liability

Nicola's professional liability work is centred on claims involving lawyers liability and construction-related professional liability where she has a wealth of experience. She also has considerable experience of the related fields of surveyors and valuers liability, most recently in the context of lender litigation and claims concerning accountants and auditors, financial advisers and insurance brokers. Whilst the balance of her practice is slanted towards defendants, she also acts regularly for claimants and finds the insights gained from the differing perspectives useful.

Construction Professionals

Nicola has extensive experience of claims against construction professionals, including architects, engineers, project managers, building surveyors, quantity surveyors and party wall surveyors. Her experience covers all the main professional services relating to building projects including procurement, design, certification, supervision and contract administration. She appears regularly in the TCC in London and regionally and has experience of arbitrations and adjudications. She is a TECBAR accredited adjudicator.

She has been instructed on claims ranging from high value claims arising from commercial developments and PFI projects to claims arising from work carried out on residential properties by structural engineers and architects. She appeared successfully on behalf of the claimants in *Payne v Setchell* [2002] BLR 489; (2001) 3 TCLR 26; [2002]PNLR 7 (TCC) one of the leading cases on duties of care owed by engineers to subsequent purchasers and the extent of concurrent duties of care on builders and construction professionals.

Recent experience

- Advising employer on claim against project manager arising from supply and construction of manufacturing plant in food industry
- Acting for party wall surveyor in defence of claim by neighbouring property owner in multi-million pound central London residential development
- Acting for employer in claim against contractors and architect arising from high-value residential development;
- Acting for sub-contractor manufacturer and installer of oak frames for timber-framed building in multi-party claim arising from defects to residential property;
- Acting for owners of leisure centre in claim against geotechnical engineers alleging negligent site investigation;
- Acting for employer in claim against architect arising from negligent design and supervision of extension to hotel and conference centre;
- Acting for design and build contractors in claim against engineers in multi-party action arising from negligent design of leisure centre;
- Acting for engineers in multi-million pound claim alleging negligent design of flood defences for housing development;
- Advising owners of properties on housing development in dispute with contractors, engineers and the NHBC over defective foul drainage;
- Acting for architects in claim involving negligent advice on planning issues;
- Acting for housing association in claim against design and build contractors for negligent design of roof to residential development;
- Acting on behalf of employer in claim against architect for negligent supervision and certification;
- Acting for demolition contractors in defence of claim arising from demolition of theatre and collapse of neighbouring property;
- Acting for structural engineers in defence of claim arising from design and supervision of replacement windows on local authority estate;
- Successfully defending structural engineer in claim for negligent report on stability of terraced residential property;
- Acting for architect in defence of claim for negligent design and supervision of a hydrotherapy pool;
- Acting on behalf of employer in claim against architect for negligent supervision and certification.

Featured cases

- Acting for a design and build contractor in defence of claim concerning warehouse concrete slab floors with claims on against structural engineers and sub-contractors.
- Acting for contractors in a claim against quantity surveyor involving allegations of negligent certification.
- Acting for an employer in a claim against contractors and architect arising from high-value residential development.

Lawyers

Claims involving lawyers liability form a significant part of Nicola's practice. She has extensive experience of the full range of claims against solicitors including:

- (a) Claims arising from the mishandling of all types of litigation including allegations of undersettlement;
- (b) Claims involving residential and commercial conveyancing;
- (c) Lender claims often arising from mortgage fraud, and involving breach of retainer, breach of trust and breach of undertaking;
- (d) Claims concerning asset and share sale agreements, partnership disputes, personal and corporate insolvency, probate and the drafting of documents including leases, wills and contracts of employment;
- (e) Wasted costs applications

She is regularly instructed to act in property- related claims against solicitors arising in the recent wave of lender litigation.

In the area of lost and mishandled litigation, Nicola has substantial experience of a wide variety of underlying claims including in particular personal injury and clinical negligence actions, construction disputes and employment law. She is frequently instructed to act in cases where the underlying issues are construction-related which dovetails neatly with her construction practice.

Her early experience of employment litigation gives her a particular expertise in handling cases involving employment law including issues of unfair dismissal, disability discrimination, sex discrimination/harassment, compliance with TUPE obligations, and the drafting of contracts of employment, including restrictive covenants. She is regularly instructed by many of the major trade unions including the RMT, the GMB, the PCS, the Royal College of Midwives and the NASUWT to deal with a variety of claims involving professional liability issues.

Featured cases

- Acting for solicitors in defence of a number of group actions by members of Unite and contribution claim from Unite arising from equal pay litigation;
- Acting for solicitors in defence of claim arising from omission of commercial lease liabilities from CVA
- Acting for solicitors in multi-party mortgage fraud claim raising issues of breach of trust and breach of undertaking;
- Acting for solicitors in defence of several lender claims arising from sale and leaseback transactions;
- Acting for solicitors in Concord Street litigation alleging negligence in relation to the obtaining of NHBC certification on purchase of newbuild flats;
- Acting for solicitors in defence of £3m claim arising from the drafting of lease agreements for commercial development. The claim settled on favourable terms shortly before trial;
- Acting for claimants in claim against solicitors arising from misappropriated purchase funds;
- Acting for purchasers of development property in Spain in claim against UK solicitors;
- Advising solicitors on wasted costs application in relation to conduct of employment tribunal proceedings;
- Acting for solicitors in defence of claims arising from advice on forfeiture of leases;
- Advising public authority on claim against solicitors arising from alleged negligence in drafting of redundancy agreements;
- Advising the DWP in claim against solicitors arising from advice on procurement;
- Acting for the London Eye with Nicholas Davidson QC in multi-million pound claim for compensation for negligent failure to register an option for renewal of the lease of part of the land on the South Bank;
- Acting for beneficiary of will in claim against solicitors arising from negligent advice concerning assignments of beneficial interests;
- Acting for solicitors in defence of claim concerning handling of high-value sex discrimination claim by City banker;
- Acting for solicitors in defence of claim alleging failure to check NHBC certification on purchase of newbuild property;
- Acting for solicitors in defence of claim by property owner for negligent mishandling of TCC litigation;
- Acting for solicitors in defence of claim for negligent advice on bonus provisions in director's service agreement;
- Acting for solicitors in numerous substantial loss of litigation personal injury actions;
- Acting for solicitors in defence of lost litigation claim for wrongful trading by liquidator against directors;
- Acting for employment consultants in defence of claim arising from advice given to local authority on redundancy consultation procedures;
- Acting for shareholders in claim against solicitors arising from advice on share sale agreement;

- Acting for solicitors in claim involving conflict of interest between family members in context of the drafting of wills;
- Acting as part of a team on behalf of major lender on claims against solicitors arising from buy-to-let mortgages and failure to disclose sub-sales and discounts.

Surveyors & Valuers

Nicola has considerable experience in this type of claim involving commercial and residential property, most recently in the context of the current wave of lender litigation. She acts for both claimants (including lenders and residential property owners) and defendant surveyors and valuers.

Featured cases

- Acting for valuers in defence of £6m claim concerning allegedly negligent valuations of several commercial rental properties in North London;
- Acting for valuers in defence of £1m claim by bank arising from valuation of high-value residential development property;
- Acting for valuers in defence of claim by lender arising from valuation of new-build apartments;
- Acting for valuers in defence of claim arising from valuation of shopping centre;
- Acting for valuers in defence of claim arising from valuation of high-value residential property;
- Acting for valuers in defence of claim arising from valuation of a number of shared home ownership properties.

Accountants, Auditors & Actuaries

Nicola acts both for and against accountants and auditors in claims arising from the auditing of accounts, the provision of tax advice, the structuring of transactions and the sale of companies.

Her experience includes:

- Acting for accountants in defence of claim by former clients alleging fraud
- Acting for accountants in claim involving alleged failure to report on defalcations by company directors when conducting audit;
- Acting for shareholders in claim against accountant for negligent tax advice relating to a share sale agreement;
- Acting for accountants in claim arising from advice given as to the effect of share sale agreement;
- Acting for claimants in claim against chartered accountant arising from advice given on setting up of offshore trust (*Richards (t/a Colin Richards & Co) v Hughes [2004] EWCA Civ 266*)(CA);[2004]PNLR 35).

Financial Services Professionals

Nicola regularly acts and advises in claims involving financial services professionals arising from advice on pensions, mortgages and other investments.

Featured cases

- Representing the claimants in a claim against a chartered accountant giving financial advice on setting up of offshore trust (*Richards (t/a Colin Richards & Co) v Hughes [2004] EWCA Civ 266*)(CA);[2004]PNLR 35);
- Acting for the directors of a family company pension scheme in a claim for negligent advice against financial advisers; alleging negligent advice;
- Acting for individuals in claims arising from negligent advice on transfer out of final salary pension scheme;
- Advising claimant in relation to claim against financial adviser for negligent investment advice;
- Acting for trade union in defence of claim by family of deceased member alleging negligent advice in relation to death benefits;

- Acting for IFA in claim against former employers seeking losses for negligent reference;
- Acting on behalf of several claimants in mortgage misselling claims.

Insurance Brokers & Agents

Nicola acts for both claimants and defendants. Recent cases include defending a broker against claims arising from failure to effect cover for employers liability and advising as to a broker's liability for failure to advise on run-off cover.

Construction & Engineering

Construction work forms a substantial part of Nicola's practice. She appears regularly in the TCC in London and in the regions and has experience of acting in arbitrations and adjudications. She also has experience of adjudication enforcement proceedings in the TCC. She is instructed by employers, contractors, sub-contractors and construction professionals, frequently in multi-party actions. Her experience ranges from multi-million pound developments including hospitals, warehouses and shopping centres to disputes relating to residential properties.

Featured Construction & Engineering cases

- Acting for design and build contractor
- Acting for design and build contractor in multi-million final account dispute with developer on mixed-use residential and office development
- Acting for design and build contractor
- Acting for design and build main contractor in multi-party litigation in the TCC over allegedly defective concrete slabs in warehouse
- Acting for a number of individual home owners
- Acting for a group of home owners in dispute with well-known national developer over defective new-build properties.
- Acting for specialist flooring sub-contractor
- Adjudication defending claim by main contractor for liquidated damages.
- [2012] EWHC 2428 (TCC) WSP CEL Ltd v Dalkia Utilities Services plc; Acting for contractor with Michael Soole QC in defence of claim for summary judgment following adjudication on final account in NEC3 Professional Services Contract. One of the few decided cases on the construction of the NEC3 contract.
- Advising government department
- Advising government department in dispute over procurement of IT contract.
- Acting for contractors
- PFI hospital contract in dispute with M&E services designers.
- Acting for contractors
- Dispute with quantity surveyors over valuations of work on housing development.
- Acting for employer
- Dispute with contractors and architect over extensive refurbishment works to residential property.
- Acting for owners of leisure centre
- Claim against geotechnical engineers alleging negligent site investigation.
- Acting for water utilities company
- With Michael Soole QC in dispute with Network Rail over costs of diverting water pipes for line-widening purposes.
- Acting for design and build contractor
- Claim against engineers in multi-party action concerning a leisure development.
- Acting for contractors
- Defence of claim arising from asbestos clearance.
- Advising a group of home owners
- Advising a group of home owners in dispute with contractors and the NHBC over defective foul drainage system
- Acting for housing association
- Claim against design and build contractors for negligent design of roof to residential development.
- Acting for geotechnical engineers
- Multi-party action concerning a shopping-centre development.

- Acting for Chinese government corporation
- In international arbitration against UK contractors.
- Acting for demolition contractors
- Claim arising from collapse of neighbouring property following removal of wind protection.
- Acting for contractors
- Defence of claims for fire damage to neighbouring properties.
- Acting for employer
- Claim against architects arising from the construction of hotel conference centre.
- Acting for owner of vehicle showroom
- In nuisance claim arising from highway construction.

Insurance & Reinsurance

Nicola regularly advises insurers and insured on coverage disputes over a range of policies (including professional indemnity, domestic household and public liability), spanning issues of non-disclosure, misrepresentation and construction of policy terms. She has particular experience of advising on professional indemnity policies and on the Minimum Terms and Conditions in solicitors professional indemnity, including issues arising under the Third Party (Rights Against Insurers) Act 1930.

Featured Insurance & Reinsurance cases

- Advising insured professional in dispute with insurers over refusal of cover for non-disclosure;
- Advising insurers in dispute over the binding effect of a settlement under construction professional indemnity policy;
- Advising insurers in recovery action against solicitor arising from alleged fraudulent evidence;
- Advising insurers on the scope of the indemnity for civil liability in solicitors indemnity policy;
- Advising insurers on various issues arising from solicitors indemnity policies including late notification, successor practice and aggregation;
- Advising insurers on avoidance of policy for non-disclosure by insured company raising issues of attribution of knowledge.

She acts regularly in subrogated recovery claims and has recently acted for insurers in the subrogated recovery litigation arising out of the Buncefield explosion. More detail is provided in the Property Damage section.

Costs & Litigation Funding

Nicola undertakes the full range of costs work and appears regularly in the County Court, the SCCO and the High Court. Her experience includes costs management hearings, assessment of costs in county courts and the SCCO, fixed costs and costs under the RTA portal, wasted costs applications against solicitors in courts and employment tribunals, non-party costs orders, security for costs applications, applications for relief from sanctions, and disputes over fee claims including the effect of costs estimates. The costs aspects of Nicola's practice interacts with her extensive lawyers liability work, and she is frequently instructed in cases where clients are in dispute with solicitors over fees.

Featured Costs cases

- Numerous costs budgeting hearings, frequently involving issues of proportionality;
- Advising and representing solicitors and client on solicitor and client assessments under the Solicitors Act 1974. Recent cases include:
 1. acting for solicitors in dispute with former client over substantial bill resulting in a successful outcome in the SCCO and the award of indemnity costs,
 2. advising a solicitor on recoverability of criminal defence fees involving issues of unjust enrichment and the interaction of private retainers and representation orders, and
 3. advising on issues relating to enforceability of CFAs.
- Advising on recoverability of costs under the RTA portal
- Acting for solicitor in relation to costs assessment following dispute with former partner in partnership proceedings
- Application in relation to costs consequences of discontinuance

- Advising on the effect of LSC statutory charge
- Successfully resisting application for joinder of credit hire company under section 51 of the SCA
- Advising on the recoverability of costs in detailed assessment following judicial review claim

Property Damage

Nicola has significant experience of property damage claims which complement her construction practice. She acts regularly in subrogated recovery claims and has recently acted for insurers in the subrogated recovery litigation arising out of the Buncefield explosion. She also acts frequently in claims arising from tree-root damage.

Featured Property Damage cases

- Defending claim against demolition contractors for collapse of neighbouring property involving issues of nuisance and the right to support;
- Acting in defence of claim against contractors for damage to stock and business interruption claim arising from fire damage to warehouse;
- Acting for owner of retail vehicle business claiming damages for nuisance arising from highway maintenance works;
- Acting in defence of contractors in multi-party claim for flood damage to local properties arising from flooding of watercourse in local authority park;
- Acting for M&E maintenance contractor in multi-party claim arising from damage to structure of shopping centre.

Commercial Dispute Resolution

Nicola has experience of a broad range of commercial litigation including contractual disputes, sale of goods, partnership disputes, consumer credit and UCTA, enforceability of restrictive covenants in commercial employment agreements and injunctive relief.

Qualifications

She is a member of COMBAR, TECBAR, the Society of Construction Law, BILA, the PNBA and the London Common Law and Commercial Bar Association.

Education

M.A. (Cantab.) LL.B (London) (First Class)

Languages

French
