

David Nicholls

Call: 2002
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David has a broad commercial chancery practice, covering a wide range of business litigation but his principal expertise is found in insolvency and property.

He won four scholarships from Lincoln's Inn while studying law and was elected to the Bar Council in 2008. Following his position as Vice-Chairman in 2011, David is currently Chairman of the Young Barristers' Committee for 2012.

Insolvency

David is experienced in all corporate and personal insolvency matters, including the setting aside of antecedent transactions, challenges to an IP's remuneration, COMI and private examinations. He has a particular expertise in the overlap between insolvency and property law, for instance, concerning administration expenses. Cases include:

- **Re United Jewellery Trading Limited** – acting for the holder of a qualifying floating charge in relation to a 'Re G-Tech' application.
- **Re Image Developments Limited** – successfully obtaining an administration order in respect of an Irish company on the basis that its COMI was in England.
- Advising the administrators of an insolvent estate in relation to foreign tax liabilities.
- Acting for a liquidator on a section 238/239 application.
- Advising the administrator of an English company on the prospect of bringing a tort action against a German supplier.
- Advising the supervisor of a voluntary arrangement in light of an uncooperative debtor, a past bankruptcy and an imminent future bankruptcy.

Commercial Litigation

David is regularly instructed in commercial matters and also has experience of dealing with fraud, guarantees, partnership disputes, shareholder agreements and breaches of directors' duties. He is particularly interested in conflict of laws disputes. Work includes:

- Acting for a creditor who is seeking to recover nearly £500,000 under a complex arrangement of guarantees.
- Acting for a property developer in a six day arbitration concerning the meaning and effect of a joint venture agreement.
- Advising a purchaser of foreign real estate on the extent to which a restitutionary claim to recover monies paid to the seller's agent was governed by English law.
- Representing a property developer facing a freezing injunction in the context of a liquidator's section 238/239 application.

Banking

David has over 5 years' experience acting for Natwest and RBS in relation to mortgage recovery and enforcement of guarantees, including advising, drafting and representation at trial or on summary judgment applications.

- **National Westminster Bank plc v Binney [2011] EWHC 694 (QB)**: successful representation of Natwest in its claim on a guarantee.
- Advising in relation to the validity of a charge granted by a bank under the FSMA 2000.

Property

David is frequently instructed on a range of property matters, including mortgage claims, landlord and tenant matters, easements, restrictive covenants and boundary disputes. Ongoing work for 2011 includes:

- Advising and preparing proceedings:
 - for a tenant's substantial dilapidations claim concerning office premises in the City
 - for a landlord's 1954 Act claim to terminate leases of commercial premises
 - in relation to a boundary dispute over agricultural land
 - in respect of a claim for rescission of a contract for sale for fraudulent misrepresentation.
- Advising an English landlord on the effect of the merger of its US tenant.
- Acting for a landlord in respect of its claim under the Landlord and Tenant Act 1973.
- Acting for a landlord in a service charge dispute before the Leasehold Valuation Tribunal.
- Acting for a tenant applying to strike out duplicate possession proceedings on the grounds of abuse of process.

Professional negligence

David's practice in this field continues to grow, especially in the context of claims against solicitors for negligent conveyancing. Work advising and preparing proceedings includes:

- A complex claim against an architect and a builder for defective work constructing a domestic extension.
- Claims against negligent solicitors in connection with:
 - a series of property transactions worth over £500,000
 - mortgage fraud
 - failure to advise a purchaser in relation to asbestos.

Other matters

Successfully represented a solicitor before the Solicitors Disciplinary Tribunal and securing his acquittal in a prosecution brought by the SRA.

Academic Achievements

Lincoln's Inn Scholarships:

Hardwicke Entrance Scholarship (2000)

Lord Haldane Scholarship (2000)

Tancred Studentship (2001)

Megarry Scholarship (2002)

Lincoln's Inn Prize:

Winner of the Robert Wright Mooting Competition (2001)