



NICHOLAS GIBSON

MAIN AREAS OF PRACTICE:

Arbitration
Competition and Regulation
Commercial Law
Crime and Regulatory
EU Law
Fraud, Financial and Business
Crime
Human Rights
Public Law
Public and Private International
Law
Sports Law
Tax Law
Telecommunications

Solicitor: 2004
Called to the Bar: 2009

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Commercial Law

Recent and notable examples of Nicholas' experience in Commercial Law include those set out below:

Matrix Receivables Limited v Musst Holdings Limited (2021-2022) Sole counsel for the claimant in its claim in the Business & Property Courts (Business List) in relation to work done in promoting an investment fund in Europe and the USA.

Cefetra Ltd v Quality Freight and others (2021) Representing the claimant importer of raw materials for supply to the animal feed sector (with Rhodri Thompson QC) in its claim in the Business & Property Courts against the owners and operators of the Port of Liverpool and Clydeport for breach of contract, breach of competition law and breach of confidence.

Fortescue Metals Group Ltd v Argus Media Limited and S&P Global Inc. (2020) Representing the claimant iron ore producer (with James Drake QC) in its claim in the Business and Property Courts, Business List (Chancery Division) for breach of confidence, including an injunction to restrain the two defendant price reporting agencies from disclosing the claimant's commercially sensitive discount price information to the defendants' subscribers, and related applications by the second defendant, a company incorporated in New York, to challenge service at its place of business within the jurisdiction, and to seek a stay on *forum non conveniens* grounds.

Phoenix v Cochrane (2016-2018) Acting (with James Drake QC) for a leading commercial law firm in high-value litigation and, in particular, contesting the grant of injunctive relief against the firm, and in subsequent complex multi-party proceedings before the Commercial Court.

Advice on Norwich Pharmacal relief (2018) Advising unled on a proposed application for *Norwich Pharmacal* relief in the context of foreign litigation arising from an alleged extensive banking fraud and subsequent insolvency and receivership proceedings.

Orb a.r.l. and others v Ruhan (2012-2016) Representing the claimants (with Antony White QC and later with James Drake QC) in a civil fraud claim arising from breach of fiduciary duties in connection with a multimillion pound property deal and a related tracing action regarding transactions spanning more than a decade, and appearing led and unled before the Commercial Court, QBD and the Court of Appeal in various related applications and cross-applications including for freezing and proprietary injunctions, appointment of receivers, and *Norwich Pharmacal* relief.

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Peak Hotels and Resorts Limited v Power Capital Financial Trading (UK) Ltd and others (2014-2015) Acting (with James Laddie QC) for the second defendant FCA-registered business on an urgent application over the Christmas period to vary the terms of a without notice freezing order against it, and in subsequent proceedings (including unled) before the Chancery Division in the context of complex multijurisdictional fraud claims.

Sheikh Tahnoon bin Saeed bin Shakhboot al Nehayan v John Kent (2014) Acting (unled and later with James Laddie QC) for the defendant Greek tour operator in a claim brought by a member of the ruling family of Abu Dhabi arising from the termination of their joint venture and business relationship, and on the defendant's counterclaim for remedies for breach of fiduciary duty, rescission and other relief; and related applications including for security for costs.

King Automotive Systems Ltd v Fonderie de Bretagne and another (2011) Advising a French company in relation to proceedings in the Queen's Bench Division for breach of contract (and involving economic torts), including a challenge to the jurisdiction of the English Court under the "Brussels" Regulation and related issues under the Insolvency Regulation.

Arqiva Limited and others v Everything Everywhere Limited and others (2011) Appearing unled for Hutchison 3G (UK) Limited ("3") in the Technology and Construction Court in a contractual dispute between certain mobile network operators ("MNOs") and the group of companies who provided sites for their mobile network equipment, and advising 3 in relation to the MNOs' subsequent appeals to the Court of Appeal.

Investigation by the Accounting and Actuarial Discipline Board into the conduct of Members and a Member Firm, as auditors of Lehman Brothers International Europe (2011) Instructed unled by the Accounting and Actuarial Discipline Board (a part of the Financial Reporting Council) to provide an independent determination as to the privilege of certain documents held by the Member Firm under investigation.

In the Matter of Commercial Union Life Assurance Company Limited (2009) As a solicitor, acting for the first holder of the position of Policyholder Advocate in the reattribution of the inherited estates of certain insurance companies using a scheme for the transfer of insurance business.

Kamos-Finanz v SLEC and Bambino Holdings (2007) As a solicitor, advising a leading private equity fund in proceedings before the Chancery Division involving issues of contract and insolvency law and issues of EU private international law under the "Brussels" Regulation and the Insolvency Regulation.

Walanpatrias Stiftung v Lehman Brothers International (Europe) (2006) As a solicitor, acting for a leading international bank in an action before the Commercial Court arising from the bank's custody of assets which were the subject of a multi-jurisdictional dispute as to ownership, including issues of private international law.

UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and others (2020-2022) Representing the applicant and proposed class representative (with Rhodri Thompson QC) in its application to the Competition Appeal Tribunal for a collective proceedings order permitting it to bring follow-on collective proceedings under s.47B of the Competition Act 1998 arising out of the European Commission's decision regarding unlawful cartelised behaviour among producers of medium and heavy trucks in the EEA from 1997 to 2011.

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Unlocked Ltd and others v Google Ireland Ltd and others (2018) Acting (unled and with Rhodri Thompson QC) for an innovative tech start-up suing Google for abuse of its dominant position in relation to Google Play and AdMob products and related applications for interim injunctive relief and regarding jurisdiction.

Ecotricity Group Limited and another v Tesla Motors Inc and another (2014) Defending (unled and with Rhodri Thompson QC) the UK's leading green electricity company and its 'Electric Highway' network of charging points for electric vehicles ("EVs") at motorway service stations and other sites against a counterclaim by a US manufacturer of EVs alleging breaches of competition law in relation to the provision of EV charging services in the UK.

La Gaitana Farms S.A. and others v British Airways plc (2013) Acting (with Rhodri Thompson QC) for South American flower growers in their follow-on competition damages claim arising from a price-fixing cartel in relation to air freight services provided by British Airways and other international carriers of air cargo.

PLUS Markets plc v London Stock Exchange plc (2008) Acting for the London Stock Exchange in proceedings before the Commercial Court brought by PLUS Markets challenging the AIM trade reporting rules on competition and free movement grounds; the case settled shortly before trial.

SanDisk Corp v Koninklijke Philips Electronics NV and others (2007) Acting for a group of major European technology companies in an action for alleged breach of competition law in the Chancery Division, including a challenge to the jurisdiction of the English courts under the "Brussels" Regulation

Three Rivers DC v Bank of England (2005) Interpretation of European banking supervision regulations in the context of a claim against the Bank alleging misfeasance in public office; the claimants discontinued their action prior to the conclusion of the trial and judgment.

Banks Renewables Ltd v Secretary of State for Business, Energy and Industrial Strategy (2019-2020) Acting (unled and with Aidan O'Neill QC) for Banks Renewables in its judicial review challenge on grounds including State aid and general principles of EU law against the Secretary of State's decision to exclude onshore wind from access to government subsidies.

Cosgrove and Kellermann v Guernsey Financial Services Commission (2019-2020) Advising unled for Guernsey counsel on administrative and public law matters under the law of England and Wales and ECHR issues in defending a claim for judicial review in the context of financial services enforcement proceedings.

Eurostar International Ltd v ORR (2019) Acting (with Jessica Simor QC) for Eurostar in judicial review proceedings arising from the consultation process relating to ORR's 2019 periodic review of the business operating the 'High Speed 1' rail link between St Pancras and the Channel Tunnel.

R (Sky Blue Sports & Leisure Limited and others) v Coventry City Council (No.1 and No.2) (2014-2019) Acting (with Rhodri Thompson QC) for the owners of Coventry City Football Club in two related judicial review claims before the Administrative Court, Court of Appeal and in seeking permission to appeal to the Supreme Court, challenging two of Coventry City Council's decisions as unlawful State aids: first, to lend £14.4million to its insolvent subsidiary Arena Coventry Limited (the company which held the lease of and managed the Club's home ground); and, secondly, to grant Wasps, as ACL's

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new owners, an extension of ACL's lease by more than 200 years, which increased its value by c.£30m in return for c.£1m in consideration.

Heathrow Airport Limited v ORR (2016-2017) Defending (with Rhodri Thompson QC) against HAL's claim for judicial review of ORR's decision regarding the costs which HAL could recover from Crossrail for the use of the 'Heathrow Spur' connecting Heathrow airport to Paddington, and advising on HAL's subsequent appeal until it was discontinued.

Lafarge Tarmac Holdings Limited v the Competition and Markets Authority; Hope Construction Materials Limited v the Competition and Markets Authority (2014) Defending the CMA (with Rhodri Thompson QC) against challenges to the package of remedies (and in particular the divestiture of a cement plant) proposed by the Competition Commission to address coordination in GB cement markets, which the CC had found following its Aggregates market investigation under Part 4 of the Enterprise Act 2002, and resisting Lafarge Tarmac's application to rely on new expert evidence in its challenge.

Everything Everywhere v Competition Commission (MCT appeals) (2011-2013) Defending (with Michael Bowsher QC) the Competition Commission's determination of appeals regarding Ofcom's Wholesale Mobile Voice Call Termination Statement against challenges under s.193 of the Communications Act 2003 on judicial review grounds before the Tribunal and on appeal to the Court of Appeal.

R (CGTSN and Global Knafaim Leasing) v the Civil Aviation Authority and BAA (2010) Representing (with Rhodri Thompson QC) an aircraft leasing company in its judicial review challenge under the Human Rights Act 1998 and UK/EU competition law and EU fundamental rights to the detention and threatened sale of its aircraft, and in its subsequent appeal to the Court of Appeal; the matter settled before the hearing of the appeal.

R (oao Calland) v Financial Ombudsman Service (2013) Appearing in the Administrative Court (with Hugh Tomlinson QC) for an independent financial adviser in his judicial review claim challenging a significant financial award against him by the Financial Ombudsman Service after an investigative process lasting more than a decade.

Rosneft v the Netherlands (2010) Advising the Applicant (led by Rabinder Singh QC) on its complaint to the European Court of Human Rights regarding alleged unequal treatment in proceedings for the enforcement in the Respondent State of foreign arbitral awards against the Applicant, involving the application of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.