



CONSTRUCTION, ENGINEERING AND
INFRASTRUCTURE
INSURANCE
GENERAL COMMERCIAL
ENERGY AND UTILITIES
INFORMATION TECHNOLOGY
AND TELECOMMS
PROFESSIONAL NEGLIGENCE
ADJUDICATION

Nicholas Maciolek

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PRACTICE

Nicholas' practice includes disputes relating to construction, engineering and infrastructure, energy and utilities, information technology, and professional negligence in both court and arbitration. In addition to these specialist areas, he also acts in respect of a range of other general commercial disputes, with a particular focus on insurance related matters. Nicholas has been ranked as a 'rising star' in The Legal 500 since 2021, with clients commenting that he is *"a very bright junior, he has a very good manner when being challenged – listens and reflects, but also has firm resolve"* and *"he is incredibly bright and his drafting is very clear and persuasive. I have found him a pleasure to work with"*.

Nicholas appears regularly in the High Court. In 2021 Nicholas was instructed as a junior in a leading case concerning liquidated damages before the Supreme Court, **Triple Point Technology Limited v PTT Public Co Ltd [2021] UKSC 29**. Other recent experience includes acting for a claimant joint venture in relation to a £50 million claim under a policy of insurance in respect of delay to the construction of biomass waste wood burning energy power plant, acting as sole counsel in a £7 million claim arising out of the termination of a contract for the inspection of fire doors across the UK, and acting as sole counsel in respect of a £5 million claim for negligent design and construction in a project for the erection of a state-of-the-art cancer research facility.

He works closely and collaboratively with solicitors – he has spent several months liaising between leading counsel, his solicitors and his lay client in order to develop and advise upon a substantial claim for extension of time and additional services for an MEP design firm in relation to the design of a hospital under a PFI contract and has undertaken a secondment with a large City law firm, where he worked on a range of construction disputes within the property litigation team.

CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE

Nicholas has experience of an extensive range of construction disputes, spanning from large and complex projects to residential works contracts. He has worked on disputes over defects, extensions of time, variations, loss and expense, and termination in respect of a range of projects from domestic and commercial construction to airport, railway, harbour and bridge engineering works. Recent examples of his work include:

- Instructed as a junior in a multi-million euro arbitration concerning variations and prolongation in the context of a bespoke contract for the construction of an offshore steel test platform.
- Instructed as sole counsel in a £7 million claim arising out of the termination of a contract for the inspection of fire doors in a large property portfolio spread across the south east of England.
- Advising an employer on its rights vis-à-vis a subcontractor arising out of a contract for the renovation of an airport terminal (NEC 3).
- Advising a contractor on the proper construction of an asbestos clause in a contract for the refurbishment of an academy school in south-west London pursuant to a PFI contract.

INSURANCE AND GENERAL COMMERCIAL

Nicholas has a substantial practice arising out of the intersection of construction and insurance law, and has particular expertise in coverage disputes arising out of 10-year new home insurance policies. He has also acted in a range of general commercial disputes. Recent work includes:

- Instructed as junior counsel in the Court of Appeal decision of **Manchikalapati v Zurich Insurance Plc (t/a Zurich Building Guarantee and Zurich Municipal)** [2019] EWCA Civ 2163 concerning the proper interpretation of a policy of insurance for new homes.
- Instructed as junior counsel in a £50 million claim for advanced loss of revenue under a policy of insurance issued in respect of a project for the construction and operation of a waste wood burning biomass energy plant in Teeside.
- Instructed as sole counsel in a £3 million coverage dispute concerning 111 new homes policies of insurance in a converted residential development in Kent.
- Advising on a reinsurance coverage dispute concerning the release of contaminated water by a utility company.
- Instructed as junior counsel for the claimant in seeking damages for an international fraud (touching upon Thailand, India, Canada and the UK) involving breach of director's duties, proprietary claims in equity, unlawful means conspiracy (Commercial Court).
- Instructed as junior counsel in a dispute concerning alleged breaches of an exclusivity provision in a sponsor agreement for the development of a structured bond programme.

ENERGY AND UTILITIES

Nicholas energy experience includes disputes concerning oil and gas projects and renewables.

Recent examples include:

- Instructed as junior counsel in adjudication and arbitration proceedings on behalf of the operator of a waste-to-energy plant in Scotland in respect of a claim for the cost to complete after the termination of a £80 million design and build contract.
- Instructed as junior counsel in an arbitration claim in respect of the costs arising out of a liner hanger assembly defect in works on an exploration rig off the coast of Ghana.
- Advising on the allocation of risk and assisting in finalising a statement of case in an ICC arbitration concerning delays to works on an oil and gas facility in the Caribbean.
- Drafting submissions for a pre-trial application for security for costs in a dispute concerning repair works on an off-shore oil rig.

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

Nicholas has acted on matters arising out of information technology and telecommunications disputes.

- Acting and advising an employer in a dispute concerning the termination of a contract for the development of a test environment, database and front end system for an online investment platform.
- Acting as junior counsel for the defendant in a £70 million dispute concerning the supply of test blocks to exchanges in the UK broadband network.
- Acting for the contractor in a large-scale PFI dispute concerning the interpretation of a contract in the application of a performance algorithm to roads maintenance works.
- Drafting a defence to a claim arising out of a contract for the international provision of networking and telephony systems.
- Acting on behalf of a supplier of networking systems for integrated traffic light monitoring and communication in several council wards in London and the South-East in respect of a claim for the supply of defective routers.

PROFESSIONAL NEGLIGENCE

Nicholas has advised on and acted in various cases of professional negligence. Recent examples include:

- Instructed as sole counsel on behalf of an architect defending negligence claims in connection with the conversion of two premises into a number of flats.

- Instructed as sole counsel on behalf of an Employer in respect of a claim that an architect's design was unbuildable and contravened approved planning requirements.
 - Advising on the apportionment of liability between a main contractor and a fit-out contractor regarding defective ceiling works in a central London office building.
 - Advising on a surveyor's standard of care in conducting valuations.
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ADJUDICATION

Nicholas has experience of all aspects of statutory adjudication. He has drafted adjudication submissions as well as particulars of claim in enforcement proceedings:

- Drafting submissions for an engineering design subcontractor on a nuclear waste storage construction project.
 - Drafting responsive submissions on behalf of an employer in a large-scale final account dispute concerning brickworks at a university accommodation building in central Bristol.
 - Drafting a referral for a contractor in the context of a contract for the provision of long-term maintenance services for social housing (TPC 2005 (amended 2008)).
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NOTABLE REPORTED CASES

Triple Point Technology Limited v PTT Public Co Ltd [2021] UKSC 29

Manchikalapati v Zurich Insurance Plc (t/a Zurich Building Guarantee and Zurich Municipal) [2019] EWCA Civ 2163

Stelio Stefanou v A Culmer Fixing Service Limited [2018] EWHC 2208 (TCC)

Zurich Insurance PLC v Nightscene [2017] EW Misc 27 (CC)

QUALIFICATIONS AND AWARDS

2012-2013 BPTC (Very Competent)

2009-2013 PhD, 'Justiciability before the International Court of Justice' (Cantab)

2008-2009 LLM (First Class) Wolfson College, Cambridge

Jennings Prize, Wolfson College, Cambridge

Bevan Prize, Wolfson College, Cambridge

2005-2008 LLB (First Class), University College London

LEGAL TEXTS

Nicholas is a contributing editor of the new *Hudson's Building and Engineering Contracts* (14th ed., 2020).

“The dearest things in life may be free!” *Construction Law* Guest Editor, October 2017

Grove Developments Limited v Balfour Beatty Regional Construction Limited [2016] EWHC 168 (TCC) *TECBAR Review*, Spring 2016

ADDITIONAL INFORMATION

Nicholas speaks French, Italian, German and basic Polish.

He is a member of TECBAR, COMBAR and the Society of Construction Law.

RECENT RECOMMENDATIONS

“Nicholas is calm, professional, excellent at retaining detail and understanding complex issues.”
Construction, Chambers UK Bar 2024

“Nicholas is highly recommended for his work ethic, manner and expertise.”
Construction, Chambers UK Bar 2024

“Nicholas is extremely bright and personable. His knowledge is well beyond his years. Excellent drafting, advice and handling of clients.”
Construction, The Legal 500 2024

“Nicholas is very attentive, commercial, and pragmatic. At the same time, he is ready to get stuck into the technical detail.”
Construction, The Legal 500 2023

“He is incredibly bright and his drafting is very clear and persuasive. I have found him a pleasure to work with.”
Construction, The Legal 500 2022

“A very bright junior, he has a very good manner when being challenged – listens and reflects, but also has firm resolve.”
Construction, The Legal 500 2021