

NIGEL CLAYTON

Year of call: 1987

Qualifications: LLB (Hons) 1986

Clerked by: Harry Young Avais Saleem

AREAS OF EXPERTISE:

Banking & Finance Wills and Trusts Real Estate Litigation
Mediation



Profile

Nigel Clayton practises solely in Real Property Law including Probate and Trusts and related areas, and specialises in Mortgage Law and Litigation. He is regularly recognised as a 'Leading Individual' in Real Property and Mortgage Law in the Legal 500.

Accredited as a Civil and Commercial Mediator by the ADR Group.

Year of Call: 1987

Areas of Expertise:

Banking & Finance

Nigel is an acknowledged expert in Mortgage Law and Litigation. He has considerable experience of acting for banks, building societies, centralised lenders and bridging finance companies as well as borrowers. He is the author of Atkin's Court Forms, Vol 28 Mortgages (2020)(Lexis Nexis), Mortgage Possession Actions (Sweet & Maxwell) and maintains his own specialist Mortgage Law website www.legalmortgage.co.uk

Nigel is regularly instructed in relation to:

- (1) Settling mortgage deeds, mortgage conditions and related deeds and documents
- (2) The construction and enforcement of mortgages and related securities
- (3) Obtaining, protecting and enforcing charging orders
- (4) Issues as to title, priorities, overriding interests and applications for alteration/indemnity at HMLR
- (5) Substantive defences - forgery, non est factum, undue influence, misrepresentation, subrogation, duties on sale, limitation, s 36 AJA 1970, s 140A CCA 1974
- (6) The appointment and duties of LPA Receivers
- (7) FSMA/MCOB/CCA compliance

Significant Reported Cases

- CIBC Mortgages Plc v Pitt [1994] 1 AC 200 (House of Lords, mortgages, undue influence)
- MAES Finance Ltd v Shriskantharaja [1988] EWCA Civ 485 (Court of Appeal, mortgages, appeals)
- Eagle Star Ltd v Karasiewicz [2002] EWCA Civ 940 (Court of Appeal, mortgages, subrogation)
- Michael v Miller [2004] EWCA Civ 282 (Court of Appeal, mortgages, mortgagee's duties on sale)
- First Mortgage Securities No. 9 Ltd v Smith [2005] EWHC 2455 (Ch) (Chancery Division, mortgages, possession orders)
- Nolan v Wright [2009] 3 All ER 823 (Chancery Division, consumer credit, limitation)
- English v English [2010] EWHC 2058 (Ch) (Chancery Division, mortgages, forgery, solicitors' duty of care)

Wills and Trusts

Nigel is a full member of the Society of Trusts and Estate Practitioners (STEP). He was trained in an old-style Chancery Chambers with an emphasis on Will and Trust drafting and non-contentious advisory work.

He undertakes all aspects of drafting/advisory/litigation work in the following areas:

- (1) Wills/Probate/Administration
- (2) Issues involving the validity of Wills and Trusts, construction and rectification claims
- (3) Duties of Executors, Administrators and Trustees
- (4) Breach of Trust claims
- (5) Charitable Trusts
- (6) Inheritance Act claims
- (7) Related professional negligence

Recent Reported Cases

- Lynch v Webb [2014] EWHC 399 (Ch) (Chancery Division, construction of trust deeds/rectification)

Real Estate Litigation

Nigel deals with all aspects of drafting, advisory and litigation work in the areas of:

- (1) Land Law including title, conveyancing, boundaries, adverse possession, easements, restrictive covenants, co-ownership etc
- (2) Landlord and Tenant including all aspects of business, residential and agricultural possession claims, dilapidations, lease renewals, rent reviews
- (3) Related professional negligence claims

Nigel is a contributing editor of the Property Law website www.propertylawuk.net

Significant Reported Cases

- Re Solarfilms (Sales) Ltd's Application (1993) 67 P & CR 110 (Lands Tribunal, application to vary or discharge restrictive covenants)
- Bennett v North West Water [1996] RVR 30 (Lands Tribunal, assessment of compensation)
- Pierce v The Coal Authority [2000] EWLands LCA 2 (Lands Tribunal, assessment of compensation)
- Gibbons v Pickard [2002] EWCA Civ 1780 (Court of Appeal, boundary dispute)
- Saxon v Moore [2005] EWHC 27 (Ch) (Chancery Division, boundary dispute)
- Taylor v Crotty [2006] EWCA Civ 1364 (Court of Appeal, option to purchase)
- Ferraro (R on the application of) v Albert Dock Management Ltd [2006] EWCA Civ 1489 (Court of Appeal, landlord and tenant, civil restraint orders)

Mediation

Memberships

Full Member of the Society of Trusts and Estate Practitioners
Property Bar Association
Northern Chancery Bar Association
Northern Circuit
North Eastern Circuit

Appointments

Recorder (Civil 2002) (Chancery 2006) (Private Family 2011)

Junior Counsel to the Crown Provincial Panel (2000-2013)

Publications

Atkin's Court Forms, Vol 28 Mortgages (2020) (Lexis Nexis)

Mortgage Possession Actions (Sweet & Maxwell)

Editor of www.legalmortgage.co.uk

Contributing editor of www.propertylawuk.net

Qualifications

LLB (Hons) 1986

Call: 1987 (Inner Temple)

Recommendations

Legal 500 2022

"Nigel is extremely clear in advice on paper, in person and in advocacy. Nigel is our first choice for all mortgage enforcement matters. Nigel also provides added value by way of helpful legal updates."

Chambers UK 2021

"He has been excellent in both service and delivery. His preparation and performance in the courtroom absolutely made a difference to the outcome." "An expert in the complicated law of mortgages."

Legal 500 2021

"A first-rate mind that has the ear of clients and the court."

Chambers UK 2020

"He is very practical, really efficient and has good knowledge. He is also very easy to deal with and good with clients." "He is thorough, detailed and very good on his feet in court."

Chambers UK 2019

"An excellent advocate who cuts through issues with clear and concise argument."

Legal 500 2019

"He has the ear of the court."

Chambers UK 2018

"Very sensible and able to cut through the issues. If I had a personal dispute for property he would be the guy I would go to every time." "Easy to deal with and thoroughly prepared." "Really able and approachable. He gets to grips with things quickly and gets results."

Legal 500 2018

"He has solid advocacy skills."

Chambers UK 2017

"He provides excellent written advice. Clients comment on his professional and approachable manner." "Very thorough and good with detail."

Legal 500 2017

"A mortgage law specialist."

Legal 500 2014

"Of the highest calibre in real property and mortgage law."

