



Nick Kaplan

Year of Call: 2013

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Commercial

Nick's commercial practice focuses on complex contractual disputes and payment claims, the supply of goods and services, product liability and professional negligence. A significant proportion of the matters in which he acts raise questions of conflicts between international jurisdictions.

Nick regularly acts for clients at both interlocutory and final hearings and his experience at a law firm prior to joining chambers ensures that he has a strong client- focused approach, with a ready grasp of the wider strategic objectives that can drive commercial disputes. In each of his practice areas he represents parties in arbitration, the High Court, and the County Court.

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Recent cases

- **Microlise Limited v (1) James Kemball Limited (2) Uniserve Holdings Limited** High Court (KBD) dispute between a Transport Logistics group of companies and the supplier of transport telemetry devices fitted into cabs of lorries raising several issues as to (i) contract formation; (ii) incorporation of terms; (iii) allegations of breach and misrepresentation; (iv) causation and quantification of loss. The Case also raised issues of what is necessary in terms of a clause to exclude the statutory implied terms of "fit for purpose" and "satisfactory quality" from the transactions. Nick was led by David Parratt KC. Awaiting Judgment
- High Court (KBD) dispute involving the purchase of 1930s Italian Racing car at auction for the then record price for a car of its kind of c.£1,200,000. The case raised several issues including (i) precontractual representations and contractual warranties; (ii) provenance; and (iii) value. Settled on favourable grounds. Nick was led by David Parratt KC.
- LMAA Arbitration proceedings in 3 inter-related disputes concerning the supply of security systems and devices on four Yachts. Nick was Instructed by the Claimants in a Claim for c.£1,000,000 in outstanding fees owing under the contract. The case raised several issues including various setoffs allegedly due under other contracts. Nick was engaged at pleading stage, and after raising various 'requests for further information' arising from the Defendant's pleadings Settled on favourable grounds.
Acting for the Claimant in a claim against multinational logistics company for alleged overpayments made under a Contract for services where charges had been applied on the wrong basis. The case raised several issues as to the meaning and effect of various clauses, in particular the pricing mechanism and various limitation and exclusion clauses. Settled at mediation.
- Instructed on behalf of the Defendant in a dispute between a well-known supplier of coaches (and associated financing as well as repair and maintenance services) on hire purchase terms (the Claimant) and its customer (the Defendant), following termination of the hire-purchase agreement. Both parties alleged that the other was in repudiatory breach. There are substantial disputes as to (among other things) the meaning and effect of various contractual documents and provisions, including what (if any) terms are implied and what entitlement (if any) the Defendant had to make time of the

essence under the contract.

- Nick successfully resisted an application to set aside a statutory demand arising out of a c.£10,000,000 commercial fraud claim.
- **Medsted Associates Ltd v Canaccord Genuity Wealth (International) Ltd [2017] EWHC 1815** High Court (Comm) dispute between a Broker and Investors relating to fiduciary duties owed. Nick acted in a junior capacity on behalf of the Defendant, which successfully avoided an award of substantial damages against it.

Recommendations

"A most impressive Counsel. I was particularly taken by his grasp of the issues involved and the manner in which our case was conducted." - Client

"Nick remained poised and collected throughout, and was able to stay on track despite the interventions of both the defendant and the Judge. I really appreciated the forethought he had put in to the presentation of the argument. Win or lose he could not have given more." - Client

"Nick was a tremendous help to us with drafting our business terms and conditions. He explained potential issues in a clear and concise manner and helped us come up with effective solutions. All in all, Nick was a great resource for us." - Client

Academic qualifications

- The University of Oxford - Politics, Philosophy and Economics - First Class
- Graduate Diploma in Law - City Law School - Distinction
- BPTC - BPP - Very Competent

Scholarships

- Astbury Scholarship - Middle Temple
- Michell Scholarship - Queen's College Oxford

Professional bodies

Oil and Gas Arbitration Club

Direct Access

Nick Kaplan is qualified to accept instructions directly from members of the public and professional clients under the Direct Public Access scheme.