

Neil Fawcett

Year of Call: 2006

Email Address: neil.fawcett@3pb.co.uk

Telephone: 0121 289 4333



Overview

Neil Fawcett practices primarily in the fields of Property, Banking and Financial Services and General Commercial Litigation. He is experienced in representing companies and individuals most often in the High Court and county courts, having appeared and advised in multi-day trials in the High Court and in complex multi-million pound property and commercial litigation and has wide experience of appellate advice and advocacy.

Neil has an excellent grasp of the complexities of property and mortgage/guarantee law in particular, as well as substantial knowledge of civil procedure and is known for thorough preparation, hard work and robust advocacy in the cases he is involved with.

He has written for LexisNexis, publishes legal articles at commercial-bar.co.uk and gives seminars/lectures regularly.

Academic qualifications

- BSc (Hons) in Chemistry, University of Birmingham
- Graduate Diploma in Law, University of Birmingham
- Bar Vocational Course, Inns of Court School of Law, London

Professional qualifications & appointments

- Deputy District Judge, 2015
- Called to the Bar, Lincoln's Inn, 2006

Expertise

Property and Estates

Neil acts for individuals, private companies and public bodies in relation to commercial property disputes, including multi-day High Court and County Court trials and experience of trials in the property tribunal.

He handles litigation relating to securities over real property, in particular, the law relating to mortgages and charges over registered land especially in connection with banking and finance work.

Reported case:

- G & A Properties (UK) Ltd v Rolland [2015] EWHC 939 (Ch) (23 January 2015)

Practice areas:

- Mortgages and Charges over Land (including charging orders and tracing sale proceeds).
- Possession claims.
- Landlord and Tenant (including business tenancies).
- Land Registration (including litigation relating to notices, restrictions and priorities).
- Contracts for sale of land.
- Adverse Possession.
- Easements and Restrictive Covenants.
- Trusts of Land (including claims for beneficial interests, actions by beneficiaries to remove/replace trustees).
- Insolvency issues in the real property context.
- Commercial developments and building disputes.
- Agricultural holdings.
- Leasehold enfranchisement.
- Fraudulent property schemes and "sale-and-rent-back" litigation.
- Advice in multi-million pound overage litigation for property developers.
- Defending claims against pub landlords under leases with breweries.
- Construction contracts (e.g. advice for developers of residential blocks in Birmingham City Centre regarding flood damage).

Commercial

Neil advises and represents clients on a wide range of commercial matters, including:

- All types of commercial/business contracts, especially where contentious issues have arisen to do with construction of terms, formation, breach and termination, the adequacy of consideration, the law of compromise, penalty and exclusion clauses, misrepresentation, mistake, fraud, forgery, estoppel arguments, assignment and the imposition of trusts and fiduciary duties.
- Contracts for the sale of goods between businesses or to consumers, ranging from software packages, materials, vehicles and theatre costumes to plant and heavy industrial machinery.
- Contracts for services, including software-development, advertising, internet services and professional services.
- Construction contracts.

- Business-sale agreements.
- General credit and security matters including commercial asset-finance agreements, consumer-credit agreements, hire-purchase agreements, conditional-sale and credit-sale agreements involving complicated litigation over the construction of such agreements and claims for delivery-up, following and tracing.
- Bills of exchange and banking contracts, dealing especially with the relationship between banker and customer, the duties of bankers, bank-mandates and breach-of-mandate claims, overdrafts, interest and charges, the payment of cheques, direct-debits and principles governing countermand, joint accounts and the effect of partnerships and their dissolution on contracts of banking.
- Enforcing or challenging contracts of suretyship (guarantee and indemnity clauses), dealing with defences thereto, discharge of sureties and construction of clauses as either guarantees, indemnities or letters of comfort.
- Agency of all types, but particularly in relation to banking and financial services, the parties Debtor-creditor-supplier Consumer Credit Act agreements and professional agency.
- Partnership litigation, including claims for an account and enquiry.
- Freezing Injunctions in the Mercantile Court to secure compliance with contractual obligations.

Business financing

Neil has acted on a wide range of litigation for banks/financial institutions as well as for companies and sometimes individuals defending banking and possession claims against them.

His experience covers all aspects of banking litigation in addition to drafting pleadings and attending directions hearings, application hearings, including for summary judgment and strike-out and attending trials and appeals, often where there are complex or highly technical issues of law to be resolved on the multi-track in the High Court or County Court.

Practice areas:

- Mortgages and Charges over Land.
- Possession claims.
- Claims based on undue influence, duress and fraud (especially involving problems with possession orders arising under *Albany Homes v Massey*).
- Land Registration (including detailed advice regarding notices, restrictions and priorities).
- Consumer Credit Act claims.
- Mis-selling claims and other breaches of MCOBS by mortgage lenders.
- Claims under indemnity and guarantee agreements.
- Breach of mandate claims.
- Defending negligence claims against banks.
- Recovery of overdrafts and loans.
- Professional negligence actions against conveyancing solicitors in mortgage cases.
- Hire-purchase, leasing and conditional-sale agreements.

Publications

Neil Fawcett analyses the Commercial Court's recent decision in *New Balance Athletics, Inc v Liverpool Football Club and Athletic Grounds Ltd* [2019] EWHC 2837 (Comm), as part of LexisPSL's Case Analysis Expert Panels. The case analyses the interpretation of an implied term of good faith, as well principles of construction in relation to contracts of good faith. Neil is a Commercial Law barrister specialising in Commercial Contracts and Business Financing.

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