



Neil Fawcett

Year of Call: 2006

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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.

This article was first published by Lexis@PSL on 29 October 2019.

[View Publication](#)

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