



Nicholas Sloboda KC

Barrister

Call 2007 Silk 2024



Scope of Practice

• Agency • Arbitration • Banking and Financial Services • Breach of Warranty • Civil Fraud • Commercial Litigation • Company • Economic Torts • Energy, Oil & Gas and Utilities • Equity • Group Litigation • Guarantees • Injunctions (including freezing orders and search orders, and orders for disclosure of information) • Jurisdiction and Conflict of Laws • Professional Liability • Restraint of Trade • Sale of Goods and Supply of Goods and Services • Shareholder Disputes • Sports and Entertainment • Media, Entertainment and Broadcasting

Overview

Nick is described in the 2024 edition of Chambers & Partners as “*one of the leaders of his generation at the Commercial Bar*”. He acts in some of the largest-scale international disputes, frequently within the energy or financial sectors, and often involving allegations of fraud or other wrongdoing.

Nick is ranked in Chambers & Partners and Legal 500 in the fields of Commercial Litigation, International Arbitration, Energy & Natural Resources, Civil Fraud and Group Litigation. He was, as a junior, featured by Legalweek as one of the ‘Stars of the Bar’ and shortlisted for both Group Litigation and Energy Junior of the Year at the Legal 500 Bar Awards.

Nick’s current and recent work includes:

- *Mariana v BHP*: acting for BHP Group in the US\$ multi-billion group litigation arising from the Fundão dam collapse in Brazil;
 - *The VW Emissions group litigation*: acting for VW group companies in the ‘diesel-gate’ group litigation;
 - *SIAC arbitration (Singapore seat)*: acting for energy major in a US\$ multi-billion SPA fraud/warranty dispute in the oil&gas sector;
 - *ICC arbitration (London seat)*: acting for the investors on a US\$ multi-billion Tariff dispute with a State / national
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electricity company arising out of the construction of a power station;

- *HMRC v IGE*: acting for General Electric group companies in a large-scale fraud claim by HMRC relating to a US\$ multibillion tax settlement;
 - *Gas Price Review*: acting for energy major in a price review under a long term supply contract.
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Examples of Recent Cases

Arbitration

"An excellent junior, very thorough and well-prepared. Produces high quality written analysis and advocacy" (**Legal 500 2022, International Arbitration: Counsel**)

- **ICC arbitration (London seat)**: acting (with Daniel Toledano KC) for the investors on a US\$ multi-billion Tariff dispute with a State / national electricity company arising out of the construction of a power station.
- **SIAC proceedings (Singapore seat)**: Acting (with Laurence Rabinowitz QC) in a US\$5.5bn dispute between multinational energy groups concerning allegations of deceit/breach of warranty under an SPA, and in related proceedings before the Singapore International Commercial Court.
- **ICC proceedings (Geneva seat)**: Acting (with John McCaughran QC) in a US\$6bn dollar claim between a national electricity company and national gas companies heard at the ICC in Paris. Successfully obtained an approx US\$1.7 billion award.
- **LCIA proceedings (London seat)**: Acting (with Stephen Houseman QC) for a note trustee seeking to enforce c. US\$375m loan notes.
- **Expert Determination**: Acting (with Sa'ad Hossain KC) for an energy major in expert determination proceedings concerning whether certain oil duties in budgets constitute taxes imposed for environmental purposes.
- **Arbitration related applications in Court**: Acting in numerous challenges before arbitral institutions, tribunals, in the Commercial Court (under ss.24, 44, 67, 68 and 69 of the Arbitration Act) and in foreign jurisdictions (including Geneva Courts and the Singapore International Commercial Court). Reported Commercial Court cases include:
 - **Madison Pacific v Shakoor & Privatbank** [2020] EWHC 610 (Ch)
 - **C v D** [2016] EWHC 1893 (Comm);
 - **A & ors v B & X** [2011] 2 Lloyd's Rep. 591;
 - **SABMiller Africa & Tanzania Breweries Ltd v East African Breweries Ltd** ([2010] 1 Lloyd's Rep. 392) and Court of Appeal: ([2010] 2 Lloyd's Rep. 422)

Commercial Litigation

"Nick is lovely to deal with and a real team leader. He wraps a ferocious intelligence in a genial and down to earth manner which is very well liked by clients."

- **Mariana & ors v BHP [2022] 1 WLR 4691; [2022] 1 WLR 919; [2020] EWHC 2930 (TCC).** Acting (with Charles Gibson KC, Daniel Toledano KC and Shaheed Fatima KC) for BHP group in multi-billion \$ claim in respect of the Fundão dam collapse in Brazil. Extensive hearings at first instance and before the Court of Appeal on jurisdiction and abuse. 11 week trial set for October 2024.
- **The VW Emissions group litigation [2023] 1 All E.R. (Comm) 107:** Acting (with Charles Gibson KC and Prashant Popat KC) for the VW group in the ‘diesel-gate’ emissions claim.
- **Vald Nielsen & ors v Baldorino & ors (Comm) [2019] EWHC 1926 (Comm) [2017] EWHC 1033 (Comm).** Acting (with Alain Choo Choy QC) for the defendant management buy-out team, in a six week Comm ct trial of deceit/breach of warranty under an SPA.
- **Abbott & ors v RCI Europe [2016] EWHC 2602 (Ch).** Acting (with Charles Graham QC) for the successful Defendant timeshare exchange company, defending a group action brought by approx. 500 consumers, who alleged breach of contract, misrepresentation and breach of fiduciary duty.
- **Dar Al Arkan & ors v (1) Al Refai, (2) Kroll & ors (Comm).** Acting (with Craig Orr QC) for Kroll, defending approx US\$800m claims brought in the Commercial Court raising allegations of breaches of banking practice and regulations in the Middle East, conspiracy, breach of confidence and defamation. Listed as one of The Lawyer’s Top 20 Cases for 2014 and 2015, the dispute settled half way through a 12 week trial following considerable interim proceedings, including:
 - A week long hearing in 2012 at which Kroll successfully discharged injunctions against it for material non-disclosure by the Claimants [2012] EWHC 3539 (Comm); Committal proceedings brought by Kroll against a senior officer of the Claimants for contempt. The officer has unsuccessfully challenged jurisdiction before the Commercial Court [2013] EWHC 4112 and Court of Appeal [2014] EWCA Civ 715, and timing/recusal issues have also been raised [2014] EWHC 1055.
 - A week long committal hearing took place in September 2014.
 - Kroll successfully resisted an appeal against a split trial order [2014] EWCA Civ 749
- **SABMiller Africa & Tanzania Breweries Ltd v East African Breweries Ltd [2009] EWHC 2140 (Comm) [2010] EWCA Civ 1564** Nick acted over a number of years (with Alain Choo Choy QC) for SABMiller PLC subsidiaries in large and complex litigation arising out of beer supply agreements in a number of countries in East Africa. The litigation involved complex facts spanning multiple East African countries, corporate restraint of trade provisions, competition law (including the application of foreign competition law), interpretation of contract, good faith provisions etc.
- **Confidential ENE [2011].** Acting (with Alain Choo Choy QC) for a Russian group of companies against another Russian group of companies in a confidential early neutral evaluation of disputes arising out of the sale of a well-known energy company.

Energy and Natural Resources

"He is exceptionally good and a silk in waiting. He is extremely decisive and clear in his advice." (Chambers & Partners 2023, Energy)

- **ICC proceedings (London seat):** Acting (with Daniel Toledano QC) in a multibillion dollar claim between a

multinational power generation company and a State.

- **Gas Price Review:** Acting (with Sa'ad Hossain QC) for BP in a gas price dispute under a long term gas supply contract between energy majors.
- **SIAC Proceedings (Singapore seat):** Acting (with Laurence Rabinowitz QC) in a multibillion US\$ dispute between multinational energy groups concerning allegations of deceit, indemnity claims and breach of warranty under an SPA. Particular factual issues included reserve booking rules, production estimates, asset integrity/maintenance and decommissioning obligations. 35 day liability trial in 2018.
- **ICC proceedings (Geneva seat):** Acting (with John McCaughran QC) in a multibillion dollar international dispute heard in the ICC in Paris in 2014, between a national electricity supplier and national oil&gas companies. One of the largest international energy arbitrations, which included factual issues concerning pipeline facilities/security, interpretation of contract, complex quantification of loss questions in long-term gas supply contracts etc. Successfully obtained an approx US\$1.7 billion award in December 2015.
- **Mariana & ors v BHP Billiton plc (the Fundão dam litigation) [2022] 1 WLR 4691; [2022] 1 WLR 919; [2020] EWHC 2930 (TCC).** Acting for BHP in respect of the Fundão dam (an iron ore tailings dam) collapse in Brazil.
- **Expert Determination:** Acting (with Sa'ad Hossain) for an energy major in expert determination proceedings concerning whether certain oil duties in budgets constitute taxes imposed for environmental purposes.

Civil Fraud

"Nicholas is ferociously intelligent.", "He has lots of experience of enormous scale litigation." (Chambers & Partners 2023, Civil Fraud)

- **HMRC v GE [2021] Ch 423:** Defending (with Laurence Rabinowitz KC) the GE group against fraud claims by HMRC in respect of a multi-billion dollar tax settlement. Appearing in 3 day appeal concerning the limitation period / operation of equitable rescission in deceit.
- **Vald Nielsen & ors v Baldorino & ors (Comm) [2019] EWHC 1926 (Comm) [2017] EWHC 1033 (Comm).** Acting (with Alain Choo Choy QC) for the defendant management buy-out team, in a six week Comm ct trial of deceit/breach of warranty under an SPA.
- **VW emissions litigation [2023] 1 All E.R. (Comm) 107:** acted for VW defending claims for deceit in the large GLO. Appeared (with Charles Gibson KC) for VW to strike out deceit claims on the basis of an 'awareness' requirement:
- **FTSE 100 investigation: Acting** (with Rhodri Davies QC) as independent counsel to an investigation at a FTSE 100 plc.
- **Bilta v Deutsche Bank [2017] EWHC 135 (Ch):** Acting (with Daniel Toledano QC) for Deutsche Bank in proceedings related to alleged VAT fraud in the carbon emissions trading market.
- **Alliance Bank v Aquanta & ors [2012] 1 Lloyd's Rep. 181, [2013] 1 All E.R. (Comm) 819** Acting (variously with Kenneth Maclean QC and Daniel Toledano QC) for Alliance, one of Kazakhstan's largest banks, in a very large (US\$1bn+) fraud claim against its former controlling shareholders and their related entities. Three week jurisdiction hearing in the Commercial Court in 2011 ([2012] 1 Lloyd's Rep. 181) and one week appeal on jurisdiction in 2012 [2013] 1 All E.R. (Comm) 819.

Banking and Financial Services

- **Madison Pacific v Shakoor** [2020] EWHC 610 (Ch): Acting (with Sonia Tolaney QC) for a note trustee seeking to enforce c. US\$375m loan notes; and in related arbitral proceedings (with Stephen Houseman KC).
- **National Bank of Abu Dhabi v BP Trading** [2018] EWCA Civ 14, [2016] EWHC 2892 (Comm). Acting (with Rhodri Davies QC) at first instance and on appeal for the Claimant bank in respect of the purchase of a receivable.
- **Bilta v Deutsche Bank (Ch)** [2017] EWHC 135 (Ch): Acting (with Daniel Toledano QC) for Deutsche Bank in proceedings related to alleged VAT fraud in the carbon emission trading market.
- **Dar Al Arkan & ors v (1) Al Refai, (2) Kroll & ors**. See commercial litigation. The case primarily concerned alleged banking/bond issuance malpractice in a number of Middle Eastern jurisdictions.
- **LCIA proceedings**: Appearing (with Daniel Toledano QC) in a successful US\$600m claim brought by a bank against a brokerage.

Group Actions

“He is an incredibly impressive and bright barrister.”, “Nick is clever, practical and always prepared to roll up his sleeves in a case.” (Chambers & Partners 2023, Group Litigation)

- **Mariana & ors v BHP Billiton plc (the Fundão dam litigation)** [2022] 1 WLR 4691; [2022] 1 WLR 919; [2020] EWHC 2930 (TCC): acting for BHP in the largest ever group claim in England (c.700k individual Claimants have issued proceedings), in respect of the Fundão dam collapse in Brazil.
- **The VW Emissions group litigation**: acting for the VW group in the ‘diesel-gate’ GLO (c.100k Claimants).
- **Uber**: acting for Uber in the ‘employee rights’ claims brought by drivers
- **The Amerisur Putumayo Group Litigation** [2023] EWHC 122 (KB): acting for Amerisur Resources in respect of a claim brought by Colombian individuals in respect of environmental damage caused by an oil spill
- **The RCI Timeshare litigation**: acting for RCI, the global timeshare exchange group, in a GLO claim brought by c. 500 individuals. Judgment for RCI following trial: **Abbott & ors v RCI Europe** [2016] EWHC 2602 (Ch)

Injunctions/Jurisdiction Challenges

- Regular appearances in the Commercial Court, Chancery Division and before Arbitral Tribunals (for applicants and respondents) on urgent interim injunctions, freezing orders, Bankers Trust orders, disclosure orders and jurisdiction challenges. Disputes Nick appeared in include:
- **Mariana & ors v BHP** [2022] 1 WLR 4691; [2022] 1 WLR 919; [2020] EWHC 2930 (TCC). Acting (with Charles Gibson KC, Daniel Toledano KC and Shaheed Fatima KC) for BHP group in multi-billion \$ claim in respect of the Fundão dam collapse in Brazil. Extensive hearings at first instance and before the Court of Appeal on jurisdiction
- **Dar Al Arkan v (1) Al Refai, (2) Kroll & ors** [2014] EWCA Civ 715 – order for delivery up, restraint on use of confidential information, worldwide freezing injunctions, jurisdiction challenge. Order set aside and not re-granted for material non-disclosure. Jurisdiction over committal proceedings.

- **Alliance v Aquanta & ors** [2012] 1 Lloyd's Rep. 181, [2013] 1 All E.R. (Comm) 819 – worldwide freezing injunction, jurisdiction challenge
 - **SABMiller Africa & Tanzania Breweries Ltd v East African Breweries Ltd** [2009] EWHC 2140 (Comm) [2010] EWCA Civ 1564 – s.44 Arbitration Act injunction
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What the Directories Say

"Approachable, practical and a real calming influence." (Chambers & Partners 2024, Commercial Dispute Resolution)

"Nicholas has a really good grip on the commercial drivers of a case and knows how to present his submissions to the court in a compelling way." (Chambers & Partners 2024, Commercial Dispute Resolution)

"Nicholas Sloboda is very good on tactics and group litigation. He's very sharp, hard-working and concise in his advice." (Chambers & Partners 2024, Energy & Natural Resources)

"Nicholas is phenomenally smart and he wears it very lightly. He has really good judgement and motivates the team." (Chambers & Partners 2024, Civil Fraud)

"He's very intelligent and extremely persuasive in his written advocacy." (Chambers & Partners 2024, Civil Fraud)

"Nicholas has a really good grip on the commercial drivers of a case and how to present it to the court in a compelling way. He really gets the client's angle." (Chambers & Partners 2024, Group Litigation)

"He is phenomenally smart but wears it lightly." (Chambers & Partners 2024, Group Litigation)

"Nicholas has excellent technical legal knowledge of group litigation claims and a great strategic approach." (Chambers & Partners 2024, Group Litigation)

"It is always a pleasure to work with Nick. He is clearly one of the leaders of his generation at the Commercial Bar." (Chambers & Partners 2024, International Arbitration)

"He is really solid and good on the detail." (Chambers & Partners 2024, International Arbitration)

'Inspires confidence with his attention to detail and retention of the facts and progress of the case. He is very responsive, engaging, and practically minded.' (Legal 500 2024, Commercial Litigation)

'An extremely clever junior, who is good on his feet, very practical, and astute without being too pushy.' (Legal 500 2024, Energy)

'An excellent senior junior, and no doubt future commercial silk. He is extremely analytical but combines that with a real command of the bigger, wider picture.' (Legal 500 2024, Civil Fraud)

'Nick is very in demand: a robust and assured advocate. His mastery of detail is most impressive and he takes on advocacy roles even in teams where he is led.' (Legal 500 2024, International Arbitration)

"Nick is lovely to deal with and a real team leader. He wraps a ferocious intelligence in a genial and down to earth manner which is very well liked by clients." (Legal 500 2023, Commercial Litigation)

“Exceptionally good and a silk in waiting He is extremely decisive and clear in his advice” (Chambers & Partners 2023, Energy & Natural Resources)

“An excellent junior, very thorough and well-prepared. Produces high quality written analysis and advocacy” (Legal 500 2022, International Arbitration)

“Nick is clever, practical and always prepared to roll up his sleeves in a case. He is an incredibly impressive and bright barrister” (Legal 500 2023, Group Litigation)

“Nick is one of the best senior juniors at the commercial Bar. He combines serious legal talent and penetrating analysis and razor-sharp written advocacy. He is instructed on many of the biggest cases – in fraud and other areas – and is clearly enormously in demand.” (Legal 500 2023, Civil Fraud)

“Clever, hardworking and ever so sensible and practical, he is a real star and a joy to work with” (Legal 500 2021, Energy)

“One of the cleverest juniors around and a man who wears his intelligence lightly. He is a real team player, who is prepared to debate arguments and really get involved. In court he structures his arguments very well.” (Chambers & Partners 2022, Commercial Dispute Resolution)

“He’s very smart, listens very well and has a strong instinctive feel about points in evidence. He’s a pleasure to work with.” (Chambers & Partners 2022, Civil Fraud)

Academic Achievements

Lord Denning Scholarship, Lincoln’s Inn

Wolfson Scholarship, Lincoln’s Inn

Hardwicke Entrance Award, Lincoln’s Inn

Winner, Maitland Advocacy Prize

Education

[2002 - 2005] Oxford University: BA (Hons) Modern History (First Class)

[2005 – 2007] City University, CPE and BVC.

Awards



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