



Niamh Cleary

Call 2012

"A superstar – she is a first class operator, super bright, super responsive, clients love her, good strategic thinker, great on her feet and on paper – she has a very bright future at the Bar. A silk in the making."

The Legal 500

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Niamh Cleary has a broad and varied commercial practice, with a particular emphasis on aviation, insurance and reinsurance, and professional negligence. Her practice also encompasses banking and finance, public procurement, and regulatory/consumer law.

Niamh has extensive experience of heavy litigation and complex disputes, both domestic and international, as well as of large scale multi-partly claims. She is regularly instructed in the High Court both as sole advocate and as part of a wider team. She has also acted in arbitration claims under a range of procedural rules.

She is ranked in *The Legal 500* for professional negligence as a "Leading Junior" and as a "Rising Star" in aviation.

Recent Highlights

On the Beach Limited v Ryanair UK Limited and Ryanair

Instructed on behalf of Ryanair in a claim for alleged breach of dominant position.

Pollack v Google

Instructed by the class representative in collective proceedings on behalf of UK publishers who have suffered loss as a result of Google's abuse of its dominant position in the adtech sector.

Instructed by various reinsurers in respect of claims under hull war risks policies, arising out of the Russian invasion of Ukraine.

Inquest into the death of Emiliano Sala

Acting for aircraft manufacturer Piper Aircraft Inc in the inquest into the death of Emiliano Sala, an international footballer who was killed when the aircraft he was travelling crashed into the English Channel in January 2019.

A v B

Acting (with Leigh-Ann Mulcahy KC and Ben Lynch KC) in an LCIA arbitration relating to a political risk insurance dispute arising from the July 2021 riots in South Africa.

Expertise

Aviation & Travel

Niamh has a broad and varied aviation practice, encompassing commercial, regulatory, and aviation finance disputes. She regularly advises commercial airlines in connection with commercial and regulatory disputes. As to aviation finance and insurance, Niamh has acted in a number of enforcement claims concerning both bank finance and aviation leasing. She also advises on aviation insurance matters.

Niamh's practice also encompasses technical aviation disputes, including products liability. She was instructed by Piper Aircraft Inc in respect claims arising out of the death of international footballer Emiliano Sala in January 2019.

She is ranked as a "Rising Star" by The Legal 500.

Notable Aviation & Travel cases

On the Beach Limited v Ryanair UK Limited and Ryanair

Instructed on behalf of Ryanair in a claim for alleged breach of dominant position.

On the Beach Limited & Ors v Ryanair UK Limited and Ryanair DAC

Instructed on behalf of Ryanair in a claim brought by several online travel agents under the Package Travel and Linked Travel Arrangements Regulations 2018.

Travel Republic Limited v Ryanair DAC and Ryanair UK Limited

Instructed on behalf of Ryanair in a claim under the Package Travel and Linked Travel Arrangements Regulations 2018.

Inquest into the death of Emiliano Sala

Acting for aircraft manufacturer Piper Aircraft Inc in the inquest into the death of Emiliano Sala, an international footballer who was killed when the aircraft he was travelling crashed into the English Channel in January 2019.

Appeared, on behalf of The RAFA Air Show Limited, in the Shoreham air crash inquest.

Successfully defended (as sole counsel) an airline under investigation by the Competition and Markets Authority.

Credit Suisse A.G. v Global Business Assets Investments Incorporated and Another

Instructed (with Akhil Shah KC) in a claim brought by Credit Suisse following repossession and sale of an aircraft.

Advised (with Akhil Shah KC) a bank seeking to vary a freezing order so as to permit the taking into possession and sale of the aircraft.

Instructed as sole counsel to advise in respect of a debt claim under an aircraft leasing arrangement.

Niamh has also advised airlines on a number of discrete regulatory issues, including: code-sharing and route access entitlements following Brexit, Regulation 2015/1998, immigration and border control, and various aspects of consumer law.

Banking & Finance

Niamh has extensive experience of claims involving the mis-selling of financial products and has appeared for a number of banks in a large variety of such claims.

Notable Banking & Finance cases

CNM Estates (Tolworth Tower) Ltd v Vecref I Sarl [2020] EWHC 1605 (Comm)

Led by Mark Simpson KC in a dispute regarding the proper construction of certain terms of the LMA syndicated loan documentation.

Successfully represented the liquidators of a major financial institution in the adjudication of several confidential claims following the insolvency of the institution.

Jackson v Feeney

Acting (led by Paul Sinclair KC) for a commercial party seeking to recover monies from an e-money provider at the centre of a multi-party fraud claim: [2018] EWHC 1490 (Ch).

HMG Investment Holdings Limited v Royal Bank of Scotland [2018] EWHC 3492 (Comm)

Successfully (led by Andrew Ayers KC) defended a bank in respect of the mis-sale of an interest rate hedging product.

Commercial Disputes

Notable Commercial Disputes cases

Cooper v dnata Catering Services Limited [2022] EWHC 2216 (Comm)

Successfully defended, as sole counsel, an airline catering company from a claim arising from an alleged breach of a shareholders' agreement.

Instructed (with Stephen Moriarty KC) to advise on a breach of warranty dispute.

Instructed as sole counsel to advise on a breach of warranty dispute arising out of an asset purchase agreement.

Kazakhstan Kagazy Plc v Zhunus [2017] EWHC 3374 (Comm) and [2018] EWHC 369 (Comm)

Acting (with Michael Ashcroft KC and Alexander Milner KC) for the respondent in respect of enforcement proceedings brought against a non-party, following a US\$300 million judgment handed down against the principal defendants.

Instructed (with John Taylor KC) to advise on claims arising from breach of a property development joint venture.

Competition

Notable Competition cases

Pollack v Google

Collective proceedings on behalf of UK publishers who have suffered loss as a result of Google's alleged abuse of its dominant position in the adtech sector.

UK Trucks Claim Ltd v Daimler, DAF, Iveco, MAN, Volvo/Renault and Scania

Instructed by UKTC in its collective proceedings application for damages arising from the anti-competitive practices of a cartel of European truck manufacturers over a 14-year period. The case was listed in *The Lawyer's* 20 Top Cases of 2019.

On the Beach Limited v Ryanair UK Limited and Ryanair

Instructed on behalf of Ryanair in a claim for alleged abuse of dominant position.

Instructed, as sole counsel, to advise on competition law issues arising from a trade credit insurance scheme.

Insurance

Niamh has acted across a wide range of insurance disputes, with a particular emphasis on political risk insurance and aviation insurance. She has also provided advice on coverage claims.

Notable Insurance cases

Brazaline Ltd & Anor v Lloyd's Syndicate 510 KLN

Instructed in a war hull risks insurance claim following the Russian invasion of Ukraine.

Instructed in a war hull risks insurance claim following the Russian invasion of Ukraine.

White Oak Europe Acquisition Limited v Axis Managing Agency Limited

Acting (with Patricia Robertson KC) in a claim under a Warranty and Indemnity policy.

A v B

Acting (with Leigh-Ann Mulcahy KC and Ben Lynch KC) in an LCIA arbitration relating to a political risk insurance dispute arising from the July 2021 riots in South Africa.

A v B

Acting (with Charles Béar KC and Ben Lynch KC) in an LCIA arbitration relating to a political risk reinsurance dispute.

Instructed, as sole counsel, to advise on competition law issues arising from a trade credit insurance scheme.

Group Litigation

Notable Group Litigation cases

Pollack v Google

Instructed by the class representative in collective proceedings on behalf of UK publishers who have suffered loss as a result of Google's abuse of its dominant position in the adtech sector.

UK Trucks Claim Ltd v Daimler, DAF, Iveco, MAN, Volvo/Renault and Scania

Instructed by UKTC in its collective proceedings application for damages arising from the anti-competitive practices of a cartel of European truck manufacturers over a 14-year period. The case was listed in *The Lawyer's* 20 Top Cases of 2019.

Rowe & Ors v Ingenious Media Holdings Plc & Ors

Instructed by Coutts in the Ingenious Litigation to defend claims arising from advice given in respect of investments in the Ingenious film partnerships. Led by Richard Coleman KC and David Yates KC, instructed by TLT LLP. This case was listed in *The Lawyer's* Top 20 Cases of 2018.

International Arbitration

Niamh has acted in a number of arbitrations under various institutional rules including, LCIA, ICC and SIAC.

Notable International Arbitration cases

A v B

Instructed in an LCIA arbitration relating to a professional negligence claim (with Stephen Moriarty KC).

A v B

Instructed in an LCIA arbitration relating to a £500 million+ reinsurance dispute (with Charles Béar KC and Ben Lynch KC).

A v B

Acting in an ICC claim relating to the licensing of football broadcasting rights.

Media & Entertainment

Notable Media & Entertainment cases

Instructed as sole counsel to advise on commercial claims arising from an alleged failure to comply with the

Gambling Commission Regulations.

Acting in an ICC arbitration relating to the licensing of football broadcasting rights.

Procurement

Notable Procurement cases

R (Good Law Project) v The Secretary of Health for Social Care [2022] EWHC 2468 (TCC)

Successfully defended the Secretary of Health for Social Care in a procurement challenge brought under the Public Contracts and Utilities Regulations in respect of the award of antibody testing contracts during the Covid-19 pandemic.

Secretary of State for Transport v Arriva Rail East Midlands Ltd [2020] EWHC 1568 (TCC)

Successfully defended the Secretary of State for Transport in four separate procurement claims arising the disqualification of bidders from three separate franchise competitions for failing to comply with the pension requirements of the competitions.

Instructed to advise the Ministry of Defence in a procurement challenge brought under the Public Contracts and Utilities Regulations.

Instructed to advise the Secretary of Health for Social Care in a procurement challenge brought under the Public Contracts and Utilities Regulations.

Professional Negligence

Notable Professional Negligence cases

A v B

Instructed in an LCIA arbitration relating to a professional negligence claim (with Stephen Moriarty KC).

Rowe & Ors v Ingenious Media Holdings Plc & Ors

Instructed by Coutts in the Ingenious Litigation to defend claims arising from advice given in respect of investments in the Ingenious film partnerships. Led by Richard Coleman KC and David Yates KC, instructed by TLT LLP. This case was listed in *The Lawyer's* Top 20 Cases of 2018.

CNM Estates (Tolworth Tower) Limited v (1) Vecref I Sarl [2020] EWHC 1605 (Comm)

Acting for LPA receivers in a multiparty professional negligence claim. Led by Mark Simpson KC, instructed by Kennedys LLP.

Instant Access Property Limited v Rosser and Ors [2018] EWHC 756 (Ch)

Successfully defending a firm of accountants in a multiparty professional negligence and fraud claim. Led by Mark Simpson KC, instructed by DAC Beachcroft LLP.

Instructed as sole counsel to advise on a claim by a company against its solicitors for failing to prevent the fraudulent diversion of its assets.

Sports

Notable Sports cases

Cardiff City FC v Mackay & Ors

Represented the claimant football club in three separate sets of proceedings against its former head coach and others in relation to claims of conspiracy, misrepresentation, and unjust enrichment. Led by Jeff Chapman KC and Caspar Glyn KC, instructed by Mishcon de Reya.

Acting in an ICC arbitration relating to the licensing of football broadcasting rights.

Warren v Burns [2014] EWHC 3671

Defended the boxer Ricky Burns in respect claims and counterclaims arising from management and promotion agreements concluded between the parties. Led by Mark Simpson KC, instructed by Mishcon de Reya.

Directory Quotes

"Niamh is astonishingly bright and her analysis is always spot on. She is particularly adept at unravelling knotty areas of law. A junior who fights hard for her clients."

The Legal 500

"She is extremely clever and could not work harder for clients."

The Legal 500

"Niamh is an absolute ball of energy and is an extraordinarily talented barrister – a real star in the making."

"Niamh is an outstanding litigation junior - she works hard, wastes no time in getting to the crux of the issues, and is always a great pleasure to work with."

The Legal 500

"Niamh is approachable, bright and always willing to go the extra mile."

The Legal 500

Directory Rankings

The Legal 500

- Aviation
- Group Litigation
- Professional Negligence

Education

- BPTC, BPP Law School (Very Competent)
- PhD, Trinity College Dublin
- LLM, Sidney Sussex College, University of Cambridge (First Class)
- LLB, Trinity College Dublin (First Class)

International Bar / Court Appointments

- Called to the Bar of the Republic of Ireland

Appointments, Memberships and Prizes

- Lord Denning Scholarship, The Honourable Society of Lincoln's Inn (2011)
- Postgraduate Scholarship, Irish Research Council for the Humanities & Social Sciences (2009)
- Leonard Coling Scholarship, Sidney Sussex College, University of Cambridge (2008)
- Trinity College Postgraduate Research Studentship Award, Trinity College Dublin (2008)
- Scholar of Trinity College Dublin (2005)

Publications

- Appeals under section 69 of the Arbitration Act 1996 in Puschmann (ed) *Challenges in Arbitration* (2019, Butterworths)
- Contributor, "Underwriters Negligence" in Simpson (ed) *Professional Negligence and Liability*
- "Opening and Closing Submissions", in Sweet & Maxwell, *Law and Practice of Commercial Litigation in Singapore* (2015)
- Property, Proportionality and the Defence of Change of Position", in Mitchell, Elliott and Häcker (eds) *Restitution of Overpaid Tax* (2012)
- "More Questions than Answers: Test Claimants in the FII Group Litigation v Revenue and Customs Commissioners" (2013) 24 KLJ 130
- "Constitutional Principles and Restitution of Unlawfully Exacted Tax" in Carolan (ed), *The Constitution of Ireland: Perspectives and Prospects* (2012)
- "Restitution and Public Law" [2012] RLR 38

Languages

- French (conversational)
- Irish (conversational)

Awards

