



# Nicolas Damnjanovic

Call 2016

*"Nic is immensely hard working, an intellectual powerhouse, a good advocate, very well organised and thorough in his research and application of the law and savvy procedurally and tactically."*

*The Legal 500*

✉ [njd@fountaincourt.co.uk](mailto:njd@fountaincourt.co.uk) ☎ +44 (0)20 7583 3335

Nicolas Damnjanovic has a broad practice including commercial litigation, civil fraud, aviation law, public law and regulatory matters.

He has been instructed in significant cases in the Court of Appeal, including *Jet2.com v CAA*, which clarified the law on legal advice privilege, and *Monarch Airlines v Airport Co-ordination Limited* concerning the allocation of slots to an insolvent airline. He has also represented clients on several high-value commercial / civil fraud claims with international dimensions as well as acting as sole counsel in a range of commercial matters in the High Court and County Court.

Before coming to the bar, Nic was a lawyer in Western Australia, where he acted for government in numerous commercial and public law matters, as both junior and sole counsel in both appeals and at first instance. Prior to that, Nic obtained a PhD in philosophy and for several years was an academic in philosophy.

## Recent Highlights

**R (on the application of Jet2.com Ltd) v Civil Aviation Authority [2020] EWCA Civ 35; [2018] EWHC 3364 (Admin); [2019] EWHC 336 (Admin)**

Seeking judicial review of decisions taken by the CAA to publicly criticise Jet2, including applications for specific disclosure raising important issues of legal professional privilege, led by Charles Béar KC.

**PJSC Tatneft v Gennady Bogolyubov & Ors [2021] EWHC 411 (Comm)**

Acting for the claimant in a complex fraud claim against four Ukrainian oligarchs, in a team led by David Railton KC and Henry King KC. The claim concerned the misappropriation of some \$300 million relating to oil deliveries from Russia to the Ukraine and was determined at a 12-week, fully remote trial.

**Renova Industries Limited & Ors v Emerson International Corporation & Ors**

Acting in the BVI Commercial Court (led by Stephen Rubin KC) for several defendants in a \$1 billion+, long-running

fraud claim by Russian energy sector interests. One of the largest cases currently litigating in the BVI.

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Defending (led by Nicholas Medcroft KC) a multi-million-pound solicitor's negligence claim in relation to the conduct of proceedings under the Proceeds of Crime Act 2002.

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**R (on the application of Monarch Airlines Ltd (In Administration)) v Airport Coordination Ltd [2017] EWCA Civ 1892 & [2017] EWHC 2896 (Admin)**

Acting for the regulator at first instance and on appeal in judicial review proceedings concerning the allocation of take-off and landing slots to an insolvent airline, led by Michael Crane KC and Alexander Milner KC.

## Expertise

### Administrative & Public Law

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Notable Administrative & Public Law cases

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**R (on the application of Manchester Airports Holdings Ltd) v Secretary of State for Transport [2021] EWHC 2031 (Admin)**

Acting as sole counsel for Ryanair as interested party in judicial review proceedings challenging the lawfulness of decisions in relation to the "traffic light system" for international travel.

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**R (on the application of Jet2.com Ltd) v Civil Aviation Authority [2020] EWCA Civ 35; [2018] EWHC 3364 (Admin); [2019] EWHC 336 (Admin)**

Acting in proceedings seeking judicial review of decisions taken by the CAA to publicly criticise Jet2, led by Charles Béar KC.

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**R (on the application of Monarch Airlines Ltd (In Administration)) v Airport Coordination Ltd [2017] EWCA Civ 1892 and [2017] EWHC 2896 (Admin)**

Acting for the regulator at first instance and on appeal in judicial review proceedings concerning the allocation of take-off and landing slots to an insolvent airline, led by Michael Crane KC and Alexander Milner KC.

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### Thomas Cook Plc in Liquidation

Acting (led by Akhil Shah KC) for the liquidator following the insolvency of Thomas Cook in expedited judicial review proceedings threatened by an airport.

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## R (on the application of Institute of Chartered Accountants in England & Wales) v Lord Chancellor [2019] EWHC 461 (Admin)

Representing the Legal Services Board as interested party.

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Acting (led by Monica Carss-Frisk KC and Robin Barclay KC), in judicial review proceedings challenging decisions taken by the Secretary of State in relation to international requests for mutual legal assistance and search warrants obtained by the NCA.

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## Aviation & Travel

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### Notable Aviation & Travel cases

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## R (on the application of Jet2.com Ltd) v Civil Aviation Authority [2020] EWCA Civ 35; [2018] EWHC 3364 (Admin); [2019] EWHC 336 (Admin)

Seeking judicial review of decisions taken by the CAA to publicly criticise Jet2, including applications for specific disclosure raising important issues of legal professional privilege, led by Charles Béar KC.

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## Travel Republic Limited v Ryanair UK Limited and Ryanair DAC

Instructed on behalf of Ryanair in two claims brought by online travel agents under the Package Travel and Linked Travel Arrangements Regulations 2018 and in unjust enrichment.

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## R (on the application of Manchester Airports Holdings Ltd) v Secretary of State for Transport [2021] EWHC 2031 (Admin)

Acting as sole counsel for Ryanair as interested party in judicial review proceedings challenging the lawfulness of decisions in relation to the “traffic light system” for international travel.

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## Lipton v BA City Flyer [2021] 1 WLR 2545; [2021] EWCA Civ 454

Led by Akhil Shah KC in the Court of Appeal, having successfully defended a first appeal as sole counsel. The claim is for compensation for flight cancellation / delay under Regulation 261/2004 and the Court of Appeal judgment is the leading case on the interpretation and application of retained EU law.

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## Odyssey Aviation Ltd v GFG 737 Ltd [2019] EWHC 1927 (Comm); [2019] EWHC 1980 (Comm)

Acting in a dispute over the failed sale of an aircraft in which summary judgment was successfully obtained, led by Michael McLaren KC.

## R (on the application of Monarch Airlines Ltd (In Administration)) v Airport Coordination Ltd [2017] EWCA Civ 1892 and [2017] EWHC 2896 (Admin)

Acting for the regulator at first instance and on appeal in judicial review proceedings concerning the allocation of take-off and landing slots to an insolvent airline, led by Michael Crane KC and Alexander Milner KC (see also Thomas Cook in liquidation under Administrative & Public Law).

Acting (led by Akhil Shah KC) for a private jet operator in a CAA panel hearing relating to the continuing airworthiness regulation (Regulation 1321/2014) as it applies to parting out aircraft.

Instructed as sole English counsel in relation to a multi-jurisdictional dispute concerning an agent's commission on the sale of aircraft.

Acting for an international airline in a dispute over aircraft maintenance charges (initially as sole counsel and then led by Akhil Shah KC).

Acting as sole counsel defending a claim against a private jet charter company for breach of contract and breach of confidence in relation to a flight which the passengers were unable to board in Saudi Arabia because they lacked the necessary travel permits.

Regularly appearing as sole counsel for airlines in the County Court in claims by passengers for compensation under Regulation 261/2004, the Montreal Convention and the common law.

## Banking & Finance

### Notable Banking & Finance cases

#### Fairweather Stephenson v Barclays Bank

Led by Nicholas Medcroft KC, acting for a solicitors' firm who were victims of 'vishing' frauds, in a claim for failure to refund unauthorised payments and breach of the *Quincecare* duty.

#### Premier Motor Auctions v Lloyds Bank

Acting for Lloyds Bank in the defence of a £40 million+ claim for conspiracy to defraud and breach of contract (led by Stephen Rubin KC and Adam Zellick KC), which settled before trial.

Acting as sole counsel for retail banks in a variety of matters, including claims to rescind loan agreements and guarantees, claims in respect of fraudulently induced bank payments, and claims under the Consumer Credit Act 1974.

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As sole counsel, advising on and defending claims relating to the sale of PPI policies.

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During pupillage, Nic assisted a number of members of chambers in banking and finance matters, including defending banks against claims in negligence, breach of fiduciary duty, breach of trust, unjust enrichment and unlawful means conspiracy.

## Civil Fraud & Commercial Crime

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### Notable Civil Fraud & Commercial Crime cases

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#### **PJSC Tatneft v Gennady Bogolyubov & Ors [2021] EWHC 411 (Comm)**

Acting for the claimant in a complex fraud claim against four Ukrainian oligarchs, in a team led by David Railton KC and Henry King KC. The claim concerned the misappropriation of some \$300 million relating to oil deliveries from Russia to the Ukraine and was determined at a 12-week, fully remote trial.

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#### **Renova Industries Limited & Ors v Emmerson International Corporation & Ors**

Acting in the BVI Commercial Court (led by Stephen Rubin KC) for certain defendants in a \$1 billion+, long-running fraud claim by Russian energy sector interests. One of the largest cases currently litigating in the BVI.

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#### **Nopporn Suppipat & Ors v Nop Narongdej & Ors**

Acting for two of seventeen defendants in a high-value claim alleging unlawful means conspiracy, misrepresentation, breach of contract and other causes of action in relation to the sale of shares in a Thai wind energy business, led by John Taylor KC.

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Led by Robin Barclay KC and Richard Lissack KC, for claimants in a multi-jurisdictional civil fraud claim, including obtaining worldwide freezing injunctions, Norwich Pharmacal and Bankers' Trust

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Initially led by Robin Barclay KC and now acting as sole English counsel for claimants in multi-jurisdictional civil fraud proceedings in Guernsey.

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Led by Nicholas Medcroft KC, for victims of 'vishing' frauds (see Banking & Finance).

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Acting (led by Monica Carss-Frisk KC and Robin Barclay KC), in judicial review proceedings challenging decisions taken by the Secretary of State in relation to international requests for mutual legal assistance and search warrants obtained by the NCA.

## Commercial Disputes

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### Notable Commercial Disputes cases

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#### **PJSC Tatneft v Gennady Bogolyubov & Ors [2021] EWHC 411 (Comm)**

Acting for the claimant in a complex fraud claim against four Ukrainian oligarchs, in a team led by David Railton KC and Henry King KC. The claim concerned the misappropriation of some \$300 million relating to oil deliveries from Russia to the Ukraine and was determined at a 12-week, fully remote trial.

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#### **Nopporn Suppipat & Ors v Nop Narongdej & Ors**

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#### **Odyssey Aviation Ltd v GFG 737 Ltd [2019] EWHC 1927 (Comm); [2019] EWHC 1980 (Comm)**

Acting in a dispute over the failed sale of an aircraft in which summary judgment was successfully obtained, led by Michael McLaren KC.

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Acting in relation to multiple disputes arising from a £2 billion PFI contract for the repair and maintenance of the Birmingham road network (led by Anneliese Day KC and George McDonald).

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Acting (led by Henry King KC) to advise in relation to the enforcement of an English judgment for \$86 million in Greece.

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Acting (led by Ben Lynch KC) to seek and hold injunctive relief and bring claims in relation to the alleged theft of high value classic motor cars.

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Regularly instructed as sole counsel to advise and draft pleadings in commercial disputes including finance leasing, telecommunications agreements, share sale agreements, guarantees and indemnities, provision of pre-paid debit cards and unfair prejudice petitions.

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Acting as sole counsel in relation to winding-up and bankruptcy petitions, possession orders, and in interlocutory applications, including seeking Norwich Pharmacal / Bankers' Trust orders.

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As a lawyer in Western Australia, acting as junior counsel (led by Peter Quinlan SC) for the Public Transport Authority of Western Australia defending a claim in private nuisance: Shogunn Investments Pty Ltd v Public Transport Authority of Western Australia [2016] WASC 42.

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As a lawyer in Western Australia, acting as sole counsel defending the Department of Education of Western Australia in a civil claim for assault and battery.

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As a lawyer in Western Australia, acting as instructing solicitor with day-to-day conduct of a construction arbitration claiming A\$15 million.

## International Arbitration

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### Notable International Arbitration cases

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Acting as Tribunal Secretary with Leigh-Ann Mulcahy KC in five related LCIA arbitrations in a European banking context.

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Acting as Tribunal Secretary in an LCIA arbitration in a claim relating to intellectual property in the pharmaceutical industry.

## Privilege, Confidentiality & Conflicts of Interest

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### Notable Privilege, Confidentiality & Conflicts of Interest cases

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**R (on the application of Jet2.com Ltd) v Civil Aviation Authority [2020] EWCA Civ 35; [2018] EWHC 3364 (Admin); [2019] EWHC 336 (Admin)**

Acting for Jet2.com in judicial review proceedings (led by Charles Béar KC), this case established important principles in the law of legal advice privilege, including dominant purpose and multi-recipient communications, and also raised important issues on waiver.

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### **PJSC Tatneft v Bogolyubov [2021] 1 WLR 403**

Acting for PJSC Tatneft (led by Henry King KC), this case decided important issues concerning the extension of legal advice privilege to communications with foreign lawyers.

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## PJSC Tatneft v Bogolyubov [2021] 1 WLR 1612

A further interlocutory decision in the Tatneft proceedings (led by Henry King KC) dealing with waiver of privilege.

## Professional Discipline & Professional Negligence

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### Notable Professional Discipline & Professional Negligence cases

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Defending (led by Nicholas Medcroft KC) a multi-million-pound solicitor's negligence claim in relation to the conduct of proceedings under the Proceeds of Crime Act 2002.

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### Fairweather Stephenson v Barclays Bank

Led by Nicholas Medcroft KC, acting for a solicitors' firm who were victims of 'vishing' frauds, in a claim against the bank for failure to refund unauthorised payments and negligence.

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Instructed by the Financial Reporting Council as junior counsel on several disciplinary investigations and proceedings against accountants and auditors, including the auditors of a bank.

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Defending (led by Michael McLaren KC) a solicitor in proceedings before the Solicitors Disciplinary Tribunal in relation to multiple allegations of misconduct.

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### SRA v Mansoor Ali

(During pupillage) assisting Marianne Butler acting for the Solicitors Regulation Authority in a disciplinary hearing before the Solicitors Disciplinary Tribunal.

## Directory Quotes

*"Nicolas is an outstanding lawyer and real star to watch. He has a mature understanding of the aviation industry and brings razor-sharp analysis to any problem."*

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The Legal 500

*"Outstanding talent, with a deep understanding of the regulatory framework of the aviation and travel industries."*

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*"Nothing is too much trouble. He is hard-working, intelligent and produces excellent paperwork."*

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*"Technically and academically outstanding."*

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## Directory Rankings

The Legal 500

- Aviation (Rising Star)
- Fraud: Civil (Rising Star)

## Education

- Bachelor of Civil Law (Distinction), Wadham College, Oxford University
- Bachelor of Laws (First Class Honours), University of Western Australia
- PhD (Philosophy), Australian National University
- MA (Philosophy), University of Western Australia
- BA (Philosophy, First Class Honours), University of Western Australia

## International Bar / Court Appointments

- Called to the Bar of the British Virgin Islands

## Appointments, Memberships and Prizes

- Hackney BCL Scholarship, Wadham College, Oxford University
- King & Wood Mallesons Prize (Highest Mark for Honours Thesis in Law), University of Western Australia
- C.F Keall Prize in Law, University of Western Australia
- Jean Rogerson Honours Studentship in Law, University of Western Australia
- Australian Postgraduate Award, PhD Scholarship, Australian National University
- Jean Rogerson Postgraduate Scholarship, University of Western Australia

- University Postgraduate Award, MA Scholarship, University of Western Australia
- A. Grave Prize in Philosophy (best 3rd year Philosophy student, University of Western Australia)

## Publications

- With Sir Marcus Smith, Henry King KC and Nico Leslie, 'Restitution' in *Bullen & Leake & Jacob's Precedents of Pleadings*
- '*Criminal Responsibility & Psychopathy in Western Australia*', University of Western Australia Law Review 35(2), 2011: 265-86
- Nic has also published numerous articles and chapters in leading philosophy journals and books

## Awards

