hailshamchambers

Clerks: **020 7643 5000**

Alice Nash

Call: 2006



Overview

Alice's practice is primarily focused on professional liability, costs, insurance, and other commercial disputes. Ranked as a leading junior in professional negligence in Legal 500, she is valued for her "sensible, pragmatic solutions and clear advice". She is instructed by corporate and individual clients in disputes in relation to most sorts of professionals, and she has particular experience in claims involving allegations of negligence against solicitors, valuers and financial services professionals.

Alice also has considerable experience acting for claimants and defendants, both as sole counsel and as a junior, in a wide range of clinical negligence disputes. As such, she is well placed to act in claims arising from the alleged mishandling or undersettlement of clinical negligence and personal injury litigation.

As a member of Chambers' costs group, Alice accepts instructions across the full range of inter-partes and solicitor-client costs disputes, bringing to bear her broad experience of different types of litigation. She regularly appears at CCMCs or on detailed assessments, and has advised and acted in relation to a range of issues including the (ever changing) operation of Part 36, termination and assignment of CFAs, applications for wasted costs orders, orders for security for costs, and non-party costs orders.

Alice has dealt with a wide array of coverage issues relating to a range of insurance policies including the solicitors' minimum terms, professional liability policies, other public liability policies and loss and damage policies. She has advised on topics including aggregation, construction of exclusion clauses and warranties, waiver and election.

She is the editor of the chapter on Barristers' Negligence in Professional Negligence and Liability (Simpson) and a contributor to The Law of Solicitors' Liabilities (Flenley & Leech), the go-to practitioner's text in the field. She also regularly contributes to LexisNexis PSL in relation to costs issues.

Alice regularly undertakes pro bono work, receiving a special commendation at the

Bar Pro Bono Awards 2019 for taking on the most cases for Advocate (formerly the Bar Pro Bono Unit) in 2018.

Professional liability

Alice is instructed by both individual and institutional clients in a range of disputes and is happy to accept instructions from both claimants and defendants in relation to all kinds of professionals.

Lawyers

Alice has extensive and regular experience of both purchasers' and lenders' claims in relation to most aspects of residential and commercial conveyancing, as well as in claims arising from allegations of negligence in both contentious and non-contentious business, including matrimonial proceedings, drafting of contractual documents and wills, administration of estates, and other property and trust disputes.

She has experience as a junior in very high-value, document-heavy claims, including claims involving allegations of fraud, fraudulent breaches of trust, and deliberate breach of fiduciary duty. Alice is frequently instructed in claims arising out of the conduct of earlier litigation in a range of fields, and in view of her broad practice, is particularly well placed to act in cases where the underlying claim involves allegations professional negligence, clinical negligence, or personal injury.

Examples of her caseload include: acting for the defendant solicitors in a conveyancing case where liability was admitted but it was alleged that the costs of the subsequent solicitors were excessive and unreasonable; obtaining reverse summary judgment in a lost litigation claim on the basis that the claimant's case on limitation in the underlying case was misconceived; defending a solicitor's firm in an action brought by Earl Spencer alleging negligence in the handling of a libel claim; recovering compensation from a solicitor in relation to negligent advice and conduct of the defence of a Companies Act petition; advising in relation to an alleged failure in the drafting of a conditional contract to purchase development land; and acting as junior in a high-value claim for breach of trust arising from a solicitor's undertaking.

Financial services

Alice is instructed by claimants and defendants in disputes concerning a range of financial services professionals including IFAs, accountants, tax advisors, auditors and mortgage and insurance brokers. Her experience includes: claims against accountants and auditors brought by clients, shareholders and other third parties and arising from allegedly negligent preparation and certification of accounts, claims against financial advisers and accountants concerning allegedly negligent advice in relation to investments, pensions and tax planning and advising and acting in disputes concerning the application of the FSA regulations in relation to financial promotions (including the promotion of unregulated collective investment schemes and promotions to high net worth individuals).

Construction professionals

Alice's experience in construction-related disputes includes advising surveyors, building contractors and architects in relation to allegedly negligent advice, design, construction and contract administration.

Surveyors & valuers

Alice has wide experience of claims arising from the work of surveyors and valuers in a range of contexts, from alleged failures by surveyors to detect specific defects in property to an unusual case in which she succeeded in having struck out allegations of negligence against a surveyor in carrying out functions under the Party Wall Act.

She is regularly instructed in both purchasers' and lenders' claims in which questions of alleged negligence by a surveyor or valuer arise, and is familiar with the particular issues that arise in relation to contribution between solicitors and surveyors in such cases.

Medical law

Alice advises both claimants and defendants in litigation arising out of the alleged negligence of medical practitioners in a range of specialisms. She is comfortable with medical expert evidence and enjoys grappling with the difficult issues of causation that often arise in these cases. Understanding that litigation in this field can be particularly upsetting and stressful for both claimants and defendants, she aims to provide a thorough and rigorous analysis of the merits as early as possible so that the client receives an assessment of their prospects that is clear and realistic whilst being sensitive to the emotional nature of the case.

Her practice encompasses claims ranging from the relatively low value to complex fatal injury claims running to hundreds of thousands of pounds, and she has experience as a junior in very high value cases. Recent cases include obtaining a six-figure settlement for a claimant in a case involving a novel legal point in relation to consent for surgery, and acting as junior in a multi-million pound brain injury claim which was also settled successfully.

Her experience includes claims involving:

- orthopaedic negligence, including diagnostic failures and surgical negligence leading to nerve damage, paralysis and chronic pain
- High value claims arising from cauda equina syndrome
- obstetrics, gynaecology and midwifery, including missed ante-natal diagnosis of foetal abnormality, mismanaged birth, failed repairs of obstetric tears, delayed diagnosis of cervical cancer, negligently performed contraceptive/sterilisation procedures and mismanaged termination of pregnancy leading to infertility
- gastrointestinal and general surgery, including cases of surgical negligence leading to paralysis and delayed diagnosis of infection leading to permanent

colostomy
- ophthalmology and other eye treatment, including delayed diagnosis of infection and mismanaged laser eye surgery
- hospital acquired infection
- mental health services
- oncology
- dentistry and maxillofacial surgery cosmetic plastic surgery.

Having studied human biology at A level, Alice is quickly able to familiarise herself with complex medical issues and is comfortable dealing with scientific materials and medical expert witnesses. She also recognises that both patients and practitioners usually find the process of litigation emotionally draining, and strives in that context to give advice that is both sensible and sensitive.

Costs

Alice acts for both paying parties and receiving parties in a wide range of costs disputes. She regularly acts for both solicitors and clients in proceedings under the Solicitors Act 1974. She regularly drafts PoDs and Replies, and appears at detailed assessment hearings, in cases where points of principle arise (for example as to the validity of the retainer or the recoverability of medical experts' fees).

Recent instructions include:

- Advising a client SME in relation to a potential Solicitors Act assessment which depended on the status of interim invoices and the construction of the retainer documentation;

- Drafting post-judgment costs submissions for the claimant in J&J Franks v Shotter & Byers (May 2023; main judgment at [2023] EWHC 1080 (KB)) – the judge disallowed the normal consequences of Part 36 and declined to award costs to the successful defendant in circumstances where she had made findings that evidence had been fabricated by the defendant's witnesses (led by Michael Mylonas KC);

- Diag Human v Volterra Fietta – led by Jamie Carpenter KC, drafting respondent's submissions in opposition to an application for permission to appeal to the Supreme Court (permission was refused).

Insurance

Alice advises both claimants and insurers in relation coverage issues relating to a wide range of insurance policies including the solicitors' minimum terms, professional liability policies, other public liability policies and loss and damage policies. She has advised on topics including aggregation, construction of exclusion

clauses and warranties, waiver and election. Experience includes:

- Advising insurers and insured in relation to alleged pre-inception non-disclosure;
- Advising the insurers of a family business in relation to a late notification point;
- Acting for the insured specialist insurance broker in a tripartite insurance dispute (concluded after mediation) where insurer A sought to decline cover for late notification and insurer B sought to decline cover on the basis of prior known circumstances;
- Acting as junior to William Flenley KC in an arbitration arising from the mechanical failure of turbines at a wind farm, where coverage was disputed on several bases and the insurer's potential liability ran to several million pounds.

She also deals, in her professional negligence practice, with cases involving allegations of negligence against insurance brokers, and cases arising out of allegedly mishandled insurance disputes.

Recent cases

Patel v Awan [2024] EWHC 464 – an order for a payment on account of costs is enforceable as a money judgment, notwithstanding the note to the contrary in the White Book at 70.1.3

J&J Franks v Shotter & Byers (May 2023) – submissions on costs on behalf of the claimant; despite winning at trial and a pre-action Part 36 offer, the judge declined to award costs to the defendant due to its misconduct.

Diag Human v Volterra Fietta – led by Jamie Carpenter KC, drafting respondent's submissions in opposition to an application for permission to appeal to the Supreme Court (permission was refused).

Yasin v Whitmore Law [2021] EWHC B30 (Costs) – whether time limits prescribed by s.70 of the Solicitors Act 1974 apply to an assessment under 3.64(3) of the Act

Castello v Gonschior [2021] EWHC 2742 (QB): Successful defence of a plastic surgeon against a claim arising from cosmetic rhinoplasty: the court rejected the allegations of breach of duty.

What others say

"She provides practical, considered advice with the client's best interests always at the forefront." *Legal 500, 2027*

"Alice is always very quick to respond to any questions, no matter how minor they are." *Legal 500, 2027*

"Alice is very responsive, and offers practical advice." *Legal 500, 2026*

"Attention to detail, responsive, intelligent, and understands the brief." *Legal 500, 2026*

"Sensible, pragmatic solutions and clear advice. Quickly gets to grips with the issues." *Legal 500, 2024*

"Alice has a good command of difficult legal issues in the professional negligence field, and is a very friendly person who is a pleasure to work with." *Legal 500, 2023*

“She is very responsive and good at getting to the crux of a case. Her advice is clear and concise.” *Legal 500, 2022*

“An extremely competent member of the Bar” *Legal 500, 2020*

Publications

- A little knowledge is a dangerous thing: Section 14A of the Limitation Act 1980: (2024) 1 Journal of Professional Negligence pp.15-22
- Flenley & Leech, The Law of Solicitors’ Liabilities: research (3rd edition, Bloomsbury 2013) and updating Chapter 11 (Wills) and Chapter 13 (Costs orders against solicitors) (4th edition, Bloomsbury 2018)
- Simpson, Professional Negligence and Liability: editor of chapter 15 (Barristers)
- Loss of Chance in Professional Negligence Claims: Considering the Supreme Court Cases of Perry v Raleys and Edwards v Hugh James Ford Simey: 2020 JPIL 1
- Use of particulate steroids in neuraxial injections: a common but negligent practice? Pain News, Spring 2012 pp.26-28 “Forms of abuse” with Dan Stacey, New Law Journal, 18 Apr 2008
- Contributor to Lexis-Nexis PSL, predominantly on costs law.

Further information

Education

- BA (Hons) Modern History (Balliol College, Oxford): 2:1
- GDL (BPP Law School): Commendation;
- BVC (BPP Law School): Very Competent

Professional Associations

- Professional Negligence Bar Association (Executive Committee member)
- London Common Law and Commercial Bar Association

Personal

Alice used to list a number of hobbies, but since she now has two young children, the majority of her free time is now spent watching poor quality football* and constructing scale models of Tutankhamun's tomb, complete with contents, out of shoeboxes and polymer clay. As any parent knows, your child's primary school teacher is far more terrifying than any judge. She also helps run a family cycling library and campaigns for active travel infrastructure, in the hope that one day people will be able to cycle to work without doing daily battle with potholes and heavy goods traffic.

*Hang on, aren't you a Spurs fan? No change there, then – Ed

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