

PHILOMENA HARRISON

CALL: 1985



OVERVIEW

Philomena is a highly experienced property litigator with a broad natured practice covering all aspects of commercial property law (including non-contentious matters) and related professional negligence claims.

In 2022 Philomena was instructed in the leading case of *Bank of Mellon (International) Ltd v Cine UK Ltd* (see [2022] EWCA Civ 1021) heard by the Court of Appeal concerning the liability of commercial tenants to pay rent during the pandemic.

Philomena is recommended for Real Estate Litigation in Chambers UK Bar Guide (since 2004) and for Property Litigation in The Legal 500 (since 1997). She is also listed as one of the “Leaders in their Field” for Real Estate in the Who’s Who Real Estate Legal Report 2022. She has been described as a “highly respected property litigator” who is “fiercely intelligent” and “very commercial”. She is public access qualified.

EXPERTISE

REAL ESTATE

Philomena practises across the spectrum of commercial property litigation advising and representing commercial clients in a wide range of disputes.

Notable cases include:

- *Bank of New York Mellon (International) Limited v Cine-UK Limited* [2022] – Leading case in the CA concerning the recoverability of commercial rent arrears in the pandemic; considers important issues

relating to the proper interpretation of rent cesser provisions and pandemic insurance.

- ***Fouladi v Darout Ltd, El-Kerrami and St Marys Abbot Court Ltd*** - successfully representing the Respondent (freeholder landlord) in an important appeal on a noise nuisance claim involving luxury flats; considers important issues as to what constitutes an actionable nuisance, the extent of the landlord's liability in nuisance (where there were refurbishment works) and when an appeal court will review findings of fact made by a trial judge.
- ***PH21 Residential Limited v Okosieme*** – successfully defending claim for the return of a deposit paid on a portfolio sale contract where contract validly terminated and deposit forfeited.
- ***Lakhani v Mahmud*** – successful appeal for relief from sanctions in a commercial property case.
- ***TBAC Investments Limited (acting by Fixed Charge Receivers) v Valmar Works Limited*** – obtaining summary judgment in a claim concerning a disputed notice to complete.
- ***Cole & Ors v Samuel Smith Old Brewery (Tadcaster) Limited*** – assessment of price payable for a club under an option agreement where the agreement contained no terms as to valuation.
- ***Blueco Ltd v BWAT Retail Nominee (1) and others*** – appeal concerning proper construction of the terms of pre-emption right in a management lease of Bluewater Shopping Centre.
- ***Cleaver v Schyde Investments Ltd*** – appeal on misrepresentation in pre-contract inquiries and the reasonableness of standard conditions dealing with rescission.
- ***Tetra Pak Ltd v Oracle Corp UK Ltd*** – acting for landlord defending a claim for an injunction to regulate access to an office block on security grounds.
- ***Q v Q*** – intervening (for a brother of the respondent) in matrimonial proceedings to claim ownership of a valuable property; issues on constructive trusts, proprietary estoppel and illegal contracts.
- ***Prudential Assurance Co Ltd v Ayres*** – appeal on the proper interpretation of a supplemental deed in relation to an AGA and the assignment of a lease of major offices in the City.
- ***Tamames (Vincent Square) Ltd v Fairpoint (Vincent Square) Ltd*** – leading case dealing with rights to light.

Recent work includes:

- Successfully representing a developer in claim where claimant alleging the ongoing development infringed the hedge and ditch rule.
 - Advising and representing farm owners in a dispute over the removal of heavy RHI equipment from agricultural buildings.
 - Advising a major retailer on exercising break clauses in a lease portfolio.
 - Advising in regulatory proceedings on property aspects of an unauthorised collective investment scheme.
 - Advising on a Party Wall etc Act 1996 appeal where the relevant work fell outside the ambit of the Act.
 - Advising a property investor on title issues where land with development potential is being marketed.
 - Advising a developer on an application to Upper Tribunal (Land Chamber) for discharge and/or modification of restrictive covenants.
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PROFESSIONAL NEGLIGENCE

Philomena's practice frequently involves professional negligence claims including claims against solicitors, barristers, valuers and other professionals arising out of property and property related matters.

- **Cottingham v Attey Bower Jones** – a successful claim for damages against solicitors for failure to secure proper answers to inquiries before contract.
- Advising on the professional negligence aspects (against the transactional solicitors) of a claim against a guarantor of commercial lease liabilities and onward claims.
- Defending a claim against solicitors who acted for the buyer on the purchase of commercial property where there were extensive title issues.
- Defending a claim against a barrister involving conflict of interest issues.
- Defending a claim against solicitors involving the drafting of overage provisions.

ADR

Philomena frequently advises on and represents clients in arbitration proceedings and at mediations. She also acts as a mediator.

- Representing a developer client in an arbitration regarding the price payable for a development site and overage.
- Acting in an arbitration for a property investment company concerning an indemnity from a major insurance company for losses arising out of a fire at commercial premises.
- Representing a developer in a mediation in respect of a claim for substantial damages alleged to have arisen from building works to extend and refurbish a luxury residential property.
- Acting as mediator in a claim for damages for professional negligence arising out of a contract for the sale of land.

DIRECTORY QUOTES

'Technically astute, Philomena is able to identify the key areas of a dispute from the outset and rapidly judge the direction in which it is heading.'

Legal 500 Property Litigation (2023)

"Philomena is an impressive advocate with an eye for identifying the vital details in disputes." "She is extremely user-friendly; you can ask her questions without being embarrassed."

Chambers UK Real Estate Litigation (2022)

"She is extremely user-friendly; you can ask her questions without being embarrassed"

Chambers UK Real Estate Litigation (2022)

MEMBERSHIPS

- Chancery Bar Association
- Commercial Bar Association
- Professional Negligence Bar Association

QUALIFICATIONS

- BA (Hon) Classics (University College London – first class)
- Diploma in Law – City University
- Bar Finals

LANGUAGES

- Spanish – working knowledge