

Sonia Nolten KC

Call 2002 | Silk 2023



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Sonia is an “outstanding advocate” and “fluid cross-examiner” who is both “ferociously bright” and “first-rate with clients, and unafraid of addressing the thorny issues in a straightforward, effective yet sympathetic manner.” She is an experienced commercial dispute practitioner specialising in insurance, professional negligence and property damage (all areas for which she has for many years been recommended in the directories).

Sonia is equally at home whether leading or performing her role in a team, acting as advocate and negotiator, and advising clients on sensitive issues and tough tactical decisions. Her focus is always on helping clients to identify and achieve their best commercial, professional and personal outcomes, both in and beyond litigation.

Sonia has been involved in a succession of high-profile cases, up to and including the Supreme Court.

She took silk in 2023 and was elected a Bencher of the Inner Temple in 2019. She is Senior Bench Auditor of the Inner Temple, chairs its Finance Sub-Committee and sits on its Executive Committee.

Her insurance practice includes coverage issues, policy construction, dual insurance, subrogation rights, fraudulent or exaggerated claims, with a particular expertise in life/health insurance. Over the years she has litigated damage claims of all kinds and has developed a significant practice in nuisance cases and claims raising real property issues. She has a wide-ranging commercial dispute resolution practice encompassing contractual construction, misrepresentation and shareholder disputes. Professional negligence is usually related to her other fields of expertise and comprises claims against insurance brokers, legal professionals and construction professionals.

Expertise

Commercial Dispute Resolution

Sonia has a lively commercial litigation practice, and has been instructed in numerous commercial disputes, including arbitral proceedings, raising issues including:

- Allegations of fraud in a commercial context, including employee or director fraud.
- Deceit, breach of fiduciary duty, breach of trust, knowing receipt, dishonest assistance, conspiracy, conversion and receipt of bribes.
- The construction and validity of contracts, including penalty, liquidated damage, evergreen and insolvency clauses.
- Construction of joint venture agreements and of letters of credit.
- Undue influence and capacity.
- Directors' duties, partnership disputes and shareholder disputes.

Notable Commercial Dispute Resolution cases

Acting for the respondent in a c.£4m ad-hoc arbitration concerning the alleged breach of a commission contract and construction of "evergreen" clauses. Sonia (leading Will Clerk) successfully applied for security for costs.

Representing several respondent parties in a c.£25m unfair prejudice petition in which the petitioners sought an injunction preventing allegedly sham disciplinary hearings against them from taking place (leading Luka Krsljanin, reported at [2020] EWHC 23 Ch).

Representing a defendant property investor against allegations of breach of confidence and conspiracy to injure, arising out of a property transaction.

Insurance & Reinsurance

Sonia has very significant experience in insurance and reinsurance, and has been listed in Chambers UK and the Legal 500 as a leading junior in this area for many years. She is a Tier 1 Leading Junior in the Legal 500, which describes her as "*fearfully bright...her knowledge of black letter insurance law is second to none. Sonia is my go-to person in all insurance matters when I have a difficult insurance query.*"

Sonia regularly advises and litigates on:

- Disputes arising out of a wide range of covers (professional indemnity, business interruption, public

liability, EL, litigation protection, property, art, and consumer).

- Construction and coverage disputes.
- Subrogation and assignment issues.
- Non-disclosure (in both the commercial and consumer context).
- Joint names insurance.
- Contribution between insurers.
- Brokers' negligence
- EU regulatory matters.
- Fraudulent claims.

She is particularly well-known in the market for her expertise in employer's liability and public liability and related covers such as product, professional indemnity and contractor's all risks. She represented MMI from first instance all the way through to the Supreme Court in the ***EL Trigger Litigation*** [2012] UKSC 14, and appeared in the leading case on policy triggers in public liability insurance, ***Bolton Metropolitan MBC v Municipal Mutual Insurance Ltd*** [2006] 1 WLR 1492.

In the field of first party cover she is well-versed in the issues arising in connection with business interruption, fidelity, art and cultural property and personal lines insurance for high net worth individuals. She is also sought after for her expertise in life and health insurance (see further below).

Notable Insurance & Reinsurance cases

Advising on insurance issues in connection with the restoration of an historic London building of national significance.

Advising on policy coverage over a residential heritage property following a fire which caused c.£3.5m of damage.

Advising on insurance and repairing obligations under a long lease of property held by a Government department.

Advising on the construction of contamination exclusions in PL policies, both in connection with Covid-19 and in other contexts.

Life & Health

Sonia's work on life, income protection and permanent health insurance is an important part of her insurance practice, with Chambers UK noting that she "*is a junior of choice for many major insurers*" in this highly specialised niche market. She is regularly instructed on large value and complex claims, often against leading counsel.

In addition to relatively straightforward income protection/PHI cases where the extent of disability is disputed, Sonia has substantial experience of the more factually and legally complex disputes which arise under this class of insurance. She regularly advises on group policies, privity of contract between insurer and employee, and limitation (an issue of particular complexity given that the obligation is usually to pay benefit monthly).

On the life/critical illness side, she has dealt with fraudulent claims, suicides (including inquests), murder of one life insured by another, disputes between insolvent policyholders and their trustees in bankruptcy, policies written under trust and cases raising issues of joint/composite insurance.

Sonia has also, very unusually, represented insurers in a judicial review of the Financial Ombudsman Service for (among other matters) making determinations which wrongfully had the effect of overriding FOS's financial limit.

Notable Life & Health cases

Representing insurers in the Court of Appeal in an appeal concerning construction of disclosure obligations under a policy of income protection insurance (led by Caroline Harrison QC, reported at [2019] EWCA Civ 261).

Advising on a high value and sensitive life insurance case involving financial coercion, in which one spouse had taken out multiple policies over the life of the other, and later murdered them (unled).

Professional Negligence

Sonia has been listed as a leading junior for professional negligence every year since 2010. The current edition of Chambers UK describes her as "*absolutely excellent – good on complicated matters and always available and helpful*".

Over the years she has litigated professional negligence actions of all kinds including:

- Claims involving property damage and construction professionals (structural engineers, architects, building control inspectors, quantity surveyors, project administrators).
- Claims against brokers and financial advisors, requiring her insurance/commercial expertise.
- Claims with an underlying chancery/commercial flavour, where allegations of fraud have been made or when professional indemnity cover is disputed.
- Numerous valuer claims, testing the boundaries of contributory negligence by lenders (prime and otherwise), and advising on the complex issues which arise when fraudulent conveyancing is suspected, or the loan in question has been assigned and/or securitised.
- Claims in which the "loss of a chance of a better outcome" approach was challenged.
- Claims by and against for lawyers in many contexts, particularly where fraud or coverage issues are in play.

Notable Professional Negligence cases

Representing the defendant solicitor in a claim arising out of the drafting of a joint venture agreement for a commercial property transaction, raising an undecided point of law on whether “loss of a chance” applies when a third party gives evidence on what they would have done in hypothetical situation (reported at [2019] EWHC 1326 Ch).

Representing the defendant designer/manufacture in a £4m claim arising from the design, manufacture and supply of 35,000 faulty valves for use in domestic oil fired boilers.

Property Damage

Sonia has been listed as a leading junior for property damage every year since Chambers UK introduced the category. She has been ranked as a Band 1 junior for several years. Chambers UK describes her as having “*a brain the size of a small country...knows property damage law like the back of her hand.*”

Over the years she has litigated damage claims of all kinds including:

- Large commercial fires arising from defective design, products and working methods, from failed fire suppression measures and from use of equipment or appliances known to be defective.
- Domestic fires caused by a wide range of appliances including golf cart batteries, fridges, TVs and tumble dryers.
- Fires resulting from arson or carelessly discarded smoking materials.
- Indoor floods caused by air conditioning units, LTHW systems and defective pipework.
- Outdoor floods involving culverts, drains, bunds and highways, and floods caused by changes to the topography of an area during building development.
- Nuisances arising from spread of fire, *ignis suus* and escape of dangerous substances.
- Nuisances involving loss of amenity, business interruption and financial loss.
- Nuisances with a real property element, such as interference with easements, trespass, and claims where one or both parties’ interest in land is via adverse possession.
- Subsidence and landslips.
- Coverage disputes under CAR, public liability, PI and other policies.
- Cross-over claims involving liability of professionals, especially in the construction field.

Sonia is currently instructed in numerous high value and high profile damage cases. She almost always acts unled due to her expertise, seniority and market profile, and usually leads others.

Notable Property Damage cases

Successfully resisting a strike-out application on justiciability grounds in a complex flood claim (reported at [2021] EWHC 543, leading Jack Harris).

Acting as lead counsel in a claim arising from the destruction of historic seafront building by fire (leading Will Clerk).

Sole counsel in a c.£25m warehouse fire alleged to have been caused by a piece of light plant which ignited.

Sole counsel in a c.£3.5m claim arising from flood damage to a prime central London residence.

Significant Cases

Anchor Hanover Group v The Environment Agency and 4 others [2021] EWHC 543 (TCC)

A multi-party action in the TCC arising out of a flood in Bicester in 2013, resulting in significant damage to a block of sheltered accommodation. The cause was a blockage in a culvert created as part of large scale diversionary works. Multiple defendants were involved, including several parties with hydraulic modelling and design responsibility, the riparian owner of the culvert, and the Environment Agency as statutory consultee. Sonia successfully defended a strike-out application by the Environment Agency against her client, put on the basis that the EA did not owe any duty of care on the facts. Instructed by Pinsent Masons LLP, leading Jack Harris.

Newton Equine Services Limited v Jane Sewell and others [2020] EWHC 3874

A debt claim for unpaid stud fees, with a counterclaim for the death of a valuable dressage horse in the stud's care. Sonia represented the stud farm. Liability was admitted and the principal issue was valuation by reference to the mare's past performance and her likely ability to have produced future champions had she lived. Issues included (a) whether on a true construction of an order of a QB Master, S had permission to rely on two veterinary experts in different sub-disciplines; (b) whether 89 questions asked by S were impermissible cross-examination and otherwise in the scope of Part 35; (c) whether there should be an unless order against S if her valuation expert refused to disclose comparables relied on. Instructed by Kennedys Law LLP, leading Will Clerk.

In the Matter of R-Squared Holdco Limited (Company No. 1078321) and In the Matter of the Companies Act 2006 (Petitioners: Brown) [2020] EWHC 23(Ch)

The Petitioners alleged that disciplinary proceedings against them by one of the respondent companies were a sham intended to engineer the loss of their shareholding. They sought an injunction restraining any of the

Respondents from carrying out the disciplinarys, or procuring others to carry them out. Sonia represented the Second to Fourth Respondent companies. Instructed by Gateley plc, leading Luka Krsljanin.

Moda International Brands Limited v Gateley plc [2019] EWHC 1326 (Ch)

A professional negligence action arising out of the drafting of a joint venture agreement in connection with a commercial property transaction. The claim raised the previously undecided question of whether the Court should adopt a “percentage chance” approach to the assessment of damages when the counterparty had (unusually) given evidence at trial as to what he would have done in a hypothetical situation where there had been no negligence. Instructed by BLM.

Friends Life v Miley [2019] EWCA Civ 261

An appeal against the decision below on policy construction grounds. The appeal considered the scope of the insured’s obligation to disclose information about other income, and the extent to which that obligation was modified or limited by a declaration which stated that the insured “believed” that the information was provided was true. Instructed direct by Friends Life, led by Caroline Harrison QC and leading Luka Krsljanin.

R (on the Application of Aviva Life and Pensions (UK) Limited) v Financial Ombudsman Service [2017] EWHC 352 (Admin)

A very unusual application for judicial review by an insurer of the Financial Ombudsman Service’s decision to reinstate a policy of life insurance, where this would inevitably result in a payment to the insured of more than the FOS jurisdictional limit. Instructed direct by Aviva, led by Robert Moxon Browne QC.

Miley v Friends Life Limited [2017] EWHC 2415 (QB)

A £1.5 million income protection/permanent health claim raising issues of capacity to carry out employment and fraud (in that the insured had been seen on surveillance footage engaging in activities significantly in excess of what he had declared himself able to do). Sonia acted for insurers. Instructed direct by Friends Life, led by Caroline Harrison QC and leading Luka Krsljanin.

Miley v Friends Life Limited [2017] EWHC 1583 (QB)

Interim judgment in the same case, exploring the scope of a Judge’s obligation to recuse himself for apparent partiality. (Instructed direct by Friends Life, led by Caroline Harrison QC and leading Luka Krsljanin.)

Rai v Legal & General Insurance Limited [2015] EWHC 170 (Comm)

A life insurance case in which the life insured had moved to the Mumbai office of his employer, and ceased to be insured under the UK group life insurance policy. He had been involved in a fatal accident while in Mumbai and his widow claimed under the life policy. The issues included what, on a true construction, was meant by “permanently employed” outside the UK when there was a possibility, albeit not guaranteed, of a future return. Sonia successfully defended the claim on behalf of L&G, appearing against leading counsel. Instructed by Eversheds Sutherland International LLP.

Co-Star v Red Leads and others [2014] EWHC 1262 (Ch)

Sonia acted for the Claimant in an application in which she successfully obtained a costs order against a party who had objected to being joined as a defendant; the party argued that there was no jurisdiction to make a costs order because he had not been a party until the moment when he was joined and could not be made liable for costs incurred prior to that moment. Instructed by Gateley plc.

Bate v Aviva [2013] EWHC 1687 (Comm)

A consumer insurance claim arising out of a fire, which raised FSMA issues concerning possible routes of recovery for damages for late payment of damages (the case predated the Insurance Act 2015); insurers alleged misrepresentation, non-disclosure on inception and breach of condition precedent. Sonia acted for the claimant policyholder. Instructed by Neumans LLP, led by Neil Moody QC.

Smyth v St Andrews Insurance [2012] EWHC 2511 (QB)

An insurance claim in which the Defendant insurer alleged that the fire was caused by arson on the part of the policyholder’s partner. Sonia acted for insurers. Instructed by Kennedys LLP.

BAI (Run off) Limited (In Scheme of Arrangement) v Durham (and 5 other actions) [2012] UKSC 14

Better known as the “**EL Trigger Litigation**” – this is the leading case on policy triggers in employers’ liability insurance and also provides an important clarification of the law of construction of contracts, factual matrix and commercial purpose. It was the first case to consider the Employers’ Liability (Compulsory Insurance) Act 1969 at Supreme Court level. Instructed by Watmores, led by Howard Palmer QC.

Municipal Mutual Insurance Company Ltd v Zurich Insurance Company and 10 others

(and 5 other actions) [2010] EWCA Civ 1096

MMI's appeal against the first instance judgment on various points of construction, in which it was successful in part. Instructed by Watmores, led by Howard Palmer QC.

Dennard v PricewaterhouseCoopers LLP [2010] EWHC 812 (Ch)

A professional negligence action concerning the alleged negligent undervaluation of a PHI company by £25-£40m; it remains a leading case on application of band theory to valuers' negligence claims. Instructed by Allen & Overy, led by Paul Downes QC.

Municipal Mutual Insurance Company Ltd v Zurich Insurance Company and 10 others (and 5 other actions) [2008] EWHC 2692

Better known as the **EL Trigger Litigation**. This first instance judgment, delivered after a 9-week trial in the Queen's Bench division, clarified the current state of medical thinking concerning the "5/10 year rule" for causation in mesothelioma claims. Instructed by Watmores, led by Howard Palmer QC.

Bolton Metropolitan MBC v Municipal Mutual Insurance Company Ltd and another [2006] 1 WLR 1492; [2006] 1 LRIR 15 (CoA, QBD)

The leading case concerning policy triggers for public indemnity insurance; it is also authority concerning contribution between successive insurers. Instructed by Watmores, led by Howard Palmer QC.

Bright v Barnsley District General Hospital NHS Trust [2005] Lloyds Rep Medical 449

A cerebral palsy case raising complex causation issues: the probability of better outcome at the time of each negligent act was over 50%, but the cumulative probability of a better outcome was less than 50%. Instructed by Weightmans, led by Michael de Navarro QC.

Appointments

- King's Counsel (2023)
- Chair of the Finance Sub-Committee of the Inner Temple, and Senior Bar Auditor (2022). In this role Sonia has oversight of the finances of all 9 of the Inn's departments. She also sits on the Inn's Executive and Investment Committees.

- Barrister Governing Bencher, the Honourable Society of the Inner Temple (2019)
- Treasury Panel of Counsel (2009-2014)

Awards

- Major Scholarship, Inner Temple (2000 & 2001)
- British Academy Research Scholarship
- Paul Ries-Collin Scholarship, Oriel College
- Scholarship, Oriel College

Education

- MA (Double First), Master of Studies, Oriel College, Oxford

Languages

Before coming to the Bar, Sonia lectured in English Literature at the University of Oxford; her research interest was Restoration theatre, literature and social history.

She has mentored students from non-traditional backgrounds through the Social Mobility Foundation, and has written on law and policy issues for a think tank.

Additional Information

Before coming to the Bar, Sonia lectured in English Literature at the University of Oxford; her research interest was Restoration theatre, literature and social history, with a particular focus on the Duke of Monmouth and his Rebellion.

Recommendations

Recommended in the legal directories for insurance & reinsurance, property damage and professional negligence.

“Sonia Nolten is always a delight to work with. She shows an excellent way to cut through the noise and provides good, clear coverage advice.” “We trust Sonia with some of our most complex claims and she

provides clear, concise advice which lay clients find easy to digest.” “She is excellent. Sonia is able to cut through a lot of the difficult information and work with us very well to strategise and come up with successful solutions for the clients.” “Sonia leads on complex property damage matters. You know you’ve got the right person when, on large-value matters, you find that your opponents have looked to instruct her but you’ve beaten them to it.” “Sonia shows a clear ability to deal with complex points in an accessible manner.” “Sonia’s robust approach to litigation is valued by clients – her pleadings and written advice are timely. She is technically excellent.” “Absolutely superb. Sonia is fluent in so many areas of the law, bringing it all together so clearly for lay clients.” “Sonia is very forensic and doesn’t miss a trick whilst explaining things to you in straightforward detail.” “Sonia has the ability to take a practical and commercial view and to marshal the facts very quickly.”

Chambers UK 2024

“Ferociously bright, and has a pre-eminent position in the insurance market. She is particularly experienced in dealing with large claims involving fire, which require careful and forensic handling of expert evidence.” “Absolutely excellent in all areas. Thorough, responsive, great on her feet, very good on paper, technical expert and commercially astute.”

Legal 500 2024

*“She is an impressive advocate and is great with clients.”
 “Sonia understands the key drivers for clients in terms of commercial awareness.”
 “Sonia is really collaborative, is great on paper, and comes up with inventive ways of resolving issues.”
 “Sonia is savvy, user-friendly with clients and a strong technician.”
 “Sonia has an ability to look a over huge volume of paperwork and boil it down to the key points. She is very sensible and pragmatic.”
 “Very forensic, very sensible and pragmatic.”*

Chambers UK 2023

*“Ferociously bright, and has a pre-eminent position in the insurance market. She is often instructed against silks and is a delight to be led by. She is particularly experienced in dealing with large claims involving fire, which require careful and forensic handling of expert evidence.”
 “Absolutely excellent in all areas. Thorough, responsive, great on her feet, very good on paper, technical expert and commercially astute.”*

Legal 500 2023

*“Sonia is very good on her feet and comes across very well with clients. She is very clear in her advice.”
 “Sonia is an excellent advocate.”
 “She is absolutely excellent – good on complicated matters and always available and helpful; she has answers for everything.”
 “She is extremely bright, clever, thorough and competent.”
 “She has a brain the size of a small country and knows property damage law like the back of her hand. She is economic in her submissions.”
 “A fluid cross-examiner who has a commanding presence in court.”*

Chambers UK 2022

*“Fearsomely bright, and her knowledge of black letter insurance law is second to none. Sonia is my go-to person in all insurance matters when I have a difficult insurance query, and knows the field inside out and back to front.”
 “Sonia is first-rate with clients and isn’t afraid of addressing the thorny issues in a straightforward, effective yet sympathetic manner. She calls a spade a spade.”*

Legal 500 2022

"She's a very pragmatic, sensible and practical barrister. She can have discussions with the other side to reach beneficial outcomes for her clients." "She is an exceptionally knowledgeable lawyer with regards to property damage cases. Working with Sonia is always a good experience, as she provides clear, succinct advice, drafts good-quality documents and comes across very well in court."

Chambers UK 2021

"She is a tenacious cross-examiner and a highly persuasive advocate."

Legal 500 2021

"Extremely bright and very impressive."

"Gets to the key points very, very quickly."

"A very good advocate who is strong on her feet."

"She's very knowledgeable and has a good commercial awareness."

Chambers UK 2020

"She is very detail-orientated and is extremely user-friendly."

Legal 500 2020

"Very impressive and persuasive on her feet and excellent with clients."

"She has great authority in court."

"Very good on her feet."

"Brilliant with clients, very user-friendly and professional."

Chambers UK 2019

"Ferociously bright, and a tough operator."

Legal 500 2019

"Her pleadings are extremely good and very detailed. She takes all the points that can be taken and is extremely on the ball."

"Combines great academic knowledge with practical common sense and commerciality"

"Very quick on the uptake."

"Tactically astute, very thorough on the papers, commercially minded and excellent with clients."

Chambers UK 2018

"Clever, clear and a very good barrister."

"Hugely impressive."

Legal 500 2018

"Approachable, practical and commercial."

"One of those people who is exceedingly clever and down to earth with it. She's practical in terms of not wasting time on peripheral stuff and being good at cutting to the key issues."

"Extremely hard-working and reliable, she has a good understanding of the technical and evidential issues relating to claims involving land movement."

Chambers UK 2017

"Someone to have on your side when facing a difficult judge."

"Highly intelligent and commercially very astute, she is fabulous at papers and an excellent advocate."

Legal 500 2017

“Provides practical advice, high-level technical expertise and responsiveness.”

“Her advice – whether oral or in writing – is always clear and concise.”

Legal 500 2016

“Very good technically, knows her subject very well and is an excellent advocate who pays attention to the details.”

“Intelligent and takes great pride in getting the answer to any question you pose her.”

Chambers UK 2015

“A commercial litigator who has considerable experience in the insurance field.”

“Commentators note her expertise in TCC claims relating to floods, fires and explosions.” “Impresses with her attention to detail and her commerciality.”

“Meticulous and has a first-class knowledge of the law. She is extremely good in court and a ferocious cross-examiner.”

“Specialises in life insurance matters, and is a junior of choice for many major insurers”; “Provides good technical analysis of the issues, and is very thorough.”

Chambers UK 2014

“Combines a pleasant manner with a comprehensive and thorough approach.”

Legal 500 2014

“Extremely hardworking”

Legal 500 2013

“A ‘responsive and clear-thinking’ advocate”

Legal 500 2012

“Standout junior”

Legal 500 2011

“Highly recommended”

Legal 500 2010