



Nadia Whittaker



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"Nadia is an extremely bright, tenacious advocate who brings real force to legal argument, particularly for maximising outcomes in negotiations. Adopts a thorough, robust and forensic approach to the law."  
(Legal 500, 2021)



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Nadia is an established clinical negligence and personal injury practitioner, ranked by The Legal 500 as Leading Junior, in clinical negligence, at the London Bar. She acts in catastrophic cases with life changing spinal injuries, amputations, and traumatic brain injuries, involving the Court of Protection. Her personal injury practice covers road traffic accidents, employer and public liability and intentional torts, including both historic sexual abuse and assaults or neglect in clinical settings. Nadia is regularly instructed to attend inquests considering death in clinical settings and Care Homes, including Article 2 inquests and inquests before the Jury. She has experience of group litigation and wasted costs applications. Nadia has an increasing practice of civil fraud with exaggeration, malingering and fundamental dishonesty and has recently secured committal for contempt of Court. She is an occupational disease specialist with experience of asbestos related conditions, chemical, biological and radiation exposure, carbon-monoxide poisoning and noise-induced hearing loss. She is also experienced in taking to trial cases involving the defence of limitation.

Nadia prides herself on her ability for a forensic analysis with keen attention to detail. This enables her to secure favourable outcomes in negotiations and at trial in highly contested cases, often against leading counsel. She adopts a client-centred pragmatic approach to her advisory work and her pleadings are robust and comprehensive. At Court, Nadia combines a personable approach with persuasive arguments to ensure success for her client. She is a skilled negotiator.

Outside of her Barrister practice, Nadia also sits as a Lay Member for the British Psychoanalytic Council's Fitness to Practice Panel.

## Clinical Negligence

Clinical negligence is Nadia's primary area of expertise. She acts for the NHS Resolution, MPS, MDU, Dental Protection and MDDUS as well as Claimants. Nadia has advised and litigated cases in a variety of clinical disciplines: obstetrics, gynaecology, paediatrics, general practice, neurology, geriatrics, cardiology, psychiatry (including under the Mental Health Act 1983), oncology, ophthalmology, ENT, anaesthetics, general and specialist surgery, including bariatric and specialist dental procedures. She has considerable experience of successfully concluding cases involving chronic pain, somatoform or functional neurological



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disorder or symptoms otherwise lacking in organic basis: e.g. blindness or paralysis.

Nadia represents NHS Trusts, ambulance services, private hospitals, and individual clinicians: Consultants, RMOs, sonographers, radiographers, nurses, healthcare assistants, dental practice owners, dentists and hygienists. She has experience of multiparty litigation involving both clinical and non-clinical Defendants and has acted in contribution claims as well. In 2021, on instructions from MPS, she drafted pleadings in the jurisdiction of St Helena Island, which enabled the clinician accused of negligence to lift an injunction precluding him from leaving the island.

She specialises in catastrophic injury cases such as spinal injuries, amputation and brain damages, including subtle brain damage, raising complex issues of capacity. She has experience of the Court of Protection, including an end-of-life decision case.

Nadia has considerable experience of cases involving allegations of a failure to obtain informed consent and has successfully defended at trial such cases. She is well versed in issues arising in dependency claims, including following suicide.

Nadia is regularly instructed to advise on the need for and the implications of surveillance and open-source intelligence. In recent years, she has successfully concluded a number of cases involving allegations of fundamental dishonesty, which were compromised at a fraction of their reasonable value or with an agreement to repay the interim payments. She successfully established fundamental dishonesty at trial and secured committal for contempt of Court.

## Selected Cases

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Highlights among Nadia's recent cases:

[Dalchow v St George's University NHS Foundation Trust \[2022\] EWHC 100 \(QB\)\[1\]](#)

[1] Westlaw [2022] 1 WLUK 182

[https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2022/100.html&query=\(dalchow\)+AND+\(st\)+AND+\(george%27s\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2022/100.html&query=(dalchow)+AND+(st)+AND+(george%27s))

<https://www.bbc.co.uk/news/uk-england-london-60075976>

<https://www.newsshopper.co.uk/news/19863515.dad-testicles-removed-due-flesh-eating-bug-loses-high-court-fight/>

Nadia advised and represented the Defendant at trial in this case where the Claimant developed a rare complication in the form of Fournier gangrene following a minor operation on his scrotum. He alleged that there was a delay of a few hours in diagnosing his condition, which was responsible for the loss of his testicles. Given the complexity of the issues on breach of duty and causation, the case was listed for a split trial on liability only, which took place over four days. All aspects of liability were strongly contested at trial. Shortly before the trial the Claimant amended his pleading to allege an alternative case on causation based on the legal principle of material contribution. This entailed an analysis of a considerable number of legal authorities as the Defendant argued that the principle was incorrectly invoked by the Claimant. One of the key authorities was [AB and Others v Ministry of Defence \[2010\] EWCA Civ 1317](#). Judgment for the Defendant was handed down on 20 January 2022. The Court accepted the Defendant's arguments on

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causation and material contribution.

[Radia v Marks \[2022\] EWHC 145 \(QB\)\[1\]](#)

[1] Westlaw [2022] 1 WLUK 287

[https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2022/145.html&query=\(radia\)+AND+\(v\)+AND+\(marks\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2022/145.html&query=(radia)+AND+(v)+AND+(marks))

<https://www.lexisnexis.co.uk/legal/news/professional-negligence-medico-legal-experts-scope-of-experts-duty-radia-v-marks>

<https://www.civillitigationbrief.com/2022/01/27/no-duty-of-care-owed-by-a-jointly-instructed-expert-on-the-facts-of-this-case-experts-giving-evidence-about-being-experts-much-to-read-here/>

Appearing before His Honour Judge Sephton QC sitting as the Judge of the High Court, Nadia was successful in striking out a clinical negligence claim with a pleaded value in excess of £900,000 pursuant to section 57 of the Criminal Justice and Courts Act 2015 on the basis that the Claimant was fundamentally dishonest in the presentation of her claim. The Claimant alleged that as a result of admitted negligence she was severely restricted in her everyday activities and unable to engage in sports that she used to enjoy. The Defendant identified that, whilst pursuing the claim on this basis, she was participating in 10 km running races, mile long open water swims and other endurance activities. When the Claimant was confronted with that evidence, she prepared a witness statement from herself and her husband alleging that somebody else participated under her name. The Defendant was able to identify official photographs from the races that proved this evidence to be a blatant lie.

Nadia was then instructed by the Defendant to prepare an application for permission make a contempt application and was successful in securing that permission at an oral hearing before His Honour Judge Bird sitting as a Judge of the High Court on 13 July 2021. The Claimant subsequently admitted contempt of Court. Nadia represented the Defendant at the sentencing hearing on 29 November 2021 when Mr Justice Cotter sentenced the Claimant to immediate custodial sentence of 7 months and her husband to a 3-month suspended sentence. At that time, the Claimant's sentence was the longest custodial sentence for contempt of Court given to a litigant in a personal injury case.

[Waterfield & 25 others v Dentality Ltd and others \[2020\] 8 WLUK 90 and Waterfield & 25 others v Dentality Ltd and others \[2020\] 11 WLUK 223\[1\]](#)

[1] <https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-48339679>

<https://news.sky.com/story/patients-at-hertfordshire-dental-practice-told-they-need-hiv-tests-due-to-unclean-equipment-11724645>

<https://mandatorycompliance.co.uk/2019/05/22/patients-at-hertfordshire-dental-practice-need-hiv-tests-due-to-unclean-equipment/>

<https://www.cms-lawnow.com/ealerts/2020/09/group-litigation-orders-and-the-pitfalls-of-making-applications-prematurely>

Nadia successfully resisted an application for a group litigation order on behalf of a dental practice. This application was made to attract to the prospective litigation up to 500 patients who have been exposed to



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a risk of blood borne viruses consequent upon admitted breach of duty by a hygienist at the practice. Her Honour Judge Clarke dismissed the application, describing it as “both inadequate and premature”. Nadia also raised a novel argument (with no previous authority on the point) that the qualified one-way costs shifting does not apply to pre-action applications, which was also accepted by the Judge at a separate costs hearing.

[Ollosson v Dr Lee \[2019\] EWHC 784 \(QB\)\[1\]](#)

[1] [2019] 3 WLUK 562[2019] Med. L.R. 287; [2019] 7 C.L. 204

<https://metro.co.uk/2019/03/20/dad-50-left-constant-pain-vasectomy-sues-200000-8955428/>

<https://www.dailymail.co.uk/news/article-6829741/Father-50-sues-doctor-vasectomy-left-constant-pain.html>

<https://theworldnews.net/uk-news/father-50-sues-doctor-after-a-vasectomy-left-him-in-constant-pain>

<https://simplenews.co.uk/uk/dad-50-left-in-constant-pain-after-vasectomy-sues-for-200000/>

The Claimant developed severe chronic scrotal pain as a result of a vasectomy and alleged that the Defendant had negligently failed to advise him of this risk associated with the procedure. Nadia represented the Defendant specialist GP who succeeded in establishing that the Claimant provided his informed consent in accordance with the requirements set out in [Montgomery v Lanarkshire Health Board](#) [2015] UKSC 11. Stewart J found that the Claimant’s genuine belief of how he would have prospectively regarded the risk of the outcome he unfortunately suffered was coloured by the severity of his condition. Had more information been supplied to the Claimant, he still would have gone ahead with the procedure. The judgment includes an important summary of the principles relevant to an assessment of witness evidence in respect of hypothetical situations.

## Personal Injury

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Nadia practices in all aspects of personal injury: road traffic accidents, employer and public liability and intentional torts, including sexual abuse. She has represented both Defendants and Claimants in historic sexual abuse cases, securing successful settlements, including financial compensation for sexual abuse by parents.

Nadia regularly acts in catastrophic cases with life changing spinal injuries, amputation and traumatic brain injuries, including subtle brain damage, raising complex issues of capacity. including subtle brain damage, raising complex issues of capacity. She advises on insurance issues, contractual interpretation and claims against the Motor Insurers’ Bureau. She is familiar with issues of service outside jurisdiction, in prison and in cases that require the involvement of the Official Solicitor.

## Selected Cases

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Highlights among Nadia’s recent cases:

[Turculet \(a protected party\) v ERS Insurance Group Limited \(ongoing\)](#)

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The Claimant suffered serious injuries including brain trauma in a road traffic accident at the age of 43 years, rendering him a protected party unable to work and requiring constant supervision. A substantial settlement was negotiated by the parties. However, the Claimant passed away from an unexpected cardiac event when the parties were awaiting an approval hearing. The claim was amended to be pursued on behalf of the deceased's estate and dependents, but now raises complex issues of medical causation as the Defendant disputes that brain trauma was responsible for the deceased's death at the age of 47 years and nearly 4 years after the original injury.

S (a protected party) v Greenshaw High school (ongoing)

The Claimant received a serious head injury in a bullying incident at school. The case concerns the scope of the school's duty of care in respect of violent acts of its pupils as well as causation issues as the Claimant suffered from Tourette Syndrome, which is alleged to have been triggered or aggravated by his injuries. Liability is denied and it is anticipated that the case will proceed to trial.

Juj v Waitrose Limited (2021)

The Claimant, an octogenarian was visiting a Waitrose shop. Having parked in a disabled bay, he tripped over a kerbed area surrounding the disabled bay and suffered brain injury. At the trial of the preliminary issue of liability, Her Honour Judge Backhouse found that, although the Defendant was an occupier for the purposes of the Occupiers' Liability Act 1957, its duty was limited to "immediate hazards" and to reporting matters to the Local Council and that no action would have been taken even if the matter had been reported. She further found that although the kerb represented an unreasonable hazard to the users of the disabled bay, the accident was "simply a true accident". Nadia drafted an application to appeal, which was granted by Stewart J on 25 February 2021 on the basis that both the limits on the scope of the duty owed by the Defendant and the Judge's finding that there was no liability despite the kerb being an "unreasonable danger" to the disabled users of the parking bay merited review by the High Court. The decision on appeal is still awaited.

Riddington v Four Jays Limited (2021)

The Claimant was a high functioning above knee amputee who was wearing a prosthetic leg when driving a motorcycle that involved in a road traffic accident. The accident resulted in significant injury to the other leg, rendering him a double amputee. Liability for the accident was disputed. The Defendant also argued that the loss of the leg was not caused by the accident and resulted from a subsequent event unrelated to it. Nadia acted on her own when advising initially and drafting the pleadings. The Defendant then instructed leading counsel to act for it due to the complexity of the issues involved. Nadia was then led by Richard Lynagh QC, although she continued to be actively involved in the case. Despite a robust denial of liability, the claim settled at a negotiation meeting, enabling the Claimant to secure reasonable compensation for a double-amputee situation in which he has now found himself.

Hancock (deceased) v Kurti (2021)

Instructed by the insurers in this fatal case where the deceased's died from brain trauma caused in a road traffic accident to advance an intricate argument concerning contributory negligence not in the context of the accident, but from a failure to seek medical attention. The case was further complicated on the issue of quantum as the claim was made by the dependent in respect of financial and services dependency of a functioning alcoholic. The case was settled at a round table meeting with a significant discount on account of both causation and quantum.



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## Weston v the Estate of Cooney (Deceased) and the Motor Insurers' Bureau (2021)

A road traffic accident involving a 17-year-old young woman driven by her boyfriend who suffered fatal injuries. It subsequently transpired that the driver was uninsured. The case involved significant procedural challenges due to there being no representatives of the deceased driver's estate. Nadia advised on the involvement of the Official Solicitor to ensure that proceedings could be served. The Claimant claimed for loss of a chance to pursue a successful career as a jockey and the uncertainty about her nascent career made the assessment of quantum extremely complex.

## B v X and Y (2020)

The Claimant, a woman in her late 20s, brought a claim against her parents alleging historic sexual, physical and emotional abuse perpetrated by her father when she was aged 3 to 15 years. The Claimant alleged that she first realised the scope and nature of the abuse after first experiencing flashbacks when she moved out of her parents' house to study at the University and then, subsequently, when she obtained copies of her GP records which revealed that she suffered from persistent anogenital warts for a period of about 2 years from the age of 5 years and that the possibility of sexual abuse was raised in her medical records at the time, although apparently rebutted by her mother. The Claimant alleged that her mother knew or should have known about wrongful sexual assaults, trespass and battery perpetrated by the father and other males; that she facilitated and concealed them as well as perpetrated her own acts of physical and emotional abuse. The instances of abuse were denied by the parents who also raised the defence of limitation. The case was settled at a mediation with the Claimant receiving monetary compensation.

## Inquests & Public Inquiries

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Nadia has considerable interest in the coronial jurisdiction and benefits from experience of shadow sitting with HM Coroner for South Yorkshire West District Mr Christopher Dorries in 2015, which enabled her to understand how the Coroners approach their role, particularly, the decision-making about the holding of the inquest, commissioning a post-mortem or other investigation as well as considerations that impact on the scope of the inquest, selection of witnesses and the involvement of the Jury. Nadia is regularly instructed to attend inquests considering death in clinical settings and Care Homes.

Nadia's extensive experience of Care Home inquests covers a whole of range of situations: pressure sores, choking, trips, slips and falls, deficiencies in nutrition and hydration, failure to supervise, absconding, administration of incorrect medication, failure to seek timely medical attention and assault by residents/carers. She is instructed by Care Homes or NHS Trusts who are often an interested party in this situation, particularly, where a subsequent civil claim is a real possibility. She delivers pragmatic and focussed advice at the investigation stage and is effective in safeguarding her clients' interests at the inquest.

Nadia also regularly represents families, particularly in situation where death is a result of self-inflicted harm associated with a mental health issue. In 2017, Nadia represented a family of Francesca Whyatt, a 17-year-old who was one of the quadruplets. Francesca had

been detained under the Mental Health Act 1983 for treatment of a borderline personality disorder at the Priory Roehampton hospital and during a period of treatment that lasted less than 12 months was allowed to inflict upon herself numerous injuries. On the day of her death there were numerous failures in her

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care such that she was able to apply a fatal ligature using her own tights. Following a 3 week-long inquest with other interested parties, namely the Priory group, the hospital management, individual clinicians and HSE all being separately represented by senior Counsel, Nadia helped the family to secure the conclusion that the deceased's death was contributed to by neglect. In 2022, the HSE prosecuted Priory Healthcare Ltd who pleaded guilty to failing to discharge a duty under Section 3(1) Health and Safety at Work etc. Act 1974.

Nadia is currently involved in an inquest on behalf of the family due to be heard in the Cheshire Coroner's Court, which also involves apparent suicide of a patient taking place shortly after being discharged from hospital following an earlier attempt to take his own life.

## Industrial Disease

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Having been instructed early on in her career in seminal cases of Baker v Quantum Clothing Group Ltd [2011] UKSC 17[1] (noise induced hearing loss test case litigation) and AB v Ministry of Defence [2010] EWCA Civ 1317[2] and AB and others v Ministry of Defence [2012] UKSC 9[3] (the Atomic Veterans test case litigation), Nadia developed a successful occupational disease practice in asbestos related conditions, chemical, biological and radiation exposure, carbon-monoxide poisoning and noise-induced hearing loss.

[1]  
[https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKSC/2011/17.html&query=\(Baker\)+AND+\(v\)+AND+\(Quantum\)+AND+\(Clothing\)+AND+\(Group\)+AND+\(Ltd\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKSC/2011/17.html&query=(Baker)+AND+(v)+AND+(Quantum)+AND+(Clothing)+AND+(Group)+AND+(Ltd))

[2]  
[https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Civ/2010/1317.html&query=\(AB\)+AND+\(others\)+AND+\(v\)+AND+\(Ministry\)+AND+\(of\)+AND+\(Defence\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Civ/2010/1317.html&query=(AB)+AND+(others)+AND+(v)+AND+(Ministry)+AND+(of)+AND+(Defence))

[3]  
[https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKSC/2012/9.html&query=\(AB\)+AND+\(others\)+AND+\(v\)+AND+\(Ministry\)+AND+\(of\)+AND+\(Defence\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKSC/2012/9.html&query=(AB)+AND+(others)+AND+(v)+AND+(Ministry)+AND+(of)+AND+(Defence))

## Selected Cases

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Highlights among Nadia's cases:

### Banik v Kensey Foods Limited (2018)

Instructed on behalf of the Defendant in an upper limb disorders case. The Claimant alleged that he developed an upper limb disorder as a result of his work as a machine operator. Breach of duty, foreseeability and causation was denied. The case discontinued following exchange of witness evidence and expert evidence shortly before the trial.



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Najda v Samworth Brothers Ltd (2018) before HHJ Gore QC

Upper limb disorder case, involving issues of breach of duty, foreseeability and medical causation. Nadia visited the Defendant's factory as part of her advisory work. The case was compromised at trial for a cost-inclusive sum.

Davies (deceased) v Tata Steel UK Limited (2018) instructed by the Defendant to advise on quantum in fatal malignant mesothelioma case.

Walker (deceased) and Millduce Limited and another (2018) instructed by the Defendants to represent them in a show cause application in a mesothelioma case before Master Eastman.

Sumner v Turtle Wax(2017) before Recorder McLaughlin sitting at Liverpool

Noise-induced hearing loss case: Nadia established breach of duty was established by demonstrating that the noise survey relied upon by the Defendant were undertaken in an incompetent manner.

Lovatt v Secretary of State and Another (2017) Recorder Male QC sitting at Stoke-on-Trent

Noise-induced hearing loss case: Nadia established breach of duty and medical causation following a 2-day trial. The Court rejected the argument advanced by the Defendant's expert, Mr Parker, that the occupational audiograms should be preferred to the subsequent pure tone audiograms in circumstances where there was evidence about the poor conditions in which occupational audiograms were performed.

Shears v Vald Birn (UK) Limited (2017) District Judge Mark sitting at Newcastle-Upon-Tyne

Nadia successfully resisted the defence of limitation in this noise-induced hearing loss case on the basis that the symptoms that were experienced before the 3 years prior to issue of proceedings did not amount to 'significant injury'. She resisted the Defendant's argument that the Claimant should be fixed with constructive knowledge because of the objective loss present at that time (the so-called 'low fence threshold' argument).

Flux v Barden Vectis Limited and Plant & Tools Limited (2017) Recorder Grice sitting at Bristol

Nadia successfully defended a noise-induced hearing loss claim following a 2-day trial with oral evidence from medical experts. The claim was dismissed with the Judge considering that it was statute barred. The Court refused to exercise section 33 discretion, finding that the Defendant was prejudiced because the delay deprived it of an opportunity to undertake its own audiogram before an alleged deterioration in the Claimant's hearing 'wiped out' the audiometric configuration associated with noise damage.

Wilkinson v. (1) John Laing & (2) E C Realisations (2017) Before Recorder Shaw sitting at Lancaster

Successfully resisted a defence of limitation in this noise-induced hearing loss claim. Although the Claimant was provided with a hearing aid some 6 years before proceedings were issued, the Court accepted that he did not have 'knowledge' within the meaning of section 14 of the Limitation Act 1980 on the basis that he reasonably assumed that this was attributable to his sleep apnoea.

Bryn v Moto Hospitality Ltd (2016)

Instructed by the Defendant in a lateral epicondylitis case. Following a number of contested applications,



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the Defendant was able to secure expert evidence that ultimately led to the claim being discontinued following an adjournment of a trial and after exchange of skeleton arguments. It was alleged that the condition was sustained during the course of the Claimant's employment as a customer service assistant at Chieveley Services on the M4. The Defendant denied breach of duty, foreseeability and causation.

### Gillingwater v Anglian Water Services Limited

Nadia represented the Claimant who was exposed to raw or partially treated sewage material and developed Botryomycosis. Liability was denied and a number of expert reports had to be obtained and carefully analysed before the claim was successfully settled.

## Memberships

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- PIBA

## Recommendations

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"Nadia is an excellent barrister. She gets to grips with the issues quickly and gives clear advice, but she is also brilliant with lay clients and witnesses."

Chambers & Partners, 2024

"Nadia is an impressive advocate both in writing and on her feet. She is able to articulate the risks of a case with sensitivity and clarity leaving lay clients confident of her recommendations."

Legal 500, 2024

"Nadia is straightforward and relentless, she has an excellent eye for detail and relishes rolling up her sleeves and taking on difficult cases."

Legal 500, 2024

"Nadia is the perfect counsel: analytical, pragmatic and conscientious."

Legal 500, 2022

"Nadia is an extremely bright, tenacious advocate who brings real force to legal argument, particularly for maximising outcomes in negotiations. Adopts a thorough, robust and forensic approach to the law."

Legal 500, 2021