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## Niall McCulloch

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**Year of Call:** 2000

**E:** [niallmcculloch@enterprisechambers.com](mailto:niallmcculloch@enterprisechambers.com)

**T:** 02074059471

**Clerk:** Duane Hitchman

**Clerk:** Kenya Mendoza

### PRACTICE AREAS

Commercial

Offshore and International

Insolvency & Restructuring

Company

### PROFILE

Niall specialises in commercial law (including commercial fraud), offshore and international work (notably in the BVI as well as other jurisdictions), insolvency and restructuring and company law (with a particular emphasis on shareholder disputes). He regularly appears in the Commercial Court, the Chancery Division and in the BVI Commercial Court. He also regularly appears in arbitrations including inter alia ad hoc, LCIA.

### Commercial

Niall regularly acts in complex fraud and asset tracing claims, often with an international element. He also acts in a range of commercial matters from contractual disputes to guarantees. He is also experienced in obtaining freezing orders both in England (including in support of foreign proceedings) and in off shore jurisdictions.

### Offshore and International

The majority of Niall's work contains an international element and he spends much of his time advising and acting in off-shore matters, particularly in the BVI.

### Insolvency & Restructuring

Niall's insolvency practice is focussed on corporate insolvency, with a particular emphasis on misfeasance and directors' duties, cross border insolvency and restructuring and Section 423.

#### Recent Cases

Niall recently led the Counsel team in *Re Tiuta International Limited (trial 2023)*, a substantial commercial fraud case which concerned the defrauding of a fund and its investors. Niall acts for the liquidators.

Niall is lead counsel in an ongoing case (*Re Goddington Pierce Limited*) concerning a group of companies engaged in a wide ranging labour supply fraud. This has involved Niall obtaining a provisional liquidation order, freezing orders, orders for disclosure and pursuing multiple sets of proceedings. The case also involves multiple jurisdictions.

### Company

Niall has a particular emphasis on shareholder disputes, director's duties and director disqualification.

## BVI Commercial Court

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Niall appeared for two respondents in this substantial commercial litigation concerning claims for conspiracy, unfair prejudice and breach of fiduciary duty.

## Lie v Wing

Commercial Court, January 2019

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Mr Justice Bryan, English Freezing order in support of commercial fraud proceedings in Hong Kong.

## Unicorn Worldwide Holdings Limited and Ors v Cochrane and ano

Commercial Court

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Niall acted for the joint liquidators inter alia in applying for a worldwide freezing order and proprietary injunction.

## Orb a.r.l. and others v Ruhan [2016]

EWHC 850 (Comm) Queen's Bench Division, Commercial Court

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Popplewell J. Niall represented the Liquidators in this complex fraud action which broadly concerned an alleged breach of oral agreement concerning sale of assets.

## Arbitrations

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Niall has recently appeared in the LCIA with Nick Peacock Q.C. The arbitration concerned an alleged fraud perpetrated in Russia in respect of the assets of various BVI companies with complex holding structures.

He has also recently appeared with Alex Gunning Q.C. in an arbitration concerning the purported termination of a drill-ship contract in reliance on insolvency clauses in the contract.

## Aabar Block S.A.R.L. and Edgeworth Capital (Luxembourg) S.A.R.L. v Maud [2015]

EWHC 2220 (Ch) [2016] BPIR 227, [2015] All ER (D) 233 (Dec) [2016] All ER (D) 212 (Apr); LTL 19/4/2016

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Niall represented a Luxembourg trust in this litigation which was part of a high-stakes battle for control of Europe's most expensive real estate asset, Madrid's Banco Santander HQ, valued at c. £6 billion, within the context of a Spanish insolvency process.

## Mariana v BHP Billiton

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TCC: Niall is presently instructed by a group of Brazilian states in this complex litigation involving inter alia jurisdictional disputes. He also acts in a number of other cases involving Brazilian commercial disputes and his services are regularly sought in relation to Brazilian related matters given that he is fluent in Portuguese.

## Hill v Haines [2007]

EWCA Civ 1284, [2008] Ch. 412, [2007] 12 WLUK 54

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Seminal case on the relationship between insolvency law and matrimonial law. The case concerned transactions at an undervalue in the context of ancillary relief.

## CAREER AND ASSOCIATIONS

BA Jurisprudence, Oriel College, University of Oxford (First Class Honours)

Oriel College Prize for Jurisprudence

Elected Scholar of Oriel College

Elected Exhibitioner of Oriel College

MA University of Dundee (First Class Honours (starred 1st, rank 1))

Called to the Bar 2000

Hardwicke Scholar of Lincoln's Inn

Called to the Bar, Eastern Caribbean Supreme Court, November 2003

Member of the Chancery Bar Association

Member of the Insolvency Lawyers' Association

Member of the Commercial Bar Association

Member of INSOL International

Member of CLIPs Scheme

## PUBLICATIONS

Contributor to Gore-Browne on Companies

Contributor to Enterprise Chambers' Annotated Guide to Insolvency Legislation and Practice

Corporate Rescue and Insolvency (2014) 1 CRI 13, 1 February 2014, "Universalism and territoriality: foreign creditor elections in insolvency and anti-suit injunctions".



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## LONDON

9 Old Square  
Lincoln's Inn  
London  
WC2A 3SR

T 020 7405 9471  
E [london@enterprisechambers.com](mailto:london@enterprisechambers.com)

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## BRISTOL

60 Queen Square  
Bristol  
BS1 4JZ

T 0117 450 7920  
E [bristol@enterprisechambers.com](mailto:bristol@enterprisechambers.com)

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## LEEDS

Fountain House  
4 South Parade  
Leeds  
LS1 5QX

T 0113 246 0391  
E [leeds@enterprisechambers.com](mailto:leeds@enterprisechambers.com)

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## NEWCASTLE

65 Quayside  
Newcastle upon Tyne  
NE1 3DE

T 0191 222 3344  
E [newcastle@enterprisechambers.com](mailto:newcastle@enterprisechambers.com)

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