



Ben Quiney KC



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"An absolute star of the Insurance World."
(Legal 500 2020)



Recommendations

In the recent editions of Chambers and Partners and Legal 500 Ben is identified as a Leading QC in his core areas of work, such as [Insurance](#), [Property Damage](#), [Construction](#) and [Professional Negligence](#). He is described in Chambers and Partners and Legal 500 as:

"An absolute star of the Insurance World"

"He has the rare talent of a razor-sharp intellect combined with the ability to present his point in a user-friendly format."

"Utterly unflappable. Ask any question, no matter how complex or involved, and he will give a wholly considered covers-all-the-bases answer that gets to the real heart of the issue. Also very good at understanding how to get through opponents arguments."

"A hard-working and meticulous barrister who is very good on his feet."

"Responsive, incisive, clear and an excellent strategist."

"He exudes total confidence in his case and he is a good cross-examiner."

"A rare calmness in the face of adversity, which is a massive attribute when dealing with difficult and complex cases."

"Ferociously intelligent but at the same time very down to earth and approachable"

Career Summary

He has practised at Crown Office Chambers since its formation, and 1 Paper Buildings prior to merger and since 1998. Before coming to the Bar he was awarded a first class degree in law and went onto take the BCL postgraduate degree. After University he worked as a tax trainee with Ernst Young. During this period



he received intensive training and experience in accounting, finance and corporate tax matters and techniques. He took silk in 2014.

Practice

Ben practises in all areas of commercial litigation. He specialises in dealing with disputes dealing with all aspects of commercial, insurance, construction, and professional negligence issues. Ben has fought cases in the Commercial Court, Chancery Division, TCC, the Court of Appeal, the Privy Council and the Supreme Court. He has a wide range of experience in domestic and international Arbitrations in a variety of jurisdictions.

Construction & Engineering

Ben has wide experience in construction disputes including trial work in the TCC, Arbitrations (domestic and international), and Adjudications. He has dealt with cases for both employers and contractors. Ben regularly works on insurance issues arising from construction projects, including claims under CAR, PI, Property, and Liability policies.

Ben has wide experience of arbitrations and has acted in ICC, DIA, LCIA, LMAA, ARIAS, SIAC, and ad hoc arbitrations. Ben also acts as an arbitrator and accepts appointments in this and other areas.

Ben has particular experience in cases involving construction professionals. The cases that he has been involved in have included allegations against professionals including architects, engineers, valuers, M&E Consultants, quantity surveyors, and emerging professions. Ben has experience of most standard form contracts, including JCT, ICE, NEC, FIDIC, and professional terms (such as ACE, RIBA, RICS). In the latest edition of Chambers and Partners and Legal 500 he is identified as a Leading QC in Construction Professional Negligence and in Construction.

Selected Cases

Recent cases include:

- Northumbria Healthcare NHS Trust v Lendlease & ors – Ben is leading a team in the TCC acting for architects that were part of a large professional and contractor team involved in the construction of a specialist emergency care hospital. The case is a complex multi party claim for over £100m raising numerous legal and technical issues. It is noted as one of the Top 20 trials of 2022 in the Lawyer (DAC Beachcroft) as considered in the recent decision *[2022] EWHC 1266 (TCC)*.
- Scottish Arbitration – Ben acted in a a multi-million pound claim made against a large engineering company involved in a project to rehabilitate a large part of the main water system in Scotland. Allegations of breach of contract arising from the design and issues of defective products arose, requiring the examination of a number of complex scientific, chemical and technical matters, as well as matters of arbitration law and practice; as considered in Arbitration Appeal No 1 of 2021 *[2021] CSOH 41*. (Beale & Co)
- Blue Manchester v North West – Ben acted for the leaseholder in a long running dispute concerning the construction and management of a landmark building in Manchester. It raises complex issues on landlord and tenant claims, engineering of facades, and the scope of allegedly necessary

remedial work (JMW).

- The 52 Occupiers of the Ceramic Works v Bowmer & Kirkland Ltd – Ben is acting for the Defendant engineers facing multiple claims from flat owners for allegedly defective cladding and fire protection. This case raises important issues of liability, causation and damages in the context of the many claims that have followed the tragic fire at Grenfell Tower [2021] EWHC 17 (TCC) (Mills & Reeve).
- Zone Developments v Farrow & Walsh and CNA Insurance – Ben is acting for insurers following a serious collapse during demolition works. Complex issues are in dispute following from exclusions in the relevant policy including determination of the line to be drawn between workmanship and design (Mills & Reeve).

Construction Insurance

Ben frequently advises on insurance disputes arising from construction projects. This includes claims and recoveries. Ben has particular experience with CAR policies (including LEG3 and DE5 wordings) and professional indemnity cover. Recent projects he has acted on include:

- Coverage issues arising from a large PFI Hospital project.
- CAR and PI coverage issues with respect to multiple power stations across Europe.
- Professional Indemnity and CAR claims following the modernisation of a major railway system.
- Coverage issues arising from a prestigious University project including CAR and LEG3 issues.
- Co-insurance problems arising in various projects including the construction of a prestigious development in London and the construction of a landmark office block also in London.
- Coverage issues arising from product liability policies and the failure of products in various large construction projects, such as construction materials, wall systems and marine engineering products.
- Recoveries arising from fires on various projects, including a major National Trust Property and specialist engineering facilities that involved the use of “Hot Works”.
- Claims involving decennial defects liability policies issued for new build developments and high rise buildings.

Adjudications and Enforcements

Ben has extensive experience in complex and high value adjudications. He deals with adjudications from start to finish, including enforcement. Recent adjudications and enforcements have included:

- A Power Station Project – Ben acted in a multi-million claim arising from the construction of a power station and complex issues of professional negligence (RPC).
- A Large University Project – Ben acted for an architect in a complex and multi-million pound adjudication dealing with the nature and extent of the duties of various professionals and the difficulties arising from works on listed buildings (DWF).
- A Large London Hotel Development – Ben acted for a developer in a series of multi-million pound adjudications arising from a serious fire in a very prestigious London development. The series of adjudications have focused on the cause and culpability for a large fire, operation of a JV agreement, liquidated damages, and the role of project managers (Howard Kennedy).
- A Significant University Accommodation Block – Ben acted for the a firm of architects in defending an adjudication arising from alleged defective cladding and fire safety design. The dispute raised

questions of the state of the art in cladding claims, the extent of liability in the context of allocated risks and scope of duty, and the effect of allegedly reasonable settlements (Beale & Co).

Property Damage

Ben undertakes all areas of property damage work. He deals with coverage, recoveries and defences. Ben has extensive experience of very large fire claims and disaster litigation. He has been involved in the TCC and Commercial Court multi-million pound litigation arising from major fires.

In the latest edition of Chambers and Partners he is identified as a Leading QC

Selected Cases

- *Boots v Schneider* – Ben acted for Schneider, manufacturer of a component that is alleged to have caused an electrical fire. The fire is alleged to have caused £20m of damage (Zelle).
- *2 Entertain v Sony* [2019] EWHC 1658 (TCC), 190 Con. L.R. 145, [2020] EWHC 1490 (TCC) – Ben is acting for Sony in defending a multi-million pound bailment claim arising from an arson during the London Riots 2011. The case raises various interesting issues ranging from the effect of limitation and force majeure clauses to the liability of warehousemen/bailment to causation and quantification (DAC Beachcroft).
- *Howmet v EDL & ECS* 157 Con. L.R. 1 & [2016] B.L.R. 555, Ben acted for a factory owner in a recovery action resulting from a serious fire that caused £20+m losses arising from an alleged failure of fail safe devices. This case dealt with significant arguments relating to scope of duty, causation and novus actus (RPC).
- *Cadbury v ADT* [2011] BLR 661, [2012] BLR 441 & 145 Con. L.R. 147, Ben acted for the Claimants against Defendant engineers in this £100m+ recovery action involving the destruction by fire of a large popcorn factory in Pontefract, arising from the installation and operation of a CO2 fire suppression system. This case was one of the Lawyers top 20 cases of 2011 (DAC Beachcroft).
- *D&D Limited v In Line Duct Cleaning Limited*, Ben is acting for the cleaners of ductwork that was alleged to have been involved in a serious fire at a prestigious restaurant in London, which raises significant issues of liability, causation and contributory negligence (Hextalls).
- *National Trust v TFT and Cuffe* – Ben is acting for the Defendant contractor in this case that arises from a serious fire at Clandon House, which is a historic building. The serious fire caused losses claimed to be worth many millions. The case raises complex issues of limitation, duties of care, and quantification (DAC Beachcroft).

Professional Negligence

He has advised upon and dealt with a variety of professional negligence cases, including those involving accountants, tax consultants, lawyers, insurance professionals, construction professionals and emerging professions.

In the latest editions of Chambers and Partners and Legal 500 he is identified as a Leading QC in Professional Negligence. Ben also acts as an arbitrator and accepts appointments in this and other areas.

Recent cases include:

Selected Cases

- *Perry v Raleys Solicitors* [2019] 2 W.L.R. 636 and [2017] P.N.L.R. 27 – Ben is acting as part of the team defending the series of claims arising from the alleged under-settlement of miner’s VWF claims by, amongst others, Raleys solicitors. *Perry* is a key Supreme Court decision reviewing important issues for solicitors’ negligence. It deals with the test for lost chances and honesty, the principles in *Allied Maples*, and questions of the Court of Appeal’s jurisdiction (BLM).
- *The Ingenious Litigation* – Ben is acting for accountants in the *Ingenious Litigation*, which is one of the Lawyers Top Cases of 2018 and 2022. It is a class action of 100s of high net worth individuals arising from a £1.5bn tax management fund. The claims are varied and complex. The Claimants are a number of investors in Ingenious Media’s film/game investment partnerships who are seeking recoveries after allegations of tax avoidance by HMRC and adverse findings in the Tax Tribunals. The action centres on the claim that investors were assured that these partnerships were entirely legitimate trading businesses seeking to make profit through financing films and video games, such as *Avatar*. Liabilities that have arisen from the decisions of HMRC and the Tribunals are alleged to exceed £500m. The Defendants include tax advisors, accountants and banks. There have been numerous hearings determining important costs and security for costs issues (see [2019] EWHC 3234 (Ch), [2020] EWHC 235 (Ch), [2020] EWHC 307 (Ch)), [2020] EWHC 1731 (Ch) and [2021] WLR 3189) (Kennedys).
- *Hargreaves, Thompson & ors v AQC & ors* – Ben is acting for accountants facing significant claim relating to allegations arising from a business consultancy and tax management scheme provided to various businesses. This raises complex issues of scope of duty, tax and corporate management issues and causation (Kennedys).

Brokers Negligence

He regularly acts for and against Insurance Brokers. Recent cases have included:

- *British Gymnastics v Zurich, Brit & Perkins Slade* [2017] EWHC 2500 (Comm) – Ben acted for brokers in this long running multi-million pound coverage dispute arising from cover issued to the British Gymnastics Association. Issues arose relating to cover, non-disclosure, claims made policies, the practice in the Lloyds Market, brokers’ duties, and causation.
- *NGS v Covea & Riverdale* – Ben is acting for an Insured in a claim arising from a Fire at a Salt Manufacturing plant. It involves complex issues as to the cause of the fire, coverage and professional negligence (Rustem Guardian).
- *Chalfin & ors v PIB* – Ben is acting for brokers in this multi-million claim arising from an avoidance by insurers following a significant fire at a factory, which deals with issues of coverage, professional negligence, causation and post claim valuations (Mills & Reeve).

Accountants’ Negligence

Ben is acting for a number of accountants in different large value claims facing allegations ranging from failures to advise with respect to large financial investments for high net worth lottery winners to the



management of Inland Revenue investigations (and COP9). This includes various tax management schemes arising from property, film finance, and investment schemes. Before coming to the Bar Ben worked at Ernst & Young.

IFAs and Investment Schemes

He has advised on and acted in various cases involving investment schemes, tax management schemes, and related investment advice. This has included property investments, film finance schemes and various corporate re-structuring issues.

Legal Professionals

Ben is regularly instructed in cases dealing with solicitors and barristers negligence across all fields of work. Recent cases include:

- BPC Hotels Ltd v Wright Hassall LLP [2016] EWHC 1286 (TCC) – Ben successfully struck out a claim raising allegations of solicitors' and barrister's negligence. This was based on the scope of retainer and issues of causation (BLM).
- Perry v Raleys Solicitors [2019] 2 W.L.R. 636 and [2017] P.N.L.R. 27 – Ben is acting as part of the team defending the series of claims arising from the alleged under-settlement of miner's VWF claims (BLM).
- An Adjudication – a claim involving allegedly negligent legal advice as to the repudiation of contracts on a multi-million construction project.

Construction Professionals

Ben regularly acts for all types of construction professionals. Recent cases have included:

- Services engineers: Carillion Construction Ltd v Woods Bagot Europe Ltd [2016] B.L.R. 382 & [2017] BLR 203);
- Structural engineers: Bloom v Fluid [2018] EWHC 1266 (TCC) & Mirant Asia-Pacific Construction (Hong Kong) Limited and others v. Ove Arup & Partners International Limited and others [2005] PNLR 10);
- Fire safety engineers: Howmet v EDL & ECS 157 Con. L.R. 1 & [2016] B.L.R. 555 & Cadbury v ADT [2011] BLR 661, [2012] BLR 441 & 145 Con. L.R. 147);
- Surveyors: Bank of Ireland v Phillip Pank Partnership [2014] EWHC 284 (TCC & Catlin Estates Limited v. Carter Jonas [2006] PNLR 273); and
- Architects: Maribo v CZL and Northumbria Healthcare NHS Trust v Lendlease [2022] EWHC 1266 (TCC).
- Technical Auditors: Liberty v Campagna (2011) 27 Const LJ 275
- Developers: Travis Perkins v Roxhill & ors.



Insurance & Reinsurance

He advises upon and litigates all insurance related disputes, including: D&O, PI, PL & EL, product liability, and Warranty and Indemnity policy disputes; dealing with insolvent insureds and insurance companies; subrogated recovery claims (including disaster claims); all coverage issues (including non-disclosure, notification, moral hazard, and warranty cases); and issues of scope of cover, such as business interruption. Insurance issues frequently arise in all other areas of Ben's practice, such as Professional Negligence and Construction.

Ben has wide experience of arbitrations and has acted in ICC, DIA, LCIA, LMAA, ARIAS, SIAC, and ad hoc arbitrations. Ben also acts as an arbitrator and accepts appointments in this and other areas.

In the latest edition of Legal 500 and Chambers and Partners he is identified as a Leading QC in Insurance.

Recent cases include:

Selected Cases

- *AIG Europe SA v John Wood Group Plc* [2021] EWHC 2567 (Comm) and [2022] EWCA Civ 781 – Ben is acting for insurers under an umbrella policy facing claims arising from a multi million dollar action in Canada following a pipeline failure. The insureds issued claims in Canada and the insurers successfully secured an antisuit injunction based on an exclusive jurisdiction clause in favour of England (DAC Beachcroft).
- *Wheeldon v Millennium Insurance* [2017] BLR 234, [2018] Lloyd's Rep. I.R. 693 and [2019] 4 WLR 56 – Ben successfully represented a recycling company seeking to recover insurance monies due to a fire, which raises issues of coverage, warranties, the recycling industry and technical evidence. The decision in the Court of Appeal is now the leading case on how the Court will approach appeals from the TCC [2019] 4 WLR 56 (Trowers Hamlin).
- *Curzon Capital v Pembroke Managing Agency*, Ben acted in an insurance dispute arising from various warranties and indemnities provided on a multi-million euro asset purchase involving a shopping centre in Vienna, which raised coverage arguments, technical evidence and issues of Austrian law (CMS).
- *Propharma v Various Lloyd's Syndicates* – Ben is acting for insurers facing a multi-million pound claim under a warranty and indemnity policy arising from the acquisition of a pharmaceutical services. The case deals with issues of policy interpretation, issues of warranty and knowledge and complex quantification arguments (DAC Beachcroft).
- *LIBOR* – Ben acted in an ICC arbitration for a trader facing prosecution arising from the well-publicised alleged Libor manipulation on issues arising from available D&O cover (Fenchurch Law).
- *Covid-19* – Ben has advised upon and acted in a number of claims and arbitrations arising from the recent pandemic. He has advised insured, insurers and brokers on a variety of issues including existence and extent of coverage and the quantification of claims.
- *Cladding* – following the tragic fire at Grenfell Tower Ben has advised on a large number of claims, arbitrations and recovery actions for both claimants, insured and insurers. This has included a number of policy issues ranging from coverage, claims issues, and the level of permitted recovery.



Fire, Flood and other Disaster Claims

Ben has extensive experience of very large fire claims and disaster litigation. These claims often deal with difficult technical evidence and raise complex issues of business interruption and causation. He has been involved in TCC and Commercial Court multi-million pound litigation arising from major fires such as: Primark v Magna, Cadbury v ADT, Southwark v Greenacre, Howmet v ECS, Wheeldon v Millennium Ins, CPG v Great Lakes, V A Laundry v Sterling Ins, Boots v Schneider, NGS v Covea & Riverdale, 2 Entertain v Sony, and National Trust v TFT and Cuffe. He was part of the team of Counsel working on the Buncefield litigation for Total, including dealing with the disclosure dispute in that litigation. He advises on both the coverage and recovery elements of this category of cases.

Warranty and Indemnity Insurance

Ben has extensive experience of advising on and dealing with claims arising from W&I policies that provide cover for the acquisition of enterprises in a variety of business sectors. This includes cases dealing with the purchase of business in the pharmaceutical, energy, construction and freight sectors. These cases raise a number of complex insurance and commercial law issues.

D&O Insurance

Ben is regularly instructed to advise and act on disputes dealing with Directors and Officers policies. Ben has particular expertise in this area as a result of his experience with Directors' Duties cases. Recent cases have included:

- A coverage dispute arising from alleged wrongful trading activities in the green energy market.
- Issues arising from directors disqualification proceedings and alleged wrongful trading in the running of a major charity.
- A dispute relating to whether defence costs should be indemnified in a long running financial fraud case.
- Coverage issues arising from US Securities prosecutions involving Russian nationals in the energy sector.
- Coverage arising from a major disaster and associated inquiries.

Professional Indemnity Claims

Ben regularly advises on all issues connected to professional indemnity disputes. Recent work includes:

- Advice on aggregation of claims arising from various conveyancing transactions.
- Advice on the inter-relationship between contractual and non-contractual exclusions.
- Advice on the scope of cover for IFAs.
- Advice on the effective of a deliberate or reckless act of a professional on cover.
- Advice on the impact of US claims on the management of the Lloyd's Market and Lloyd's brokers.



Construction Insurance

Ben frequently advises on insurance disputes arising from construction projects. This includes claims and recoveries. Ben has particular experience with CAR policies (including LEG3 and DE5 wordings) and professional indemnity cover. Recent projects he has acted on include:

- Coverage issues arising from a large PFI Hospital project.
- CAR and PI coverage issues with respect to multiple power stations across Europe.
- Professional Indemnity and CAR claims following the modernisation of a major railway system.
- Coverage issues arising from landlord's claims following a major fire in a South London nightclub.
- Coverage issues arising from a prestigious University project including CAR and LEG3 issues.
- Co-insurance problems arising in various projects including the construction of a prestigious development in London and the construction of a landmark office block also in London.
- Coverage issues arising from product liability policies and the failure of products in various large construction projects, such as construction materials, wall systems and marine engineering products.
- Claims involving decennial defects liability policies issued for new build developments and high rise buildings.
- Recoveries arising from fires on various projects, including a major National Trust Property and specialist engineering facilities that involved the use of "Hot Works".

Company and Commercial

Ben has a wide experience of commercial matters, including: sale of goods; contractual disputes; civil fraud, company law and insolvency issues; guarantees and indemnities; passing off and intellectual property matters; jurisdictional disputes; and fiduciary obligations and equitable remedies.

Ben has wide experience of arbitrations and has acted in ICC, DIA, LCIA, LMAA, ARIAS, SIAC, and ad hoc arbitrations. Ben has been called to the BVI Bar. Ben also acts as an arbitrator and accepts appointments in this and other areas.

Recent cases include:

Selected Cases

Directors' Duties Cases

Ben has particular expertise in director's cases and has been described in the legal directories as an expert in this field. He regularly advised on Directors & Officers Insurance claims arising from such issue. He successfully argued in the Court of Appeal the novel point that directors owe special and particular duties of disclosure in *Item Software v. Fassihi and others* [2005] 2 B.C.L.C. 91 (CA), which is now a core case in this area. He acts for both companies and directors/employees. These cases often involve allegations relating to breach of fiduciary duty, restrictive covenants, copyright, passing off, economic torts, and accessory liability. He has taken to trial a number of such cases including:

- *Crowson Ltd v Concept Ltd* [2008] F.S.R. 14;
 - *Markel & QBE v SGC & ors* [2009] Lloyd's Rep IR 77 & [2008] EWHC 3087 (Comm) & [2009] EWCA Civ 790;
 - *Berryland Books v BK Books & ors* [2009] 2 B.C.L.C. 709 & [2010] All ER (D) 209 (Dec);
 - *Premier Waste Management Limited v Towers* [2010] EWHC 2440 (Ch) and [2012] BCC 72 ;
 - *Templeton Insurance Ltd v Motorcare Warranties Ltd* [2012] All ER (D) 75 (Apr), [2012] EWHC 2309 (QB) and [2013] All ER (D) 32 (Feb); and
 - *St Vincent European General Partner Ltd v Robinson* [2018] EWHC 1230 (Comm) & [2018] EWHC 1442 (Comm).
- *SDI v Rangers FC* – Ben is acting for Rangers Football Club in a long running dispute between it and Sports Direct. This raises issues relating to the interpretation of a distribution agreement and the appropriateness of injunctive relief, [2018] EWHC 2948 (Comm), [2019] EWHC 207 (Comm), [2019] EWHC 591 (Comm) and [2019] EWHC 1929 (Comm) (Mills & Reeve).
 - *St Vincent European General Partner Ltd v Robinson* [2018] EWHC 1230 (Comm) & [2018] EWHC 1442 (Comm) – Ben is acting for property advisers involved in the multi-million pound sale of commercial properties in Poland. The Claimant alleged that various parties had been involved in breaches of fiduciary duty, sales at under value, breaches of contract and an unlawful means conspiracy. This involved unsuccessful applications to join a number of additional Defendants, including Ben's client (Mills & Reeve).
 - ICC Arbitration – Ben acted for an importer of rock salt in a £million+ arbitration dealing with documentary credits and force majeure clauses (Rustem Guardian).
 - LMMA Arbitration – Ben acted for an importer in a multi-million pound international sale of goods dispute (Rustem Guardian).
 - *MPA v HPI* (2017, BVI) – Ben was instructed in enforcement proceedings in the BVI Courts arising from a multi-million dollar Panamanian Arbitration award determining a dispute involving the operation of an Ecuadorian Port (Appleby).

Warranty and Indemnity Claims

Ben has extensive experience of advising on and dealing with claims arising from W&I claims and also insurance policies that provide cover for the acquisition of enterprises in a variety of business sectors. This includes cases dealing with the purchase of business in the pharmaceutical, energy, construction and freight sectors. These cases raise a number of complex insurance and commercial law issues.

Freezing Injunctions, Search Orders, and other interim remedies

Ben has extensive experience of with and without notice urgent applications, such as:

- *Markel & QBE v SGC* [2009] Lloyd's Rep IR 77 & [2008] EWHC 3087 (Comm) & [2009] EWCA Civ 790 (freezing injunction, surety bonds, civil fraud & directors' duties);
- *RBS Invoice Finance Ltd v Karia* [2008] All ER (D) 131 (May) (civil fraud, freezing injunctions and factoring);
- *Schmid v Fortmann* [2007] All ER (D) 107 (Oct) (property orders, civil fraud and resulting trusts);
- *Templeton Insurance Ltd v Motorcare Warranties Ltd* [2012] All ER (D) 75 (Apr) , [2012] EWHC 2309

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- (QB) and [2013] All ER (D) 32 (Feb) (contempt of court, freezing injunctions, and civil fraud);
 - St Vincent European General Partner Ltd v Robinson [2018] EWHC 1230 (Comm) & [2018] EWHC 1442 (Comm) (freezing injunctions and third parties);
 - SDI v Rangers FC [2018] EWHC 2948 (Comm), [2019] EWHC 207 (Comm) and [2019] EWHC 591 (Comm) (specific performance, declaratory relief and mandatory injunctions).
 - AIG Europe SA v John Wood Group Plc [2021] EWHC 2567 (Comm) and [2022] EWCA Civ 781- insurance and anti suit injunction.

Product Liability

Ben regularly works on technical cases involving defective products. His main focus is on disputes where products have failed causing financial losses. For example, he often deals with claims in a sale of goods context or where defective products cause damage to buildings and plant, such as by fire or flood. Ben has dealt with cases covered by most standard form contracts and often has to deal with issues relating to limitations and exclusions.

Selected Cases

- *Boots v Schneider* – is acting for Schneider, manufacturer of a component that is alleged to have caused an electrical fire. The fire is alleged to have caused £20m of damage (Zelle).
- *Scottish Arbitration* – Ben acted in a multi-million pound claim made against a large engineering company involved in a project to rehabilitate a large part of the main water system in Scotland. Allegations of breach of contract arising from the design and issues of defective products arose, requiring the examination of a number of complex scientific, chemical and technical matters, as well as matters of arbitration law and practice; as considered in Arbitration Appeal No 1 of 2021 [2021] CSOH 41. (Beale & Co)
- *Howmet v EDL & ECS* 157 Con. L.R. 1 & [2016] B.L.R. 555, Ben acted for a factory owner in a recovery action resulting from a serious fire that caused £20+m losses arising from an alleged failure of fail safe devices. This case dealt with significant arguments relating to scope of duty, causation and novus actus (RPC).
- *Bembridge Marine v Allen & ors* [2012] EWHC 2213 (TCC), Ben defended the supplier of bolts and gratings in a £7m sale of goods claim in the TCC. The case raised issues of contractual formation, sale of goods, and limitations of liability. He succeeded in enforcing ASD's limitation of liability clause in its standard contract terms, which was found to cap the recoverable damages at £705 rather than £7million (DAC Beachcroft).
- *Cadbury v ADT* [2011] BLR 661, [2012] BLR 441 & 145 Con. L.R. 147 Ben acted for the Claimants against Defendant engineers in this £100m+ recovery action involving the destruction by fire of a large popcorn factory in Pontefract, arising from the installation and operation of a CO2 fire suppression system. This case was one of the Lawyers top 20 cases of 2011 (DAC Beachcroft).
- An Arbitration – Ben acted for a contractor on a very large PFI hospital project involving the installation of many miles of pipework. Amongst the complex issues in the dispute was the manufacture and quality of the pipework.
- An Arbitration – Ben is acting for a large engineering multi-national with respect to a dispute as to the construction of various power stations. Numerous complex disputes have arisen, including the manufacture and construction of key elements of each of the power stations and the necessary mitigation works.

Arbitration

Ben has wide experience of arbitrations, both domestically and internationally. This is in all his core areas, with particular emphasis on Insurance and Construction arbitrations. This has included acting in ICC, LCIA, LMAA, ARIAS, DIA, SIAC, and ad hoc arbitrations. Ben has also acted on Arbitration appeals and enforcement actions in different jurisdictions, such as in the BVI.

Ben accepts appointments as an Arbitrator and has been appointed to deal with claims involving his areas of expertise.

Examples of arbitrations he has acted been involved in include:

Selected Cases

- Multiple insurance claims arising out of five significant energy projects being heard in Denmark.
- Defending a professional indemnity insurance claim arising from various claims against accountants brought by high net individuals.
- A claim under a D&O Policy connected to the various LIBOR actions arising from the recent financial crash.
- An arbitration in Singapore dealing with an insurance claim arising from a significant transport network collapse.
- A series of arbitrations arising from significant commodities transactions and international trade issues.
- An insurance claim arising from the collapse of a bridge in Russia.
- A claim under a D&O Policy arising from proceedings in the USA and allegations of multi-billion tax fraud in Russia.
- A claim arising from a large water project in Scotland and extensive allegations relating to engineering issues.
- Claims made under insurance policies relating to the provision of professional design services on multiple construction projects.
- Claims made under a D&O Policy relating to the provision of services on a large construction project.
- A claim arising from the purchase of a large construction business.

Reported Cases

- *AIG Europe SA v John Wood Group Plc* [2022] EWCA Civ 781 – insurance, anti suit injunction and comity.
 - *Northumbria Healthcare NHS Trust v Lendlease & ors* [2022] EWHC 1266 (TCC) – construction and architects negligence, and split trials.
 - *AIG Europe SA v John Wood Group Plc* [2021] EWHC 2567 (Comm) – insurance and anti suit injunction.
 - *Arbitration Appeal No 1 of 2021* [2021] CSOH 41 –International Arbitration, arbitral practice, errors of law, and engineering disputes.
 - *Rowe v Ingenious Media Holdings PLC* [2021] WLR 3189 – security for costs, the appropriateness of
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- cross-undertakings, and the particular issues arising from litigation funding in class actions.
- The 52 Occupiers of the Ceramic Works v Bowmer & Kirkland Ltd & Anor [\[2021\] EWHC 17 \(TCC\)](#) – cladding, service and amendments.
 - 2 Entertain v Sony [\[2020\] EWHC 972 \(TCC\)](#) – Bailment, warehouse duties, contractual limitations, force majeure, and causation.
 - Ingenious Litigation [\[2020\] EWHC 307 \(Ch\)](#) – class action case management and interim applications.
 - Ingenious Litigation [\[2019\] EWHC 3234 \(Ch\)](#) and [\[2020\] EWHC 235 \(Ch\)](#) – costs, third party funding and security for costs.
 - SDI v Rangers FC [\[2019\] EWHC 591 \(Comm\)](#) and [\[2019\] EWHC 1929 \(Comm\)](#) – Football Contracts, contractual interpretation, and the mechanics of renewal rights.
 - Perry v Raleys Solicitors [\[2019\] 2 W.L.R. 636](#) – solicitors negligence, causation and the application of Allied Maples.
 - SDI v Rangers FC [\[2019\] EWHC 207 \(Comm\)](#) – Amendments of Particulars of Claim, Football Contracts, and contractual interpretation.
 - Wheeldon v Millennium Insurance [\[2019\] 4 WLR 56](#) – Appeals from TCC, Fires and Waste Management, and Property Insurance.
 - SDI v Rangers FC [\[2018\] EWHC 2948 \(Comm\)](#) – Football Contracts, freezing injunctions, interpretation of a distribution agreement, and the appropriateness of injunctive relief.
 - St Vincent European General Partner Ltd v Robinson [\[2018\] EWHC 1230 \(Comm\)](#) & [\[2018\] EWHC 1442 \(Comm\)](#) – Economic Torts, Company law, the calculation of damages, Banking and finance, freezing injunctions, and the late addition of parties.
 - Broom v Fluid [\[2018\] EWHC 1266 \(TCC\)](#) – engineering dispute, iceberg house on “Grand Designs”, and case management procedure.
 - Wheeldon v Millennium Insurance [\[2018\] Lloyd’s Rep. I.R. 693](#) – Fires and Waste Management, Property Insurance, and the interpretation of conditions precedent and warranties.
 - Manta Port Authority v Terminales Internacionales De Ecuador SA (Eno liquidacion); Hutchinson Port Investments Limited Hutchinson Port Holdings Limited [\[2017\] BVIHC\(COM\) 191 of 2016](#) – International Arbitration, breach of contract, and the construction of international ports.
 - British Gymnastics v Zurich, Brit & Perkins Slade [\[2017\] EWHC 2500 \(Comm\)](#) – Gymnastics, Liability Policies, and the late Addition of Parties.
 - Perry v Raleys Solicitors [\[2017\] P.N.L.R. 27](#) – solicitors negligence, causation and the application of Allied Maples.
 - Dawnus Construction Holdings v Amey LG Ltd [\[2017\] EWHC B13 \(TCC\)](#) – adjudication and dispute resolution procedure.
 - Wheeldon v Millennium Insurance [\[2017\] B.L.R. 234](#) – Fire claim, experts and conflicts of interest.
 - Carillion Construction Ltd v Woods Bagot Europe Ltd [\[2017\] BLR 203](#) – Construction contracts and extensions of time.
 - Howmet Ltd v Economy Devices Ltd [\[2016\] B.L.R. 555](#) – Fire claim, product liability, corporate knowledge and causation.
 - BPC Hotels Ltd v Wright Hassall LLP [\[2016\] EWHC 1286 \(TCC\)](#) – solicitors’ and barrister’s negligence, strike out and scope of retainer.
 - Carillion Construction Ltd v Woods Bagot Europe Ltd [\[2016\] B.L.R. 382](#); [166 Con. L.R. 52](#) – Construction contracts, completion dates and liquidated damages.
 - Howmet Ltd v Economy Devices Ltd [157 Con. L.R. 1](#) – Fire claim and product liability.
 - Genesis v Allianz [\[2014\] EWHC 3676 \(QB\)](#) – Insurance declinature when arson by an insured.
 - Bank of Ireland v Phillip Pank Partnership [\[2014\] EWHC 284 \(TCC\)](#) – Post-Mitchell decision on defects in cost budgeting.
 - Daniel v Mode [\[2013\] EWHC 3614 \(TCC\)](#) – strike out/summary judgment on a fire claim at a very

early stage.

- *Templeton Insurance Ltd v Motorcare Warranties Ltd* [2013] All ER (D) 32 (Feb) – Court of Appeal on contempt of court for breach of freezing injunctions and sentencing; reduced to suspended sentence.
- *Cadbury v ADT (No.2)* 145 Con. L.R. 147 – interim payments on account and “no loss” arguments.
- *Rivercove v Euro Rubberlines* [2012] EWHC 2593 (TCC); *Environmental Law Monthly Volume 21 Issue 11* – oil pollution.
- *Ram Recycling v DRC and ors* [2012] EWHC 2757 (Comm) – insurance brokers, security for costs, and re-opening decisions.
- *Cadbury v ADT* [2012] BLR 441 – Engineer’s negligence, contract formation, sale of goods, and contributory negligence.
- *Ram Recycling v DRC & ors* [2012] EWHC 2464 (Comm) – insurance brokers, coverage and security for costs.
- *Templeton Insurance Ltd v Motorcare Warranties Ltd* [2012] EWHC 2309 (QB) – contempt of court for breach of freezing injunctions and sentencing.
- *Bembridge Marine v Allen & ors* [2012] EWHC 2213 (TCC) – sale of goods and limitation of liability clauses.
- *Ram Recycling v DRC & ors* [2012] EWHC 1736 Comm. – insurance brokers, coverage and summary judgment.
- *Templeton Insurance Ltd v Motorcare Warranties Ltd* [2012] All ER (D) 75 (Apr) – contempt of court, freezing injunctions, civil fraud and breach of insurance binders.
- *Premier Waste Management Limited v Towers* [2012] BCC 72 – director’s duties and fiduciaries (CA).
- *Cadbury v ADT* [2011] BLR 661 – Engineer’s negligence, contract formation, sale of goods, and contributory negligence.
- *Liberty v Campagna* (2011) 27 Const LJ 275 – Latent Defects insurance and the duties of technical auditors.
- *Berryland Books v BK Books & ors* [2010] All ER (D) 209 (Dec) – Torts of conspiracy and breach of fiduciary duty (CA).
- *Premier Waste Management Limited v Towers* [2010] EWHC 2440 (Ch) – Directors’ duties and fiduciaries.
- *Berryland Books v BK Books & ors* [2009] 2 B.C.L.C. 709 – directors’ duties, civil fraud, publishing and copyright, and accessory liability.
- *Markel & QBE v SGC & ors* [2009] Lloyd’s Rep IR 77 – Surety bonds, insurance binders, civil fraud & directors’ duties (also [2008] EWHC 3087 (Comm) & [2009] EWCA Civ 790).
- *Buncefield* [2008] EWHC 2218 (Comm) – disclosure obligations, specific disclosure and pre-action reports.
- *RBS Invoice Finance Ltd v Karia* [2008] All ER (D) 131 (May) – civil fraud, freezing injunctions and factoring.
- *Crowson Ltd v Concept Ltd* [2008] F.S.R. 17 – civil fraud, directors’ duties, confidential information, and database rights.
- *Hart v Larchpark & Fidler* [2008] 1 BCLC 589 – security for costs.
- *Schmid v Fortmann* [2007] All ER (D) 107 (Oct) – civil fraud and resulting trusts.
- *Hart v Larchpark & Fidler* [2007] BLR 30 – Adjudicator’s jurisdiction under the 1996 Act (written contracts and time limits), stays under the insolvency rules and default judgments.
- *Bennett (Electrical) Services v Inviron* [2007] EWHC 49 (QB) – Adjudicator’s jurisdiction under the 1996 Act (written contracts).
- *ALE v MSD* [2006] EWHC 2080 (TCC) – Adjudicator’s jurisdiction under the 1996 Act (written contracts and estoppel) and insolvency.



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- *Catlin Estates Limited v. Carter Jonas* [2006] PNLR 273 – Building surveyors, title to sue, and professional negligence.
 - *Margate Theatre Trust v. White (t/a A1 Moling Services) & AXA* [2006] Lloyd's Rep IR 93 – scope of insurance and deemed knowledge of insurer on specialist business.
 - *Mirant Asia-Pacific Construction (Hong Kong) Limited and others v. Ove Arup & Partners International Limited and others* [2005] PNLR 10 – Engineers professional negligence, assumption of responsibility and concurrent contractual and tortious duties.
 - *Item Software v. Fassihi and others* [2003] 2 B.C.L.C. 1 (Ch Div) & [2005] 2 B.C.L.C. 9 – Directors' duties, confidential information, and theft of database (CA).
 - *Re Cooling Equipment Wholesale Ltd* [2002] 2 B.C.L.C. 745 – Compulsory winding up petition and sale of goods.

Qualifications

- Birkdale School, Sheffield
- BA (Hons) in Law – First Class, University College, Oxford
- Tax Trainee with Ernst & Young
- BCL, University College, Oxford
- Admitted to Gray's Inn, Lord Birkenhead Scholarship
- Inns of Court School of Law
- Called to the Bar
- Tenant at Crown Office Chambers (previously One Paper Buildings)
- Appointed QC
- Called to the BVI Bar

Seminars

Ben regularly gives seminars in his areas of expertise. He is happy to do so as part of in-house training. In the past few years he has given seminars on the following topics: Insurance Act 2015; liquidated damages; fire and disaster claims; bonds & guarantees; conflicts of interest; privilege and the law of evidence; damages; fiduciary and directors' duties; interim commercial remedies; restrictive covenants; the impact of Covid 19 and insurance claims; loss of a chance in professional negligence claims; and the Law Commission reform of Insurance Law.

Memberships

- LCLCBA
- TECBAR
- COMBAR
- PNBA



Recommendations

"He is very commercial and will always have thought of everything."

Chambers & Partners, 2022

"Utterly unflappable. Ask any question, no matter how complex or involved, and he will give a wholly considered covers-all-the-bases answer that gets to the real heart of the issue. Also very good at understanding how to get through opponents arguments."

Legal 500, 2022

"Ben is incredibly calm, incredibly assured and measured."

Chambers & Partners, 2022

"His advice is clear, measured and commercial and his mind is incredibly well organised." "He's good at structuring arguments methodically and impressive on his feet."

Chambers & Partners, 2021

"His advocacy is sharp and incisive. Technically brilliant and happy to roll up his sleeves."

Legal 500, 2021

"He is always fully read in, prepared and very organised. There is no better man in a crisis."

Legal 500, 2021

"He is structured and clear, and has a great knack for putting the client at ease. He's very skilled at advocacy and advising in conference, and judges immediately warm to him."; "He is calm and measured, puts his written arguments in an attractive way and is helpfully understated in court."

Chambers & Partners, 2020

"Very calm, very intelligent, highly responsive, fun to deal with and a good strategist."

Chambers & Partners, 2018

"He is very dedicated, always on top of the details and very pragmatic."

Chambers & Partners, 2018

"He is excellent, very good at what he does and particularly good at difficult coverage cases."

Chambers & Partners, 2018

"Ferociously intelligent but at the same time very down to earth and approachable."

Legal 500, 2017

"Particularly good at oral advocacy."

Chambers & Partners, 2017