



Benedict Morillo



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Benedict accepts instructions across Chambers' core areas of practice. He particularly welcomes instructions in insurance, professional liability, construction, property damage, and commercial matters.

Benedict has a thriving court practice, appearing in interim applications and trials on a near-daily basis. He is an experienced trial advocate, having conducted over 50 Small Claims and Fast Track trials since the start of his second six in April. He recently appeared as sole counsel for the successful Claimant in a High Court (TCC) adjudication enforcement worth over £130,000. Alongside this, Benedict has a busy advisory and drafting practice and he has recently advised on several matters valued in excess of £100,000.

Prior to joining Chambers, Benedict was a lecturer in Law at Oriel College, Oxford. He gave weekly tutorials in Trusts and led seminars in Contract and Tort. Before that, he took a Double First-Class undergraduate degree in Law at Oxford (coming 9th in his year). He continued at Oxford to study for the Bachelor of Civil Law, in which he obtained a Distinction and achieved a First-Class mark in every paper. He also obtained a Distinction on the Bar Course. Benedict prides himself on his ability to bring his academic background to bear on complex legal problems while still maintaining an eminently practical and commercial approach to litigation.

Professional Liability

Seats with Richard Sage and Carlo Taczalski during pupillage allowed Benedict to familiarise himself with a wide range of professional liability work. He has experience in dealing with professional liability matters involving solicitors, brokers, company directors, consultants, and construction professionals.

Examples of Benedict's work include:

- Solicitors – advising on quantum and settlement strategy in a matter in which solicitors had allegedly failed to competently negotiate an £800,000 option to purchase in a commercial lease. Quantum advice involved assessing competing valuations of the option with reference to the underlying value of the site, its development potential, as well as a £200,000 figure floated during unsuccessful negotiations between the landlord and tenant for the release of the option.
- Solicitors – advising and drafting pre-action correspondence in a matter in which solicitors allegedly

failed to advise a client that entering into a settlement agreement in an employment claim would lead to the client's personal injury claims against their employer being waived.

- Employment consultants – advising and drafting pre-action correspondence for a claim in which the newly hired Claimant alleged that employment consultants negligently failed to pass on his desired terms of employment to the new employer.
- Company directors – (during pupillage) assisted Daniel Shapiro KC and James Sharpe in *MW High Tech Projects UK Limited v Greenhalgh and Others [2022] EWHC 2000 (TCC)*, a £300 million claim brought against company directors for their decision to enter into waste-to-energy projects. Available at <https://www.bailii.org/ew/cases/EWHC/TCC/2022/2000.html>
- Insurance brokers – (during pupillage) drafted a Defence on behalf of an insurance broker specialising in luxury yacht insurance in an additional claim brought by an insurer for the broker's failure to ask sufficient questions to elicit the insured's claims history.
- Solicitors – (during pupillage) drafted a Defence on behalf of a solicitor's firm which allegedly breached the no-conflict duty by advising its client on an agreement entered into between the directors of the firm and the client under which the directors would raise capital for the client in exchange for an allocation of shares.
- Surveyors – (during pupillage) drafted a Defence on behalf of the Defendant Party Wall Act surveyor who faced allegations of negligence for failing to order an intrusive structural survey into the Claimant's property before approving work pursuant to the Act.
- Planning consultants – (during pupillage) drafted pre-action correspondence on behalf of the Claimant in a claim concerning negligent advice on the scope of the permitted development regime for agricultural conversions. The Claimant's newly built shed conversions had to be demolished pursuant to an enforcement notice.

Construction & Engineering

Benedict was exposed to a variety of construction disputes during pupillage while sitting with Carlo Taczalski and Richard Sage. He has experience of adjudication, arbitration, party wall act disputes and he has dealt with everything from domestic renovation projects with informal contracts to large commercial projects on JCT standard terms.

His recent work includes:

- Adjudication enforcement – appeared as sole counsel on behalf of the successful Claimant to enforce an adjudication award of over £130,000 in the TCC. A winding-up order had been made against the Defendant between the adjudication decision's issuance and the enforcement hearing so Benedict also had to obtain leave to proceed under s. 130(2) of the Insolvency Act 1986.
- Domestic construction – drafted Particulars of Claim and a Reply and Defence to Counterclaim on behalf of a homeowner whose home was ruined by a cowboy builder following a botched renovation. Involved issues of defective works, delay, the valuation of additional works, and habitability under the Defective Premises Act 1972.
- Domestic construction – (during pupillage) assisted Richard Sage in *Caudle Developments Limited v Warren*, a three-day Central London CC TCC trial involving a dispute over which party was responsible for obtaining the regulatory approval for moving hibernating bats, and competing claims that the opposing party was in repudiatory breach of contract. Widely reported in the media and available at <https://www.thetimes.co.uk/article/frank-warren-s-wife-in-court-bout-over-bats-in-the-attic-qzdd60>

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- Party Wall Act disputes – (during pupillage) drafted a Defence on behalf of Party Wall Act surveyor who faced allegations of negligence for failing to order an intrusive structural survey into the Claimant's property before approving work pursuant to the Act.
- Arbitration – assisting Carlo Taczalski with a multi-million pound arbitration which concerned delay on civil engineering works at a powerplant under a bespoke contract.

Property Damage

Benedict has experience in a wide range of property damage matters arising out of fire, flood, road traffic accidents and other incidents. Much of his advisory work involves subrogated recovery claims.

Recent work includes:

- Fire – Advising on the application of *Berni Inns* to a lease in a subrogated claim following a fire at a quasi-charitable social housing property which had been started by a third party.
- Flood – (during pupillage) assisted Ben Quiney KC and Alex Macpherson in a claim arising out of a flood at a luxury London property development. Issues included the availability of a co-insured defence to a sub-contractor where the main contractor had taken out all-risks project insurance.
- Fire – (during pupillage) advising on a prospective subrogated claim concerning a defective switchboard component which caused a fire at a domestic property. A claim under the Consumer Protection Act 1987 was time-barred and the advice concerned which parties to pursue out of the component's manufacturer, retailer, installing electrician, and maintaining electrician.
- Vermin – (during pupillage) drafted a Defence on behalf of a self-storage company in a claim involving a vermin infestation which led to the Claimant's stored property being damaged and contaminated with droppings.
- Fire – (during pupillage) advising on the merits of a prospective subrogated claim where an insured's leisure centre was heavily damaged by fire seemingly caused by a sub-contractor during hot roofing work.
- Fire – (during pupillage) advising an insurer on quantum in a claim brought by an insured for an indemnity after its private psychiatric ward burnt down. Involved issues of compensating advantages/collateral benefits and betterment, as the ward the insured proposed to reinstate would have been more profitable than the destroyed ward.

Commercial

A seat with Carlo Taczalski during pupillage exposed Benedict to a range of general commercial work involving—among other things—agency, civil fraud, and sale of goods contracts. His academic background gives him particular familiarity with commercial law. He studied Commercial Remedies and Restitution of Unjust Enrichment on the BCL (the latter of which he was taught by Lord Burrows of the Supreme Court), and as a Trusts tutor at Oxford he had a particular interest in remedies for breaches of fiduciary duties.

His work includes:

- (During pupillage) assisted Carlo Taczalski in a PD 51U disclosure guidance hearing. Researched the scope and nature of an agent's duty to disclose documents to the principal following termination of

the agency.

- (During pupillage) assisted Carlo Taczalski in a claim brought by an insured against its broker for fraudulently representing that the insurer had agreed to an indemnity which involved the falsification of various documents. Issues concerned the broker's vicarious liability for a rogue employee and attribution of the rogue employee's dishonesty to the brokering firm.
- (During pupillage) assisted Jason Evans-Tovey with an interim application for an injunction to prevent a business' bank accounts from being closed by its bank.
- (During pupillage) drafting a Particulars of Claim and Reply and Defence to Counterclaim in a case involving a packaging and logistics company's claim for the value of reusable storage containers which the Defendant client had hired and seemingly lost.
- (During pupillage) drafted a Defence in a claim involving the Defendant adhesive manufacturer's supply of an allegedly defective adhesive. Involved complex scientific expert evidence regarding the chemical makeup and material properties of the adhesive.

Insurance & Reinsurance

Most of Benedict's work involves an insurance element. Benedict has experience in advising in a range of 'pure' insurance matters including coverage disputes and policy avoidance disputes.

His recent work includes:

- Policy voiding – (during pupillage) assisting James Medd with a claim involving a landscape gardening insured making material misrepresentations about the nature of its business. The claim arose from a gas pipe explosion which caused a sub-contractor to suffer third-degree burns over his entire body.
- Coverage – (during pupillage) advised on Covid-19 business interruption coverage for a beauty salon claiming under a 'hybrid clause' which was triggered upon the manifestation of a notifiable disease at the insured's premises. Involved complex issues of causation in light of the FCA test case as the insured could evidence the presence of Covid-19 at the premises at start of the pandemic but not thereafter while it remained closed.
- Coverage – (during pupillage) advised on whether coverage was triggered where a contractor had delegated hot roofing work to a bona fide sub-contractor and the sub-contractor had failed to take safety precautions which were conditions precedent for the contractor's coverage under the policy.
- Late payment under s. 13A(1) Insurance Act 2015 – (during pupillage) advised an insurer on liability for an alleged breach of its duty to pay a claim within reasonable time. The claim concerned the payment of an indemnity for reinstatement of a flooded home and the insured alleged that the delay in payment led to the development of a fungal respiratory infection due to having to live in a damp home.

Personal Injury & Clinical Negligence

Sitting with Alexander Macpherson during pupillage gave Benedict exposure to a variety of personal injury claims arising from road traffic accidents, unsafe systems of work, defective equipment, manual handling operations, and occupier's liability cases.

Examples of his work include:

- Public liability – (during pupillage) drafting a Defence on behalf of a restaurant which was allegedly negligent by failing to check whether a customer had allergies.
- Public liability – (during pupillage) drafted a Counterschedule in a claim involving an alleged permanent loss of working capacity and a disadvantage on the labour market.
- Public liability – (during pupillage) drafted a Counterschedule in a claim involving a fatal accident and several financial dependents.
- Employer’s liability – (during pupillage) advising on liability in a claim involving a forensic pathologist suffering trauma from examining fire casualties.
- Employer’s liability – (during pupillage) drafting a Defence on behalf of an employer in a claim concerning an unsafe system of manual work at a prosthetic implant manufacturing plant.
- Employer’s liability – (during pupillage) advising on liability in a claim brought by a receptionist who developed a work-related upper limb disorder.
- Employer’s liability – (during pupillage) advising on liability and contributory negligence in a claim brought by a lorry driver who fell off of the bed of his lorry on an icy day, having failed to grit the bed of his lorry despite being provided with grit by his employer.
- Employer’s liability – (during pupillage) advising on settlement strategy in a claim brought under the Employer’s Liability (Defective Equipment) Act 1969 which involved multiple defendants. The claim involved an employee being trapped inside a lorry after one of its doors slammed shut without warning.
- Clinical negligence – (during pupillage) assisted Victoria Woodbridge with a novel claim for a secondary victim father’s psychiatric injury in a wrongful birth claim following the birth of a severely disabled child.
- Industrial disease – (during pupillage) advising on liability and drafting a Defence in a living mesothelioma claim concerning asbestos exposure at a bank in the 60s and 70s.
- Industrial disease – (during pupillage) drafting a Counterschedule in a fatal mesothelioma claim.

Qualifications

- BA Jurisprudence (Double First, 9/250 in cohort); Oriel College, University of Oxford
- Bachelor of Civil Law (Distinction); Oriel College, University of Oxford
- Bar Vocational Studies (Distinction); City, University of London