



NEW SQUARE

## Ben Elkington QC, FCI Arb

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*Intellectually brilliant, approachable, charismatic and always commercial.*

- Legal 500

**Ben Elkington QC is an experienced and busy silk whose practice is centred on commercial litigation, including insurance and professional liability disputes, frequently with an international dimension.**

He is consistently ranked in the directories as a leading silk in the fields of commercial dispute resolution, insurance, professional negligence, and property damage. He has a loyal following of clients who instruct him time and again.

**A modern approach:** Ben is rightly described as a "new-style silk" who has an "unstuffy approach" is "personable," "down to earth" and "the consummate professional."

**Easy to work with:** Ben recognises the need to provide a first rate service for both his professional and lay clients, and to work as part of a team. He has been described in the directories as "An absolute dream to work with. He is super responsive and very user-friendly." Other descriptions have included "one of the most user-friendly barristers at the Bar", "a real pleasure to work with", "fantastic to work with" and "perfect when you need a good team player." As one directory puts it: "Ben is very approachable; he just gets it."

**Understanding and communicating with clients:** Ben acts for a wide range of domestic and international clients. In every case he strives to understand his client and their needs, and to provide them with advice in a clear and comprehensible way. The directories state that he is "wonderful with clients" and that he "understands what commercial clients need, and can speak their language in a non-patronising way"; "He gives clear, pragmatic advice", "He has an excellent manner with clients and is very reassuring."

**In depth legal analysis:** Ben has an outstanding academic background: he took a Double First in Law at Cambridge and, after completing a Masters in Law in the USA, was the top ranked student in his year at Bar School. He brings intellectual vigour to his cases. This has long been recognised in the directories which over the years have described him as having "outstanding intellectual ability" and being "an excellent academic," "sharp as a tack", "highly intelligent", "intellectually brilliant"; "technically excellent", "incredibly bright," "fantastically intellectually able"; and having a "brain the size of a planet".

**First rate submissions:** Ben regularly appears in Court and in arbitrations, and the quality of his written and oral advocacy is well recognised. The directories report that "his oral advocacy is superb - crisp and to the point", he is "fantastic on his feet", "has the complete confidence of the bench" is "an excellent advocate" and "has judges eating out of the palm of his hand."

**Ready for trial:** Ben is not afraid to back his judgment and run matters to trial if that proves necessary to secure his client's objectives. He has been described as "a very good and dangerous opponent", "tenacious in cross-examination" and "a relentless



*advocate.*" As one directory puts it: "*He makes a difference when it comes to trial.*"

**What he adds:** Ben brings enthusiasm, insight, determination and sound judgment to his work. In each case he strives to achieve the best possible outcome for his clients. He acts for claimants and defendants in equal measure, which gives him a real advantage. The directories report that he is "*a man of great strategic insight*" who "*offers commercial, practical and strategic advice*" and is "*a great asset to have on your side.*"

As well as acting as an advocate and adviser, Ben acts as an arbitrator and he has also accepted instructions to act as an expert on English law. He has been called to the New York Bar and (ad hoc) to the Bar of the Cayman Islands.

Ben was previously admitted to the New York Bar and worked for Sullivan & Cromwell in Manhattan. He was a judicial assistant to the Court of Appeal. He has been an editor of Jackson & Powell on Professional Liability since 2002. He is a member of COMBAR, PNBA, LCLCBA, TECBAR and BILA.

Ben was the top placed student in his year in Bar Finals (1996). Before that he took a First in Law from Cambridge University, followed by a Masters in Law from the University of Virginia. He is a scholar of each of (i) Cambridge University; (ii) Trinity College, Cambridge; (iii) Gray's Inn; and (iv) the Inns of Court School of Law. He was one of the first of his year of call to take silk. He has a diploma in International Arbitration (CIArb).

## Personal

Ben lives in London with wife and 4 teenage children. When not at work he can usually be found with his family on the Isle of Mull making camp fires in the rain, walking, and trying (and generally failing) to catch fish.

## Privacy Policy

Click here for a **Privacy Policy** for Ben Elkington QC.

## Transparency Statement

Click here for the **Transparency Statement** for Ben Elkington QC.

# Areas of Expertise

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## Commercial

Ben regularly appears in the Commercial Court and Mercantile Courts. He is instructed to act on behalf of clients in a wide range of commercial disputes, many of which have an international dimension. He is used to having to act quickly on behalf of his clients, including obtaining appropriate injunctive relief (including freezing orders).

### What the directories say.

The quality of Ben's commercial work is recognised in the directories which report:

*"Superb on his feet, makes the most complicated scenario sound blissfully straight forward."* (Legal 500 2021, Commercial Litigation).

*"A brilliant and charismatic silk who quickly gets to the heart of complex issues." "He makes punchy submissions which really land home."* (Chambers & Partners 2021, Commercial Dispute Resolution).

*"Very bright, good humoured and great to work with in a pressured situation"* (Legal 500 2020, Commercial Litigation).

*"Ben is really easy and clear with clients and very approachable; he just gets it." "He gives clear, pragmatic advice."* (Chambers &



Partners 2020, Commercial Dispute Resolution).

*“He has excellent judgement, is wonderful with clients and has outstanding intellectual abilities.”* (Legal 500 2019, Commercial Litigation).

*“Extremely bright, a good team player and a real pleasure to work with”* (Chambers & Partners 2019, Commercial Dispute Resolution).

*“He’s a bright, thorough and user-friendly QC, who offers calm and incisive advocacy.” “Excellent, responsive and commercial.”* (Chambers & Partners 2018, Commercial Dispute Resolution).

*“His oral advocacy is superb – crisp and to the point”* (Legal 500 2018, Commercial Litigation)

*“Intellectually brilliant, approachable, charismatic and always commercial”* (Legal 500 2017, Commercial Litigation).

*“He is very responsive and experienced. He’s able to bring together complex cases and steer them to successful conclusions”* (Chambers & Partners 2017, Commercial Dispute Resolution).

*“He is fantastically intellectually able and enormously charismatic. He has judges eating out of the palm of his hand.” “He is utterly and disarmingly charming, and an extremely bright guy.”* (Chambers & Partners 2016, Commercial Litigation).

*‘Fantastic on his feet and with clients who value his concise, unstuffy approach.’* (Legal 500 2016, Commercial Litigation)

*“An exceptionally able, persuasive and always reliable commercial silk.” “He understands what commercial clients need, and can speak their language in a non-patronising way. His attention to detail is excellent and he comes up with curveball ideas that actually work.”* (Chambers & Partners 2015, Commercial Litigation)

*‘Commercial, approachable and very good with clients.’* (Legal 500 2015, Commercial Litigation).

*“Has firmly established a solid reputation in the commercial litigation arena. He has strong insurance, professional negligence and property damage experience. Responsive, intelligent and very user-friendly.”* (Chambers & Partners 2014, Commercial Dispute Resolution).

#### Representative instructions.

Examples of Ben’s on-going and recent instructions include the following:

- Acting for an IT provider in Commercial Court proceedings against an Icelandic crypto-currency miner.
- Representing the manufacturer of a dishwasher component in multiparty, multimillion pound cross border sales of goods litigation.
- Advising the purchaser of a business on its multimillion pound claim arising out of breaches of warranties in a share purchase agreement.
- Representing individuals in the defence of a multimillion pound fraud claim, in which it is alleged fraudulent misrepresentations were made to investors.
- Representing a recycling company in its multimillion pound contractual claim arising out of the supply of an allegedly defective shredding machine.
- Acting for an ATE insurer in defence of a multimillion pound arbitral claim against it, which arises out of the failure of 1000s of personal injury claims.
- Acting on behalf of parties in a series of challenges to arbitral awards under section 69 of the Arbitration Act 1996.
- Advising an airline on its rights against an aircraft owner regarding that part of its fleet which was leased under an aircraft lease agreement.
- Representing an international airline association in Part 8 proceedings concerning the construction of a long term IT contract.
- Acting on behalf of the Mayor’s Office for Policing and Crime in multimillion pound Commercial Court proceedings

brought under the Riot (Damages) Act 1886.

- Acting on behalf of a US insurer during a 3 week trial in the Grand Court of the Cayman Islands arising out of the seizure of an aircraft in Brazil.
- Obtaining a freezing order on behalf of one of the UK's largest independent estate agencies following the discovery of dishonesty by one of its senior employees.
- Acting on behalf of an Irish oil trader in the defence of a claim brought against it in the Commercial Court by a US company arising out of derivative trading.
- Advising a tobacco manufacturer on a multi-million pound contractual dispute with a US company relating to the sale of a tobacco manufacturing business in Georgia.
- Representing a UK manufacturer in Commercial Court proceedings in a multi-million sale of goods claim.
- Acting on behalf of a leading insurer in arbitral proceedings in order to obtain a declaration of non-liability in relation to proceedings against its insured in France.
- Representing UK's largest independent estate agent in its contractual dispute with Tesco regarding the launch of an on-line estate agency.
- Advising an individual in his £3.5m dispute over the meaning of an LLP agreement, and whether or not it could be rectified for common mistake.
- Representing a telecoms supplier in a contractual dispute about the supply of VOIP services which customer alleged were inadequate.
- Acting on behalf of a South African distributor of sulphur in Commercial Court proceedings relating to its US\$ 10m dispute with an English company arising out of the supply of sulphur to Zambia, Malawi and the DRC.
- Acting on behalf of a Japanese company in defence of a damages claim arising out of a SPA relating to the sale of shares in a Swiss company.
- Representing a Taiwanese mobile phone manufacturer in a substantial dispute with an American software licensor arising out of alleged breaches of a license agreement.
- Acting in a 3 month trial on behalf of Irish oil tank manufacturers in a £100m claim against a Danish supplier of polymers (*Kingspan Environmental & Others v Borealis A/S & Another* [2012] EWHC 1147 (Comm)).
- Representing a vehicle manufacturer in its £2m damages claim against a vehicle distributor arising out of a breach of a dealership agreement.
- Acting in the defence of a claim for rectification and damages arising out of an alleged breach of a shareholders agreement (*Hawksford Trustees Jersey Ltd v Stella Global UK Ltd* [2011] EWHC 503 and [2012] EWCA Civ 55).
- Acting for a Delaware company which leases aircraft engines in its dispute with an Iranian company following the breach of an aircraft lease agreement.

## Qualifications & Memberships

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M.A. (Cantab.)

LL.M. (Virginia)

Diploma in International Arbitration (CIArb).

Fellow of the Chartered Institute of Arbitrators (FCIArb).

Panel member of ARIAS (UK).

Member of COMBAR, PNBA, TECBAR, LCLCBA, BILA.

## Insights

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## **Orascom TMT Investments S.À.R.L v. Veon Ltd [2018] EWHC 985 (Comm)**

14 May 2018

The Commercial Court has recently criticised the practice that is commonly adopted for presenting challenges under sections 67 & 68 of the Arbitration Act 1996. Ben Elkington QC and Rick Liddell review the decision:

## **Solicitors' Practices and Subject Access Requests**

3 May 2018

Following the implementation of the GDPR, subject access requests of solicitors are likely to become more common. The requests can raise a whole host of difficult issues, which can be time-consuming and costly to resolve. Ben Elkington QC and Charles Phipps of 4 New Square examine:

## **Jackson & Powell on Professional Liability**

30 January 2017

Editor of chapter on claims against insurance brokers in the 5th, 6th, 7th and 8th editions.