



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



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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 (CI Arb).

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

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Areas of Expertise

International Arbitration

Having obtained a Masters in Law from the University of Virginia in 1995 (specialising in international commercial disputes), Ben joined the international litigation team at Sullivan and Cromwell in New York (where he was admitted to the New York Bar). Having returned to England and been admitted to the Bar of England and Wales, Ben built on the experience he obtained in New York. Both before and after being appointed Queen's Counsel in 2012 he has regularly been involved in domestic and international arbitral disputes.

As well as acting as an advocate in arbitrations, Ben also accepts appointments to act as sole arbitrator, party-nominated arbitrator or chair.

Examples of arbitral disputes in which Ben has been or is currently involved include the following:

- Acting as arbitrator in numerous paper arbitrations between solicitors and their insurers.
- Acting as arbitrator (with Colin Edelman QC and Paul Stanley QC) of a coverage dispute between American directors and a UK insurer relating to D&O cover.
- Acting for an ATE insurer in an ad hoc arbitration in which a coverholder is claiming an entitlement to millions of pounds.
- Representing the arbitrator of a reinsurance dispute against whom an application for his removal had been made on the grounds of apparent bias.

- Acting for claimants in an LCIA arbitration against a Swiss company arising out of the alleged breach of an exclusive distributorship agreement.
- Acting for a UK company in an ICC arbitration arising out of the allegedly wrongful termination of a supply agreement with a Taiwanese telecommunications company.
- Acting for an insurer in an ad hoc arbitration seeking a declaration that the insurer had no liability to provide an indemnity in respect of proceedings against its insured in France.
- Acting for an insured in an arbitration governed by the LCIA rules in which the quantum of the insured's claim for business interruption losses fell to be determined.
- Acting for the claimant, a manufacturer of aircraft interiors, in an ICC arbitration against a leading airline arising out of a dispute over the re-fitting of 747 aircraft.
- Acting for primary layer insurers in an ad hoc arbitration to determine whether those insurers were obliged to compensate a third party in respect of liabilities arising out of the allegedly negligent design of waste recycling facilities by their insured.
- Acting for insured directors in an ad hoc arbitration to determine whether their insurer was obliged to indemnify them in respect of the costs of disqualification proceedings.
- Acting for a polymer supplier in an ad hoc arbitration relating to the quality of goods supplied to its commercial customer.
- Acting for a construction company in an ad hoc arbitral dispute with its employer arising out of the allegedly defective installation of a sewage treatment facility.
- Acting for a jeweller in an ad hoc arbitration to determine whether it was entitled to an indemnity for the losses it suffered following a theft of diamonds at a trade fair

Qualifications & Memberships

M.A. (Cantab.)

LL.M. (Virginia)

Diploma in International Arbitration (CI Arb).

Fellow of the Chartered Institute of Arbitrators (FCI Arb).

Panel member of ARIAS (UK).

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

Insights

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.