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## Ben Patten QC

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*My number one choice for advice on technical points, and someone who provides excellent strategic advice.*

- Chambers & Partners

**Ben Patten QC's expertise lies in a range of commercial work, including construction disputes, professional liability claims, commercial litigation and insurance and reinsurance disputes.**

Described as "calm under pressure and always willing to stick his neck out on a case" he acts for both claimants and defendants in the TCC, Commercial and Mercantile Courts, Queen's Bench Division, Chancery Division and Arbitrations. He also appears in the Court of Appeal and in expert determinations, mediations and other ADR hearings.

Chambers and Partners has described Ben as greatly respected for his effective manner in court, "he has a very nice way of presenting an argument which appeals to judges hugely," and his 'good commercial instincts'. 'Peers are impressed by his skills as an advocate generally, and particularly note his strength in solicitor negligence cases' as well as the "incredibly calm," "persuasive" approach he demonstrates in his construction and professional indemnity work for a client base of developers, contractors and insurers. Previous editions says of him "You can throw anything his way and he will deal with it." "He has a mild and gentle manner with clients, but is determined and clear in his advice. He is also very effective as an advocate, as he's calm but good at focusing on the right issues and directing judges' attention to them." "Technically he's one of the best around. He is also highly responsive." Ben is also rated as a leading Silk by the Legal 500.

Ben has also been described in the Directories as being "really at the top of his game", "a top performer who has a very concise and effective drafting, advisory and advocacy style" and "a star of the future". In 2009, the year before he took Silk, he was awarded Chambers and Partners Professional Negligence Junior of the Year.

A team player, Ben's style is to roll up his sleeves and get involved. He has considerable experience of very substantial commercial litigation, including group actions and the larger TCC cases. He is relaxed and approachable, whilst at the same time being businesslike and tenacious in pursuing the best outcome for the client. He has a keen sense of the client's commercial interests and can cut through the complexities of a difficult case to get to the heart of the issues.

Ben is the author of "*Professional Negligence in Construction*" [Spon] 2003, a co-editor of the Construction Professionals Chapter in "*Jackson & Powell*" and a co-editor of the Solicitors' Chapter in the *Professional Negligence and Liability Looseleaf*. He is also a frequent lecturer and author of legal articles. Ben is a member of TECBAR, COMBAR, the Professional Negligence Bar Association and the London Common Law & Commercial Bar Association. He has also been called to the Bar in the Republic of Ireland and Northern Ireland and has acted as an arbitrator.

### Privacy Policy



[Click here for a Privacy Policy](#) for Ben Patten QC.

## Areas of Expertise

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### Professional Liability

**“Excellent judgement and very easy to deal with.”** – *Legal 500, 2020*

**“He is very good at distilling the detail when there are reams of information to dig through, to move the case forward successfully.” “He is excellent: quick, confident and approachable. He has the ability to make complicated elements very simple.”** – *Chambers & Partners, 2020*

**“He is very forensic and takes points in a measured but persuasive way. Clients really respect and trust him.” “He’s a very clear advocate and an extremely courteous opponent, and you can tell the judge has real confidence in him.”** – *Chambers & Partners, 2020*

**“He has an encyclopaedic knowledge of the subject matter, coupled with a fantastic advocacy style. Like a university professor when he needs to be, but then a street fighter when that’s appropriate. Watching his advocacy was a masterclass.” “He is excellent on detail and provides good, practical advice.”** – *Chambers & Partners, 2019*

**“He provides strong and decisive advice”** – *Legal 500, 2019*

### Accountants, Auditors & Actuaries

Ben has acted in many claims against accountants and auditors, including claims for negligent audit work, negligent preparation, review and audit of management accounts and negligent advice (including negligent tax advice, both corporate and personal).

Recent and current work includes:

- Acting for a claimant who was given incorrect advice over CGT and the benefits of moving his tax arrangements offshore.
- Acting for claimants against a firm of tax advisers, accountants and auditors concerning tax advice on corporate acquisitions with subsequent auditing advice and Inland Revenue investigations and action.
- Acting for claimants in a dispute with their former accountants concerning the taxation treatment of restaurant tips and the financial structures which might have been put in place so as to minimise the exposure of the business to national insurance contributions.
- Acting for accountants in a claim brought against them by former clients concerning advice in relation to foreign currency loans and the purchase of property bonds.
- Acting for claimants in a dispute with their former accountants concerning advice given in relation to a share sale transaction and in particular the true and fair treatment of certain profits.
- Acting for auditors in a dispute with former clients concerning their failure to uncover fraudulent transactions undertaken by a former employee.
- Acting for a firm of solicitors against accountants in contribution proceedings in the context of a claim by former clients arising out of a share sale transaction.
- Acting for tax advisers concerning advice in relation to film finance schemes.

### Construction Professionals

**“He has been very impressive.” “He is good on paper, very concise and clear.”** – *Chambers & Partners 2019 – Professional Negligence: Technology & Construction*

**“A real stalwart in the field. What Ben doesn’t know about professional negligence isn’t worth knowing.” “A very clever, fast and impressive advocate. He is very crisp and develops a good rapport with the judge. He’s three jumps ahead.”** – *Chambers & Partners 2018 – Professional Negligence: Technology & Construction*



Ben has very extensive experience of acting both for and against architects, engineers, quantity surveyors and project managers. He also has experience of acting for specialist construction concerns such as demolition contractors and contractors carrying out asbestos works where “professional liability” issues often arise. He appears regularly in cases involving construction professionals in the TCC and in Arbitrations. He has considerable experience of construction professional indemnity insurance issues and contribution disputes.

Recent and current cases include:

- Acting for the defendant architect in the appeal to the Court of Appeal in *Hunt v Optima*, a case concerning professional consultant’s certificates
- Acting for the design and build contractor of a superstore where substantial settlement was alleged to have been caused by inappropriate vibro-replacement treatment.
- Acting for engineers in relation to their design review and checking obligations concerning soil nailed walls in a railway embankment.
- Acting for a claimant in a dispute with former project managers concerning advice in relation to letters of intent and contractual remedies.
- Acting for engineers in relation to a dispute concerning soil stabilization works in a transport infrastructure project.
- Acting for a project manager in relation to a dispute concerning advice concerning planning on a residential development.
- Acting for a claimant in a dispute with a multi-disciplinary practice of architects, surveyors and project managers in respect of the construction of a health centre.
- Acting for an architect in a dispute over the design and construction of an airport terminal.
- Acting for a claimant against M&E engineers in relation to the design of a heating and ventilation system.
- Acting for a firm of project managers sued in respect of the project management of restaurant fitting out works in central London.
- Acting for engineers in relation to a claim arising out of frozen ground affecting the construction of buildings erected on the site of a former cold storage unit.
- Acting for a lender in a claim against a project monitor. Acting for consultants in respect of a claim concerning stone cladding to a building in the City of London.
- Acting for specialist architects in relation to a claim concerning the restoration of a grade II\* listed building and ancient monument.

## Insurance Brokers & Agents

Ben regularly acts both for and against Insurance Brokers in relation to disputes arising out of coverage difficulties.

Recent and current cases include:

- Acting for insurance brokers in a dispute with former clients arising out of a fire at warehouse premises where there was insufficient public liability and business interruption cover.
- Acting for insurance brokers in a dispute with former clients arising out of a fire at commercial premises where the insurer avoided on the basis of non-disclosure.
- Acting for a construction contractor in a dispute with insurance brokers over the suitability of design liability insurance as a result of a decision by insurers that the contractor’s policy did not respond to damage arising out of certain design defects.
- Acting for insurance brokers in a dispute with a construction contractor concerning policy advice arising in the context of a claim by an injured employee of a sub-contractor.
- Acting for insurance brokers in relation to a dispute with former clients arising out of coverage issues in respect of a claim relating to consultancy services provided to M&E contractors working on a hospital project in Belfast.

## Lawyers

Ben has extensive experience of appearing both for and against claimants and defendants in cases involving barristers and solicitors. He has acted in some of the largest and most important disputes concerning lawyers in recent years, including the *TAG* litigation and the *Levicom* case. He recently successfully defended Eversheds in a multi-million pound claim brought by Newcastle Airport, winning both at first instance and in the Court of Appeal. He has covered most aspects of lawyer’s negligence including claims



arising from commercial, corporate and property transactions, claims arising from mortgage work and other aspects of lending transactions and claims arising from litigation. He has particular experience in disputes arising from, and difficulties arising in relation to, solicitors' professional indemnity insurance *and is experienced in dealing with dishonesty issues*. He is a *co-editor of the solicitors chapter in the Professional Negligence and Liability Looseleaf*.

Recent and current cases include:

- *Newcastle Airport v Eversheds*
- *Levicom v Linklaters*
- Acting for a firm of solicitors alleged to have given inaccurate advice to a US based engineering consultancy, said to have resulted in a multi-million pound loss
- Acting for a firm of solicitors where the partner was issued with a witness summons to give evidence about client confidential matters in *Young v Young*
- Acting for solicitors in a dispute with former clients and a barrister concerning advice in relation to an appeal against a Customs and Excise ruling on alcohol.
- Acting for a barrister on a wasted costs application.
- Acting for the former partners of a firm of solicitors where a rogue partner was engaged in multiple mortgage fraud.
- Acting for a firm of solicitors involved in a dispute with former clients arising out of commercial litigation in relation to a complex web of business interests.
- Acting for claimants against their former solicitors in relation to advice concerning the purchase and development of a large block of land.
- Acting for a lender in relation to a dispute with a solicitor concerning a fraudulent commercial loan.
- Acting for a solicitor in a claim brought by shareholders in a company which was one part of a corporate joint venture advised by the solicitor.
- Acting for claimants in a dispute with their former solicitors concerning the disposal of substantial overseas business.
- Acting for a firm of solicitors jointly sued with Leading and Junior Counsel in respect of commercial litigation which was allegedly mishandled.
- Acting for solicitors in a dispute with clients about the alleged misappropriation of client funds.
- Acting for solicitors in a dispute over funding and alleged champerty and maintenance.
- Acting for a firm of solicitors sued by a company in respect of the losses sustained by reason of contracts drawn up by the solicitors on the instructions of one of the directors, which instructions were alleged to be unauthorised.
- Acting for a firm of solicitors, sued along with two other firms, in respect of alleged negligence in the conduct of substantial property transactions which were themselves said to be fraudulent transactions.
- Acting for solicitors in relation to alleged negligent advice concerning international litigation and arbitration in different jurisdictions and specifically freezing orders.

## Surveyors & Valuers

Ben frequently acts both for and against surveyors and valuers in cases concerning all aspects of property valuation and particularly in cases relating to commercial lending and mortgage fraud.

Recent and current cases include:

- Acting for lending institutions alleging fraud on the part of a valuer.
- A number of actions for substantial lending institutions against different surveyors alleging negligent valuation in respect of both commercial and residential loans.
- Acting for a firm of valuers which contained a "rogue" partner who was involved in a series of fraudulent transactions which led to a number of commercial lending institutions suffering considerable losses.
- Acting or claimants in relation to the allegedly negligent valuation of a development site.
- Acting for a firm of planning consultants in proceedings brought against valuers and planning consultants relating to the acquisition and development of waterside properties.
- Acting for claimants in a dispute with a valuer over the purchase of property suffering from subsidence.
- Acting for a commercial lender in a dispute with a firm of surveyors concerning the valuation of packages of flats for a "buy to let" club.



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- Acting for a lender in relation to overvaluation of “buy to let” portfolios.
- Acting for property consultants in a claim concerning allegedly negligent advice on future values.

## Financial Services Professionals

- Acting for financial advisers in relation to investment advice given to two trusts, including investment advice concerning investment in Hedge Fund products, and claims brought by those trusts and/or the beneficiaries of the trusts.
- Acting for financial advisers in relation to investment advice concerning pension schemes and permissible investments.
- Acting for the insurers of a large Irish financial advisers concerning policy coverage and potential claims.
- Acting for claimants in a claim against mortgage brokers.

## Qualifications & Memberships

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B.A. (Oxon) (First Class) Dip Law (City), Called to the Irish Bar in 1998, Called to the Bar of Northern Ireland 2014

## Insights

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### **Certainty in Certification – [2014] 9 JIBFL 620B**

The decision of the Privy Council in *Fairfield Sentry v Migani* is of considerable importance to funds which employ certification mechanisms. It will also be of note in relation to instruments employing market-based triggers, for example convertible loan notes. Here we discuss the implications of the decision for certification and those responsible for issuing such certificates.

### **Jackson & Powell, Professional Liability [2017], co-editor of Chapter 9, Construction Professionals**

### **Professional Negligence and Liability, co-editor Chapter 9, Solicitors**