



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



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Areas of Expertise

International Arbitration

Ben's main expertise lies in construction law and in particular in large construction projects with spin off financial claims. These include: gas pipelines; airport terminal buildings; office developments; airport runways; roads and bridges. He has experience in many different forms of construction contract and most commonly encountered construction issues, including: delay and disruption; variations; defects; certification and partnering. He is also experienced in issues concerning funding arrangements, guarantees and bonds.

Current and recent cases

National Infrastructure Development Co v BNP Paribas

In this case, which is one of a number actions taken by NIDCO to enforce standby letters of credit, Ben acted for the corporate construction arm of Trinidad and Tobago to enforce on-demand bonds to the value of nearly US\$59 million. The defendant bank claimed (unsuccessfully) that it was not required to pay by reason of a Brazilian injunction. The case citation is [2016] EWHC 2508 (Comm).

S v H

This is a dispute between a US based turnkey manufacturer of specialist plant and a Swiss company concerning the design, installation and construction of a manufacturing plant in Germany. The legal issues concern contractual obligations, including responsibility for regulatory delays. The value of the claim is still being ascertained but the contract value is in excess of US\$60m. The arbitration is conducted under ICC auspices (the law of the Contract is Swiss law). Ben acts for the US concern.

N v F

This was a very substantial dispute concerning a development project in Moscow. Ben acted as one of two leading counsel for one of the parties. The issues concern fraud, breach of fiduciary duty, contractual interpretation, causation and valuation. The claim was put at more than US\$500m.

U v A

A series of disputes (some of which were referred to the LCIA) concerning a series of projects and related financial arrangements concerning the development of 8 tower blocks and a separate residential project in Doha, Qatar. The total quantum of the claims exceeded US\$100m. Ben acted for the Qatari developer. There were three sets of related proceedings taking place in London and Doha. The Qatari and LCIA proceedings raised issues of contractual construction, bilateral obligations and commercial fraud. Proceedings before the Commercial Court concerned funding arrangements and claims by lenders against the developer. The issues in that claim concerned (1) forum; (2) proper law; (3) issues of agency and authority under Qatari law (4) compromise and ratification and (5) frustration/impossibility. The claim was for repayment of debt obligations in excess of \$US35m.

T v N



Ben was engaged in a series of disputes (one of which has been litigated in the Dubai World Tribunal at the DIFC) between a Cypriot contractor and the developer of the Palm in Dubai. The issues concerned extension of time and claims for loss and expense. The value of the claims was very substantial.

E v A

Ben acted for an international construction consultancy concerning loans made to the developer of a mixed use development in Armenia. The allegations concerned project management and monitoring (in particular, alleged failure to detect mismanagement on the part of the developer and to identify likely cost overrun). The value of this LCIA claim was alleged to be in the region of US \$25m. In addition to technical issues relating to the project, the issues of law concern the proper extent of a monitoring consultant's duties and the role of contributory fault by the lender.

W v W

This was a dispute concerning the construction of a gas pipeline through Nigeria and other West African states. The contractor's contract was terminated for alleged non-performance, although the contractor contended that the employer had failed to pay its contractual entitlements. The legal issues concerned the true construction of termination clauses, limitation on liability clauses and liquidated and ascertained damages clauses. More general issues concerned delays, extensions of time and defects. There were substantial practical issues concerning discovery from the parties' different manifestations in a number of different jurisdictions. Approximate claim value \$120m. Ben acted for the contractor.

SG v KT

This was a dispute brought by a UK dependency against a firm of architects over the design, project management and contract administration of a project to construct a new airport terminal building. Legal issues concerned conflicts of law and jurisdiction between the law of the dependency and the law of the reference and issues over enforcement of interim awards. The more general issue in the case concerned alleged design defects, design coordination between different members of the design team, inspection of contractors' works, delay and reporting of cost overruns. Approximate claim value £15m. Ben acted for the architect.

C v P

This was a dispute concerning the adequacy of the design and construction of the concrete framework for a combined office and residential development in Dublin, Republic of Ireland. The legal issues concerned the proper interpretation of the contract as to the priority of contract documents and the meaning of the variations clauses. General issues concerned design responsibility, defects, extensions of time and loss and expense payments. Approximate claim value €6m. Ben acted for the contractor.

I v C

This is a dispute between an African construction company and a US based design and build contractor concerning the construction of two power generating plants in Liberia. The legal issues concerned alleged misrepresentation, the true meaning of the contract, causes of delay and entitlement to repudiate. The value of the claim was said to be just under US\$10m. The arbitration is conducted under ICC auspices. Ben acts for the design and build contractor.

Ben acts as an arbitrator and mediator in construction disputes. He recently acted in a mediation between four parties in relation to a



construction project in Northern Ireland.

Qualifications & Memberships

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

Insights

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