

OUR PEOPLE

Dr Benjamin Archer

CALL 2017



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Ben's practice covers all aspects of commercial litigation, professional liability and public law. He has a particular specialism and interest in cases with a company or insolvency law dimension.

Ben appears regularly as sole counsel both in the High Court, including the Insolvency and Companies Court, and the County Court. But he also enjoys working as part of a larger team and is currently involved in a number of high-value and high-profile cases.

Further detail of Ben's recent and ongoing work is set out below in the sections on individual practice areas.

Privacy Policy

Click here for a [Privacy Policy](#) for Dr Benjamin Archer.

Expertise

Commercial Dispute Resolution

Ben receives instructions across a range of commercial disputes, both led and unled.

He also has a passion for technology and an extensive background in computer programming, so is well placed to take instructions in disputes with an IT or any technical element.

Featured Commercial Dispute Resolution cases

- Successfully representing an insurer at a 5-day trial in a claim brought against it under the Third Parties (Rights Against

Insurers) Act 2010 (involving policy arguments, and where the insurer disputed the insured's underlying liability to the claimant)

- Advising on limitation issues in claims brought against insurers under the Third Parties (Rights Against Insurers) Act 2010 and the Third Parties (Rights against Insurers) Act 1930, and amendments to claims and joinder/substitution under CPR Parts 17 and 19 where limitation had arguably expired against the insured
- Pleading and acting in a claim to recover c. £850k paid by mistake, including against insolvency officeholders: involving claims for knowing receipt of monies in breach of trust, unjust enrichment, and seeking *ex parte James* relief
- Advising and drafting Particulars of Claim in a claim for breach of contract against an importer for its failure to supply £2.4m of PPE (for onward sale to the NHS) during the COVID-19 pandemic
- Advice as to whether the Court has the jurisdiction to rectify a contract where the contract itself was admitted to be unenforceable
- Advising on and acting in a hotly contested security for costs application against a limited company
- Advice as to how an Order could be challenged where judgment had been entered by a Court Officer in apparent excess of jurisdiction
- Advising on *Norwich Pharmacal* applications for the disclosure of IP addresses following abusive posts on an internet message board
- Advice as to the financial entitlements of a designated member of an LLP following retirement
- Advising as to the admissibility of criminal convictions within civil proceedings
- Assisting on a dispute within the jurisdiction of the Groceries Code Adjudicator

Company & Insolvency

Ben holds a Ph.D and was supervised by leading insolvency academic Professor David Milman. His thesis focused on director liability in insolvent companies. Given his specialism, Ben is not only regularly instructed in pure insolvency matters, but also for discrete advice in commercial cases with an insolvency element.

Featured Company & Insolvency cases

- Continuing instructions from the Secretary of State in directors' disqualification proceedings following one of the largest corporate insolvencies in UK history
- *Financial Conduct Authority v Carillion plc (in liquidation)* [2020] EWHC 2146 (Ch) (ICC Judge Jones); and on appeal [2021] EWHC 2871 (Ch) (Michael Green J): Ben represented the Official Receiver of the former construction giant Carillion plc in an important decision, with potentially wide-ranging implications, as to whether certain regulatory proceedings brought by the Financial Conduct Authority fell within the moratorium on "actions and proceedings" against companies in liquidation under section 130(2) of the Insolvency Act 1986. Led by Catherine Addy QC (Maitland Chambers)
- Advising as to the potential insolvency implications of enforcement proceedings by the Financial Conduct Authority under the Financial Services and Markets Act 2000, where a freezing order was in force
- Acting for a director in resisting an application by an insolvency officeholder to compel delivery up of documents and a deposition
- Advising on applications to restore companies to the Register; including as to the implications for limitation periods; and the procedure/tactics of pursuing dissolved companies generally
- Advising on and appearing in applications to rectify the Register under section 1096 of the Companies Act 2006
- Advising officeholders as to the merits of a potential misfeasance claim which might be brought against them.

Ben also has significant experience of winding-up petitions, contested or otherwise, and will take instructions to appear for petitioners, creditors and/or debtor companies.

Professional Negligence

Ben is regularly instructed to draft pleadings, advise on, and appear in both applications and trials in professional negligence claims.

Featured Professional Negligence cases

- Acting in a £6m professional negligence claim brought against a firm of solicitors following unsuccessful underlying High Court litigation (led by Paul Mitchell QC)
- Acting in a £20m professional negligence claim brought against a firm of solicitors by a football club for alleged negligence in the conduct of arbitration proceedings before the Court of Arbitration for Sport (led by Dan Saoul QC)
- Advising, settling pleadings and appearing in Court in a professional negligence claim against an architect pleaded at over £1.5m
- Advising and settling pleadings in a Part 20 claim against a surveyor for alleged negligence, leading to the first mortgagee selling a property at an undervalue in breach of duty to a secondary chargeholder

Enforcement

Ben is building a specialist practice in the area of enforcement by certificated enforcement agents (bailiffs) and High Court Enforcement Officers, in particular where they take control of goods. He has a detailed knowledge of the substantive legal and procedural elements of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, the Taking Control of Goods Regulations 2013, and the Taking Control of Goods (Fees) Regulations 2014 and has experience of acting for both enforcement agents and judgment creditors in matters including:

- CPR Part 85 proceedings (third party claims to controlled goods)
- Claims under paragraph 66 of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (by debtors for the return of goods and/or damages), and other claims including in trespass, conversion, and unjust enrichment
- Advising on the impact of insolvency for enforcement processes
- Complaints against certificated enforcement agents

Public Law and Human Rights

Before joining chambers, Ben worked as an employed barrister at the Government Legal Department and maintains a strong level of interest in taking on matters with a public law or human rights-related focus. He regularly appeared in judicial review proceedings for the Secretary of State for the Home Department, in both the Upper Tribunal and the High Court.

Ben is an editor of the chapter on Human Rights and Judicial Review in *Jackson & Powell on Professional Liability*.

In particular, Ben has experience of and can assist with:

- Human rights matters generally, including cases with a human rights element;
- Public procurement matters, and disputes arising out of the Public Contracts Regulations 2015;
- The law surrounding local authority and government grants;
- School exclusions;
- Disputes arising out of the Freedom of Information Act 2000 and Data Protection Act 2018;

Ben is a member of the Attorney General's "junior junior" scheme and is accordingly able to take instructions from Government clients.

Qualifications

Education: LL.B (Hons), Lancaster University (First Class); BPTC, BPP University (Very Competent); Ph.D, *Director liability in insolvent companies*, Lancaster University, Supervisor: Professor David Milman (Degree conferred without corrections)

Scholarships & Awards: The Sir Robert Megarry Scholarship, Lord Denning Scholarship, Hardwicke Entrance Award (Lincoln's Inn); BPTC Excellence Award Scholarships (BPP University); The Peel Trust Scholarship (The Dowager Countess Eleanor Peel Trust); The Geoff Pillar Scholarship, The Mark Everard Award (Lancaster University)