

OUR PEOPLE

Justin Fenwick KC

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CHAMBERS GLOBAL

"An intellectual powerhouse who is clearly at the top of his game. His advocacy is clear and precise, and he knows how to get judges 'on side'."
"He is invariably the cleverest barrister in the room."



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Justin Fenwick has been a Bencher of the Inner Temple since 1997 and was Chairman of its Investment Sub-Committee between 2004 and 2011. He has been Chairman of the Bar Mutual Indemnity Fund (the Bar's own Mutual Insurer) since 1999. He was a Commissioner of the Royal Hospital Chelsea (home to the Chelsea Pensioners) from 2011 to 2017, where he sat on the Investment and Remuneration Committees and acted as Deputy Chairman of the Board.

Previous experience

Before coming to the Bar, Justin Fenwick spent 10 years in the army, serving in the Grenadier Guards as Platoon Commander, Intelligence Officer, Operations Officer, Adjutant and Company Commander. His principal functions included intelligence gathering and analysis in Hong Kong, Northern Ireland and West Germany, responsibility as adjutant for the administration and discipline of a battalion of 700 plus, and two years spent as Temporary Equerry and Additional Private Secretary to the Duke of Edinburgh.

Profile

Justin Fenwick practises extensively in the Commercial Court in London, in commercial disputes in the Caribbean, Bermuda, Hong Kong and Dubai and, mainly in an advisory capacity, in Singapore and the United States. He has been admitted for the purpose of conducting a trial in Singapore relating to an insurance dispute over a Jewellers Block Policy and has been admitted as an

advocate in BVI, Bermuda, the Cayman Islands and Nevis. He has been instructed in international commercial arbitrations in the former USSR, the UAE, Kuwait and other jurisdictions. He specialises in commercial disputes and commercial dispute resolution and insolvency situations.

He has extensive experience of commercial arbitration including international arbitration and is familiar with ICC and LCIA procedures. He regularly acts as arbitrator in commercial and insurance disputes. He has acted for and against governments including the Hong Kong government, the government of Kuwait, the government of Egypt and the Chinese government as well as extensive and varied work on behalf of the UK government. His arbitration work has included international contractual disputes, international sports tournament franchise contracts, new highways in Turkey, pipelines in Kuwait, housing developments in Hong Kong, shipping disputes in the Far East, gas liquefaction projects in Egypt and multiple mining projects in Africa.

He has become increasingly involved in sanctions-related issues, including sanctions relating to the Russian invasion of Crimea and subsequently of Ukraine. He has experience of dealing with UK, EU and US sanctions regulations and Regulators, as well as national regulatory authorities in Italy, France and Cyprus. He has been instructed regularly to advise on sanctions issues and to appear in individual cases both to argue for the application of sanctions and to argue that sanctions do not apply in a specific case.

He has acted for one of the Big 4 accountancy firms in a dispute against the Dubai Financial Services Authority in The Financial Markets Tribunal, DIFC-LCIA.

He has regularly acted for 3 of the UK Big 4 firms, namely EY, KPMG and PwC, in relation to audit issues and management fraud, in Cayman, Bermuda, Hong Kong and the UK.

He has acted in multiple international liquidations including a major Brazilian liquidation involving litigation in the Cayman Islands and in the liquidation of Stanford Bank, involving litigation in Antigua and the UK.

He has been involved in several claims in BVI relating to the alleged fraudulent dissipation of assets emanating from the Russian Federation and Ukraine. He has advised on and acted in a case involving consideration of the Nevis law of secret trusts (NIETO) which was heard on camera in the BVI Commercial Court and the Court of Appeal of the Eastern Caribbean.

In the insurance field, he has frequently acted as Counsel in coverage arbitrations involving scope of cover, aggregation, avoidance and dishonesty and other exclusions. He has regularly acted as arbitrator with and without oral hearings in coverage matters including notification disputes, disputes between insurers, non-disclosure and aggregation issues, where the underlying policy is professional liability cover (solicitors, surveyors, financial intermediaries, product liability cover, jewellers block and Contractors All Risk cover).

He has advised extensively in relation to partnership disputes and disputes involving Limited Liability Partnerships and minority shareholder claims.

A substantial part of his work, both in trial and in an advisory capacity, has been in relation to property litigation and property related matters. In addition to acting in very large numbers of mortgage lending claims against professionals, in particular valuers and solicitors, he has been involved in extensive litigation in relation to mortgage indemnity policies and their construction. He has acted for solicitors in relation to partial equity schemes including '50/50' schemes and other forms of shared ownership. He acted for several hundred solicitors in relation to the Equity Release and Home Investment Plan claims brought by the *Investors' Compensation Scheme* against building societies and solicitors. He was involved in the *Etridge* litigation in respect of undue influence claims. He has also acted in key mortgage-related claims such as *Bradford & Bingley v Rashid & Ashe v Natwest* in the House of Lords and Court of Appeal respectively, where the courts clarified the applicability of the Limitation Acts to the rights of mortgagees. He is awaiting judgment from the Supreme Court in a landmark case involving the rights of mortgagees in sale and leaseback transactions.

He has acted regularly in relation to insolvency matters, including those affecting insolvent banks, both in the UK and in offshore jurisdictions. He regularly acts for and against Administrators alleged to have conducted administrations negligently. He has advised in a number of cases involving failed hedge funds and investment plans in the UK, the Cayman Islands and the USA. He has considerable experience in asset-tracing, particularly tracing assets misappropriated fraudulently, including acting for liquidators in the Caribbean, Brazil and Canada. He has acted in relation to numerous freezing orders in the UK and foreign jurisdictions.

Justin Fenwick has played a key role in the development of group litigation in England and Wales. Having had some limited involvement in the Pertussis (Whooping Cough) vaccination litigation in the early 1980s (acting first for the Secretary of State for Health and Committee on Safety in Medicines and then for various medical experts summoned as witnesses), he witnessed the

collapse of the first phase of that litigation because of the inadequacies of the test case approach adopted. As a result, in the Opren litigation in which he again acted for the Government, he was instrumental in developing the approach to group litigation with lead cases and costs sharing orders which has since become the model for GLOs. After the Government's successful defence of that litigation, he has become involved in a wide range of group actions, principally in the field of product liability (in particular, tobacco, HIV haemophiliac litigation, CJD human growth litigation and BSE litigation) but also in a range of other fields including group actions against solicitors (Investors Compensation Scheme litigation, Paragon Finance litigation and most recently The Accident Group litigation), tax schemes (Container Leasing, Film Finance and Technology Investment Schemes in particular), and disaster litigation (Buncefield oil explosion at Hatfield by way of example).

He has practised extensively in most areas of product liability, commercial litigation and related fields, with a particular emphasis on cases involving technical and scientific issues, commercial fraud, complex financial accountancy and taxation issues. He is particularly experienced in the analysis of contractual issues, including insurance contracts, share sale agreements, development and construction agreements.

He specialises in the cross-examination of witnesses, both factual and technical, in areas varying from specialist scientific subjects such as pharmaceuticals, chemicals and materials and engineering issues, to financial, accountancy and taxation issues.

A key element of his work for defendants in litigation is the analysis of causation issues. This includes issues of epidemiology, statistical probability and causation in fact and was a central element of his preparation work for the human growth hormone and Variant CJD litigation. He spent many months learning about the relative risk of cancer from different activities and problems of causation of cancer when acting for Gallaher, one of the principal Defendants in the tobacco litigation. This work also involves issues of scope of duty and remoteness of damage, particularly in relation to future economic loss.

He is accustomed to dealing with cases involving very large numbers of documents and is familiar with most document management technology systems as well as the use of spreadsheets and databases.

Many of his cases involve careful analysis of accounts, taxation issues, the detection of fraud and exaggerated claims, and the calculation of economic loss.

He has wide experience in dealing with issues of limitation and successfully brought to an end the Tobacco Litigation in the 1990s following success on a preliminary issue of limitation in a number of lead cases.

Privacy Policy

Click here for a [Privacy Policy](#) for Justin Fenwick KC.

Expertise

Commercial Dispute Resolution

"Justin Fenwick is extremely experienced and has a very calm demeanour even under pressure." "The way he cross-examined was a masterclass." "Justin's judgement is spot on and he is able to digest very large swathes of information." – Chambers & Partners, 2024

"Justin is a superlative strategist. He has a forensic mind and is totally on top of the detail." "A delight to instruct. He made us feel from day one that we were working with a seasoned expert in human nature and dispute resolution." – Chambers & Partners

"A brilliant advocate, who is excellent for complex matters and fantastic strategically. Thoroughly switched-on, he does not forget the details." – Chambers & Partners UK Bar and Global

"Superb." – Legal 500

“He is a very engaging advocate who uses interesting turns of phrase.” “He is incredibly assured and smooth in court.” – Chambers & Partners UK Bar and Global

“Has a wealth of experience and a very practical approach. He is good at managing difficult clients. He is a really effective advocate, especially at the appellate level.” – Legal 500

Commercial Fraud

“Justin is one of the most charismatic and charming advocates at the Bar.” “He is a fantastic advocate with breathtakingly impressive strategic vision.” “Justin is a doyen of the Bar. He is very impressive to watch and has strong cross-examination skills.” – Chambers & Partners, 2024

“One of the big beasts of the fraud defence Bar.” – Legal 500, 2024

“Justin is highly respected by the judiciary, super reliable and on top of his game.” “Justin has a super courtroom manner and good judgement.” “Justin is a very good tactician.” “He is extremely clever.” – Chambers & Partners

“He has vast experience, is very clever and very focused. He has an ability to perceive what parts of the case will fly and can apply that in a tribunal.” “He has an amazing skill of reading a paper and memorising it all and is amazing to watch in court.” – Chambers & Partners

“He has tremendous focus on a matter; and vast experience; and as a result excellent ring sense in a trial or hearing.” – Legal 500

“Vastly experienced.” “Very calm, very authoritative and very good at reassuring clients.” “An extremely impressive advocate.” – Chambers & Partners

“Has great litigation ring craft and knows the best way to present a complex case clearly.” – Legal 500

He has acted in numerous cases involving fraud or fraudulent insurance claims. In particular, he has acted in respect of jewellery losses occurring in England, New York and the Far East. He was admitted to the Bar of Singapore to act for insurers in a suspected jewellery fraud involving the investigation of computer records and transactions in Europe, Israel, the United States and the Far East.

He was responsible for setting up the procedure used by the Solicitors Indemnity Fund for the investigation of alleged fraud by solicitors and has investigated, interviewed, advised and acted in numerous cases of suspected dishonesty by solicitors both for SIF and for commercial insurers.

He is frequently instructed in cases where fraud is suspected and where detailed examination of financial accounts and computer records is required.

Construction & Engineering

“He has a wealth of experience almost unmatched at the Bar. Anything Justin does not know, is not worth knowing. He can see three or four moves ahead to outwit his opponents.” – Legal 500

“He is an embodiment of legal acumen, competence, agility and commitment.” – Legal 500

He has extensive experience of building and engineering disputes in the UK, the Middle East and the Far East.

He has been involved with several leading cases on the interpretation of building and engineering contracts and has advised on the drafting of model contracts for specific situations.

He has been involved in a number of cases involving electrical design and installation works, in large and small projects. He acted for the electricity supplier in the leading case on the statutory and common law liability of electricity suppliers (*Beckett v. Midlands Electricity*) and continues to act for electricity suppliers in litigation and regulatory matters.

He has acted in a number of cases involving fire and fire damage including *Capital and Counties plc v. John Laing Construction* (in which he acted for the design and build contractor who was criticised for failing to include measures to prevent the spread of fire

through the roof cavity of a large computer supplier's state of the art office complex and settled the case at the outset of a trial which saw Hampshire Fire Brigade being found liable for their intervention by switching off the sprinklers). He acted for the successful appellant architects in a spread of fire case in a food factory where the Trial Judge held that the architects were wholly liable for the spread of fire despite the negligence of the occupiers in starting the fire (*Sahib Foods v. PKS* – Judge Bowsher, Technology & Construction Court, Mar 2003; Court of Appeal, December 2003).

He has acted for and against many of the major construction companies including Amec, Mowlem, Tarmac, Wimpey, Bovis, John Laing, Balfour Beatty, Vianini A.G., CPECC (China Petroleum) and others. He has been involved in disputes involving a very wide range of technical issues, including ground conditions, foundations, tunnelling projects, the construction of water treatment plants, pipelines, factories, high-rise buildings, generating equipment for the petroleum industry and Mechanical Handling Equipment and distribution systems, as well as normal construction projects.

He has acted for and against consultants including architects, mechanical services and other engineers and quantity surveyors. He is experienced in dealing with loss and expense and other financial claims as well as defects claims. He has acted for and against employers, main contractors and sub-contractors.

Insurance & Reinsurance

“Justin Fenwick has decades of experience and he is someone our clients place a great deal of trust in with their judgements.” – Chambers & Partners, 2024

“Astonishing grasp of figures and facts , very sound judgment, very clear advice.” – Legal 500, 2024

“Justin is enormously experienced and provides sound advice.” – Chambers & Partners

“He is a very experienced practitioner.” – Chambers & Partners

“He contributes tremendous focus and vast experience.” – Legal 500

‘Fenwick has extensive experience of handling international insurance concerns and has worked on a number of disputes arising in the Caribbean. “An incredible advocate.” “A very good tactician and strategist.”’ – Chambers & Partners

He has advised regularly on insurance matters, including in particular on the interpretation of insurance policies and non-disclosure and other coverage issues. He has been instructed in cases involving disputes over insurance issues in many fields including Jewellers Block Policies, Professional Indemnity Policies for solicitors, valuers, accountants, architects and insurance brokers, Liability Policies for construction projects, engineering projects, product liability and third party liability, Excess of Loss Policies and Reinsurance contracts. In his capacity as Chairman of the Bar Mutual Indemnity Fund, he has developed considerable experience and taken a particular interest in issues affecting insurers, including rating and risk assessment, coverage issues and reinsurance. He was the principal adviser to the Solicitors Indemnity Fund on coverage issues (particular fraud) for a number of years, and currently advises many of the insurers under the Qualifying Insurers Agreement in relation to coverage issues.

Product Liability

“Highly sought after for the breadth of his expertise.” – Legal 500

“A huge-hitting professional indemnity silk who does product liability work. A very high-profile player, who has done some big product liability litigation. He is a highly effective performer in all respects, and clients have great confidence in him.” – Chambers & Partners

He has acted extensively for suppliers, manufacturers and government bodies in product liability litigation involving tobacco, aircraft components, engine development, mobile telephones and mobile telephone masts, electronic goods, medicinal products, polymer and polymer resin products, roofing materials, windows and other construction materials, packaging materials and similar products, computer software and computer hardware. He regularly advises on technical and causation issues. He has advised extensively on regulatory issues, including those involving EC Regulations. His cases in this field have included:-

- Advising manufacturers, importers and suppliers of a wide variety of products in relation to their statutory and common law obligations and liabilities, in particular in relation to the Consumer Protection Act and various European Regulations

and their domestic implementation in the UK. Acting on cases involving the Oil Industry including oil pipelines in Kuwait and the Russian Republics, the recent explosion at the Buncefield Terminal, Petro-Chemical Plants in the former USSR and other issues involving the Oil Industry

- Acting for the government in the Opren Litigation, the HIV Haemophilic Litigation, the CJD Human Growth Litigation, the BSE Litigation, Hepatitis C Litigation, the Aspirin and Reye's Syndrome Litigation, Nuclear Test Veterans Litigation (arising out of the Nuclear Test programme in the South Pacific in the 1950s and 1960s; and other litigation and threatened litigation involving medicinal products, Foot and Mouth Disease and food.
- Acting for public bodies in relation to Whooping Cough Vaccine Litigation, the Leukaemia Radiation Litigation and the MMR Litigation.
- Acting for manufacturers in relation to Measles Vaccine Litigation in the early 1990s, Asthma/Steroids Litigation (again in the early 1990s) and the Tobacco Litigation (in which he represented Gallaher Ltd in its successful defeat of the Group Actions brought by a number of lung cancer sufferers on a Conditional Fee Agreement) and giving ongoing advice to tobacco and other manufacturers.
- Acting for manufacturers in relation to allegedly defective building materials.
- Acting for manufacturers and consultants involved in the design and production of engines and engine components including heavy engines, aircraft braking systems and other components, with particular emphasis on computer aided design and finite element analysis.

He has advised the European Commission on accountancy aspects arising out of proposed take-overs (*MyTravel v. European Commission*).

Professional Liability

Justin was named the 'Professional Negligence Silk of the Year' (2018) by Chambers & Partners UK.

"An absolute standout, a leader in his field." "His cross-examination is just extraordinary." "An exceptional advocate with great commercial and tactical awareness. A great team player." – Chambers & Partners, 2024

"Justin has an astonishing grasp of figures and facts. He has very sound judgement and gives very clear advice." – Legal 500, 2024

"He is enormously experienced and provides sound advice. He is a trial advocate almost without peer in professional negligence." "Justin is unflappable, he has a huge presence in court and is a star cross-examiner." – Chambers & Partners

"He is superlative, a superb barrister – one of the most brilliant barristers in his or in any field. He has a mind the size of a planet." "He's the doyen of the professional negligence Bar. Brave and courageous, he's the sort of person you'd follow over the top." "He's a complete superstar: enormously clever and very hands-on. I feel lucky to be working with him." – Chambers & Partners

"A consummate trial advocate." – Legal 500

"He's a top advocate – very astute at managing a case and knowing what matters at contested hearings." "He provides excellent and succinct advice in arbitration matters." – Chambers & Partners

He has been involved in numerous cases for and against accountants, solicitors, surveyors, valuers, architects, engineers. In recent years, he has been involved in multi-party lender litigation brought by Paragon Finance Ltd (formerly National Home Loans) against approximately one hundred firms of solicitors and in the Home Income Plan Litigation brought by the investors Compensation Scheme Ltd against various Building Societies and several hundred firms of solicitors, in which he has successfully represented all solicitors. That litigation involved issues relating to professional obligations of solicitor and lenders, financial services, valuation, economic predictions and investment advice. He has recently acted for over three hundred firms of solicitors in defence of the TAG litigation brought by Winterthur and other insurers.

He successfully defended the firm of Maxwell Batley against a £70 million claim by Watson Wyatt in connection with an international employee share scheme. He has acted for Howard Kennedy in its successful defence of a £20m plus claim brought arising out of the collapse of the Portuguese Airline Euroair and in other large solicitors claims. He also acted for the Football league in its claim for compensation arising out of the collapse of ONDigital, the broadcasting entity set up by Carlton and Granada to exploit digital TV.

Accountants, Auditors & Actuaries

He acts frequently for accountants and auditors in the defence of claims (most recently the case of *MAN v. Freightliner and Ernst & Young* arising out of the collapse of the last UK truck company ERF). He has also acted on behalf of accountants in relation to tax saving schemes such as Container Leasing, Film Finance and investment schemes (including most recently the litigation arising out of tax schemes promoted by Little Wing Films brought by a number of prominent investors including Guy Hands). He has advised extensively on the taxation aspects of share sale agreements, including whitewashing and tax liabilities.

He has advised on CGT and IHT issues arising out of inheritance (*Jemma Trust v. Kippax*) [2004] EWHC 1404 (CL).

He has acted both for and against HM Customs & Excise on VAT matters including the tax treatment of supplies, insurance and credit. He has appeared in the European Court in the leading case on the VAT treatment of interest-free credit (*Primback Ltd v. Customs & Excise*).

Offshore

“Justin is a very authoritative advocate. He’s able to get on top of very complex factual issues quickly. For litigation across multiple jurisdictions, he’s adept at handling and putting together a global strategy.” – Chambers & Partners, 2024

“Very smart, incisive and strategic. Excellent at cross-examination.” – Legal 500, 2024

“He is a very intelligent barrister whose unique selling point is his professional negligence practice.” “Justin Fenwick has the benefit of decades of experience, so any argument you make he has made it three times before and heard it two times. He’s a very wise advocate.” “He is a very sought-after old-school commercial trial lawyer who is very robust and no-nonsense.” – Chambers & Partners

“He’s an extremely good advocate and he’s well known and experienced.” – Chambers & Partners

“A top choice for the most difficult cases, his advocacy and management of the Court is a joy to watch.” – Legal 500

“Excellent on his feet, incisive and dedicated, he relishes a good case and lights up at the prospect of cross-examination.” “He makes a stand in a case; he’s a robust and direct performer with good judgement.” – Chambers & Partners

“An intellectual powerhouse who is clearly at the top of his game. His advocacy is clear and precise, and he knows how to get judges ‘on side’.” “He is invariably the cleverest barrister in the room.” – Chambers Global

He has acted for insurers in relation to fraudulent jewellery theft claims in New York and Singapore; for accountants in relation to audit claims in Dubai and Cayman; for liquidators in Bermuda, Cayman, BVI, St Vincent and Antigua; for trustees in Nevis and BVI and for defrauded investors in Cayman and BVI. He has been involved in two of the longest-running trials in BVI and is currently acting in claims in St Vincent, Cayman and BVI.

Arbitration & Mediation

“He has seen it all over his years of practice – nothing fazes him. His advocacy is very smooth and accomplished – he knows just what the arbitrator needs to hear.” – Legal 500, 2024 (International Arbitration: Counsel)

“A wealth of experience almost unmatched at the bar. Anything Justin does not know, is not worth knowing.” – Legal 500

Justin accepts appointments as a mediator where parties have a genuine interest in exploring settlement with the assistance of pro-active neutral evaluation and interaction.

Justin has extensive experience of commercial arbitration including international arbitration and is familiar with ICC and LCIA procedures. He regularly acts as arbitrator in commercial and insurance disputes. He has acted for and against governments including the Hong Kong government and the Chinese government as well as extensive and varied work on behalf of the UK

government. His arbitration work has included international contractual disputes, international sports tournament franchise contracts, new highways in Turkey, pipelines in Kuwait, housing developments in Hong Kong and shipping disputes in the Far East.

Justin practises extensively in the Commercial Court in London, in commercial disputes in the Caribbean, Bermuda, Hong Kong and Dubai and, mainly in an advisory capacity, in Singapore and the United States. He has been admitted for the purpose of conducting a trial in Singapore relating to an insurance dispute over a Jewellers Block Policy and has been admitted as an advocate in Hong Kong, BVI, Bermuda, the Cayman Islands, Antigua and Nevis. He has been instructed in international commercial arbitrations in the former USSR, the UAE, Kuwait and other jurisdictions.

He has frequently acted as Counsel in coverage arbitrations involving scope of cover, aggregation, avoidance and dishonesty and other exclusions. He has regularly acted as arbitrator with and without oral hearings in coverage matters including notification disputes, disputes between insurers, non-disclosure and aggregation issues, where the underlying policy is professional liability cover (solicitors, surveyors, financial intermediaries, product liability cover, jewellers block and Contractors All Risk cover).

Information Technology

He has acted in a number of IT disputes over the ownership and use of confidential IT know-how and in relation to complaints about the adequacy of IT solutions designed for specific applications, including computerised printing processes; software support for the Salvage Association (Salvage Association v CAP); automated warehousing, picking and distribution systems (Polygram Records v EC Harris and others); automated IT systems for retail distribution businesses; Personnel, HR and payroll systems for a public authority.

Property Litigation

He acted for lenders, valuers, surveyors, and solicitors in numerous cases arising out of the collapse of the property market in the late 1980s, and in relation to recent mortgage transactions including over-valuations, gifted deposits, and multiple mortgage frauds. He has also acted in relation to mortgage indemnity guarantee claims, home investment plans, and shared ownership and equity release schemes.

Public Law and Human Rights

Before becoming a QC, he was a member of the supplementary panel of Junior Counsel for the Crown (civil). He represented the Government in many public enquiries involving highways, the environment, health and other issues. He acted for the Ministry of Defence in a public enquiry for a major new military training area outside Manchester. He acted for the Secretary of State for Health as Counsel for the Inquiry into the murder of the social worker, Isobel Schwartz. More recently, he has advised the Secretary of State for Health in relation to the setting up of compensation schemes for haemophiliacs affected by HIV and AIDS, for children infected with CJD after taking human growth hormone, and for the human victims of BSE where he advised on the implementation of the Scheme and acted as one of the original Trustees.

Awards

