
Ben Strong KC

Barrister

Call 2001 Silk 2014



Scope of Practice

• Arbitration • Banking and Financial Services • Civil Fraud and Investigations • Jurisdiction and Conflict of Laws • Company and Insolvency • Energy and Natural Resources • Takeovers, Mergers and Acquisitions • Professional Liability • Restitution

Overview

Ben Strong has wide experience of domestic and international disputes. Recommended by both Chambers UK and the Legal 500, Ben combines strong technical ability with a keen awareness of the commercial context in which legal issues arise. He is an outstanding advocate at first instance and appellate level. Before coming to the Bar, Ben was a solicitor at Slaughter and May for seven years.

Recent work includes:

- overturning an arbitral award for error of law in an appeal to the Privy Council: **Global Water Associates v AG of BVI** [2020] UKPC 18
- acting for a Dutch social housing association at trials of claims arising out of €2bn losses incurred in derivatives trading by a treasurer who was taking bribes: **Credit Suisse International v Vestia** [2014] EWHC 3103 (Comm) and *Vestia v Deutsche Bank* (case settled before judgment)
- appearing for and against the FCA in multiple disciplinary proceedings in the Regulatory Decisions Committee and in the Upper Tribunal, including: **Hussein v Financial Conduct Authority** [2018] UKUT 186 (TCC) and **Tinney v Financial Conduct Authority** [2019] UKUT 277 (TCC)
- acting for a joint venture party in an LCIA arbitration of a dispute, governed by New York law, concerning the allocation of profits from a consumer credit joint venture
- acting for the Dutch Treasury in an action to determine the effect of negative interest rates on the operation

of the ISDA Collateral Support Agreement: **Netherlands v Deutsche Bank** [2019] EWCA Civ 771

- obtaining rectification of an agreement restructuring investment and borrowing arrangements between Kaupthing and certain of its clients: **Murray Holdings v Oscatello Investments** [2018] EWHC 162 (Ch)

Examples of Recent Cases

Banking and Financial Services

"He's very intelligent and a good advocate." **Chambers & Partners UK 2022 - Financial Services**

"A real team player and very responsive – extremely attentive to the detail of a case whilst also keeping an eye on the bigger picture." **Legal 500 2020 - Banking & Finance**

"An excellent team player, who gets thoroughly to grips with the details and is extremely responsive." **Legal 500 2021 - Financial Services Regulation**

"An excellent team player. He gets thoroughly to grips with the details, is extremely responsive, and provides very commercial advice." **Legal 500 2021 - Banking & Finance**

"Extremely user-friendly and easy to deal with." "He is a real team player, who gets to grips with the detail and is very responsive." **Chambers and Partners 2020 - Banking & Finance**

"He is renowned as a very good advocate: if you saw his name on a pleading you would know you need to take him seriously." "A real team player. He gets to grips with the detail and is very responsive." **Chambers and Partners 2020 - Financial Services**

"A real team player, he gets to grips with the detail and is very responsive." **Legal 500 2019 - Banking & Finance**

"A junior silk whose star is on the rise – a legal brainbox." **Legal 500 2019 - Financial Services Litigation**

"Brilliant advocacy, both in writing and on his feet." **Legal 500 2018 - Banking & Finance**

"An intellectual heavyweight, focuses on getting to the right outcome." **Legal 500 2018 - Financial Services**

"He is an extremely brainy silk who is building up a fearsome reputation." "Ben is extremely intelligent and delights in getting stuck into complex factual scenarios, legal issues and documentation. He is also practical and client-friendly, and on his feet he is both calm and persuasive." **Chambers and Partners 2018**

"He is great with clients, very responsive and quick to grasp and identify solutions to complex issues." "Outstanding. His ability to consume and assimilate a vast amount of material and provide very cogent advice and oral advocacy is very impressive." **Chambers and Partners 2017 - Banking & Finance**

"A very capable and approachable lawyer who works well within a team, no trace of competing egos." "He gives meticulous and measured advice, and is unflappable on his feet." **Chambers UK 2016**

- **Stichting Vestia v various banks**
 Ben acts for a Dutch housing association on a series of claims in relation to complex derivative products on the basis that the transactions were outside Vestia's capacity and that some of the defendant banks are liable for the bribery of Vestia's treasurer. The proceedings against Credit Suisse are reported at [2014] EWHC 3103 (Comm). Vestia's claim against Deutsche Bank for over €800 million settled midway through the 35 day trial which took place across June/July 2019. Proceedings against other banks are at an early stage.
- **Russian Federation First Mercantile Fund v FCA**
 Claim for judicial review in respect of action by FCA taken to freeze client assets held by an investment bank.
- **Netherlands v Deutsche Bank** [2019] EWCA Civ 771
 Claim to determine how negative interest rates are dealt with under the ISDA Collateral Support Agreement. Ben acted for the State of the Netherlands at first instance and in the Court of Appeal.
- **Tinney v Financial Conduct Authority** [2019] UKUT 277 (TCC)
 Ben acted for the FCA in the Upper Tribunal in proceedings alleging a lack of integrity against a former Barclays senior executive.
- **Murray Holdings v Ocatello Investments** [2018] EWHC 162 (Ch)
 Claim for rectification of an agreement restructuring investment and borrowing arrangements between Kaupthing and certain of its clients. Ben acted for the claimant, which obtained judgment for rectification notwithstanding that no witnesses were called at the trial.
- **Hussein v Financial Conduct Authority** [2018] UKUT 186 (TCC)
 Ben acted for the FCA in the Upper Tribunal in proceedings to prohibit a trader from performing regulated functions. The underlying allegations related to attempts to manipulate LIBOR, and the trader was prohibited for providing false evidence.
- **Re Chesterfield, Stanford v McDonald**
 Ben acted for Kaupthing in this application in the BVI (Commercial Court and Court of Appeal of the Eastern Caribbean) by a former customer to prevent payment by the liquidators of a special purpose vehicle to Kaupthing of certain monies.
- **Credit Suisse v Titan** [2016] EWCA Civ 1293
 Claim to determine the entitlement of Class X Noteholders in a CMBS note issue. Ben acted for the Class X Noteholders at first instance and in the Court of Appeal.
- **Hannam v Financial Conduct Authority** [2014] UKUT 233 (TCC)
 Market abuse. Ben acted for the FCA in this reference to the Upper Tribunal of a decision of the FCA's Regulatory Decisions Committee to impose a penalty on the former Chairman of Capital Markets at JP Morgan Chase for disclosure of inside information.
- **FCA disciplinary proceedings**
 Ben has appeared at a number of meetings of the Regulatory Disciplinary Committee of the FCA, acting both for the FCA and for individuals who are the subject of proceedings
- **Isis Investments v Ocsatello Investments** [2013] EWCA Civ 1493
 Ben acted for Kaupthing on this claim in which its subsidiary claims that Kaupthing acted as a shadow director and was liable for losses on a series of transactions. The claim also involved allegations of

misleading global financial markets, an attempt to pay an unlawful dividend, cross-border insolvency regulations, and Icelandic law.

- **RBS v Highland**

Ben was instructed by Highland throughout this long-running dispute. The claim began as a claim by RBS for shortfall on a repayment of a loan intended to facilitate a CDO issue. RBS obtained summary judgment on liability ([2010] EWHC 194 (Comm) and [2010] EWCA Civ 809). Following the quantum trial, RBS was awarded only half its claim (and nothing in respect of costs) because it had misled Highland about the way in which it had realised the security for the loan: [2010] EWHC 3199 (Comm). Highland then began proceedings against RBS in Texas. RBS responded by applying in England for an anti-suit injunction, and Highland counterclaimed for orders setting aside the previous liability and quantum judgments on the basis that they had been procured by RBS's fraud. Burton J, refused the anti-suit injunction on the grounds that RBS lacked clean hands, but declined to set aside his previous liability and quantum judgments: [2012] EWHC 1278 (Comm). The Court of Appeal refused RBS's appeal on the injunction application and granted Highland's appeal on setting aside the prior judgments for fraud: [2013] EWCA Civ 328.

- **Rawlinson & Hunter v Kaupthing**

Ben acted for Kaupthing on this claim by the trustees of trusts established for the benefit of members of the Tchenguiz family. The trustees alleged that they had been induced into borrowing money from Kaupthing and providing security as a result of misrepresentations in the published accounts, and had suffered large losses as a result. The case also involved allegations of breach of Icelandic capital regulations and the consequence of such breaches on English law contracts.

- **Finolex Industries Limited v. Credit Agricole CIB**

For the Claimant, which sought a declaration that it has no liability in respect of derivative transaction entered into under an ISDA Master Agreement. The action gave rise to a significant jurisdictional dispute.

- **Hall & Ors v. Cable & Wireless Plc** [2009] EWHC 1793 (Comm)

For Defendant telecommunications giant C&W. This appears to be the first decision on civil liability for alleged market abuse. Ben made a successful application to strike out claims relating to statements alleged to have been in breach of the Listing Rules.

- **Bayerische Hypo- und Vereinsbank v Bank of America**

Claim by lender against agent bank in syndicated loan.

- **Financial Services Compensation Scheme v NDF Administration**

Acting for product provider in claim brought on behalf of 1,600 investors relating to marketing materials for structured capital at risk products.

- **Equitable Life**

Advising and appearing for Equitable Life on claims brought by policy holders relating to the House of Lords decision on guaranteed annuity rates.

Arbitration

- **Global Water Associates v AG of BVI** [2020] UKPC 18

Ben acted in the Privy Council (and at all stages below) in this application to remit an award to the arbitrators for error of law. The arbitration was an ad hoc arbitration under BVI law for failure to complete a public works project. The appeals in the BVI Commercial Court and the Court of Appeal of the

Eastern Caribbean raised questions of the basis on which the award could be challenged and how damages for breach of contract are to be calculated. The Privy Council's decision is an important restatement of the principles of remoteness of damages for breach of contract.

- **Joint venture dispute**

LCIA Arbitration of dispute, governed by New York law, concerning allocation of profits from a consumer credit joint venture.

- **Confidential arbitration**

Claim against solicitors for negligence in respect of drafting a settlement agreement.

- **Investment fund**

LCIA Arbitration of dispute between investment fund and its placement agent.

- **Breach of warranty**

ICC Arbitration of warranty claim in a share purchase agreement.

- **Share Sale**

ICC Arbitration regarding completion accounts provisions in a multi-billion Euro sale, following multiple challenges to nominations of arbitrators.

- **Franchising**

Acting for Middle Eastern company in an Ohio law dispute relating to failure to grant a franchise in a LCIA Arbitration.

- **Derivatives**

Acting for Indian corporates in a number of separate arbitrations of disputes relating to derivatives entered into under ISDA Master Agreements. The issues involved allegations of breach of Indian exchange control regulations and the effect that has on English law contracts, as well as issues of agency

- **Investment management/fraud**

Major, and highly complex LCIA arbitration dispute between an investment fund and its manager, in which the fund alleged that the manager had fraudulently appropriated assets and, in breach of fiduciary duty, diverted corporate opportunities to itself in a series of transactions. Ben also advised on related litigation in Mauritius.

- **Aircraft leasing**

Counsel for the claimant in claim for redelivery of aircraft and for tens of millions of dollars in damages for breach of aircraft lease.

- **Investment banking**

Dispute as to whether an investment bank was entitled to a fee, also involving a challenge to LCIA Court arbitrator on grounds of alleged bias.

- **Ship building**

Ad hoc arbitration relating to communications and electronics issues and involving over 20 expert witnesses.

Commercial Litigation

"Very good on paper and in conference with the clients, he is a pleasure to work with." **Chambers & Partners UK 2022 - Commercial Dispute Resolution**

"He listens carefully to his clients and instructing solicitors, and he's imaginative and good at thinking laterally." "Extremely user-friendly and responsive, he has an incisive mind and good judgement." **Chambers and Partners 2020 - Commercial Dispute Resolution**

"Very good at seeing the wood for the trees, and at handling emotional clients in a highly charged environment." "Thorough and analytical, Ben is practical and client-friendly." **Chambers and Partners 2018**

"Conscientious, hard working and intelligent. He has a thirst for legal complexity and is very good at analysing accounts and financial statements." "Excellent and very commercial." **Chambers UK 2016**

- **Global Water Associates v Attorney General of BVI [2020] UKPC 18**
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- **Osiris v Oakley**
Advising trustees in litigation in the Isle of Man in relation to claim on an undertaking in damages given when obtaining an injunction, and in relation to claims for negligence by a solicitor. Subsequently acting in English proceedings for malicious prosecution brought by the solicitor.
- **JTrust Asia v Konoshita**
Ben acted for the defendant, seeking to set aside a freezing injunction granted in in the BVI, in a set of inter-rated proceedings in Singapore and Thailand.
- **Murray Holdings v Ocatello Investments [2018] EWHC 162 (Ch)**
Claim for rectification of an agreement restructuring investment and borrowing arrangements between Kaupthing and certain of its clients. Ben acted for the claimant, which obtained judgment for rectification notwithstanding that no witnesses were called at the trial.
- **Airbus v Generali Italia [2018] EWHC 2737 (Comm)**
Jurisdiction challenge in claim for declaration that Italian proceedings were brought in breach of a jurisdiction clause.
- **Flycabo Verde Operations v Smartlynx Airlines (Dutch proceedings)**

Ben provided English law submissions to the Dutch court in a claim for breach of an alleged contract providing for the operation of flights between the Netherlands and Cape Verde.

- **Gerald Metals v Timis** [2016] EWHC 2327 (Ch)
Acting for the defendant in successfully resisting an application for a freezing injunction in a claim alleging deceit and procuring a breach of contract in relation to an investment in an African mining project.
- **Macquarie Infrastructure and Real Assets v Motor Trades Association of Australia Superannuation Fund**
Dispute regarding proper construction of fee provisions in agreement between an investment advisor and an Australian pension fund.
- **Protides v Nucana**
Acting for the claimant in a claim for licence fees in respect of a pharmaceutical compound in development.
- **Mainfirst Austria v US Bank Trustees** [2014]
Claim in respect of removal of investment adviser to note issuer.
- **Levy v Mosheim**
Claim for loss suffered by purchaser as a result of damage to a property caused by the seller; Judge accepted Ben's submission that the claim was fabricated.
- **Halton v Dhanani**
Dispute between care home group and its former chief executive.
- **GBST v Smith Hamilton**
Claim for breach of accounting warranties given in a Share Purchase Agreement.
- **Computer Software Group v Sanderson** [2009] EWHC 3827 (QB)
Trial of claim for indemnity in relation to software licensing.
- **Tele2 v Post Office** [2009] EWCA Civ 9
Trial and appeal of dispute arising out of termination of contract for provision of telecommunications services.
- **Imarhiagbe v GMAC-RFC Limited**
Acting for the claimant in the Court of Appeal. The action raised fundamental issues as to the obligations of a lender before completion of house purchases, and the enforceability of their standard terms.
- **Greencore v Elementis** [2005] EWHC 1590 (Comm)
Trial of preliminary issue on construction of share purchase agreement.
- **Expert Determination**
Trial of claim for losses arising from failure to fund joint venture company.
- **United Nations Compensation Commission**
Appeal case claim for losses to investment arising out of the Iraqi invasion of Kuwait.
- **Hi-Flyers v Linde Gas**
High Court trial of claim for profits lost as a result of supply of allegedly defective helium gas.
- **Thakrar litigation and mediation**
Acting on claims under the Insolvency Act 1986 to set aside charges and on tracing claims in complex

multi-party dispute.

Company and Insolvency

- **Re CGL Realisations (formerly Comet Group)** [2020] EWHC 1707 (Ch)
Claim in respect of alleged preference by repayment of intra-group debt in the context of the sale of a company which subsequently went into insolvency. Ben acted for Darty, the recipient of the payment.
- **Re Chesterfield, Stanford v McDonald**
Ben acted for Kaupthing in this application in the BVI (Commercial Court and Court of Appeal of the Eastern Caribbean) by a former customer to prevent payment by the liquidators of a special purpose vehicle to Kaupthing of certain monies.
- **Isis Investments v Ocsatello Investments** [2013] EWCA Civ 1493
Ben acted for Kaupthing on this claim in which its subsidiary claims that Kaupthing acted as a shadow director and was liable for losses on a series of transactions. The claim also involved allegations of misleading global financial markets, an attempt to pay an unlawful dividend, cross-border insolvency regulations, and Icelandic law.
- **Re Fairfield**
Ben acted in BVI proceedings for shareholders in an investment fund whose value collapsed as a result of the discovery of the fraud of Bernard Madoff.
- **Sakraney v Eastsan**
Unfair prejudice petition in BVI Commercial Court
- **Motive Television v Vanyi-Robin**
Acting for AIM listed company on claim to enforce agreement restricting sale of its shares, and on cross-claim under share purchase agreement and for allegedly inducing wrongful termination of a Spanish employment contract.
- **Re Dobbies Garden Centres** [2008] CSOH 72
Assisting Richard Keen KC (Dean of Faculty of Advocates) on claim in Court of Session for injunction to restrain rights issue on grounds of unfair prejudice.
- **Re New Gadget Shop** [2005] All ER (D) 346 (Dec)
Trial of unfair prejudice petition alleging diversion of corporate opportunity.
- Advice and advocacy in various unfair prejudice petitions under s. 459 of the Companies Act 1985.

Tax and Revenue

- Transfer pricing - acting for taxpayer on very high value dispute over arm's length value of intellectual property rights transferred between members of major multinational.
- Franked Investment Income Group Litigation Order - acting for Lead Claimants.
- Transfer pricing – advising on arrangements between building societies and their off-shore subsidiaries.

Professional Liability

- **Confidential arbitration**
Claim against solicitors for negligence in respect of drafting a settlement agreement.
- **Treveria v Norton Rose Fulbright**
Acting for the defendant in a claim relating to a German tax issue arising on a corporate restructuring.
- **Sun Capital v Hammonds**
Acting for defendants in a claim relating to advice on the implications of a European cartel investigation for a corporate acquisition.
- Confidential advice to solicitors on conflicts of interest in respect of a complex cross-border litigation.
- Confidential solicitors negligence claim in relation to prime brokerage agreement.
- Confidential solicitors negligence claim in relation to lodging claims with Enron examiner.
- **Cox v Clearwater Futures**
Cross-examination of solicitor on application for costs to be paid by solicitor on grounds of misconduct.

Regulatory and Disciplinary Breaches

"Strong writing, strategy, dedication, good humour, and judgement – he is a joy to work with and the consummate professional." Legal 500 2020 - Financial Services Regulation

- **Tinney v Financial Conduct Authority** [2019] UKUT 277 (TCC)
Ben acted for the FCA in the Upper Tribunal in proceedings alleging a lack of integrity against a former Barclays senior executive.
- **Hussein v Financial Conduct Authority** [2018] UKUT 186 (TCC)
Ben acted for the FCA in the Upper Tribunal in proceedings to prohibit a trader from performing regulated functions. The underlying allegations related to attempts to manipulate LIBOR, and the trader was prohibited for providing false evidence.
- **Hannam v Financial Conduct Authority** [2014] UKUT 233 (TCC)
Market abuse. Ben acted for the FCA in this reference to the Upper Tribunal of a decision of the FCA's Regulatory Decisions Committee to impose a penalty on the former Chairman of Capital Markets at JP Morgan Chase for disclosure of inside information.
- **FCA disciplinary proceedings**
Ben has appeared at a number of meetings of the Regulatory Disciplinary Committee of the FCA, acting both for the FCA and for individuals who are the subject of proceedings
- **Verrier v FCA**
Ben was instructed by the FCA in this reference to the Upper Tribunal of a decision of the FCA's Regulatory Decisions Committee to prohibit Anthony Verrier from performing any function in relation to any regulated activity. The case arose as a result of finding in *Tullet Prebon v BGC* that found Mr Verrier had procured breaches of contracts of employment of certain Tullet brokers whom he recruited to BGC. The matter settled before a hearing.
- Advice on disciplinary proceedings brought by the Bar Standards Board.
- Acting for the FSA in the bank charges test case.

- Advice in relation to FSA investigation into split capital investment trusts.
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What the Directories Say

"Ben has an encyclopaedic knowledge of the case." (Chambers & Partners UK 2024 - Commercial Dispute Resolution)

"He is very prepared to get into the weeds and the detail. A complete master." (Chambers & Partners UK 2024 - Financial Services)

"He's very intelligent and a good advocate." (Chambers & Partners UK 2022 - Financial Services)

"An excellent team player. He gets thoroughly to grips with the details, is extremely responsive, and provides very commercial advice." (Legal 500 2021 - Banking & Finance)

"He listens carefully to his clients and instructing solicitors, and he's imaginative and good at thinking laterally." "Extremely user-friendly and responsive, he has an incisive mind and good judgement." (Chambers and Partners 2020 - Commercial Dispute Resolution)

"Very good on paper and in conference with the clients, he is a pleasure to work with." (Chambers & Partners UK 2022 - Commercial Dispute Resolution)

"He is very good, highly attentive and strong on the facts." "For a very knotty case he is the person to go to because he is very clever and able to master a lot of issues quickly." (Chambers Global 2021 - Commercial Dispute Resolution)

"An excellent team player, who gets thoroughly to grips with the details and is extremely responsive." (Legal 500 2021 - Financial Services Regulation)

"Strong writing, strategy, dedication, good humour, and judgement – he is a joy to work with and the consummate professional." (Legal 500 2020 - Financial Services Regulation)

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"Brilliant advocacy, both in writing and on his feet." (Legal 500 -2018 Banking & Finance)

"An intellectual heavyweight, focuses on getting to the right outcome."

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"Very good at seeing the wood for the trees, and at handling emotional clients in a highly charged environment." "Thorough and analytical, Ben is practical and client-friendly." **(Chambers and Partners 2018 - Commercial Dispute Resolution)**

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'Conscientious, hard working and intelligent. He has a thirst for legal complexity and is very good at analysing accounts and financial statements'. 'Excellent and very commercial'. **(Chambers UK 2016 - Commercial Dispute Resolution)**

'has a gift for getting across very complex facts and legal documents very, very quickly.' 'A very capable and approachable lawyer who who works well within a team, with no trace of competing egos.' 'He gives meticulous and measured advice, and is unflappable on his feet.' **(Chambers UK 2016 - Banking & Finance)**

'absolutely fantastic' on derivatives work, and is described by fellow barristers as 'an intimidating opponent, who cuts to the quick and knows what is going on'. 'He is incredibly bright and capable of unpicking the most complex commercial arrangements.' **(Chambers UK 2013 - Banking & Finance)**

'Hard working and talented', hailed by sources as 'a true details man with a particular aptitude for complex, paper-heavy disputes'. **(Chambers UK 2013 - Commercial Dispute Resolution)**

'Consistently comes up with creative ideas and new angles to improve the client's position.' **(L500 2012 - Banking & Finance)**

"Ben Strong continues to impress with his 'hard-working and likeable manner.' His practice has a significant focus on banking and financial services disputes." **Chambers UK 2012 - (Commercial Dispute Resolution)**

"Ben Strong elicits praise for his 'ability to unpack the most complex commercial arrangements.' Sources say that he demonstrates excellent judgment and 'approaches legal problems thoroughly and intelligently.'" **(Chambers UK 2012 - Banking & Finance)**

'Ben Strong wins market support, [handling] complex international banking and finance litigation and FSA regulatory actions.' **(Chambers UK 2012 - Financial Services)**

Education

Jesus College, Cambridge - MA (Hons) Cantab, First Class

Awards



Contact Clerks



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