



Ben Lynch QC

Call 2001 | Silk 2020

"Ben has an exceptional ability to grasp the technical issues quickly and thoroughly. He grapples with the most complex cases pragmatically and is able to deliver advice that is commercial and practical."

The Legal 500

✉ bjl@fountaincourt.co.uk ☎ +44 (0)20 7583 3335

Ben Lynch QC is a highly regarded commercial silk, who has been described in the directories as "a barrister with a frighteningly astute mind, who doesn't leave any stone unturned".

Ben has a specialist practice in insurance and reinsurance, professional negligence and commercial dispute resolution, acting in various landmark cases. Ben is also an editor of MacGillivray on Insurance Law.

Ben's practice encompasses all aspects of commercial dispute resolution; over the years he has developed a strong reputation in the fields of professional negligence, telecommunications disputes, competition law, cyber, fraud, injunctions, international commercial arbitration, regulatory law, professional discipline, group actions and shareholder disputes.

Ben is commended for his "great work ethic, who has a fantastic eye for detail, excellent technical ability and superior client-handling skills", won the Chambers & Partners 'Insurance Junior of the Year' award in 2017 and is ranked in the legal directories across a number of practice areas.

Recent Highlights

Financial Conduct Authority v Arch Insurance (UK) Limited & Ors [2020] Lloyd's Rep. I.R. 527; [2021] 2 W.L.R. 123

Acting at first instance and in the Supreme Court appeal, in the leading authority on business interruption insurance.

Axis Corporate Capital UK II Ltd v Absa Group Ltd [2021] EWHC 861 (Comm)

Acting in an anti-suit injunction addressing differing law and jurisdiction clauses.

Rockliffe Hall Ltd v Travelers Insurance Co Ltd [2021] EWHC 412 (Comm)

Acting in the leading authority on "closed list" disease clauses in business interruption insurance.

Travelers Insurance Company Ltd v XYZ [2019] 1 WLR 6075

Acting for the successful insurers in the Supreme Court, in a precedent-setting case which is now the leading authority on s.51 cost orders against insurers, arising from the PIP breast implant litigation.

AIG Europe Limited v OC320301 LLP [2017] 1 W.L.R. 1168

Acting for successful insurers in the Supreme Court, in the leading case on aggregation of claims in solicitors' professional indemnity insurance.

Expertise

Civil Fraud

Notable Civil Fraud cases

Cyber fraud claims (involving insurance issues).

Direct insurance fraud claims acting for insurers, including "death" claims, both domestic and international.

Insurance aggregation claims arising out of fraud.

Professional negligence claims arising out of frauds, fraudulent tax schemes and domestic and international fraudulent transactions: acting for and against barristers, solicitors, architects and other professionals in circumstances involving these and other kinds of frauds.

Very significant experience dealing with solicitors' PI claims arising out of mortgage frauds.

Commercial Disputes

Reported Commercial Disputes cases

Joint Administrators of Transform Medical Group (CS) Limited [2020] EWHC 2064 (Ch)

Joint privilege and "successor in title" principle.

Axis Corporate Capital UK II Ltd v Absa Group Ltd [2021] EWHC 861 (Comm)

Anti-suit injunction addressing differing law and jurisdiction clauses.

A v B [2020]

£500 million+ political risk expropriation reinsurance.

Blanche v EasyJet [2019] EWCA Civ 69; [2019] 1 Lloyd's Rep. 286

Acting in this important appeal against a decision that they delay of a flight as a consequence of an air traffic management decision amounted to "extraordinary circumstances" which allowed the respondent air carrier to rely on the defence contained in Regulation 261/2004 art.5(3).

Wetherley v Wetherley [2018] EWHC 3201 (Ch)

Unfair prejudice petition, full trial, acting alone, successful at trial.

Akcine Bendrove Bankas Snoras v Antonov [2018] EWHC 887 (Comm)

Led by Leigh-Ann Mulcahy QC; Bankruptcy; Banks; Breach of undertaking; Directors' powers and duties; Enforcement; Foreign judgments; Freezing injunctions; Interim relief; Misappropriation.

Puharic v Sabir [2018] EWHC 1099 (QB)

Acting for claimant in injunction applications; application for expedited trial; leading Nicolas Damjanovic.

Angel Group v Davey [2018 WL 01040329]

Change of circumstances; Freezing injunctions; Legal advice and funding; Proprietary rights.

Teva v AstraZeneca [2017] EWHC 1852 (Comm) (Leggatt J)

AIG Europe Limited v OC320301 LLP (formerly The International Law Partnership LLP) [2017] UKSC 18; [2017] 1 W.L.R. 1168

Supreme Court – leading decision on solicitors' professional indemnity insurance aggregation (led by Colin Edelman QC).

Maccaferri Ltd v Zurich Insurance Plc [2016] EWCA Civ 1302; [2017] Lloyd's Rep. I.R. 200

Court of Appeal, leading insurance notification case (led by Colin Edelman QC).

Cape Distribution Ltd v Cape Intermediate Holdings Plc [2016] EWHC 1786 (QBD)

A trial of issues relating to insurers' liability to indemnify mesothelioma claims in a co-insurance context and limitation.

Lyons v Fox Williams LLP [2016] EWHC 2427 (QB)

Very high-value professional negligence claim brought by injured ex-E&Y employee against a high-profile firm of solicitors, seeking benefits (amongst other things) under Long Term Disability insurance policies and in relation to a high-value agreement reached in Russia. Complicated case, acting for defendant.

John Raymond Transport Ltd v Rockwool Ltd [2015] EWHC 1069 (QB)

Led by Ian Mill QC.

Notable Commercial Disputes cases

Disputes relating to / arising from COVID-19 issues [2020] – multiple.

Force majeure / frustration cases [2021] – multiple, high-value.

Advising on various cyber-related disputes [2021].

Group litigation arising from very high profile disaster [2020].

\$1 billion+ political risk insurance case [2020].

A v B [2020]

£500 million+ political risk expropriation reinsurance dispute.

Multiple recent injunction applications, acting for claimants and respondents [2019].

A v B [2018]

Involved in £300 million+ arbitration involving competition law issues.

Multiple hearings in company / shareholder dispute, acting alone [2018].

Committal proceeding [2018]

Led by Paul Gott QC, acting for defendant.

Norwich Pharmacal application in the Isle of Man [2017].

Advising on rectification case arising out of high-value sale of business [2017].

Injunction involving a coal mine.

High-value commercial education contract dispute acting for a government (acting alone).

Company, Restructuring & Insolvency

Reported Company, Restructuring & Insolvency cases

Joint Administrators of Transform Medical Group (CS) Limited [2020] EWHC 2064 (Ch)

Joint privilege and “successor in title” principle.

Akcine Bendrove Bankas Snoras v Antonov [2018] EWHC 887 (Comm)

Led by Leigh-Ann Mulcahy QC; Bankruptcy; Banks; Breach of undertaking; Directors’ powers and duties; Enforcement; Foreign judgments; Freezing injunctions; Interim relief; Misappropriation.

Wetherley v Wetherley [2018] EWHC 3201 (Ch)

Unfair prejudice petition, full trial, acting alone, successful at trial.

Angel Group v Davey [2018 WL 01040329]

Change of circumstances; Freezing injunctions; Legal advice and funding; Proprietary rights.

Notable Company, Restructuring & Insolvency cases

Unfair prejudice petition [2018].

Multiple hearings in company / shareholder dispute, acting alone [2018].

Company / minority shareholder dispute, acting alone [2017].

Advising on various shareholder dispute issues [2017].

Competition

Ben has extensive experience in competition law cases in the Competition Appeal Tribunal and Court of Appeal, including in the telecoms and insurance sectors. He has undertaken advisory work of various kinds and has delivered seminars, lectures and talks on the subject.

Reported Competition cases

A v B [2020]

High value competition arbitration, confidential.

A v B [2018]

£300 million+ arbitration involving competition law issues, working with Sir Francis Jacobs QC.

Ethernet [2014] CAT 14

Major regulatory case (ex ante cost orientation obligations and Ofcom's dispute resolution powers; involving in excess of £250 million) led by Rhodri Thompson QC, Graham Read QC and Sarah Lee.

BT v Ofcom "PPC" case [2012] EWCA Civ 1051

Led by Christopher Vajda QC, Andrew Burrows QC (Hon) in the Court of Appeal and previously by Graham Read QC before the CAT: [2011] CAT 5 (Marcus Smith QC sitting as Chairman).

Construction, Energy & Infrastructure

Notable Construction, Energy & Infrastructure cases

Ukraine-related force majeure and frustration oil and gas cases.

COVID-related force majeure and frustration oil and gas cases.

Injunctions relating to oil and gas.

International arbitrations relating to oil and gas.

Competition law cases relating to oil and gas.

Insurance

Ben has acted on all manner of political risk insurance, reinsurance and retrocession cases and issues, including jurisdictional issues, foreign law issues, avoidance, breach of warranty, exclusion clause issues, wide variety of coverage issues and many others.

Reported Insurance cases

Financial Conduct Authority v Arch Insurance (UK) Limited & Ors [2020] Lloyd's Rep. I.R. 527; [2021] 2 W.L.R. 123

First instance and Supreme Court, leading authority on business interruption insurance.

Axis Corporate Capital UK II Ltd v Absa Group Ltd [2021] EWHC 861 (Comm)

Anti-suit injunction addressing differing law and jurisdiction clauses.

Rockliffe Hall Ltd v Travelers Insurance Co Ltd [2021] EWHC 412 (Comm)

Leading authority on "closed list" disease clauses in business interruption insurance.

Travelers Insurance Company Ltd v XYZ [2019] 1 WLR 6075

Supreme Court, acting for the successful insurers in a precedent-setting case which is now the leading authority on s.51 cost orders against insurers, arising from the PIP breast implant litigation.

AIG Europe Limited v OC320301 LLP [2017] 1 W.L.R. 1168

Supreme Court, acting for successful insurers in leading case on aggregation of claims in solicitors' professional indemnity insurance.

Redman v Zurich Insurance Plc [2017] EWHC 1919 (QB); [2018] 1 W.L.R. 280

Leading authority on Third Parties (Rights Against Insurers) Act 2010. Acting in a successful strike out application in this market-defining case which was the first on the Third Parties (Rights Against Insurers) Act 2010 which decided when the 2010 Act applies and when the 1930 Act applies. The decision was very important for the market and has been widely reported and discussed.

Maccaferri Ltd v Zurich Insurance Plc [2016] EWCA Civ 1302; [2017] Lloyd's Rep. I.R. 200

Court of Appeal, leading insurance notification case (led by Colin Edelman QC).

Cape Distribution Ltd v Cape Intermediate Holdings Plc [2016] EWHC 1786 (QBD)

A trial of issues relating to insurers' liability to indemnify mesothelioma claims in a co-insurance context and limitation, led by Justin Fenwick QC and Leigh-Ann Mulcahy QC.

Flexsys America L.P. v XL Insurance Company Limited [2010] Lloyd's Rep. IR 132

ERC Frankona v American National [2006] Lloyd Rep IR 157

Notable Insurance cases

US\$1 billion political risk insurance case arising out of events in Africa. Confidential.

USD tens of millions political risk case arising out of events in Middle East. Confidential.

US\$100 million political risk case arising out of events in South Africa. Confidential.

USD tens of millions political risk case arising out of events in Far East. Confidential.

Multiple trade credit / credit risk insurance cases [2021]

Variety of high-value, domestic and international, confidential cases and various COVID-19-related cases.

Business interruption insurance cases [2021]

COVID-19 cases.

Data breach / cyber insurance case [2021]

Very high-value.

Guarantee insurance case [2021]

Very high-value.

Bank crime policy case [2021]

Group litigation arising from very high profile disaster [2020]

\$1 billion+ political risk insurance case [2020].

A v B [2020]

£500 million+ political risk expropriation reinsurance dispute.

Political risk insurance case [2019-2020]

Year of attachment cases [2020]

Solicitors' PI, high-value year of attachment issues.

Very high value solicitors' professional indemnity insurance aggregation dispute [2017-2020], led by Nigel Tozzi QC.

A v B [2018]

Advising on complicated, high-value claims for indemnity in respect to costs arising out of high-profile public event; acting for insurer.

Advising on various cyber-related disputes [2018].

A v B [2018]

Very high-value avoidance dispute, led by John Lockey QC.

A v B

High value, complicated, international D&O insurance dispute, acting for claimant insured [2018].

A v B

Double insurance dispute, acting for claimant insurer [2018].

A v B

Very high-value reinsurance recovery action, acting for claimant [2018].

A v B [2018]

High-value avoidance / coverage dispute acting for claimant government department.

A v B v C & Others [2018]

Surveyors' insurance aggregation dispute, acting alone.

A v B [2017]

Complicated D&O insurance dispute involving various issues, including the definition of "claim".

A v B v C [2017]

Complicated D&O insurance dispute involving various issues, including notification issues, dishonesty and attribution of knowledge.

A v B & C v D [2017]

EL insurance cases concerning Third Parties (Rights Against Insurers) Act 2010.

Long-tail EL insurance avoidance trial [2016-17].

High-value marine insurance case involving arrest of a vessel [2016-17], led by Stephen Moriarty QC.

A v B [2016]

Insurance coverage dispute involving accountant / tax adviser: concerned, amongst other things, the extent to which a court can review the exercise of an insurer's discretion, under the terms of the policy, to accept or reject a claim.

Port Authority claim [2016]

Concerning insurance for fines arising from a breach of health and safety legislation and questions about the scope and application of the doctrine of *ex turpi causa*.

Advising on Solvency II issues [2016]

A v B

Year of attachment insurance arbitration involving regulatory investigation by SRA in relation to solicitor's

involvement in tax avoidance schemes [2016].

A v B

Advising insurers on coverage issues arising out of a fall from height at a worksite [2016].

A v B

Advising insurers on coverage issues arising out of a crush injury – involved difficult questions about the scope of the duty of good faith [2016].

A v B

Year of attachment arbitration in respect of solicitors' professional indemnity claims. Issue as to number of claims. Issue as to breadth of notification of Circumstances [2016].

A v B

Acting for defendant insurer in high-value claim arising out of fires at a business premises. Case involved defence of, amongst others, fraudulent devices (led by Graham Eklund QC) [2015-2016].

£20 million+ solicitor's professional indemnity year of attachment arbitration (acting alone).

High-value D&O insurance case arising out of alleged high value property fraud.

Godiva v Travelers [2014]

Major solicitor's professional indemnity insurance aggregation dispute – one of *The Lawyer's* Top 20 Cases of 2014 (led by Colin Edelman QC and Derrick Dale QC).

International Arbitration

Ben has acted in multiple domestic, international, LCIA, HKIAC, UNCITRAL, PIA, ad hoc and other arbitrations acting as sole advocate, in person and remotely.

He also sits as arbitrator and has done so in various matters including in relation to solicitors' professional indemnity insurance, successor practice issues, year of attachment issues and commercial contract disputes.

Notable International Arbitration cases

A v B [2021]

Very high value, high profile, urgent arbitration recently heard on expedited basis; lengthy hearing; leading team of juniors – confidential.

A v B [2021]

High value HKIAC arbitration – confidential.

A v B [2020]

\$1 billion+ political risk insurance arbitration case – confidential.

A v B [2020]

£500 million+ political risk expropriation reinsurance arbitration arising out of events in Latin America – confidential.

£100m+ domestic insurer v foreign insurer: year of attachment arbitration dispute – confidential.

A v B [2018]

£300 million+ arbitration in Switzerland involving competition law issues arising out of Eastern countries – confidential.

A v B [2018]

Domestic insurer v foreign insurer: aggregation arbitration dispute – confidential.

A v B [2017]

High-value arbitration dispute arising out of alleged property fraud in India – confidential.

A v B [2017]

Very high-value matter arising out of BIT dispute – confidential.

A v B [2016]

£20 million+ solicitor's professional indemnity year of attachment arbitration – confidential.

Privilege, Confidentiality & Conflicts of Interest

Notable Privilege, Confidentiality & Conflicts of Interest cases

Joint Administrators of Transform Medical Group (CS) Limited [2020] EWHC 2064 (Ch)

Joint privilege and “successor in title” principle.

Multiple insurance cases involving privilege issues between insured, insurer and reinsurer.

Multiple cases involving NDAs, WP agreements and other disclosure agreements.

Product Liability

Notable Product Liability cases

PIP Group Litigation

Various (confidential) product recall cases

Various product liability insurance cases

Professional Discipline

Ben has extensive regulatory experience in relation to solicitors in particular but also in relation to accountants, surveyors and other professionals. He is the leading expert in the field of professional indemnity insurance, which often involves regulatory issues.

He has advised on regulatory structures of all kinds, including in relation to insurers, wording of insurance policies, litigation funders, solicitors, other professionals and banking matters.

Notable Professional Discipline cases

A v B [2016]

A year of attachment insurance arbitration involving regulatory investigation by SRA in relation to solicitor's involvement in tax avoidance schemes.

Advising on Solvency II issues [2016].

A v B [2016]

Insurance aggregation dispute involving extensive SRA investigation into a firm's involvement in overseas property development business.

A v B [2016]

Insurance aggregation dispute involving extensive SRA investigation into a firm's involvement in overseas property development business.

A v B [2015-2016]

Insurance coverage dispute involving regulatory investigation in to accountant's involvement in giving various kinds of tax advice.

A v B [2014]

Insurance aggregation dispute involving large SRA investigation into a firm's involvement in mortgage fraud.

Appeared (acting alone) in hearings before the SRA and other regulatory bodies and has significant experience in advising on matters involving regulatory investigations, disciplinary tribunal matters and insurance issues involving regulatory disputes.

Appeared in the Court of Appeal in the recent AIG aggregation case (above) and was junior counsel in the long-running *Godiva* litigation.

Professional Negligence

Reported Professional Negligence cases

A v B v C [2021]

Very high value solicitors' professional negligence claim, acting for defendant solicitors.

McDonald v Allium Law [2021]

Solicitors' professional negligence claim, acting for claimant.

A v B [2021]

High value, confidential solicitors' professional negligence claim.

Lyons v Fox Williams LLP [2018] EWCA Civ 2347

Acting for the defendant in this very high-profile professional negligence claim brought by an injured ex-EY employee, seeking benefits (amongst other things) under Long Term Disability insurance policies and in relation to a high-value agreement reached in Russia. This is now one of the leading authorities on the difficult and important issue of "the duty to warn".

A v B [2017]

Professional negligence claim against IFA / tax adviser involving *Titan Steel Wheels Ltd v RBS* [2010] EWHC 211 (Comm) issue.

Lyons v Fox Williams LLP [2016] EWHC 2427 (QB)

Very high-value professional negligence claim brought by injured ex-E&Y employee against a high-profile firm of solicitors, seeking benefits (amongst other things) under Long Term Disability insurance policies and in relation to a high-value agreement reached in Russia. Complicated case, acting for defendant.

Nouri v Marvi & Others [2010] 50 EG 64

Notable Professional Negligence cases

A v B v C [2021]

Very high value solicitors' professional negligence claim, acting for defendant solicitors.

McDonald v Allium Law [2021]

Solicitors' professional negligence claim, acting for claimant.

A v B [2021]

High value, confidential solicitors' professional negligence claim.

A v B [2020]

Acting for well-known QC defending claim arising out of insurance dispute.

A v B [2019]

High value, factually complicated solicitors' professional negligence claim, acting for defendant solicitors.

A v B [2018]

Complicated claim against tax adviser, acting for claimant, involving limitation and alleged unjust enrichment issues.

Lyons v Fox Williams LLP [2018] EWCA Civ 2347

Acting for the defendant in this very high-profile professional negligence claim brought by an injured ex-EY employee, seeking benefits (amongst other things) under Long Term Disability insurance policies and in relation to a high-value agreement reached in Russia. This is now one of the leading authorities on the difficult and important issue of "the duty to warn".

A v B [2016-17]

High-value professional negligence claim against a Project Monitor, arising out of a series of loans made by a lending bank to a property developer, acting without a leader. Various complicated questions arise in relation to limitation and alleged loss, along with contribution claims against third parties.

A v B v C [2016]

Acting alone for the defendant / Part 20 claimant in this high-value IFA professional negligence claim involving Inheritance Tax advice and a Part 20 claim against a well-known provider of IHT solutions.

Lyons v Fox Williams LLP [2016] EWHC 2427 (QB)

Very high-value professional negligence claim brought by injured ex-E&Y employee against a high-profile firm of solicitors, seeking benefits (amongst other things) under Long Term Disability insurance policies and in relation to a high-value agreement reached in Russia. Complicated case, acting for defendant.

Technology

Reported Technology cases

Ethernet [2014] CAT 14

Major regulatory case (ex ante cost orientation obligations and Ofcom's dispute resolution powers; involving in excess of £250 million) led by Rhodri Thompson QC, Graham Read QC and Sarah Lee.

BT v Ofcom “PPC” case [2012] EWCA Civ 1051

Led by Christopher Vajda QC, Andrew Burrows QC (Hon) in the Court of Appeal and previously by Graham Read QC before the CAT: [2011] CAT 5 (Marcus Smith QC sitting as Chairman).

Notable Technology cases

Telecommunications & IT

Competition Appeal Tribunal (“CAT”) cases, High Court cases, Mediations, Court of Appeal.

Large number of complicated Artificial Inflation of Traffic cases [2016].

Complicated Dial Through Fraud Cases [2014].

Directory Quotes

"Ben is extremely impressive on his feet and in conference. A very good tactician."

The Legal 500

"An excellent lawyer, who is thorough, clever and analytical, with good knowledge of the insurance market. Judges know that his submissions are always soundly researched and reliable."

The Legal 500

"He is unfailingly diligent and charming."

The Legal 500

"His written work is excellent and his knowledge of the law and civil procedure is second to none."

The Legal 500

"He has an amazing capacity to interrogate and remember a vast amount of information in very complicated cases. He is also unfailingly polite and level headed."

The Legal 500

*"He's going great guns and building up an impressive insurance practice. He rewrote the textbook we all reach for."
"He's incredibly responsive and intelligent. He provides very user-friendly advice and is a pleasure to work with."
"He's just an absolute expert on insurance issues."*

Chambers & Partners

"He is just fantastic with clients. He has a very strong attention to detail." "He has excellent procedural knowledge and his written work is of an extremely high quality."

Chambers & Partners

"A rising superstar who is extremely bright, user-friendly and knowledgeable about all aspects of insurance."

Chambers & Partners

"Extremely bright, very client-friendly and very strong technically, you can rely on him to turn things around under pressure." "He has an excellent eye for detail and is very approachable."

Chambers & Partners

Directory Rankings

Chambers & Partners – Global

- Dispute Resolution: Commercial – UK

Chambers & Partners – UK

- Insurance
- Commercial Dispute Resolution
- Professional Negligence

The Legal 500 – UK

- Commercial Litigation
- Insurance & Reinsurance
- IT & Telecoms
- Professional Negligence

Education

- Balliol College, Oxford, BA (Hons) Law (top First in college, Paton Scholar)
- Columbia Law School, LLM (Stone Scholar)
- Inns of Court School of Law (Very Competent)

Memberships

- Balliol College, Oxford: Paton Scholar
- Middle Temple: Astbury Scholar
- Columbia Law School: Stone Scholar
- COMBAR
- PNBA (previously a committee member)
- LCLCBA (committee member)
- Bar Pro Bono Unit
- Lawyers Fishing Club (membership secretary)

Publications

- *Macgillivray on Insurance Law*, 11th Edition, Second Supplement to 11th Edition, 12th Edition, First and Second Supplements to 12th Edition, 13th Edition, First and Second Supplements to 13th Edition, 14th Edition, First and Second Supplements to 14th Edition. Authors: Professor John Birds, Ben Lynch QC, Simon Paul.

Awards

