

# Ben Valentin QC

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*"He is very calm, astute, very commercial and very responsive. He is a very hands-on QC." "He gets right to the point every time."*

*Chambers & Partners*



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Ben Valentin QC is best known for the high quality and robustness of his advocacy, his clear and client-focused commercial advice and his calm, collaborative and responsive approach.

He is a commercial disputes specialist, with acknowledged expertise in disputes involving banking and finance, civil fraud, corporate transactions and company law, and insolvency and restructuring. He has extensive experience as a trial and appellate advocate, regularly appearing before the higher English courts, at all stages of proceedings. His English practice is diverse in subject matter and often international in nature.

He is also an acknowledged specialist advocate in international arbitration, and acts as an expert on English law in civil litigation overseas.

Beyond his London practice, Ben has significant experience as an advocate in complex offshore litigation (notably in the British Virgin Islands and the Cayman Islands).

## Recent Highlights

### Palladian Partners v Republic of Argentina

Acting for Argentina defending a noteholder claim relating to the Republic's 2005 GDP-linked bond issue. Commercial Court trial listed for four weeks starting in October 2022.

### AHAB v Saad Investments & Others

Acting for the Awalco Respondents in a four-week appeal in the Cayman Islands Court of Appeal in a complex multi-billion dollar fraud case. The Court of Appeal dismissed the appeal in December 2021.

### Aras v National Bank of Greece SA

Acting for the senior management of a European bank at the trial of a claim to recover incentive payments due to them on the acquisition of the bank: [2018] EWHC 1389 (Comm) (banking; contract; bonus payments; shorter trial

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scheme).

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### Goodman v DMS Governance Limited

Securing the summary dismissal of claims against DMS and a former director in proceedings relating to the collapse of a fund: Cayman Islands Court of Appeal, 27 April 2020; Cayman Islands Grand Court, 2 July 2019 (company law; civil fraud; vicarious liability; directors' duties; summary judgment); [2018 (2) CILR 234] (company law; directors' duties; preliminary issues).

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### Sonera Holding B.V. v Cukurova Holding A.S.

Successfully acting for a Scandinavian telecommunications provider in long-running proceedings against a Turkish conglomerate to enforce a \$932 million arbitration award, and related New York Convention, freezing, anti-suit injunction and share sale applications: Eastern Caribbean Court of Appeal, 14 June 2017; British Virgin Islands Commercial Division, 23 February 2016 (arbitration; enforcement; share sale order); Eastern Caribbean Court of Appeal, 23 June 2016 (arbitration; enforcement; injunction to restrain second arbitration); [2014] UKPC 15; [2015] 2 All ER 1061 (Privy Council); BVIHCVAP 2012/0029 (Eastern Caribbean Court of Appeal, 9 May 2013) (arbitration; enforcement; New York Convention challenge); Eastern Caribbean Court of Appeal, 11 July 2013 (arbitration; enforcement; freezing injunction).

## Expertise

### Banking & Finance

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Early in his career, Ben was part of the team, instructed by Freshfields, that successfully acted for the Bank of England in defending the *Three Rivers* litigation after the collapse of BCCI. During his eight-year involvement, until the discontinuance of the case in 2005, the litigation generated well-known decisions, notably on privilege and indemnity costs. Since then, he has acted in numerous banking cases and is consistently ranked amongst the leading advocates in this field. He is currently lead counsel for the Republic of Argentina in proceedings arising from its 2005 debt restructuring.

#### Reported Banking & Finance cases

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##### Palladian Partners LP v Republic of Argentina [2020] EWHC 1946 (Comm)

Acting for Argentina in defending a claim by noteholders relating the Republic's GDP-linked bonds.

##### Aras v National Bank of Greece SA [2018] EWHC 1389 (Comm)

Acting for the senior management of a European bank in a claim to recover incentive payments due to them on the acquisition of the bank.

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**ECU Group Plc v HSBC Bank Plc [2017] EWHC 3011 (Comm); [2018] Lloyd's Rep. F.C. 44**

Acting for an international investment bank in connection with a dispute concerning foreign exchange trades.

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**Urban Ventures Limited v (1) Thomas & O'Reilly, & (2) Dunbar Assets Plc [2016] EWCA Civ 30; [2016] 2 P. & C.R. DG2 (Court of Appeal); [2014] EWHC 1161 (Ch); [2014] 2 E.G.L.R. 179 (Companies Court)**

Acting for a substantial lender holding first charges over properties in defending an application by a second chargeholder to reverse the order of priority of the charges on the basis of alleged "further advances" (under s.49 of the Land Registration Act 2002).

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**Quah Su-Ling v Goldman Sachs International [2015] EWHC 759 (Comm)**

Acting for an international investment bank in relation to various claims concerned with on demand loan facilities extended to private wealth clients in Singapore.

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**Azevedo v Imcopa Importacao [2015] QB 1 (Court of Appeal); [2012] EWHC 1849 (Comm)**

Acting for a South American soya bean processor defending a landmark case confirming the legality of "consent payments" in the restructuring of a \$100 million corporate bond issue.

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**Bank of New York Mellon v Truvo NV [2013] EWHC 136 (Comm)**

Acting for the London branch of a New York bank in connection with a dispute concerning the amendment of a payment waterfall in syndicated loan documentation.

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**Lornamead Acquisitions Limited v Kaupthing Bank HF [2011] EWHC 2611 (Comm)**

Acting for a corporate borrower in a claim against Kaupthing Bank arising from lending and swap agreements giving rise to a landmark jurisdictional decision.

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**Raiffeisen Zentralbank Osterreich AG ("RZB") v The Royal Bank of Scotland Plc [2010] EWHC 1392 (Comm); [2011] 1 Lloyd's Rep. 123**

Acting for RBS in defending a substantial commercial banking dispute involving a claim in deceit and misrepresentation arising out of £140 million syndicated loan in connection with Enron Teesside Operations Ltd.

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**National Westminster Bank Plc v Rabobank Nederland [2007] EWHC 1056 (Comm) [2007] EWHC 1742 (Comm); [2008] 1 All ER (Comm) 243 (banking; misrepresentation; indemnity costs); [2006] EWHC 2959 (Comm); [2007] 1 All ER (Comm) 975 (striking out; no case to answer); [2006] EWCA Civ. 1578; [2006] EWHC 1744 (Comm); [2006] EWHC 2108 (Comm)****London**

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Acting for NatWest in a workout banking dispute with Rabobank involving \$200 million counterclaim and allegations of deceit, misrepresentation and inducing breach of contract.

## Notable Banking & Finance cases

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Acting for a leading investment bank in proceedings relating to unpaid amounts due from a Spanish counter-party under foreign exchange derivative transactions governed by English law (Commercial Court).

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Acting for a Ukrainian industrial business in connection with a syndicated lending dispute (LCIA Arbitration).

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Advising a leading investment firm in connection with its substantial property portfolio loan facilities in Ireland and the UK.

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Acting for three UK ports in connection with a negligence claim against a retail bank arising from fraudulent payment transactions (Commercial Court).

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Advising a leading retail bank in relation to a substantial commercial claim for damages for breach of warranty in connection with claims arising from the mis-selling of financial products.

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Advising an English bank in relation to proceedings against Lehman Brothers over cross-currency swap transactions governed by ISDA Master terms (Commercial Court).

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Advising an American bank in connection with a multi-party custodial services dispute.

## Civil Fraud

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A number of Ben's most significant cases have involved or arisen from substantial frauds. He acted for the AwalCo liquidators in the *AHAB/Saad* litigation in the Cayman Islands Court of Appeal, successfully defending the appeal (with other co-respondents) in one of the largest fraud cases before the courts anywhere in the common law world. He is an acknowledged civil fraud specialist, with significant experience of freezing injunctions and other interim relief, as well as the prosecution and defence of fraud claims at trial.

## Reported Civil Fraud cases

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### **AHAB v Saad Investments & Others (Cayman Islands Court of Appeal, 21 December 2021)**

Acting for the Awalco Respondents in a four-week appeal in the Cayman Islands Court of Appeal in long-running, complex US\$4 billion fraud claim. Appeal dismissed: December 2021.

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### Parvalorem v Ricardo Oliveira & Others [2013] EWHC 4195 (Ch)

Acting for a commercial bank to obtain a freezing injunction in respect of auction proceeds in aid of civil fraud proceedings in Portugal.

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### Peterson & Ekstrom v Weaving Macro Fixed Income Fund Limited [2015 (1) CILR 45] (Cayman Islands Court of Appeal); [2011 (2) CILR 203] (Grand Court, Financial Services Division)

Acting for the directors of a collapsed Cayman hedge fund in relation to claims for breach of duty and wilful neglect.

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### Serious Fraud Office v Evans [2014] EWHC 3803 (QB); [2015] 1 WLR 3526

Acting for the Serious Fraud Office in relation to an alleged mining fraud.

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### Raiffeisen Zentralbank Osterreich AG ("RZB") v The Royal Bank of Scotland Plc [2010] EWHC 1392 (Comm); [2011] 1 Lloyd's Rep. 123

Acting for RBS in defending a commercial banking dispute involving a claim in deceit and misrepresentation arising out of £140 million syndicated loan in connection with Enron Teesside.

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### National Westminster Bank PLC v Rabobank Nederland [2007] EWHC 1056 (Comm); [2007] EWHC 1742 (Comm); [2008] 1 All ER (Comm) 243; [2006] EWHC 2959 (Comm); [2007] 1 All ER (Comm) 975; [2006] EWCA Civ. 1578; [2006] EWHC 1744 (Comm); [2006] EWHC 2108 (Comm); [2006] EWHC 2332 (Comm)

Acting for NatWest in a workout banking dispute involving \$200 million counterclaim and allegations of deceit, misrepresentation and inducing breach of contract.

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### Notable Civil Fraud cases

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Acting for a majority shareholder in a claim relating to a substantial Chinese fraud (Cayman Islands Grand Court).

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Acting for an investor in connection with a freezing injunction obtained by the Liquidators of BTA Bank (Commercial Court).

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Acting for Liongate in proceedings against its former directors for breach of fiduciary duty (Cayman Islands Grand Court).

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Advising an office-holder in connection with proceedings arising from a £150 million fraud against a substantial property group.

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Acting for a German bank defending claims by the liquidators of companies in the Saad Group, following its collapse, to reverse payments totalling \$8 million made under aircraft finance facilities (Chancery Division).

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Acting for three UK ports in connection with a negligence claim against a retail bank arising from fraudulent payment transactions (Commercial Court).

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Acting for a nominee director in connection with proceedings arising from the alleged multi-billion dollar fraud committed against BTA Bank (Chancery Division).

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Acting for a Malaysian bank in relation to claims in deceit and conspiracy arising out of a fraudulent promissory note transaction (Chancery Division).

## Commercial Disputes

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Ben is a commercial litigation specialist, his tactical and forensic experience derived from the wide variety of cases in which he has acted as lead advocate. Many of these cases involved applications for injunctions and other interim relief, the summary dismissal of claims before trial, or novel civil procedure issues.

### Reported Commercial Disputes cases

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#### **Suppipat & others v Narongdej & others [2021] EWHC 3259 (Comm) (unlawful means conspiracy)**

Acting for seven defendants to a multi-party fraud claim relating to a Thai wind energy business. Trial listed for fifteen weeks, starting in late 2022.

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#### **ArcellorMittal USA LLC v Ruia & others [2020] EWHC 3349 (Comm) (unlawful means conspiracy; permission to amend)**

Acting for an individual co-defendant to a multiparty conspiracy claim relating to the enforcement of an arbitral award. Claimant's application for permission to amend refused; case dismissed.

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#### **Entertainment Partners LLC v Sargent & others [2019] EWHC 3718 (Ch) (company law; unfair prejudice petition; drag-along rights; interim injunction)**

Acting for a minority shareholder in unfair prejudice proceedings relating to the forced sale of its shares.

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#### **Manx v Scottish Widows & others [2019] EWHC 2538 (Ch) (restitution; representative action); Vannin Capital PCC v RBOS Shareholders Action Group Limited & others [2018] EWHC 2821 (Ch) (Chancery Division) (contract and agency; summary judgment)**

Acting for the claimants in various proceedings relating to the completion of the settlement of the *RBS Rights Issue*

*Litigation.*

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Sonera Holding B.V. v Cukurova Holding A.S.(1) (Eastern Caribbean Court of Appeal, 14 June 2017); (British Virgin Islands Commercial Division, 23 February 2016) (arbitration; enforcement; share sale order); (2) (Eastern Caribbean Court of Appeal, 23 June 2016) (arbitration; enforcement; injunction to restrain second arbitration); (3) [2014] UKPC 15; [2015] 2 All ER 1061 (Privy Council); BVIHCVAP 2012/0029 (Eastern Caribbean Court of Appeal, 9 May 2013) (arbitration; enforcement; New York Convention challenge); (4) (Eastern Caribbean Court of Appeal, 11 July 2013) (arbitration; enforcement; freezing injunction)

Acting for a Scandinavian telecommunications provider in proceedings against a Turkish conglomerate to enforce a \$932 million arbitration award, and related New York Convention, freezing, anti-suit injunction and share sale applications.

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Co-operative Bank Plc v Hayes Freehold; Deutsche Bank v Sentrum Holdings [2017] EWHC 1820 (Ch) (banking; leases; discharge of guarantee)

Acting for Digital Realty in defending proceedings brought by Deutsche Bank concerning the release of a guarantee.

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Hellenic Petroleum Cyprus Limited v Premier Maritime Limited [2015] EWHC 1894 (Comm) (arbitration; setting aside award; shipping; charter party)

Acting for a major Greek energy group in overturning an arbitral award, under s.67 of the Arbitration Act 1996, in a case involving the alleged long-term charter party of an LPG tanker.

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BAT Industries PLC v Sequana S.A. [2016] EWHC 1686 (Ch); [2017] 1 BCLC 453 (company law; transactions defrauding creditors; directors' duties)

Acting for a publicly listed French company, and for former directors, in defending two claims to reverse substantial dividends paid by its subsidiary.

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Global Draw Ltd v IGT-UK Group Ltd [2014] EWHC 2973 (Comm) (contract; summary judgment)

Acting for a manufacturer of networked gaming systems in a claim for indemnification and breach of warranty under a share purchase agreement.

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M&C Energy v St Cuthberts Mill [2013] EWCA Civ 935; [2013] EWHC 571 (Admin) (contract; summary judgment; second appeals)

Acting for a paper mill in defending a claim in respect of payments allegedly due under an energy consultancy contract.

**Peterson and Ekstrom v Weaving Macro Fixed Income Fund Limited [2015 (1) CILR 45] (Cayman Islands Court of Appeal); [2011 (2) CILR 203] (Grand Court, Financial Services Division) (company law; directors' duties)**

Acting for the directors of a collapsed Cayman hedge fund in a landmark case concerning the duties of non-executive directors in a collapsed hedge fund and the scope of a director's liability for "wilful neglect or default".

**HHR Pascal B.V. v W2005 Puppet II B.V. [2009] EWHC 2771 (Comm); [2010] 1 All ER (Comm) 399 (contract; summary judgment)**

Acting for an international investment bank in relation to a contractual dispute relating to the sale of a portfolio of hotels.

**TeliaSonera Finland OYJ v Alfa Telecom Turkey Limited (Eastern Caribbean Court of Appeal; 28 September 2009) (inducing breach of contract; interim injunction)**

Acting for a Scandinavian telecommunications provider in a claim against a Russian entity arising from a dispute over the ownership of a substantial European mobile telephone network.

**Three Rivers DC v Bank of England [2006] EWHC 816 (Comm); [2006] 5 Costs LR 714 (indemnity costs following claimants' discontinuance after 256-day trial); Three Rivers No.7 [2005] EWCA Civ. 889; [2005] C.P. Rep. 46; [2005] EWCA Civ. 933 (restriction on cross-examination)**

Acting for the Bank of England in the *BCCI litigation* in the Commercial Court, Court of Appeal and House of Lords, in which over 40 officials of the bank were accused of acting dishonestly in the supervision of BCCI SA; including a 256-day trial and various landmark decisions on misfeasance in public office, legal professional privilege, third party disclosure and indemnity costs.

## Notable Commercial Disputes cases

Acting as an English law expert in proceedings relating to breach of confidence before the Paris Commercial Court.

Advising a litigation funder in a dispute relating to a substantial banking claim by a group of former shareholders (Chancery Division).

Acting for a private equity investor and its directors in connection with proceedings relating to the sale of a leading fashion retailer (Chancery Division).

Acting for a commercial property developer in proceedings relating to a substantial retail and residential development (Chancery Division).

Acting for a licensed offshore electricity owner in proceedings relating to undersea cable failures (Commercial Court).

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Acting for a leading fashion retailer in connection with proceedings relating to the sale of a business in the Far East (Commercial Court).

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Acting for an investor in disputes arising from the acquisition of a global fiduciary services business.

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Advising the counter-party to a forward purchase agreement in relation to contractual issues concerning a substantial Russian retail complex.

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Acting for the former directors of a property development group in connection with claims brought by a liquidator in respect of alleged breaches of duty (Companies Court).

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Acting for a multinational oil company in connection with environmental breach of warranty claims arising from the sale of a German oil refinery (Commercial Court).

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Acting for the administrators of a UK export manufacturer in relation to a dispute as to whether performance of a commercial contract would breach European and UK sanctions against trade with Iran (Chancery Division).

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Advising a European bank in connection with a cross-border dispute with a London auction house relating to disputed pledge rights over a valuable collection of manuscripts and incunabula (Commercial Court).

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Acting for an investor in relation to litigation in connection with the ownership of carbon emissions allowances and the Eggborough power station (Commercial Court).

## Commercial Disputes - Civil procedure

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### Reported Commercial Disputes - Civil procedure cases

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**Ikana Holdings v Putney Capital Management Ltd & others (Eastern Caribbean Court of Appeal, 24 January 2022) (specific disclosure of third party documents; control test)**

Acting for claimants in claim relating to payment of dividends following share sale relating to the Dominican Republic electricity generator. Leading interlocutory decision on control of third party documents in BVI litigation.

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**WAFR Holdings Ltd v Pearson (Cayman Islands Court of Appeal, 13 October 2021) (intestate succession; administration; disclosure of third party documents; control test)**

Acting for Cayman Islands companies in connection with administration of intestate Cayman estate of Saudi Arabian shareholder. Application by Administrator for documents of subsidiary companies; control test.

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**ArcelorMittal USA LLC v Ruia & others [2020] EWHC 3349 (Comm) (unlawful means conspiracy; permission to amend)**

Acting for an individual co-defendant to a multiparty conspiracy claim relating to the enforcement of an arbitral award. Claimant's application for permission to amend refused; case dismissed.

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**Manx v Scottish Widows & others [2019] EWHC 2538 (Ch) (restitution; representative action)**

Acting for the *RBS Rights Issue* claimants in a representative claim under CPR 19.6.

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**ECU Group Plc v HSBC Bank Plc [2017] EWHC 3011 (Comm); [2018] Lloyd's Rep. F.C. 44 (banking; pre-action disclosure)**

Acting for a bank respondent to an application by a former customer for pre-action disclosure under CPR 31.16 of trading information.

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**Quah Su-Ling v Goldman Sachs International [2015] EWHC 759 (Comm) (banking; on demand loans; very late amendments)**

Acting for an international investment bank in relation to various claims concerned with on demand loan facilities extended to private wealth clients in Singapore.

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**Re Hellas Telecommunications [2013] BPIR 756 (insolvency; disclosure; legal professional privilege)**

Acting for a Greek telecommunications entity in relation to an application under s.236 of the Insolvency Act 1986 against foreign lawyers to produce client documents (Chancery Division).

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**R (on the application of Prudential PLC) v Special Commissioner of Income Tax [2013] UKSC 1; [2013] 2 AC 185 (Supreme Court); [2010] EWCA Civ. 1094; [2011] QB 669 (Court of Appeal) (legal professional privilege; tax accountants)**

Acting for the Bar Council in a landmark decision on whether legal advice privilege extends beyond communications between a client and his/her lawyer.

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**MG Rover Dealer Properties Ltd v Hunt [2013] BCC 698 (Chancery Division, Companies Court) (insolvency; disclosure)**

Acting for the Liquidators of MG Rover in relation to complex disclosure applications made by various companies in the Phoenix group.

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### National Westminster Bank PLC v Rabobank Nederland [2006] EWHC 2332 (Comm) (disclosure; privilege)

Acting for NatWest in an application for privileged documents in connection with a workout banking dispute.

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### Three Rivers v Bank of England (No.6) [2004] UKHL 48; [2005] 1 AC 610 (House of Lords); [2004] EWCA Civ. 218; [2004] QB 916 (Court of Appeal); [2003] EWHC 2565 (Comm) (Commercial Court)

Acting for the Bank of England in the leading decision on the scope of legal advice privilege.

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### Three Rivers v Bank of England (No.4) [2002] EWCA 1182; [2003] 1 WLR 210 (Court of Appeal); [2002] EWHC 1118 (Comm) (Commercial Court)

Acting for the Bank of England in relation to an application for third party disclosure.

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### Three Rivers v Bank of England (No.3) [2001] UKHL 16; [2003] 2 AC 1 (House of Lords); [2000] 2 WLR 15 (Court of Appeal) (summary judgment/misfeasance in public office)

Acting for the Bank of England in a leading decision on the test for summary judgment under CPR Part 24.

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### ED&F Man (Sugar) Ltd v Haryanto (No.3) The Times, 9 August 1996 (Court of Appeal) (enforcement of judgments)

Acting in relation to an appeal relating to the limitation period applicable to the enforcement of a judgment.

### Notable Commercial Disputes - Civil procedure cases

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Acting for a representative party in ongoing proceedings relating to undisclosed commission payments (Commercial Court).

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Acting for a litigation funder in connection with an application seeking privileged information under a letter of request issued by a US court.

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Acting for a respondent to an application by a former shareholder for pre-action disclosure under CPR 31.16 of financial information provided confidentially to the Board of Directors.

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Acting for applicants under the Evidence (Proceedings in Other Jurisdictions) Act 1975, in respect of letters of request issued by a US court (QBD).

## Company Law

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Before joining Fountain Court, Ben spent the first 15 years of his career at South Square Chambers. He is a

recognised specialist in the company, restructuring and insolvency fields, and has appeared in high-profile cases both in London and in the Cayman Islands.

## Reported Company Law cases

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### **Entertainment Partners LLC v Sargent & Others [2019] EWHC 3718 (Ch)**

Acting for a minority shareholder in unfair prejudice proceedings relating to the forced sale of its shares.

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### **Ace Lead Profits Ltd & Another v Hollysys Automation Technologies Ltd (BVI Commercial Division, 22 September 2021)**

Acting for a minority shareholder challenging a board decision to amend company articles.

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### **Goodman v DMS Governance Limited (Cayman Islands Court of Appeal, 27 April 2020; Cayman Islands Grand Court, 2 July 2019); Goodman v Cummings & DMS Governance Limited (Cayman Islands Grand Court, 13 September 2018)**

Acting for a fund service provider and a former director in proceedings relating to the collapse of a fund.

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### **BAT Industries PLC v Sequana S.A. [2016] EWHC 1686 (Ch); [2017] 1 BCLC 453**

Acting for a publicly listed French company, and for former directors, in defending claims to reverse substantial dividends paid by its subsidiary.

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### **Peterson & Ekstrom v Weaving Macro Fixed Income Fund Limited [2015 (1) CILR 45] (Cayman Islands Court of Appeal); [2011 (2) CILR 203] (Grand Court, Financial Services Division)**

Acting for the directors of a collapsed Cayman hedge fund in a landmark case concerning the duties of non-executive directors in a collapsed hedge fund and the scope of a director's liability for "wilful neglect or default".

## Notable Company Law cases

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Acting for a limited partner in a just and equitable winding up petition relating to a leading NASDAQ-listed Cayman Islands biotech business based in China (Cayman Islands Grand Court).

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Acting for a limited partner in a just and equitable winding up petition relating to an investment fund (Cayman Islands Grand Court).

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Acting for a majority shareholder in a claim relating to a substantial Chinese fraud (Cayman Islands Grand Court).

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Acting for the directors of a Cayman company in defence of merger-related proceedings under s.238 of the Companies Law (Cayman Islands Grand Court).

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Acting for a private equity investor and its directors in connection with proceedings relating to the sale of a leading fashion retailer (Chancery Division).

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Acting for the former directors of a property development group in connection with claims brought by a liquidator in respect of alleged breaches of duty (Companies Court).

## Restructuring & Insolvency

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Before joining Fountain Court, Ben spent the first 15 years of his career at South Square Chambers. He is a recognised specialist in the company, restructuring and insolvency fields, and has appeared in high-profile cases both in London and in the Cayman Islands.

### Reported Restructuring & Insolvency cases

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#### **AM Holdings v Batten [2018] EWHC 934 (Ch) (insolvency; liability of former administrators)**

Acting for former administrators in defending proceedings relating to the sale of a substantial City of London property portfolio.

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#### **MG Rover Dealer Properties Ltd v Hunt [2013] BCC 698 (Chancery Division, Companies Court) (insolvency; disclosure)**

Acting for the Liquidators of MG Rover in relation to complex disclosure applications made by various companies in the Phoenix group.

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#### **Lornamead Acquisitions Limited v Kaupthing Bank HF [2011] EWHC 2611 (Comm)**

Acting for a commercial customer of Kaupthing Bank in relation to complex issues under the Credit Institutions (Reorganisation and Winding Up) Regulations 2004.

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#### **JSF Finance & Currency Exchange Co Ltd v Akma Solutions Inc [2001] 2 BCLC 307 (Chancery Division) (winding up; interim injunction)**

#### **Renshaw Birch v Marquet [1998] BPIR 399 (Chancery Division) (winding up; interim injunction)**

### Notable Restructuring & Insolvency cases

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Acting for investors in security challenge and related proceedings arising from the Toys 'R' Us collapse.

Advising Arcadia in connection with a claim by a liquidator arising from the BHS collapse.

Acting for former directors in defending proceedings by a liquidator relating to the insolvency of a property development business.

Acting for a German bank defending claims by the liquidators of companies in the Saad Group, following its collapse, to reverse alleged transactions at an undervalue and preferences in respect of payments totalling \$8 million made under aircraft finance facilities.

Acting for the US debtors of Nortel in relation to applications to give effect to letters of request for evidence in bankruptcy proceedings in Delaware.

Acting for the US officeholder of Overseas Shipholding Group Inc (and related companies) in respect of multiple applications to recognise US Chapter 11 proceedings under the Cross-Border Insolvency Regulations.

Acting for the Liquidators of MG Rover in connection with claims against the former Phoenix directors.

## International Arbitration

Throughout his career, Ben has acted in international commercial arbitrations, often as a member of an integrated legal team, and more recently as lead advocate. In 1995-96, he was a foreign intern in the international arbitration group at Skadden, Arps in New York. He regularly teaches arbitration advocacy as part of the external faculty to a leading US law firm. His arbitration work also includes a number of reported court decisions, including most notably as lead advocate for many years for Telia (Sonera) in its long-running BVI enforcement proceedings relating to Turkcell.

### Reported International Arbitration cases

#### **Hellenic Petroleum Cyprus Limited v Premier Maritime Limited [2015] EWHC 1894 (Comm)**

Acting for a major Greek energy group in overturning an arbitral award, under s.67 of the Arbitration Act 1996, in a case involving the alleged long-term charter party of an LPG tanker.

**Sonera Holding B.V. v Cukurova Holding A.S. (1) (Eastern Caribbean Court of Appeal, 14 June 2017); (British Virgin Islands Commercial Division, 23 February 2016) (arbitration; enforcement; share sale order); (2) (Eastern Caribbean Court of Appeal, 23 June 2016); (3) [2014] UKPC 15; [2015] 2 All ER 1061 (Privy Council); BVIHCVAP 2012/0029 (Eastern Caribbean Court of Appeal, 9 May 2013); (4) (Eastern Caribbean Court of Appeal, 11 July 2013)**

Acting for a Scandinavian telecommunications provider in proceedings against a Turkish conglomerate to enforce a \$932 million arbitration award, and related New York Convention, freezing, anti-suit injunction and share sale

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applications.

## Notable International Arbitration cases

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Acting for a shareholder in connection with a dispute relating to a Libyan refinery (ICC arbitration).

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Acting for a telecommunications group in connection with a warranty claim relating to an investment in Kazakhstan (LCIA arbitration).

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Acting for an oil and gas company in relation to a substantial shareholder dispute (LCIA arbitration).

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Acting for a Ukrainian business in connection with a syndicated lending dispute (LCIA arbitration).

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Acting for an international investment bank in connection with a close out dispute (LCIA arbitration).

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Acting for the investors in a food processing group in relation to claims made under a sale purchase agreement and in fraudulent misrepresentation (LCIA arbitration).

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Acting for an investor in relation to claims in connection with a new luxury hotel (LCIA arbitration).

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Acting for an insurer in defending claims by an insured under a patent infringement excess policy (ad hoc arbitration).

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Acting for a corporate shareholder in connection with an international dispute relating to the management of a Russian retailer and related arbitration and litigation in England and the British Virgin Islands (LCIA arbitration; Commercial Court; BVI Commercial Division).

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Acting for a shareholder in a Ukrainian airline in a contractual dispute between its shareholders (LCIA arbitration).

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Acting for an investment bank in relation to an insurance claim arising from the Enron collapse (LCIA arbitration).

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Advising in connection with a claim to recover a \$30 million payment made by mistake at completion of a sale and purchase agreement (LCIA arbitration).

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Advising an Indian telecommunications company in connection with a commercial dispute arising from a joint venture with Vodafone (ad hoc arbitration).

Acting for a Canadian mining company in relation to a claim to recover its initial investment in a gold mine in the Republic of Kazakhstan (UNCITRAL arbitration).

## Offshore

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In addition to his London-based practice, Ben has substantial experience of offshore dispute resolution in the British Virgin Islands and the Cayman Islands, some of it in leading cases in those jurisdictions. In addition to *Sonera* (BVI), and *Weaving* and *Goodman v DMS* (Cayman Islands), Ben was instructed by the AwalCo liquidators in defending the appeal arising from the *AHAB/Saad* proceedings before the Court of Appeal of the Cayman Islands. The appeal was dismissed in December 2022.

### Reported Offshore cases

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#### **Ikana Holdings v Putney Capital Management Ltd & Others (Eastern Caribbean Court of Appeal, 24 January 2022)**

Acting for claimants in claim relating to payment of dividends following share sale relating to the Dominican Republic electricity generator. Leading interlocutory decision on control of third party documents in BVI litigation. Trial listed: March 2022.

#### **AHAB v Saad Investments & Others (Cayman Islands Court of Appeal, 21 December 2021)**

Acting for the Awalco Respondents in a four-week appeal in the Cayman Islands Court of Appeal in long-running, complex US\$4 billion fraud claim. Appeal dismissed: December 2021.

#### **WAFR Holdings Ltd v Pearson (Cayman Islands Court of Appeal, 13 October 2021)**

Acting for Cayman Islands companies in connection with administration of intestate Cayman estate of Saudi Arabian shareholder. Application by Administrator for documents of subsidiary companies; control test.

#### **Ace Lead Profits Ltd & Another v Hollysys Automation Technologies Ltd (BVI Commercial Division, 22 September 2021)**

Acting for a minority shareholder challenging a board decision to amend company articles.

#### **Goodman v DMS Governance Limited (Cayman Islands Court of Appeal, 27 April 2020; Cayman Islands Grand Court, 2 July 2019); Goodman v Cummings & DMS Governance Limited [2018 (2) CILR 234]:**

Acting for DMS and a former director in proceedings relating to the collapse of a fund.

#### **Sonera Holding B.V. v Cukurova Holding A.S. (Eastern Caribbean Court of Appeal, 14 June 2017); (British Virgin Islands Commercial Division, 23 February 2016) (arbitration; enforcement; share sale order); (Eastern Caribbean**

Court of Appeal, 23 June 2016) (arbitration; enforcement; injunction to restrain second arbitration); [2014] UKPC 15; [2015] 2 All ER 1061 (Privy Council); BVIHCVAP 2012/0029 (Eastern Caribbean Court of Appeal, 9 May 2013); (Eastern Caribbean Court of Appeal, 11 July 2013)

Acting for a Scandinavian telecommunications provider in proceedings against a Turkish conglomerate to enforce a \$932 million arbitration award, and related New York Convention, freezing, anti-suit injunction and share sale applications.

**Peterson & Ekstrom v Weaving Macro Fixed Income Fund Limited [2015 (1) CILR 45] (Cayman Islands Court of Appeal); [2011 (2) CILR 203] (Grand Court, Financial Services Division)**

Acting for the directors of a collapsed Cayman hedge fund in relation to claims for breach of duty and wilful neglect.

**TeliaSonera Finland OYJ v Alfa Telecom Turkey Limited (Eastern Caribbean Court of Appeal; 28 September 2009)**

Acting for a Scandinavian telecommunications provider in a claim against a Russian entity arising from a dispute over the ownership of a substantial European mobile telephone network.

## Notable Offshore cases

Acting for a limited partner in a just and equitable winding up petition relating to a leading NASDAQ-listed Cayman Islands biotech business based in China (Cayman Islands Grand Court).

Acting for a limited partner in a just and equitable winding up petition relating to an investment fund (Cayman Islands Grand Court).

Acting for various Cayman companies in connection with the administration of the Cayman Estate of an individual (Cayman Islands Grand Court).

Acting for a majority shareholder in a claim relating to a substantial Chinese fraud (Cayman Islands Grand Court).

Acting for the directors of a Cayman company in defence of merger-related proceedings under s.238 of the Companies Law (Cayman Islands Grand Court).

Acting for Liongate in proceedings against its former directors for breach of fiduciary duty (Cayman Islands Grand Court).

Acting for a BVI company defending a claim brought by a former employee of a major Russian retailer, including in respect of a contested forum non conveniens application (BVI High Court).

## Directory Quotes

*"An excellent advocate who is incredibly bright and tactically so astute." "He is exceptional in court, has a genius level of intellect, is very user-friendly and gets to the heart of matters very quickly."*

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Chambers & Partners

*"A very commercial, client conscious and flexible practitioner. A natural on their feet."*

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The Legal 500

*"Very user-friendly, intelligent, a team player and a great trial advocate."*

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The Legal 500

*"Incredibly bright and a superb advocate - I would probably say some of the best advocacy I have ever come across."*

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The Legal 500

*"A great barrister. He is an extremely user-friendly silk, never precious, and works very well in large teams."*

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Chambers & Partners

*"An absolute standout barrister who is incredibly talented and intelligent." "A fantastically bright, robust and skilled tactician." "He is a persuasive advocate who is able to digest vast and complex material and draft excellently."*

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Chambers & Partners

*"He is very good on his feet and his client skills are exceptional." "A go-to silk for a huge range of commercial work, he gives pragmatic and clear advice, is very robust and is full of common sense."*

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Chambers & Partners

*"Incredible intellect, strategically astute, approachable, team-orientated, commercial - certainly one of the great"*

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*advocates of his generation."*

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The Legal 500

*"Commands the courtroom as an advocate and is extremely knowledgeable with very sound judgement." "He has a great courtroom manner - judges want to listen to him." "He is a class act - on top of the detail, always available, and a pleasure to deal with."*

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The Legal 500

## Directory Rankings

### Chambers & Partners – Global

- Dispute Resolution: Commercial – UK
- International Arbitration – The English Bar
- Offshore – UK

### Chambers & Partners – UK

- Banking & Finance
- Commercial Dispute Resolution
- Fraud: Civil
- International Arbitration: General Commercial & Insurance
- Offshore

### The Legal 500 – UK

- Banking & Finance (including Consumer Credit)
- Insolvency
- International Arbitration: Counsel
- Offshore

## Education

- Worcester College, Oxford – BA (Oxon) (1992); BCL (1993)
- Cornell Law School, New York – LLM (1994)

## International Bar / Court Appointments

- Ad hoc admission to the Cayman Islands Bar.
- Called to the Bar of the British Virgin Islands.
- Called to the New York State Bar.

## Memberships

- Called to New York State Bar (1998)
- Called to British Virgin Islands Bar (2007)
- Called to Cayman Islands Bar (on a case specific basis) (2011 onwards)
- Commercial Bar Association
- Chancery Bar Association
- New York State Bar Association
- LCIA
- CEDR Accredited Mediator
- Formerly a member of South Square Chambers (1996-2014)
- Foreign intern in international arbitration group at Skadden, Arps, Slate, Meagher & Flom, New York (1996-1997)

## Publications

- *Company Directors: Duties, Liabilities, and Remedies* – contributing author (4<sup>th</sup> Edition, 2022) (forthcoming)
- “Playing the game by local rules: disclosure at risk of criminal prosecution” [B.J.I.B & F.L. 2020, 35(9), 626-628]
- “Casenote: *National Merchant Buying Society Limited v Bellamy*” [Bank. Law 2012, 4(4), 39-41]
- “Pursuing claims in England against insolvent European banks – the Kaupthing experience” [Bank. Law 2012, 4(3), 8-13]
- “Restraining foreign proceedings pursued in breach of an agreement to arbitrate in England” [Int. A.L.R. 1999, 2(5/6), 151-156] (with Dominic Spenser Underhill)
- “Securing evidence for foreign arbitrations” [Int. A.L.R. 1999, 1(6), 205-208] (with Dominic Spenser Underhill)
- “Subrogation remedy for unjust enrichment” [Comm. Law. 1998, 24, 78] (with Michael Crystal QC)
- “Applications against banks under s.236 of the Insolvency Act 1986” [C. & F.L. 1998, 10(3), 20-22]

## Languages

- French (working knowledge)

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# Awards



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