

## Ben Woolgar

YEAR OF CALL: 2014

*"He's the human equivalent of IBM Watson."  
"Renowned for being able to give advice above his level of call, he's extremely efficient and clever, and able to deal with complicated issues."*

Chambers & Partners UK & Global 2020

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## Practice Overview

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Ben specialises in heavy-duty, high profile commercial litigation and arbitration. His broad commercial practice spans civil fraud, energy, banking, mining and insurance work, including jurisdiction challenges and injunctions.

He is recommended as a "Rising Star" in Legal 500 for Commercial Dispute Resolution, International Arbitration, Civil Fraud and Energy, and is also recommended in Chambers & Partners for Commercial Dispute Resolution. He appeared in cases in *The Lawyer's* Top 20 Cases list in each of 2016-19. The directories say:

*"Exceptionally commercially savvy, he is able to dissect complex issues and get to the heart of the matter, he is also a very strong advocate and cross-examiner."*

*"Carries the most extraordinary case load and is constantly available, providing high-quality advice under pressure and when the stakes are high."*

*"Nothing gets past him with his superhero type x-ray vision and his ability to turn over every stone."*

*"The human equivalent of IBM Watson."*

Major matters Ben is currently instructed in include:

- **PJSC Commercial Bank Privatbank v Kolomoisky:** (led by Mark Howard QC. Ben is the lead junior on a US\$2.6 billion claim (and associated freezing order) against two oligarchs concerning loans from Ukraine's largest bank, in which the jurisdiction challenge and freezing order application went to the Court of Appeal - [2018] EWHC 3308 (Ch) and [2019] EWCA Civ 1708;

- **Republic of Mozambique v Prinvest & Ors:** (led by David Wolfson QC, and then Neil Calver QC). Ben is the lead junior on a US\$2 billion+ claim against Credit Suisse and the Prinvest Group (who Ben acts for) concerning bribery and conspiracy in connection with maritime infrastructure projects in Mozambique. A s.9 Arbitration Act challenge was heard in May 2020 – [2020] EWHC 1709 (Comm);
- **SKAT v Solo Capital Partners & Ors:** (led by Andrew Hunter QC) Ben is the sole junior acting for Ms Anne Stratford, the former CEO of Solo Capital, in claims brought by the Danish tax authorities, alleging that SCP was at the heart of a US\$1.6 billion fraud concerning withholding tax.

In addition to his led work, Ben frequently appears unled in significant matters, or arguing applications in his more substantial cases. Legal 500 describes him as *"a very strong advocate and cross-examiner."* Recent advocacy work includes two recent week-long arbitrations, worth US\$4m+, a dispute concerning the management of a multi-million pound property portfolio, a US\$2.5m dispute about a loan agreement (**GRS v Behike & Ors** [2020] 7 WLUK 298), and an important decision on the power to amend the identity of defendants under CPR 17.4(3) (**Mozambique v Prinvest Shipbuilding SAL** [2020] 6 WLUK 465). He is also acting unled for a defendant group in a US\$320m fraud claim in the Commercial Court (**MCM v Come Harvest & Ors**).

Past leading cases include: the successful defence of the Candy Brothers in **Holyoake v Candy** [2017] EWHC 3397 (Ch) (led by Tim Lord QC and Thomas Plewman QC) in a £132m claim alleging conspiracy in relation to a property transaction; **Property Alliance Group v RBS** [2016] EWHC 3342 (Ch) and [2018] EWCA Civ 355 (led by Tim Lord QC), the leading case on a number of key issues in banking law including swaps mis-selling and LIBOR rigging; **Pinchuk v Bogolyubov & Ors**, (led by Mark Howard QC) a multi-billion dollar oligarch case about an iron ore mine in Ukraine, which settled on the eve of trial; **Bluewaters v Ecclestone, BLB & Ors:** (led by Tim Lord QC) a US\$550m claim arising out of the corrupt sale of Formula 1 in 2005 by Bernie Ecclestone brought by disappointed bidder Bluewaters (settled after the CMC), and **Avonwick Holdings v Azitio** [2020] EWHC 1844 (Comm) (led by Neil Calver QC), a US\$1.1 billion oligarch dispute in which substantial counterclaims against Ben's clients were dismissed with indemnity costs.

Ben graduated from the University of Oxford, winning the Gibbs Prize for the Best Thesis in Politics, and then studied law as a Karmel, Bedingfield and Lord Reid Scholar of Gray's Inn. He is a former Best Speaker at the World Universities' Debating Championships, and coached the successful England team at the Worlds Schools' Debating Championships in 2014.

## Commercial

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Ben is recognised for his broad commercial practice in both Legal 500 (2020 and 2021) and Chambers & Partners (UK & Global, 2020). He has been involved in many of the biggest cases in the English courts in recent years (**Pinchuk, Candy, PAG** and **Avonwick**), and currently acts in many more (**Privinvest, Privatbank, SKAT**).

Ben's area-specific experience is described in the relevant categories below. In addition, he has extensive experience with cross-border and multi-forum disputes. He has acted in several major jurisdiction disputes (**PrivatBank, Avonwick, Timis**), s.9 stays for arbitration (**Privinvest**) and anti-suit injunctions to compel both litigation and arbitration (**Pan Ocean v China-Base Group** [2019] EWHC 982 (Comm), **Hiscox v Weyerhaeuser** [2019] EWHC 2671 (Comm)), and disputes which have proceeded in multiple forums (**PrivatBank, Timis**), including overlapping criminal trials. He has worked on cases in all the major offshore forums, including Hong Kong, the BVI and the Cayman Islands.

Almost all of Ben's cases have a foreign element, and he has extensive experience dealing with pleading and expert evidence of foreign law. In the past, his cases have included Russian, Ukrainian, Romanian, US, Lebanese, UAE, Nigerian and Mozambican law. Many of his clients are high net-worth individuals, and he is familiar with the demands of "oligarch" work.

Many of Ben's cases have involved acting for or against states and state-owned institutions, and dealing with allegations of official corruption. As well as acting against the Republic of Mozambique in **Privinvest**, he was instructed (leg by Roger Masefield QC) by the Federal Republic of Nigeria in its claims against JP Morgan and Shell/Eni arising out of alleged bribery in connection with the OPL 245 bloc, and has acted in investment treaty arbitrations where corruption issues have arisen.

## Civil fraud

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*"Carries the most extraordinary case load and is constantly available, providing high-quality advice under pressure and when the stakes are high."* (Legal 500, 2021)

Civil fraud work is a mainstay of Ben's practice. Most of his cases involve allegations of fraud and dishonesty, and he is experienced in all aspects of fraud litigation, from urgent injunctions and freezing orders, to heavy fraud trials.

Current major fraud cases (all worth more than US\$1 billion) include **PrivatBank, Privinvest, SKAT** and **Avonwick**. Ben is also instructed (previously led by Paul Lowenstein QC) in **MCM v Come Harvest Holdings & Ors**, a c.US\$320m claim involving an alleged metals trading fraud in China and Singapore, and (led variously by Michael Bools QC, Simon Salzedo QC and Richard Blakeley) **SMA-Seal LP v Lakhani**, an ongoing case concerning an alleged ship financing fraud.

Ben has particular experience obtaining, maintaining and discharging freezing injunctions and asset

disclosure orders. His freezing order cases include **PrivatBank** (the discharge application is reported at [2018] EWHC 3308 (Ch) and [2019] EWCA Civ 1708), **Timis** (where the WFO was continued at [2017] EWHC 1375 (Comm), and **Avonwick** (where a freezing order was obtained post-judgment in respect of a costs award). He was led by Tom Adam QC in successfully resisting the appeal to the Supreme Court in **Holyoake v Candy**, the land-mark case concerning notification injunctions [2017] 3 WLR 1131. He is also acting (led by Richard Lord QC) in **Bravo & Ors v Amerisur Resources PLC** [2020] EWHC 2279 (QB), in which a freezing order was obtained on behalf of hundreds of Columbian farmers who allege their land has been contaminated by pollution from oil-drilling.

Ben has also been involved in many of the most important cases in recent years on the technical aspects of freezing orders, including the asset disclosure requirements (**Timis** [2017] EWHC 3381 (Comm), led by Stephen Midwinter QC), the scope of the 'ordinary course of business' exception and the grant of permission for transactions under a WFO (**PrivatBank** [2018] EWHC 1910 (Ch), led by Michael Bools QC), costs orders (the **Amerisur** decision at [2020] EWHC 2279 (QB), led by Richard Lord QC), and post-judgment freezing orders (**Avonwick**, led by Neil Calver QC).

An unusual feature of Ben's fraud practice is the number of his cases which have resulted in a full trial. In recent years, he has acted in the 11-week trial of **PAG v RBS** [2016] EWHC 3342 (Ch), the 9-week trial of **Holyoake v Candy** [2017] EWHC 3397 (Ch) (resulting in the complete dismissal of all claims against Ben's clients), and the 8-week trial of **Avonwick v Azitio** [2020] EWHC 1844 (Comm) (where the very substantial counterclaims against Ben's clients were dismissed and the only defendant who gave evidence found to be serially dishonest). His experience extends to all of the major (and some of the rarer) causes of action relied on in fraud cases, including deceit, dishonest assistance, knowing receipt, bribery, lawful and unlawful means conspiracy, and malicious prosecution, as well as their foreign law equivalents.

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Ben is equally at home in international arbitration as in court litigation, and has conducted arbitrations under all the major institutional rules, including LCIA, ICC, UNCITRAL and HKIAC, as well as numerous *ad hoc* arbitrations.

By its nature, Ben's arbitration practice is mostly confidential, but recent highlights include:

- A US\$100m+ HKIAC arbitration concerning a failed investment deal in a commodities business, which led to a 2-week final hearing in September 2020 (led by Ali Malek QC, and Nigel Rawding QC of Freshfields).
- A c.US\$25m LCIA arbitration about a drilling equipment trial in the Gulf of Mexico, resulting in a 7-day final hearing in September 2018 (led by Harry Matovu QC)

- A US\$45m *ad hoc* shipbuilding arbitration, raising complex issues of restitution and standard form contracts, in which the claims against Ben's clients were summarily dismissed (led by Richard Lord QC)
- A US\$5m *ad hoc* arbitration about an intra-group charterparty allegedly procured fraudulently and at an over-value, and raising complex issues of Swiss law, in which Ben acted unled at a 5-day final hearing in September 2019.

Ben also has an extensive practice in smaller shipping and commodities arbitrations, and is instructed by firms ranging from Brazil and South Korea as well as the London market. These cases include cases under the FOFSA and GAFTA rules (including boards of appeal), demurrage and laytime disputes, claims for indemnities under charterparties, and safe port warranty cases.

He is equally comfortable working in both a conventional solicitor-counsel relationship, and conducting arbitrations collaboratively alongside solicitor-advocates and foreign lawyers.

## Energy and natural resources

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Ben is recommended as a Tier 4 junior for Energy work in Legal 500 UK Bar 2021. His experience includes both all the major types of energy contract dispute, and more general litigation and fraud work involving energy businesses.

Recent highlights include **KUFPEC v EnQuest** (led by Daniel Jowell QC and Fionn Pilbrow QC), a US\$75m breach of warranty dispute concerning a field in the North Sea which settled on the eve of trial in summer 2019, a **Confidential Arbitration** (led by Harry Matovu QC) concerning a US\$20m + claim for failure of a novel piece of drilling equipment, **Avonwick** and **Pinchuk** (which were both fraud claims involving substantial Ukrainian energy businesses), and **Federal Republic of Nigeria v Shell & Eni** (which concerned one of the largest oil and gas deposits in Africa).

Ben also has particular expertise in working on behalf of green and renewable energy providers. He is frequently instructed by **Ecotricity**, the market-leading green energy provider, including in its Companies Court dispute with its rival **Good Energy Group** (led by Thomas Plewman QC) and an ongoing dispute concerning the Court's power to grant an injunction preventing a defaulting customer from taking electricity and gas from the network (unled).

## Banking and finance

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Ben has an extensive practice in all aspects of banking and finance work, ranging from contract disputes concerning derivatives and complex instruments, mis-selling and misrepresentation claims, Bank's *Quincecare*

duties and fraud actions both by and against banks.

Ben acted in **Property Alliance Group v RBS** (led by Tim Lord QC), both at first instance [2016] EWHC 3342 (Ch) and then in the Court of Appeal [2018] EWCA Civ 355, a long-running dispute concerning alleged mis-selling, LIBOR manipulation and the conduct of RBS's GRG unit. The latter decision is now the leading authority on numerous issues in bank mis-selling cases, as well as implied representations.

He is currently involved in one of the largest pieces of banking fraud litigation ever, **PrivatBank** (led by Mark Howard QC), and is adept at dealing with complex transactional issues as well as the Russia/CIS banking system, and the **FRN v JP Morgan** case concerning JPM's *Quincecare* duties in relation to corrupt payments to Nigerian government officials.

He also has experience in jurisdiction battles in the context of complex financial litigation, and is currently instructed in **Galapagos Bidco S.A. v Signal Credit Opportunities Fund** (led by Alain Choo-Choy QC), a jurisdiction dispute concerning a bond restructuring with parallel proceedings in New York, Germand and Luxembourg.

## Reported cases

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**GRS v Behike & Ors** [2020] 7 WLUK 298

**Avonwick Holdings v Azitio** [2020] EWHC 1844 (Comm) (trial judgment), [2019] EWHC 305 (Comm) (adjournment where defendant in prison in Russia)

**Mozambique v Credit Suisse International, Prinvest Shipbuilding S.A.L & Ors** [2020] EWHC 1709 (Comm) (correct approach to s.9 Arbitration Act challenge where same dispute before arbitrators), [2020] 6 WLUK 465 (amendment of party name under CPR r.17.4(3)).

**Bravo & Ors v Amerisur Resources PLC** [2020] EWHC 203 (QB) (joinder of claimants in mass tort case), [2020] EWHC 2279 (QB) (costs of unopposed freezing injunction).

**PJSC Commercial Bank Privatbank v Kolomoisky** [2018] EWHC 3308 (Ch) and [2019] EWCA Civ 1708 (jurisdiction challenge and application to discharge WFO), [2018] EWHC 1910 (Ch) (scope of 'ordinary course of business' exception).

**Pan Ocean v China-Base Group** [2019] EWHC 982 (Comm) (anti-suit injunction and jurisdiction dispute, scope of Art.25(1)(a) of BIR)

**Holyoake v Candy** [2017] EWHC 3397 (Ch) (trial judgment), [2018] EWCA Civ 355 (permission to appeal, Consumer Credit Act), [2018] EWHC 502 (Ch) (indemnity costs, third-party funding), [2017] EWHC 382 (Ch) (collateral waiver of privilege)

**Property Alliance Group v RBS** [2016] EWHC 3342 (Ch) and [2018] EWCA Civ 355 (swaps mis-selling

and LIBOR manipulation, implied representations)

**Strategic Technologies Pte Ltd v China** [2016] EWHC 3776 (QB) (registration of foreign judgments already registered in an EU Member State)

**Chamonix v Caledonia** [2015] EWHC 3290 (Comm) (unpaid commission dispute over caravan parks business)

**R (Teva Pharmaceuticals Ltd) v Licensing Authority** [2016] 11 WLUK 818 (licensing for Copaxone under the Medicines Directive)

**SeaFrance v CMA** [2015] UKSC 75 (challenge to merger decision by CMA, as Advocates to the Court)

**BT Cornwall v Cornwall Council** [2015] EWHC 3755 (Comm) (trial concerning substantial IT contract for county council)

## Education and Qualifications

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### Education:

2013-2014: BPTC, City Law School (Outstanding)

2012-2013: GDL, City Law School (Distinction, 4<sup>th</sup> in year)

2009-2012: MA, Philosophy, Politics and Economics, University of Oxford (Balliol College) (First Class,

Gibbs Prize for Best Thesis in Politics)

### **Scholarships and Prizes:**

*University of Oxford:*

Gibbs Prize for Best Thesis in Politics 2012 (Best finals thesis in the university)

University Alumni Society Award 2011

*Balliol College:*

James Hall Prize for Outstanding Academic Achievement 2011

James Hall Scholarship 2011-2012

College Exhibition 2010-2011

*Honourable Society of Gray's Inn:*

Lord Reid Senior Scholarship 2014 (awarded to the Inn's top four pupils)

Bedingfield Scholarship 2013 (the Inn's top award for the BPTC)

David Karmel Scholarship 2012 (the Inn's top award for the GDL)

*Other:*

Best Speaker, World Universities Debating Championship 2012

Grand Finalist, World Universities Debating Championship 2011

European Universities' Debating Champion 2011

Best Speaker, English National Debating Championships (ESU Mace) 2012

World Schools' Debating Champion 2008 (and 2014 as coach of the English national team)

Human Rights Law Association Judicial Review Moot Winner 2014

2<sup>nd</sup> place, OUP-BPP National Mooting Competition 2012-13

Bar European Group Phoenicia Scholarship 2015

## **Directory quotes**

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"He is hugely intelligent and operates way above his year of call." Chambers & Partners 2022 (Commercial Dispute Resolution)

"He's exceptionally bright, very hard-working, remarkable in his factual recall and really gets stuck in." "He gives very clear advice, finds good points and is a creative thinker. He is both realistic and very commercial." "He is great on paper and a very good strategic adviser." Chambers & Partners 2022 (Fraud)

"Ben may easily be the best barrister of his generation, and he has strong analytical, legal and advocacy skills." Legal 500 2022 (Energy and International Arbitration)

"Carries the most extraordinary case load and is constantly available providing high-quality advice under pressure and when the stakes are high." Legal 500 2022 (Banking & Finance)

"A very confident and aggressive junior barrister who presses home winning points with tenacity. A pleasure to work with and one to watch for the future." Legal 500 2022 (Fraud)

"Delightful to work with – super clever, highly knowledgeable and gets completely his client's (and instructing solicitors') needs." Legal 500 2022 (Commercial Litigation)

"He is very commercial, responsive and aggressive in court." "He is extremely client-friendly." Chambers & Partners 2021 (Fraud)

"Extremely client-friendly." "He is making a name for himself and is in demand among leading silks." Chambers & Partners 2021 (Commercial Dispute Resolution)

"Nothing gets past him with his superhero type x-ray vision and his ability to turn over every stone." Legal 500 2021 (Energy)

"Exceptionally commercially savvy, he is able to dissect complex issues and get to the heart of the matter, he is also a very strong advocate and cross-examiner. Legal 500 2021 (Commercial Litigation)

"Carries the most extraordinary case load and is constantly available, providing high-quality advice under pressure and when the stakes are high." Legal 500 2021 (Fraud)

"Nothing gets past Mr Woolgar and his super hero type x-ray vision, his ability to handle the facts and work the law, to pin point and drill in to strength and weaknesses, to turn every stone is above and beyond." Legal 500 2021 (International Arbitration)

"He's the human equivalent of IBM Watson." "Renowned for being able to give advice above his level of call, he's extremely efficient and clever, and able to deal with complicated issues." Chambers & Partners UK & Global 2020 (Commercial Dispute Resolution)

'Brings high quality legal analysis, years ahead of his call.' Legal 500 2020 (Commercial litigation)

'A truly impressive barrister, despite his young age, his analytical skill is impressive.' Legal 500 2020

(Energy)