

## BEN HARDING

Year of call: 2005

Clerked by: Harry Young Brandon Singh

AREAS OF EXPERTISE:

Arbitration Banking & Finance Commercial Litigation  
Company Insolvency International & Offshore Partnership  
Professional Negligence Sport Technology and Construction



## Commercial Litigation

### Dispute Resolution

All areas of commercial dispute resolution, with an emphasis on contractual disputes (including sale of goods, supply of services, agency, corporate transaction warranty claims). He is experienced in banking & financial services work, having acted for lender and borrower in cases involving guarantees, security, factoring, consumer credit and mis-selling (in relation to which he has some experience of challenging FOS decisions by way of judicial review). He has also acted in a range of matters involving aspects of insurance law, including policy coverage, broker's negligence and insured loss recovery.

### Significant Recent Cases

*Manchester City Football Club Ltd & Ors v. Davies & others* (2017) – Manchester Business and Property Courts - claim against group of urban climbers who had climbed on to the roof of the Etihad stadium in Manchester for worldwide injunctions against them and persons unknown preventing entry on to the Club and parent group's premises. Led by David Casement QC. Interim injunctions obtained.

*Twinacre Nurseries v. Kennett Insurance Brokers* (2017) – Leeds Business and Property Courts - professional negligence claim for £860k against insurance brokers arising from severe underinsurance of commercial tomato growing business

*Bank of Baroda v. Maniar* (2017) – Manchester Mercantile Court - guarantee claim for €425k against former directors of ROI cash-and-carry company, defended on grounds that guarantee unenforceable by reason of Examinership proceedings in ROI

*Wastecare v. Recolight* (2017) – Leeds Business and Property Courts - £300k dispute regarding misappropriation of Waste Electrical and Electronic Equipment recycling notes

*Mullins v. (1) Hunt (2) Twinn* (2017) – Birmingham Business and Property Courts – obtained judgment for £280k in misfeasance claim against former directors of liquidated recruitment company following 4-day trial

*Mathieson v. Moss* (2017) – dispute regarding sale of dental practice

*Parr v. Mosca Ltd* (2017) – claim for £40k of pre-action costs where no substantive financial relief claimed

*Promontoria v. Walker* (2017) – Liverpool County Court – claim by mortgage assignee for possession of £1.5M property portfolio, defended on grounds of unfair relationship connected with IRH mis-selling; settled after 4-day trial in Dec 2017

*DRS Welding v. Christie Owen & Davies; DRS Welding v. HCB Solicitors* (2017) – Birmingham Business and Property Courts - professional negligence claims against (1) surveyor for overvaluation of block of serviced apartments; (2) former solicitors for handling of claim against surveyor

*Farooq v. Alpha Insurance* (2017) – Manchester Business and Property Courts - test case regarding (1) construction of ATE policy and whether underwriter's written consent a pre-condition to paying out own disbursement; (2) whether insurer estopped from relying on notification clause by having paid out previously. Led by Lesley Anderson QC. Succeeded for the insurer when claimant discontinued halfway through 3-day trial and consent to judgment on insurer's claim for declarations

*Davies v. GE Money* (2017) – claim by mortgagee for sale at £400k undervalue of farmhouse outside Bolton, alleging failure to take care of the property and failure to repair before selling

*Megson Utilities v. Complete Utility Solutions* (2017) – construction dispute regarding installation of gas and water pipework at Royal Veterinary School, £90k payment claim met by £150k damages set-off

*Pacy v. Norstar* (2017) – County Court at Doncaster - dispute regarding installation of ventilation ducting in residential warehouse conversion

*Comm:pact v. Lloyds* (2017) – Manchester Business and Property Courts – claim by charity for over £300k in respect of debits made by bank contrary to cheque mandate

*Bony v. Kacou & Ors* (2017) – Manchester Chancery District Registry – application to challenge jurisdiction in relation to claim by professional football player against former agents and associates for receipt of secret commissions / bribes

*Gaffney-Kroese Supply Corp v. Friguia* (2016) – RCJ Queen's Bench Division - claim for £576k under settlement agreement by American corporation against Russian-owned company domiciled in Republic of Guinea

*Frazer v. Manchester City Football Club* (2016) – Manchester County Court - successfully defending ticket refund claim by claimant suspected to be or acting for a ticket tout

*Red Ventures Recruitment v. Gostelow* (2016) – Manchester Chancery District Registry – £100k preference claim against parents of director who had 'propped up' the company with their credit cards

*Togel Contractors Ltd v. Cardy Construction Ltd* (2016) – adjudication claim for £120k for joinery work at Heathrow Airport; award made and claim settled before enforcement proceedings

*Kotak v. Kotak* (2016) – RCJ Chancery Division - complex partnership dispute between two brothers regarding a property investment and development business worth up to £15M, involving allegations that one brother 'milked' the partnership and burdened the properties with borrowing without the other's consent

*Integra Compliance Ltd v. SWS Compak Ltd & Ors* (2016) – RCJ Queen's Bench Division – claim for springboard relief, freezing injunctions, damages alleging fraud and diversion of Packaging Recovery Note business

*Triangle Infotech v. Ambidect* (2016) – Manchester County Court (Chancery list) – springboard dispute involving allegations that defendant software company took confidential information and proprietary software / tool kits

*Bibby Financial Services v. Bal* (2016) – Manchester Mercantile Court – defending £350k personal guarantee claim by liquidator against former director of recruitment company, after successfully resisting 2014 bankruptcy proceedings

*Re Rowellian Social Club* (2016) – Northampton District Registry – application for directions in the administration of a sports social club

*Taylor v. Giovanni Developers Ltd* [2015] EWHC 328 (Comm) – Commercial Court - effect of acknowledgment of service filed late

*Lakeminster Park litigation* (2014) – park homes mis-selling group action involving 100+ claimants and claims worth over £10M; Ben advised on consumer credit aspects

*Stacore v. Ebulio* (2015) – Commercial Court – commodities trading dispute regarding retention of \$800k deposit

*Hockaday v. Leeds United Football Club* (2015) – Manchester District Registry – claim by former coach for £88k alleging he was sacked in breach of contract

*Walker v. AIB Group* (2014) – claim by borrowers in respect of £1.5M BTL property portfolio loan alleging improper execution and unfair relationship under CCA 1974

*Quantum Factors v. A4E Management* (2014) – claim by factor for payment for £215k for publicly funded training services provided pursuant to UK government and EU schemes, involving complex payment mechanism

*R (Clifford t/a Central Credit) v. Financial Ombudsman Service* (2014) – Manchester Administrative Court – successfully obtained permission for apply for JR of FOS determination of complaint against credit broker, on grounds that FOS failed to give reasons and failed to investigate

*Secretary of State for Business, Innovation and Skills v. Oasis Limousines (Bradford) Ltd* [2014] EWHC 2432 (Ch) – Manchester Chancery District Registry - application for appointment of a provisional liquidator

*R J Lewis v. O’Conner* (2013) – Manchester TCC – claim for payment for variations and additional works at unique property development. Led by Lesley Anderson QC; settled after 14 days of evidence

## Profile

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Ben joined chambers in April 2008 after pupillage at 8 King Street Chambers, Manchester.

Ben practises in all aspects of commercial dispute resolution. Most of his work is in the Business and Property Courts and he regularly appears across the Northern, North-Eastern and Midlands Circuits and in London.

Within his broad commercial practice Ben has developed specialisms (detailed further below) in insurance, insolvency, professional negligence and construction. He also has a growing sports law practice, having acted for a number of football clubs.

Ben approaches every instruction with intellectual rigour, attention to detail, commercial pragmatism and speed. His attitude is that cases are won on the facts and lost on the law, so that it is essential to identify and analyse the key issues early to achieve the best result for his client. He is also aware of the ever-pressing need to give a firm, clear view on prospects, for the benefit of client and insurer/funder.

Ben acts predominantly as sole Counsel and has been led by chambers’ silks on a number of occasions. His clients span the range from large corporations and institutions to private individuals; and the subject matter ranges from multi-million pound claims and injunctions to his client’s home.

**Year of Call:** 2005

## Areas of Expertise

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Arbitration

Banking & Finance

Commercial Litigation

Company

Insolvency

International & Offshore

Partnership

Professional Negligence

Sport

Technology and Construction

## Memberships

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Northern Commercial Bar Association (committee member since 2015)

Chancery Bar Association

Northern Chancery Bar Association

British Irish Commercial Bar Association

## Publications

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### Articles

- Calling time: the law of limitation directions – Counsel Magazine June 2017; <https://www.counselmagazine.co.uk/articles/calling-time>

### Seminars

- Online payment fraud: a case study – in-house seminar Nov 2017 for Addleshaw Goddard LLP

- Misrepresentation: statements of opinion and reliance – NCCBA seminar June 2016

- Company Restoration: the Third Parties (Rights Against Insurers) Act 2010 and limitation – in-house seminar Feb 2016 for DWF LLP

- “Professional negligence – Jackson and the litigator” – Kings Chambers conference series 2014

- Third party costs orders, including orders against legal representatives – in-house seminar September 2013 for Berrymans Lace Mawer LLP

## Qualifications and awards

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BA (Hons) Literae Humaniores – first class (Balliol College Oxford)

GDL (City University, London)

BVC (BPP Law School, London)

Major Scholar (Inner Temple)

## Recommendations

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"He is excellent - very good with clients, very thorough and always takes time to prepare for conferences." "He is hard-working and his written work is a delight. His advice is succinct and easy for clients to understand." - **Chambers UK 2020**

'A brilliant barrister.' - **Legal 500 2018**

"He is an exceptional intellect and a skilled advocate." - **Chambers UK 2015**

"He is as bright as a button; he has a great delivery and a good courtroom presence." - **Chambers UK 2014**



Ben Harding