

Ben Stimmler

Call 2009

Telephone [020 7831 0222](tel:02078310222)

Email clerks@42br.com



Ben is a commercial chancery barrister. His practice focuses on property issues (real and landlord & tenant) but embraces expertise and experience in company, insolvency, wills & probate disputes and general commercial litigation.

Ben advises, drafts and acts in matters proceeding in the High Court, County Court (Chancery Business), First-tier Tribunal (Property Chamber; Residential and Land Registration divisions), Upper Tribunal and Court of Appeal.

In practice since the completion of his pupillage in 2010, he prides himself on a pragmatic, client-centred approach both to his busy paperwork practice and to his advocacy in the Courts and Tribunals. He also has ample experience of mediation and other forms of ADR.

Ben is also well-versed in avoiding (or, if necessary, mitigating) the effects of the various procedural pitfalls that increasingly beset even the most fastidious of fee-earners. He is additionally an effective advocate and advisor in matters of costs.

Historically, Ben was an avid theatre-, gig- and festival-goer (where work permitted) and a keen traveller (while remaining in 24/7 email contact of course). However, as a recent first-time father, life outside chambers now typically involves home-based pursuits such as cooking and Netflix. He presumes that this will change at some point.

“Personable, knowledgeable and pragmatic, Ben continues to deliver the desired results and is my preferred choice of Counsel every time”

“A source of great help, guidance and wisdom”

Landlord & Tenant

Ben acts frequently in the Court and the Tribunal for residential (particularly long lease) and commercial landlord and tenants in matters including:

- Derogation from grant

- Deposits and their protection
- Dilapidations
- Disrepair
- Forfeiture and possession
- Guarantees
- Reliance on, notices under and exclusion of the 1954 Act
- Rights of intermediate lessees and tenants
- Service charges and rent arrears
- Unlawful alienation
- Unlawful eviction and harassment
- Unlawful use

Leasehold Enfranchisement

Ben frequently acts both in the Tribunal and the Court for landlords and leaseholders in claims for new leases and enfranchisement under the 1993 Act, with an emphasis in both categories on premium disputes, as well as on the terms of the new leases and the residual rights of landlords following enfranchisement.

Real Property and Development

On behalf of residential and commercial landowners, Ben advises, drafts pleadings and appears in Court and Tribunal in matters including:

- Adverse possession
- Boundary disputes
- Easements and restrictive covenants
- Land registration disputes
- Mortgages and other securities
- Nuisance and other property-related torts
- Property damage
- Proprietary estoppel
- Trusts of land (express, resulting and constructive), including TOLATA disputes.

Company and Partnership

Ben has diverse experience in handling typical and atypical disputes amongst officers and members of companies, including cases involving directors and their duties, unfair prejudice petitions and derivative actions. He is also all too experienced in dealing with companies whose members and officers conduct their affairs rather more informally than their articles and the relevant duties contemplate. He has a particular interest in the intersection of company law with property law.

Ben advises and conducts proceedings in varied partnership disputes. He is particularly interested in the intersection of partnership and property law where partners' land is involved, along with the circumstances where the very existence of a partnership is at issue (where he has for example succeeded in establishing that a contract in which the parties to a venture were said to be dealing as "partners" in fact gave rise to no partnership at all).

General Commercial Litigation

Ben has acted for SMEs, banks, national and international firms in a variety of areas of commercial litigation in the High Court and County Court. He has particular experience in the following areas

- Agency and its associated fiduciary duties
- Asset damage caused by third parties
- Commercial and consumer credit
- Commissions
- Exclusion clauses and the restrictions on their use
- Formation of contracts
- Guarantees and indemnities
- Misrepresentation
- Penalty clauses
- Solicitors' costs
- Supply of goods and services
- Unjust enrichment

Insolvency and Restructuring

In the Insolvency and Companies Court, Ben acts for creditors and office-holders as well as individuals and companies facing or undergoing insolvency proceedings, with a particular emphasis on work for creditors. His experiences includes in particular issues arising out of the intersection of this field with property and estate matters.

Wills and Trusts

Ben acts for executors, administrators and beneficiaries in both contentious and non-contentious wills and probate, in the Chancery Division and in the County Court. He additionally advises and acts the settlors, trustees and beneficiaries of *inter vivos* trusts.

Professional Negligence

In this field Ben's focus is on claims against solicitors conducting litigation and against legal and professionals working in the property industry, in which he acts for both claimants and defendants. His recent work includes cases presenting particularly thorny issues of limitation and causation.

Cases

As part of a varied practice in the High Court, County Court (Chancery Business), First-tier Tribunal (Property Chamber; Residential and Land Registration divisions), Upper Tribunal and Court of Appeal, Ben appeared as successful sole counsel in the following cases:

Klosterkotter-Dit-Rawë v Greyclyde Investments Limited [2017] UKUT 289 (LC). Ben appeared for the successful Respondent, as he had at first instance in the First-tier Tribunal (Property Chamber), whose decision the Upper Tribunal upheld.

Davies v Davies [2016] EWCA Civ 1226. Ben appeared for the successful Respondent, as he had at trial in the High Court where his client succeeded in establishing a proprietary estoppel over certain agricultural land.

Judge Sykes Frixou v Bhabra [2016] EWCA Civ 381. Ben appeared for the successful Respondent, as he had at trial in the High Court where his clients obtained judgment for legal fees due under a guarantee, the Defendant having failed in his defence of set-off.