

# Elliott Cook

## Call 2019



Elliott Cook is regularly instructed in both international and domestic disputes including both litigation and arbitration.

He accepts instructions in all areas of Chambers' work with experience in complex commercial disputes, financial services, civil fraud, insurance and re-insurance, professional negligence, construction, and shipping.

Before coming to the Bar, Elliott was a judicial assistant at the Supreme Court of Western Australia. He later worked at a leading international commercial law firm in Perth, Australia as a solicitor in the litigation team with a particular focus on mining and energy, insolvency, and corporate law. In the year prior to joining Chambers, Elliott was employed as a qualified foreign solicitor at a large US law firm in London working on a range of disputes across a wide variety of industry sectors.

In addition to being called to the Bar in England & Wales, Elliott is admitted as a barrister and solicitor in Australia.

## Commercial Litigation and Arbitration

Elliott is experienced in a large variety of commercial disputes, experience which he has gained at both Chambers and during his time as a solicitor. He is instructed on, and has assisted with a number of complex commercial matters including proceedings in the Commercial Court and the Technology and Construction Court. He also has experience in domestic and international arbitrations (both ad hoc and institutional). Recent experience includes:

### Featured Commercial Litigation and Arbitration cases

- Sole counsel in a claim involving an allegedly fraudulent investment scheme, including an application for Norwich Pharmacal relief.
- Acting in a complex dispute between parties to a Share Purchase Agreement.
- Sole counsel for a large international oil and gas company in a dispute involving allegations of fraud, dishonest

assistance and knowing receipt.

- Acted as second junior counsel in the defence of an approximately £50 million fraudulent misrepresentation claim brought in the Commercial Court against a firm of architects.
- Junior counsel in a London-seated ad hoc arbitration in relation to a commercial excess insurance policy.
- Instructed to assist in an LCIA arbitration relating to the construction and design of a waste-to-energy plant.
- Sole counsel in an unjust enrichment claim for the recovery of mistakenly overpaid employee redundancy pay-outs.
- Regularly instructed in disputes concerning the sale of goods including, most recently, litigation relating to the mis-sale of PPE, and an ad hoc arbitration relating to the sale of lighting equipment.
- Instructed to act for classic car auctioneers in respect of claims relating to alleged breaches of contract.
- Assisted in a two-week trial in the Commercial Court in respect of a long, ongoing dispute relating to the valuation, sale and purchase of classic racing cars, involving allegations of deceit, knowing assistance/receipt and conversion.
- Assisted with a claim by a junior mortgagee seeking an injunction and damages against the senior mortgagee against the senior mortgagee and security agent of a large syndicate of commercial lenders under a deed of coordination.
- Assisted with a number of applications under sections 45 and 69 of the Arbitration Act 1996 in respect of determinations of preliminary points of law and appeals on questions of law.

## Financial Services

Elliott has a broad range of experience in financial services matters including regulatory proceedings brought under FSMA and associated regulations. Recent experience includes:

### Featured Financial Services cases

- Sole counsel in a complex claim by investors involving allegations of fraud, breach of contract, and breach of the general prohibition (FSMA) in respect of an unregulated collective investment scheme.
- Acting in a complex claim on behalf of an international commodities company in relation to an authorised push payment fraud.

- Acting as sole counsel in respect of a dispute under a pension scheme involving a deferred annuities bond.
- Assisted with a two-week trial involving an action successfully brought by the Financial Conduct Authority for contraventions of FSMA, including engaging in regulated activities without authorisation and making misleading statements.
- Assisted with a private claim against promoters and operators of an investment scheme, involving allegations of misrepresentation, breach of trust and knowing receipt, breach of COBs, breach of contract, and negligence.
- Assisted with the defence of a mortgage adviser for alleged negligent advice and breaches of MCOBs, involving a tricky issue of limitation.
- Assisted with the defence of a major bank in respect of an FX trading dispute involving alleged breaches of FSMA and COBs.
- Regularly instructed on PPI matters including dispute resolution hearings, early neutral evaluations, and other preliminary hearings.

## Insurance & Reinsurance

### Featured Insurance & Reinsurance cases

- Junior counsel on a USD 25 million ad hoc arbitration involving a coverage dispute in relation to an amended XL004 excess liability indemnity policy (Bermuda Form).
- Instructed to assist the preparation of an LCIA arbitration in respect of a political risk insurance policy.
- Instructed to advise on and act in relation to a dispute concerning the application of a legal expenses and rent guarantee insurance policy.
- Sole counsel on a coverage dispute concerning an industry-standard travel insurance policy with respect to disruption caused by the Covid-19 pandemic.
- Acting in respect of a dispute under a home protection insurance policy

# Shipping

Elliott has a particular interest in shipping law and has a broad range of experience in shipping litigation and arbitration. Recent experience includes:

## Featured Shipping cases

- Assisted with an application under section 45 of the Arbitration Act 1996 regarding the availability of unliquidated damages for detention of a vessel in addition to demurrage.
- Assisted with the defence in connection with an arbitration claim brought by head charterers against owners under a time charter in respect of owners' maintenance, despatch and ETA obligations.
- Assisted in responding to an appeal under section 69 of the Arbitration Act 1996 in respect of alleged breaches of an arbitration agreement and an insurer's equivalent equitable obligation.
- Assisted in responding to an appeal under section 69 of the Arbitration Act 1996 in respect of the long-term detention of a vessel in Venezuela.
- Assisted with a summary judgment application on behalf of owners in respect of monies owing under charterers' letters of indemnity in the context of third party mis-delivery claims.
- Assisted with an advice on the proper construction of a demurrage time-bar clause in a voyage charter.
- Assisted with Commercial Court proceedings in respect of a claim arising out of an on-board fire and explosion due to breach of dangerous cargo obligations.
- Assisted with a default judgment application in respect of claims in rem by a mortgagee against three cruise ships pursuant to rights under a facility agreement and related deeds of covenant.

# Professional Negligence

Elliott has experience in a number of professional negligence matters including those involving financial services providers, solicitors, engineers, architects, project managers and contractors. Recent experience includes:

## Featured Professional Negligence cases

- Sole counsel in the defence of a claim against a structural engineer firm involving allegations of negligent design.

- Acting as sole counsel in respect of a claim against an allegedly negligent project manager in respect of a boiler replacement project.
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- Sole counsel in respect of a claim brought against an architect relating to the design of a home renovation.
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- Acting in a claim relating to the allegedly negligent removal of asbestos from a large commercial property.
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- Regularly instructed in respect of claims against solicitors including, recently, a claim in respect of loss of opportunity to bring legal proceedings, and a claim relating to negligent advice relating to the purchase of a property.
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- Regularly instructed in the defence of allegedly negligent surveyors.
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- Regularly instructed in respect of property damage claims relating to allegedly negligent construction works.
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- Assisted in the defence of a mortgage advisor for allegedly negligent mortgage advice and breaches of regulatory obligations.
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## Technology & Data Protection

Elliott has experience in a variety of IT disputes. Recent experience include:

### Featured Technology & Data Protection cases

Assisted with the defence against a £900,000 claim for breach of contract relating to the development and licensing of a bespoke online streaming service.

Assisted in advising a major commercial retailer in relation to the availability and assessment of liquidated damages for delay under a data migration agreement.

Worked on a claim brought by a major operator of online gambling in respect of mistaken payments to certain individuals owing to alleged defects in the relevant gaming software (including allegations of fraud).

Assisted with providing advice to a large international engineering company in respect of the premature termination of a software licensing agreement and the interpretation of post-termination royalty obligations.

## Construction

Elliott has experience in a range of construction matters including litigation, arbitration and adjudication, involving both standard industry contracts and bespoke contracts.

## Featured Construction cases

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- Acted as second junior counsel in respect of the defence of an approximately £50 million misrepresentation claim brought by a wealthy private businessman against a firm of architects relating to the design and construction of a large private residence and estate.
  - Instructed to assist with a claim relating to the design and construction of a large waste-to-energy power plant.
  - Sole counsel in defence of a claim relating to the refurbishment of a large apartment complex, including claims for disruption and valuation of works under an amended JCT standard building contract.
  - Advised in respect of a complicated claim against project managers, engineers, and contractors in respect of the design and construction of an underfloor heating system (JCT Intermediate Building Contract with CDP).
  - Sole counsel in respect of a final account for joinery and carpentry works.
  - Instructed to assist with the preparation of expert evidence in relation to the design and construction of a drainage system for a large hospital.
  - Assisted in the preparation of a large adjudication brought in relation to alleged breaches of a civil and installation agreement for the construction of a major underwater pipeline, including advising on issues of jurisdiction.
  - Assisted in advising a large construction company on the assessment and availability of liquidated damages for delay.
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## Other Experience

Elliott is regularly instructed on matters in county courts including RTAs, gambling disputes, professional negligence, property damage, loan agreements, and general contractual disputes. Elliott is also regularly instructed in respect of interim applications including setting aside default judgment, strike out and summary judgment, pre-action disclosure, security for costs, and Civil Restraining Orders. Elliott is also available through Advocate on a pro bono basis.

## Awards

- Davis McCaughey Scholarship, Cambridge Trust & Cambridge Australia Scholarships
- Foundation Scholarship, Pembroke College, University of Cambridge
- Prizes (undergraduate): King & Wood Mallesons Prize in Law (top research dissertation), Peter Birks Prize in Unjust Enrichment & Restitution, Hebert H Wheatley Memorial Prize in Personal Property, Faculty of Law Prize in

Advanced Constitutional Law, LexisNexis Prize in Law, Ralph Pervan Memorial Prize in Politics, and Convocation Prize (Politics).

## Publications

- “Inadequate Interests: Critiquing the interest-only approach to the threshold-stage of procedural fairness” (2018) 29 Public Law Review 24.
- “Blue Skies Ahead: A Retrospective and Prospective Look at Technology in the Legal Profession” (2017) 25 Journal of Law, Information and Science 1.
- “Natural Justice: For Every Man and his Dog” (2016) 23 Australian Journal of Administrative Law 102.

## Memberships

- ComBar
- TecBar

## Education

- Masters of Law (First Class), Pembroke College, University of Cambridge
- Bachelor of Laws (First Class Honours), University of Western Australia
- Bachelor of Arts (Politics & International Relations), University of Western Australia
- Bar Transfer Test, BPP University