

Elliott Cook

Call 2019



Elliott has a broad commercial practice including high value litigation and international arbitration.

He is regularly instructed as sole or junior counsel in complex and technical disputes across a variety of sectors, including:

- General Commercial Litigation and Arbitration
- Construction and Engineering
- Shipping
- Insurance and Reinsurance
- Financial services
- Civil Fraud
- Professional Negligence

Before coming to the Bar, Elliott previously worked at a leading international commercial law firm in Australia as a solicitor in the litigation team and as a qualified foreign solicitor at a large US law firm in London.

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 has been instructed on a number of complex commercial matters including proceedings in the Commercial Court and the Technology and Construction Court, as well as both ad hoc and institutional international arbitrations (including ICC, LCIA, and LMAA, among others)

Elliott has experience in obtaining injunctive and interim relief including freezing injunctions, Norwich Pharmacal / Bankers Trust disclosure orders, civil restraint orders, security for costs, and pre-action disclosure. He is often asked to advise on procedural and jurisdictional issues and on civil matters involving allegations of fraud.

Featured Commercial Litigation and Arbitration cases

Junior counsel in a c. EUR 70m Paris-seated ICC arbitration (led by [Ben Pilling KC](#) and [Robert Scrivener](#)).

Instructed as junior counsel representing a defendant in a c. £140m claim which includes allegations of deceit in connection with the marketing and supply of construction goods (led by [Rachel Ansell KC](#)).

Successfully obtained a freezing injunction in High Court proceedings involving breaches of a hire purchase agreement and the (fraudulent) conversion of goods (led by [Laurence Page](#)). Elliott appeared as sole counsel at the return hearing.

Sole counsel acting for 17 claimants in a claim involving an allegedly fraudulent investment scheme, including a successful application for Norwich Pharmacal / Bankers Trust disclosure orders.

Junior counsel in the defence of an approximately £50m fraudulent misrepresentation claim brought in the Commercial Court against a firm of architects (led by [Fiona Sinclair KC](#) and [Richard Osborne](#)).

Acting as sole counsel in a tactically complicated dispute between partners to a failed joint venture business.

Sole counsel for a large international oil and gas company in a dispute involving allegations of fraud, dishonest assistance and knowing receipt.

Instructed as junior counsel for the defendant in high-value Commercial Court proceedings brought against the insurers of a defunct firm of insurance-brokers (led by [Andrew Neish KC](#)). The claim was successfully struck out.

Sole counsel in a complex dispute between parties to a Share Purchase Agreement.

Junior counsel in a London-seated ad hoc arbitration in relation to a dispute over a commercial excess insurance policy (led by [Andrew Neish KC](#)).

Sole counsel for 7 claimants against the operators of an allegedly fraudulent property investment scheme.

Sole counsel for the former administrators of a mining company defending historic allegations of conversion. The claim was successfully struck out and a civil restraint order was obtained against the claimant.

Advising on the prospects of an appeal from a judgment refusing to set aside a statutory demand involving complicated issues about the enforceability of a director's guarantee.

Acting as sole counsel for a charity against its energy broker, including the preparation of a pre-action disclosure application.

Advising on the breach of a management services agreement including the interpretation and application of a broadly worded exclusion of liability clause.

Acting as sole counsel for a well-known supermarket supplier in a debt-recovery dispute involving breaches of a trading agreement.

Regularly instructed in disputes concerning the sale of goods.

Assisted in a two-week trial in the Commercial Court in respect of a long, drawn-out dispute relating to the valuation, sale and purchase of classic racing cars, involving allegations of deceit, knowing assistance/receipt and conversion.

Construction

Elliott is regularly instructed in a large variety of construction matters including litigation, international arbitration and adjudication. He has experience with disputes involving standard industry contracts (JCT, NEC, FIDIC, among others), as well as bespoke construction contracts.

Elliott has represented a wide range of different parties, including developers, employers, main contractors, subcontractors, architects, engineers, and project managers.

Elliott also has experience in professional negligence cases involving architects, engineers, surveyors and other construction professionals. See 'Professional Negligence' section below for further details.

Featured Construction cases

Instructed as junior counsel representing a large insulation/cladding manufacturer in various high-value claims brought or intimated against it, including claims under s.149 of the Building Safety Act 2022 (led by [Rachel Ansell KC](#) and [Jonathan Lewis KC](#)). One of these cases (Shepard Construction v Kingspan) is listed by The Lawyer in its Top 20 cases of 2024 and is currently scheduled for an 11-week trial in the TCC commencing October 2024.

Junior counsel representing the main contractor in a high-value Paris-seated ICC arbitration in relation to a dispute about a major European motorway project (led by [Ben Pilling KC](#) and [Robert Scrivener](#)).

Sole counsel for a large national developer of residential properties in respect of a defects claim, including fire safety and stopping.

Advising a main contractor on a large residential building development in connection with a dispute about fire safety and cladding involving complicated issues under the Civil Liability (Contribution) Act 1978.

Instructed as sole counsel in respect of a final account claim in connection with extensive joinery and carpentry works.

Junior counsel in the defence of a c. £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 (led by [Fiona Sinclair KC](#) and [Richard Osborne](#)).

Sole counsel in the 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 on a complicated claim against project managers, engineers, and contractors in respect of the defective design and construction of an underfloor heating system (JCT Intermediate Building Contract with Contractor's Design).

Sole counsel for a successful claimant against an architect in connection with a difficult unjust enrichment claim in respect of overpayments, including novel legal issues in relation to the defence of ministerial receipt.

Sole counsel representing an owner of a large industrial unit in connection with a dispute about defective asbestos removal. Elliott represented the client at a day-long mediation which resulted in a favourable settlement.

Instructed to assist with a claim relating to the design and construction of a large waste-to-energy power plant.

Appearing as sole counsel in a number of trials and application hearings for (and advising more generally on) claims relating to defective works (including design, supply, and construction/installation) and compliance with contractual

specifications, regulations, NHBC standards, and industry standards among others.

Shipping

Elliott has a particular interest in shipping law and has a broad range of experience in shipping litigation and arbitration. He is instructed in LMAA and other arbitrations, including the LMAA Small Claims Procedure. Elliott's experience includes charterparty disputes and cargo claims, and often involves jurisdictional issues.

Featured Shipping cases

Junior counsel for the claimant in a wrongful termination dispute arising from the vessel's detention in Ukraine as a result of the Russia-Ukraine war, with a counterclaim for overpaid hire (led by [Sean O'Sullivan KC](#)).

Junior counsel for the respondent in connection with a claim for damages allegedly caused by off-specification bunkers (led by [Alex Wright KC](#)).

Instructed to act on two applications to appeal to the High Court under s.69 of the Arbitration Act 1996, involving complicated issues on the incorporation of standard terms and the issuing of bills of lading (led by [Ed Jones](#)).

Sole counsel for Charterers defending an unpaid hire claim under the LMAA Small Claims Procedure, including a counterclaim for underperformance of the vessel.

Appearing as sole counsel on behalf of an owner of a commercial fishing vessel against the installer of a defective engine at a hearing for the assessment of damages.

Assisted with an application to the High Court under s.45 of the Arbitration Act 1996 regarding the availability of unliquidated damages for the detention of a vessel in addition to demurrage, reported as *The Eternal Bliss* [2020] EWHC 2373 (and later on appeal, [2021] EWCA Civ 1712).

Assisted with the defence of 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 s.69 of the Arbitration Act 1996 in respect of the long-term detention of a vessel in Venezuela.

Assisted with Commercial Court proceedings in respect of a claim arising out of an on-board fire and explosion due to breaches of dangerous cargo obligations.

Professional Negligence & Property Damage

Elliott has experience in a number of professional negligence matters (for both the claimant and the defendant) including those involving solicitors, engineers, architects, project managers and contractors.

Featured Professional Negligence & Property Damage cases

Acting for a large telecommunications company against its former solicitors in connection with a claim for negligently failing to commence valid arbitration proceedings in respect of damage caused to its undersea cables by a cargo vessel.

Sole counsel for claimants against the designers, suppliers and installers of anti-flood doors which allegedly failed to prevent widespread flooding to the claimants' property, listed for a five-day trial.

Instructed by claimants against a large, national provider of gas engineering services in connection with the explosion of a boiler which caused significant damage to the claimants' property.

Sole counsel representing a structural engineer defending a claim of negligently designing of a modular SIP structure to be installed on top of the existing building with associated steel transfer system.

Acting in respect of a claim against an allegedly negligent project manager in respect of a major boiler replacement project for a large residential block.

Sole counsel on behalf of solicitors against a claim brought by their former client for failing to commence proceedings within the limitation period. The claim involved complicated quantum issues in circumstances where it was alleged that the underlying claim had little merit.

Instructed on behalf of clients claiming against their former solicitors for negligent advice in connection with their property purchase.

Advising in respect of a claim by a management services company against contractors for allegedly negligent underpinning works.

Sole counsel in respect of a claim brought against an architect relating to the negligent design of a home renovation project.

Acting in a claim relating to the allegedly negligent removal of asbestos from a large commercial property.

Regularly instructed in the defence of allegedly negligent surveyors.

Regularly instructed in respect of property damage claims relating to allegedly negligent construction works.

Insurance & Reinsurance

Elliott has a particular interest in insurance and reinsurance disputes, and has represented and advised clients in respect of coverage issues, fraud and subrogated claims. His experience encompasses a wide range of insurance policies including commercial excess, business interruption, home and contents, travel insurance, professional indemnity, and comprehensive fraud insurance (among others).

Elliott represents a wide-range of insurers in relation to subrogated claims, many of which are listed in the 'Professional Negligence & Property Damage' section above.

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 (led by [Andrew Neish KC](#)).

Junior counsel on behalf of a defendant insurer sued in the Commercial Court under the Third Party (Rights Against Insurers) Act 2010 in connection with a claim by the claimants against their former insurance brokers (led by [Andrew Neish KC](#)). The high-value claim was successfully struck out and summarily dismissed.

Advised as sole counsel on coverage for a claim under a comprehensive fraud insurance policy in connection with a claim by the insured for losses (in the form of loans and interest) caused by a third-party fraud.

Instructed to advise on whether the insurer could deny coverage in connection with a suspected fraudulent claim for damage to the insured's property.

Sole counsel for the insurer under a legal expenses and rent guarantee policy defending a claim by the insured landlord for damage allegedly suffered to his investment property.

Sole counsel on a coverage dispute concerning an industry-standard travel insurance policy with respect to disruption caused by the Covid-19 pandemic.

Instructed to assist the preparation of an LCIA arbitration in respect of a political risk insurance policy.

Acting in respect of a dispute under a home protection insurance policy.

Financial Services

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

Featured Financial Services cases

Junior counsel for the claimant in *FCA v Forster* [2023] EWHC 1973 (Ch) where the Judge upheld a claim brought by the FCA against those knowingly concerned with the establishment and operation of an unauthorised collective investment scheme (worth £56m), as well as misleading statements and impressions made in respect of the scheme (led by Adam Temple).

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 unauthorised 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 FCA 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 difficult 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.

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