

Elliott Cook

Call 2019



Elliott Cook has experience in a broad range of commercial disputes including both litigation and arbitration, and accepts instructions in all areas of Chambers' work. He has a particular interest in shipping, financial services and banking, technology, and international arbitration.

Before coming to the Bar, Elliott was a judicial assistant at the Supreme Court of Western Australia working for Justices Pritchard, Edelman (now a Judge of the High Court of Australia) and Tottle. 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 worked 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.

Elliott's recent experience includes:

- Commercial Disputes and Arbitration
- Shipping
- Financial Services
- Technology
- Construction
- Professional Negligence

Commercial Disputes 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 assisted in a number of large commercial matters including proceedings in the Commercial Court and the Technology and Construction Court. He also has experience in both domestic and international arbitrations.

Featured Commercial Disputes and Arbitration cases

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 an application for final third party debt orders in respect of monies held in a solicitor's client account in a long, ongoing dispute between two Russian businessmen.

Assisted in the defence of an approximately £50 million misrepresentation claim brought in the Commercial Court against a firm of architects.

Assisted in drafting particulars of claim and reply on behalf of a junior mortgagee seeking an injunction and damages against the senior mortgagee and security agent of a large syndicate of commercial lenders under a deed of coordination.

Assisted in 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.

Assisted in resisting the making of interim partial awards in respect of an ongoing LMAA arbitration for the payment of hire under a bareboat charter and other, ancillary claims.

Shipping

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

Featured Shipping cases

Worked on an advice and 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 a claim for an injunction/damages by a shipbuilder as junior mortgagee under a deed of coordination for payments relating to the construction of a hull.

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 application under section 45 of the Arbitration Act 1996 for the determination of a preliminary point of law relating to the availability of unliquidated damages for detention of a vessel in addition to demurrage, including

preparing an appeal to the Court of Appeal.

Worked on 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.

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

Assisted with a two-week trial involving an action successfully brought by the Financial Conduct Authority against the named defendants for contraventions of FSMA, specifically engaging in regulated activities without authorisation and making misleading statements.

Assisted with an ongoing claim brought by a private individual against certain 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 drafting a defence in relation to a claim brought by an individual against a mortgage adviser for alleged negligent mortgage advice and breaches of the Mortgage Conduct of Business Rules. The matter involved a tricky issue of limitation relating to the level of knowledge required under section 14A of the Limitation Act.

Assisted with a summary judgment and strike out application brought on behalf of a defendant in respect of a claim alleging negligent financial advice.

Assisted with a claim brought by the FCA against certain companies and individuals in connection with the operation of an alleged unauthorised collective investment scheme.

Assisted with the drafting of a defence on behalf of a major bank in respect of an FX trading dispute involving alleged breaches of FSMA and COBs.

Technology & Data Protection

Elliott has experience in a wide variety of IT disputes.

Featured Technology & Data Protection cases

Assisted with drafting the defence against (and a security for costs application in respect of) 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 a claim for 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 & Engineering

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

Featured Construction & Engineering cases

Assisted with the defence of an approximately £50 million misrepresentation claim brought by a wealthy private businessman against a firm of architects in respect of the design and construction of a large private residence and estate.

Assisted with a claim for amounts owing under a design and project management agreement relating to a large residential development.

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.

Professional Negligence

Elliott has experience in a number of professional negligence matters including those involving financial services providers, solicitors and contractors.

Featured Professional Negligence cases

Assisted with a professional negligence claim against a firm of solicitors relating to the promotion and sale of a large plot of rural land for development.

Worked on a defence and contribution claim in respect of damage caused to a large subterranean gas main due to allegedly negligent excavation works.

Assisted in the drafting of a defence on behalf of a mortgage advisor for allegedly negligent mortgage advice and breaches of regulatory obligations.

Acted as sole counsel for a major home improvement company in defending a claim for the negligent installation of double-glazed windows.

Other Experience

Elliott is regularly instructed on matters in county courts including RTAs, gambling disputes, professional negligence, property damage, interim applications and general contractual disputes. 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.

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