



HERBERT
SMITH
FREEHILLS



BENJAMIN RUBINSTEIN

PARTNER

[New York](#)

Ben is a commercial litigator in the New York Office who has particular expertise defending product liability lawsuits, including class actions and claims brought by governments, both in the United States and internationally.

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BACKGROUND

Ben received a B.A. from Duke University in 2000, and a J.D. from New York University School of Law in 2003.

ADMISSIONS

- New York

KEY SERVICES

[Dispute Resolution](#)
[Product Liability](#)

EXPERIENCE

Ben routinely defends and counsels clients in individual, class action and governmental lawsuits in US state and federal courts, with a particular focus on product liability, mass tort and consumer fraud litigation. Ben brings valuable global expertise and perspective to his clients by also serving as international coordinating counsel in defending and counseling clients in similar lawsuits filed in multiple jurisdictions outside the United States, including lawsuits in Australia, Brazil, Canada, the Netherlands, Nigeria, the Philippines, Russia and South Korea.

Ben is a litigator, but also a client advisor, and routinely advises companies and investors on issues relating to product and environmental liability risks and disclosures across various sectors, including the financial services, tobacco, food and beverage, energy and mining sectors.

Ben was named to *Benchmark Litigation's* "Under 40 Hot List" for 2017 and 2018, and has been named in the *Legal 500* for Product Liability, Mass Tort and Class Action (2017-2021), where Ben's clients describe his client service as "exceptional," praise his ability to "couple deep knowledge of science and law with fresh approaches" and commend him for being a "master at working with experts in a whole host of scientific and medical fields."

Ben's experience includes:

- British American Tobacco (BAT) in *United States v. Philip Morris et al.*, a civil racketeering (RICO) lawsuit filed by the US Department of Justice against the principal US tobacco companies and BAT, in which the government was seeking \$280 billion in disgorgement of past profits and various injunctive remedies. BAT was dismissed from the case after a decade of litigation, including a nine-month trial in federal court in Washington, DC, on the grounds that US racketeering laws had no extraterritorial application
- BAT in an antitrust class action in Kansas state court, where plaintiffs alleged an unlawful restraint of trade to fix the price of cigarettes sold in Kansas. Successfully prosecuted BAT's motion for summary judgment dismissing plaintiffs' claims
- BAT in coordinating the defense of multibillion dollar claims for healthcare costs by multiple provinces in Canada, and defending similar claims in Brazil, Nigeria and South Korea
- Energy and mining companies on ESG/Sustainability issues and climate change-related regulatory and litigation matters in the US and internationally

- Asian technology company in breach of contract dispute with US technology provider involving ITAR export licenses
- Investment management firm in advising on valuation of US product liability settlements and judgments with respect to medical device and asbestos litigation
- Insurance company in advising on trends in loss costs across various commercial lines