



HERBERT
SMITH
FREEHILLS



BENJAMIN RUBINSTEIN

PARTNER

[New York](#)

Ben is a litigator in our New York Office and has particular expertise defending product liability lawsuits, including class actions, both in the US 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 has over 15 years of experience defending 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 jurisdictions outside the United States, including Australia, Brazil, Canada, Nigeria, the Philippines, Russia and South Korea.

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

As part of his litigation and advisory practice, Ben co-leads a cross-practice and cross-office team representing clients on corporate, regulatory and litigation matters relating to climate change, including through Ben's ongoing representation of a multinational oil and gas company in several climate change lawsuits in California.

Ben was named to *Benchmark Litigation's* "Under 40 Hot List" for 2017 and 2018, and in *Legal 500* for Product Liability, Mass Tort and Class Action (2017-2020), 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

- Imperial Tobacco Canada in the defense of two product liability class actions in Montreal, Quebec, in which plaintiffs are seeking billions
- a multinational oil & gas company in climate change litigation pending in California
- an investment management firm in advising on valuation of US product liability settlements and judgments with respect to medical device and asbestos litigation