

**Dr. Benjamin Schumacher, MJur, Partner**

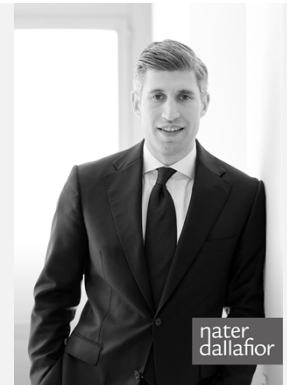
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Benjamin Schumacher represents clients in proceedings before state courts, arbitral tribunals (in particular ICC, Swiss Rules and ad hoc) and administrative bodies, specialising in commercial, contractual and corporate disputes across various sectors. He has a particular focus on all aspects of insurance and reinsurance disputes as well as on insolvency, enforcement and asset recovery/protection matters. International sanctions is another field of expertise.

**Recognitions**

- Ranked in **Legal 500** for Litigation, Arbitration and Insurance
- Ranked in **Leaders League** (Litigation "Excellent"; Insurance "Excellent"; International Arbitration: "highly recommended")
- Ranked by **Expert Guides** as Rising Star in the category Insurance and Reinsurance

**Professional Experience**

- Partner with Nater Dallafor Rechtsanwälte AG, Zurich (since 2022)
- Associate and Senior Associate with Nater Dallafor Rechtsanwälte AG, Zurich (2015–2021)
- Visiting Foreign Lawyer with Wilmer Hale, London (2018)
- Research assistant with the chair of civil procedural law, private law, international private law and comparative law at the University of Zurich (Prof. T. Domej, 2014–2015)
- Substitute judge with the District (full time) Court of Horgen (2014)
- Law clerk with the District Court of Horgen (2009–2012)
- Junior Associate with Bär & Karrer AG, Zurich (2008–2009)

**Education**

- University of Oxford (Magister Juris, 2018)
- University of Zurich (Dr. iur. 2015)
- Admitted to the bar in Switzerland
- University of Zurich (lic. iur., 2007)

## **Other Professional Activities**

- Substitute judge with the District Court of Horgen (since 2014)
- Lecturer at the Lucerne University of Applied Sciences and Arts, CAS Construction Law, lecture on "liability and insurance" (since 2021)
- Lecturer on civil procedure, enforcement and bankruptcy law at the University of Zurich (2016-2022)
- Member of the Commission on Legal Fees of the Zurich Bar Association (ZAV) (since 2019)

## **Recent Cases: Commercial & Corporate Litigation**

- Representation of a corporation and its board of directors in a dispute with a minority shareholder. The litigation concerned the issue whether a minority shareholder (with a 20% participation) can demand the retroactive application of a so-called recognised accounting standard (i.e., IFRS, Swiss GAAP FER, US GAAP or IPSAS)
- Defending a member of the board of directors in three related liability cases, some of which before the Commercial Court of Zurich and in appeal proceedings before the Swiss Federal Supreme Court
- Representation of a manager in a dispute concerning the payment of a significant sign-on bonus agreed with a multinational group of companies
- Representation of a contractor in a dispute concerning the claims for payment in connection with a joint venture agreement
- Representation of a family owned and ran company concerning the payment of fees for consultancy and brokerage services
- Defending a client in a litigation concerning the sale and purchase of a rare and very precious classic sports car (Ferrari California Spyder Covered Eyes). After the client sold his classic car for a record-breaking price of nearly EUR 16 million, a third party, a company domiciled in Germany, claimed the payment of a significant commission fee for an alleged brokerage of the sale and purchase of the classic car
- Representation of a pharmaceutical company against its insurers with regard to the recovery of liability and defense costs incurred in the underlying US litigation and damages due to liability after the client was served with an US class action lawsuit involving hundreds of plaintiffs. The insurance tower provides for CHF 150 million in coverage
- Representation of a German professional football club in enforcement proceedings against a Swiss company (debtor)
- Representation of an internationally operating bank against three different insurance carriers in three different proceedings. The dispute concerns the bank's business liability insurance programme. The value in dispute was in excess of CHF 50 million. The underlying liability dispute was in the middle east

## Recent Cases: Arbitration

- Representation of a multinational agrochemical corporation in a coverage dispute against its insurance tower consisting of three layers and 14 insurers, providing coverage for USD 650 million in total. The arbitration proceedings seated in Switzerland under the Swiss Rules of Arbitration is against all eight co-insurers providing coverage for the first excess layer (USD 250 million). The underlying liability proceedings were in the US (multi district litigation) with hundreds of plaintiffs
- Representation of a multinational corporation in a coverage dispute against its insurance tower consisting of four layers and 16 insurers, providing for coverage of USD 675 million in total. The seat of the arbitration was Switzerland and the Swiss Rules of Arbitration applied. The coverage dispute arose after the policyholder and certain co-insured entities were sued by thousands of US plaintiffs in a nation-wide class action and after the damage claims ended by means of a settlement pursuant to which the policyholder was obligated to pay compensation of more than USD 1.5 billion
- Recognition and enforcement (incl. attachment of assets and setting aside objections against enforcement proceedings) of an arbitral award rendered by a tribunal seated in London under the rules of the Grain and Feed Trade Association (GAFTA) in London
- Recognition of an arbitral award rendered by a tribunal seated in Paris under the ICC-Rules
- Recognition of an arbitral award rendered by a tribunal seated in Vienna under the VIAC-Rules
- Representation in arbitration proceedings seated in Switzerland with under the Swiss Rules of Arbitration. After the insurer disputed the validity of the arbitration agreement contained in the insurance policy, the proceedings were limited to the question of jurisdiction of the arbitral tribunal. The representation included proceedings before the Swiss Federal Supreme Court which confirmed the existence of the arbitration agreement
- Advice of a private bank in connection with arbitration proceedings in London under the LCIA Arbitration Rules pertaining to a worldwide business liability insurance policy, provided by several insurance carriers. The underlying liability case concerns a claim against the bank brought by a former client demanding payment of damages in excess of EUR 80 million

## Recent Cases: Insurance Disputes

- Representation of a pharmaceutical company against its insurers with regard to the recovery of liability and defense costs incurred in the underlying US litigation and damages due to liability after the client was served with an US class action lawsuit involving hundreds of plaintiffs. The insurance tower provides for CHF 150 million in coverage
- Representation of an internationally operating bank against three different insurance carriers in three different proceedings. The dispute concerns the bank's business liability insurance

programme. The value in dispute was in excess of CHF 50 million. The underlying liability dispute was in the middle east

- Representation of a group of medical clinics in a dispute against an insurer concerning coverage for business interruption. The dispute arose in the wake of the Covid-19 crisis after the Swiss Federal Government had imposed a ban on hospitals and clinics to carry out medical treatments other than those necessary for treatment of Covid-19 patients. The value in dispute was CHF 7 million
- Advising a financial institution in connection with the renewal of its global D&O policies
- Representation of a multinational trading company against its insurer in a multimillion coverage claim in connection with the corporations' global business liability insurance with provided for coverage of product recall costs. The underlying liability concerned a recall of more than 22,000 electronic devices from the Australian market. The value in dispute was in excess of USD 30 million
- Representation of an asset management company in connection with professional legal protection insurance policy which provided for coverage of legal defence costs
- Representation of a multinational corporation specialising in products and services for electrical and optical connectivity in a claim for insurance coverage after the corporation became the victim of a targeted cyberattack. The value in dispute was EUR 10 million
- Advising an insurance broker on the drafting of policies purchased on the London market (Lloyd's of London). The focus of our advice was on the (potential) enforcement of coverage provided by syndicates
- Representation of a domestic wood manufacturer and processor whose business has been severely affected by a fire in one of its premises. The case concerns a claim for coverage for business interruption and property damage
- Representation of a domestic company providing services for car repair and tuning after a fire in one of its business premises. The case concerns a claim for coverage for business interruption and property damage
- Representation of a multinational agrochemical corporation in a coverage dispute against its insurance tower consisting of three layers and 14 insurers, providing coverage for USD 650 million in total. The arbitration proceedings seated in Switzerland under the Swiss Rules of Arbitration is against all eight co-insurers providing coverage for the first excess layer (USD 250 million). The underlying liability proceedings were in the US (multi district litigation) with hundreds of plaintiffs
- Representation of a multinational corporation in a coverage dispute against its insurance tower consisting of four layers and 16 insurers, providing for coverage of USD 675 million in total. The seat of the arbitration was Switzerland and the Swiss Rules of Arbitration applied. The coverage dispute arose after the policyholder and certain co-insured entities were sued by thousands of US plaintiffs in a nation-wide class action and after the damage claims ended by means of a settlement pursuant to which the policyholder was obligated to pay compensation of more than USD 1.5 billion

- Representation in arbitration proceedings seated in Switzerland with under the Swiss Rules of Arbitration. After the insurer disputed the validity of the arbitration agreement contained in the insurance policy, the proceedings were limited to the question of jurisdiction of the arbitral tribunal. The representation included proceedings before the Swiss Federal Supreme Court which confirmed the existence of the arbitration agreement
- Advice of a private bank in connection with arbitration proceedings in London under the LCIA Arbitration Rules pertaining to a worldwide business liability insurance policy, provided by several insurance carriers. The underlying liability case concerns a claim against the bank brought by a former client demanding payment of damages in excess of EUR 80 million

### **Recent Cases: Insolvency Disputes & Asset Recovery**

- Representing and advising the insolvency administrator of a Lithuanian bank in asset recovery proceedings in Switzerland, involving attachment, enforcement, auxiliary bankruptcy and criminal proceedings as well as international mutual assistance
- Representing and advising a Portuguese bank group in auxiliary bankruptcy proceedings in Switzerland with regard to the collection of assets on the territory of Switzerland
- Representing and advising an English insolvency trustee of several insolvent entities in connection with an international fraud scheme, including the recognition and enforcement of winding-up and bankruptcy orders issued by the High Court of England and Wales
- Recognition and enforcement (incl. attachment of assets and setting aside objections against enforcement proceedings) of an arbitral award rendered by a tribunal seated in London under the rules of the Grain and Feed Trade Association (GAFTA) in London
- Representing a German insolvency administrator with regard to the recognition and enforcement of a German insolvency order and the enforcement of claims against a global cooperation (the defendant) specialising in the planning and construction of waste incineration plants
- Recognition and enforcement of judgement rendered in Luxembourg (incl. attachment of assets) in connection with an aviation service agreement against sanctioned entities
- Recognition and enforcement of an arbitral award rendered by a tribunal seated in Vienna under the VIAC-Rules

### **Publications**

- Benjamin Schumacher, The Legal 500: Insurance Disputes Comparative Guide, Chapter Switzerland, Mai 2024 ([legal500.com/guides/chapter/switzerland-insurance-disputes/?export-pdf](https://legal500.com/guides/chapter/switzerland-insurance-disputes/?export-pdf))
- Benjamin Schumacher, Kommentierung von Art. 2-4 und 59-62 LugÜ, in: C. Oetiker/T. Weibel (Hrsg.), Basler Kommentar zum Lugano-Übereinkommen, 3. Auflage, Basel 2023 (together with Roberto Dallafior)

- Benjamin Schumacher/Florentin Weibel, Ohne Vorschuss (k)ein Anwaltshonorar? – Überblick zur neusten Praxis betreffend die Entbindung vom Anwaltsgeheimnis, in: Bohnet/Chappuis/Schiller/Schumacher (Hrsg.), Gegenwart und Zukunft des Anwaltsverbandes, Festschrift zum 125. Jubiläum des Schweizerischen Anwaltsverbandes, Bern 2023, S. 429-452
- Benjamin Schumacher / Roberto Dallafior, Insurance Litigation 2022 – Chapter Switzerland, Chambers And Partners, 22. August 2022 (available here)
- Benjamin Schumacher / Patrick Dummermuth, D&O-Versicherung – Ausgewählte Fragen zur "Side A"-Deckung, Haftung und Versicherung – HAVE 3/2022, S. 350 ff.
- Benjamin Schumacher, Auslegung einer Deckungsklausel – primäre und sekundäre Risikoabgrenzung (BGer 4A\_72/2021 vom 28. März 2021), Haftung und Versicherung – HAVE 1/2022, S. 32 ff.
- Benjamin Schumacher / Patrick Dummermuth / Lukas Bubb, Das direkte Forderungsrecht im revidierten VVG – ein praxistaugliches Instrument?, Haftung und Versicherung – HAVE 4/2021, S. 355 ff.
- Benjamin Schumacher / Patrick Dummermuth, D&O-Versicherung – Rechtsstreitigkeiten sind reales Risiko, Handelszeitung Insurance, 31. Mai 2021
- Benjamin Schumacher, Anzeigepflichtverletzung bei Claims-made-Policen (BGer 4A\_490/2019 vom 26. Mai 2020), Haftung und Versicherung – HAVE 3/2020, S. 274 ff.
- Benjamin Schumacher/Patrick Dummermuth, Die Verjährung von Rechtsschutzansprüchen, Haftung und Versicherung – HAVE 1/2020, S. 33 ff.
- Benjamin Schumacher, Vorsorgliche Beweisführung, in: Ulrich Haas/Reto Marghitola (eds.), Fachhandbuch Zivilprozessrecht, Zürich/Basel/Genf 2020, pp. 248–269
- Benjamin Schumacher, Prozessfinanzierung, in: Ulrich Haas/Reto Marghitola (eds.), Fachhandbuch Zivilprozessrecht, Zürich/Basel/Genf 2020, pp. 49–55
- Benjamin Schumacher, Anwaltliches Erfolgshonorar, in: Ulrich Haas/Reto Marghitola (eds.), Fachhandbuch Zivilprozessrecht, Zürich/Basel/Genf 2020, pp. 42–49
- Benjamin Schumacher, Verjährung und Verwirkung von Ansprüchen aus Versicherungsvertrag (BGer 4A\_196/2019 vom 10. Juli 2019), Haftung und Versicherung – HAVE 4/2019, S. 399 ff.
- Benjamin Schumacher, Neues zur Ausgestaltung von anwaltlichen Erfolgsprämien (pacta de palmario) (Besprechung von BGer 4A\_125/2018 vom 26. Juli 2018), Allgemeine Juristische Praxis (AJP/PJA) 27 (2018) Nr. 8, S. 1290 ff.
- Benjamin Schumacher/Simon Bachmann, Verjährung von Verlustscheinen nach Art. 149a Abs. 1 SchKG im internationalen Kontext (Besprechung von BGer 5A\_375/2017 vom 13. Juni 2018), Allgemeine Juristische Praxis (AJP/PJA) 27 (2018) Nr. 8, S. 1034 ff.
- Benjamin Schumacher, Richterliche Pflicht zum Hinweis auf private Prozessfinanzierung? - Stellungnahme zum Vorentwurf des Bundesrates zur Teilrevision der ZPO, AJP 4/2018, S. 458 ff.
- Benjamin Schumacher/Roberto Dallafior, Die Vereinbarung von Erfolgsprämien für den Anwalt - Bundesgerichtlicher Angriff auf die Vertragsfreiheit und was sonst zu beachten ist, AJP 11/2017, S. 1284 ff.

- Benjamin Schumacher/Zoe Honegger, Klagen gegen einfache Streitgenossen: Handelsgericht, Bezirksgericht oder beide? – Eine kritische Betrachtung der Praxis im Kanton Zürich, Allgemeine Juristische Praxis (AJP/PJA) 26 (2017) Nr. 7, S. 863 ff.
- Benjamin Schumacher/Simon Bachmann, Die "euro-international" ausgerichtete Anwaltskanzlei - Die Anwendbarkeit des Konsumentengerichtsgerichtsstands nach Art. 15 Ziff. 1 lit. c LugÜ?, Allgemeine Juristische Praxis (AJP/PJA) 26 (2017) Nr. 6, S. 710 ff.
- Benjamin Schumacher, Prozessfinanzierung, Erfolgshonorierte Fremdfinanzierung von Zivilverfahren, Dissertation, Zürich 2015 (Zürcher Studien zum Verfahrensrecht, Nr. 180 / Schulthess Verlag; ISBN/ISSN: 978-3-7255-7429-2)
- Benjamin Schumacher/Hans Nater, Prozessfinanzierung und anwaltliche Aufklärungspflichten, Schweizerische Juristen-Zeitung (SJZ) 112 (2016) Nr. 12, S. 43 ff. (Sonderheft zum 70. Geburtstag von Dr. Peter R. Isler) / Schulthess Verlag
- Benjamin Schumacher, Zweifelhafte Bundesgerichtspraxis zur vorsorglichen Beweisführung (Gedanken aus Anlass des Bundesgerichtsurteils 4A\_334/2015 vom 22. September 2015), Plädoyer 34 (2016) Nr. 1, S. 36 ff.

### Speaking Engagements

- "Update on Insurance Disputes", Insurance Round Table (inhouse), 22 August 2024 and 26 September 2024, Zurich
- "Das Anwaltsrecht, Hans Nater und wir", Symposium in honour of Hans Nater, 11 March 2024, Zurich
- "Das Informationsrecht des Versicherers nach Art. 39 VVG – "pre-trial discovery" durch die Hintertür?", Versicherungsrechtstagung Universität Zürich (Europa Institut), 26. Oktober 2023, Zürich
- "Policy Drafting – Dos and Don'ts", Insurance Round Table (inhouse), 8. Februar 2023, Zürich
- "Corporate Insurance – was, wenn der Versicherer nicht zahlt?", Insurance Round Table (inhouse), 22. September 2022, Zürich/Kloten
- "Insurance Disputes und Litigation Funding – ein Match?", Vortrag (inhouse), 1. März 2022
- "Versicherung von Unternehmensrisiken – was gilt es zu beachten?", Insurance Round Table (inhouse), 23. November 2021
- "Bauherrenhaftpflicht, Bauwesenversicherung etc.", Hochschule Luzern, CAS Baurecht, 31. August 2021, Horw/Luzern
- "Praktische Auswirkungen der bundesgerichtlichen Rechtsprechung auf die Organisation der Anwaltschaft", Vortrag und Podiumsgespräch, Zürcher Anwaltsverband, 26. Januar 2021, Zürich
- "Insurance Litigation: Wenn der Versicherer nicht zahlt", Vortrag (In-house), 14. November 2019, Zürich
- "Prozessfinanzierung - was muss ein Anwalt dazu wissen?", Vortrag und Panelgespräch, St. Galler Anwaltsverband, 26. Juni 2017, St. Gallen

- "Prozessfinanzierung in Erbsachen", Vortrag und Panelgespräch, Zürcher Anwaltsverband, Fachgruppe Erbrecht und Fachgruppe Zivilprozessrecht, 1. März 2016, Zürich

### **Client / Market Feedback**

- **Legal 500 - Insurance:** Benjamin Schumacher is a rising star.
- **Legal 500 - Insurance:** Benjamin Schumacher is a very talented lawyer, he is very responsive. Exactly what clients usually are looking for.
- **Legal 500 - Arbitration:** Benjamin Schumacher shows considerable experience and knowledge despite his quite young age.
- **Chambers Europe & Chambers Global:** Benjamin Schumacher offers out-of-the box creative solutions, which results in the neutralising of even the most prominent counterparties. He does so without getting involved in costly debates.

### **Expertise**

- Insurance & Reinsurance Disputes
- Commercial & Corporate Litigation
- International Arbitration
- Banking & Finance Disputes
- Insolvency Disputes & Asset Recovery