



James Ayliffe QC

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Clerks' Details

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Qualifications and Appointments

- First in Philosophy Politics & Economics
New College, Oxford
- Distinction in Diploma of Law.
City University, London

“Superb at anything”

Chambers & Partners 2014

Practice Overview

James is a highly experienced and respected silk with a broad commercial and financial practice.

The width of his expertise is often an invaluable asset in itself as many cases straddle, or benefit from familiarity with, more than one field of law.

To such expertise, he also brings sound judgement, a creative approach to problem-solving and a willingness to go that extra mile for his clients.

Ultimately, what most distinguishes his practice is persistence and mental agility in dealing with difficult, and often seemingly intractable, disputes and issues.

He appears both in court proceedings, arbitrations and other forms of dispute resolution, and also acts as an arbitrator and mediator himself.

He also provides advisory services in relation to non-contentious matters within the areas of his expertise.

Much of his practice has an international flavour, with recent cases involving jurisdictions as diverse as the BVI, Cayman Islands, Channel Islands, Cyprus, South Africa, Isle of Man, Gibraltar, New York and Ukraine.

Memberships

- Chancery Bar Association
- COMBAR
- Commercial Fraud Lawyers Association
- Insolvency Lawyers Association
- Professional Negligence Bar Association
- Property Bar Association
- Member of the Bar of the British Virgin Islands



Commercial

James acts on a wide range of commercial disputes, both in the UK and offshore and involving both court and arbitration proceedings.

Whilst the breadth of his expertise enables him to deal with most commercial disputes, his chancery background makes him particularly suited to cases involving companies, banking, securities, finance, insolvency, real property, and trust or fiduciary relationships. He is currently recommended in Chambers & Partners and Chambers Global for commercial dispute resolution (chancery).

Some representative cases include:

- Representing a bank and joint venture partner in LCIA arbitration relating to alleged breaches of operating and management agreement in respect of a major hotel in Saudi Arabia.
- Acting for a printing company defending a multi-million pound Commercial Court claim by a government agency for losses arising from failure to protect confidential material from theft by third parties.
- Representing a defendant facing a multi-million pound Commercial Court claim arising out of losses allegedly suffered in respect of PPP/PFI project.
- Acting for one of two Russian joint venture partners in a dispute relating to the development of a business selling agricultural equipment in CIS.
- Acting for HMRC chasing a £220m tax debt owed to the South African tax authorities under reciprocal enforcement arrangements between the UK and RSA (*HMRC v Ben Nevis & anor* [2013] EWCA Civ 578).
- Acting for a claimant on a £10m claim against a joint venture partner for recovery of secret profit.
- Advising a Russian investment bank in relation to a claim by an executive recruitment firm for substantial fees for alleged services in connection with the recruitment of top executives.
- Acting for corporate investment vehicle for the investment of 60m in the development of shopping malls in Eastern Europe in relation to multi-million pound claim by one of the investors.
- Acting for a defendant to a £50m claim arising out of the operation of a corporate Ponzi scheme.
- Acting on a dispute arising out of joint venture for the establishment of a private jet hire business.
- Acting on a dispute between investors arising out of the re-structuring of a corporate vehicle for development and sale of services to the private equity industry.
- Advising on issues arising out of a high-profile dispute between Russian oligarchs involving challenges to the validity of trust and nominee arrangements.
- Advising in relation to alleged misappropriation of Ukrainian media interests and enforcement of US judgment against Cypriot company (owned by Channel Islands trust) to which such interests had been transferred.
- Advising the provider of share and bond trading services in a multi-million pound dispute with IT suppliers.
- Advising a local authority in a multi-million pound dispute with a service provider to whom it had outsourced health services.
- Acting for a well-known trader facing a claim for the recovery of £20m of AIM-listed company shares.



Commercial continued

- Acting for an international financial services group facing a £20m claim for alleged fraudulent misrepresentation in relation to the sale of a South American insurance business to US private equity group.
- Advising a well-known supermarket chain regarding claims arising out of the disposal of portfolio of assets.
- Advising a manufacturer of street cleaning vehicles regarding a claim against a company responsible for the cleaning of London boroughs.
- Acting for a major European car parts distributor in a claim against former directors/ employees who had set up a competing company.

Banking & Finance

James has wide experience of banking and finance matters, including:

- The banker/customer relationship – e.g. claims for breach of duties owed by banks to customers.
- Banking payments – e.g. disputes regarding cheques, promissory notes or other negotiable instruments.
- Deposit-taking – e.g. issues arising from unlicensed deposit-taking or the winding up of deposit-taking activities.
- Lending – e.g. disputes as to the terms of loans and the occurrence of events of default.
- Securities – e.g. disputes arising out of the enforcement of guarantees, charges, bills of sale or other securities.
- Securitisation – e.g. applications by security trustees or noteholders for determination of disputed issues.
- Syndicated lending – e.g. allegations of breach of duty by agent banks.
- Investment banking – e.g. disputes between investment partners.
- Claims against banks – e.g. claims arising from 'misselling' of interest rate swap products or benchmark (eg LIBOR) manipulation.
- Claims against advisers – e.g. negligence claims against valuers, lawyers or other professionals advising banks.

He is currently recommended in *The Legal 500* for banking & finance.

Some representative cases include:

- Acting for a borrower under a £60m investment loan facility in a bitter dispute with the lender regarding alleged LTV events of default.
- Acting for a UK arm of an Israeli bank on a claim to recover losses on a property development loan facility.
- Advising borrower regarding a claim against a bank in respect of a £50m interest rate swap hedging contract.
- Acting for a court-appointed representative noteholder in proceedings by security trustee of £1bn securitisation structure for directions regarding proposed action.
- Acting for the defendant to a US \$30m claim by a trade finance lender arising out of fraudulent operation of an invoice discounting loan facility made available to UK importer.
- Acting for UK a property group on a multi-million pound claim against its principal bankers for duress and intimidation arising out of withdrawal of £100m loan facilities.
- Advising an Irish bank regarding issues arising out of the winding up of its deposit-taking business.



Commercial continued

- Acting for the borrower under a multi-million pound revolving loan facility with Landsbanki following the government's freezing of Icelandic assets.
- Acting on a dispute regarding the priority of equitable charges in favour of two separate lenders.
- Acting on the successful strike out of a high profile claim arising out of an allegedly wrongful enforcement of a mortgage over the largest stately home in England.
- Acting for a defendant to a £50m claim arising out of financing arrangements in respect of the development of a shopping centre.
- Advising a bank regarding issues arising from the sale of derivative products.
- Advising a bank regarding enforceability of 'shared appreciation mortgages' or SAMs.
- Advising well-known department store regarding £100m claim against bank in respect of breaches of agreement regarding the provision of the branded store and credit cards.
- Acting on numerous claims by banks and lenders against professional advisers.

Financial Services

James has wide-ranging experience in the financial services sector, including:

- Perimeter issues
- Compliance issues
- Enforcement issues
- Claims relating to investment advice and 'misselling' (including in respect of interest rate swaps)
- Claims arising from benchmark (e.g. LIBOR and ISDAFIX) manipulation.
- Investment management
- Banking
- Collective investment schemes
- Pensions
- Life assurance
- With profits
- Insurance and banking business transfers
- Financial Ombudsman Service
- Financial Compensation Scheme

He is currently recommended in *The Legal 500* for Banking & Finance.

Some representative cases include:-

- Advising the trustees of employee benefit trusts regarding claims against investment advisers in relation to losses on failed Lehmans fund.
- Acting for the Policyholder Advocate appointed to represent the interests of policyholders of Commercial Union and Norwich Union (both now part of Aviva) in relation to reattribution of a £5bn inherited estate.
- Advising the Channel Islands financial regulator regarding issues relating to trading of overseas firms in the Channel Islands through use of serviced offices and other facilities.



Commercial continued

- Advising the consumer association Which?, regarding issues relating to with profits business.
- Acting for Equitable Life in high-profile litigation regarding 'guaranteed annuity rates' which ended with the House of Lords decision in *Equitable Life v Hyman*.
- Acting for trader a facing claim for the recovery of £20m of AIM-listed company shares.
- Advising 'nationalised' bank regarding financial services issues arising from the impact of a collapse in its share price on staff incentive arrangements.
- Acting for a wealthy investor on a multi-million pound claim in respect of losses arising from investment in capital redemption contracts.
- Advising ACD regarding potential exposure to claims from mismanagement of ICVCs.
- Advising a well-known UK investment management business regarding establishment of trust accounts to protect interests of customers pending sale of business.
- Advising a well-known life office regarding management of 'blackmail' threats by disaffected appointed representative.
- Acting for pension fund trustees on a multi-million pound claim for mismanagement of with profits investment.
- Acting for investors seeking to recover investments following the collapse of the Bahamas-based Imperial Consolidated Alpha Plus Fund.
- Advising on claims arising from the mis-selling of split capital investment trusts.
- Advising several life offices on wide-ranging reviews of their with profits businesses following the House of Lords decision in *Equitable Life v Hyman*.
- Acting for a custodian trustee of Docklands property enterprise trust in a successful defence of claims by disappointed investors.

Insolvency

James has wide experience of insolvency matters, both corporate (liquidations, administrations, receiverships and CVAs) and individual (bankruptcy and IVAs).

He also has particular expertise in two specific areas:

- Transaction avoidance – e.g. transactions at an undervalue, preferences, transactions defrauding creditors. He is co-author of *Transaction Avoidance in Insolvencies* (2nd ed, OUP, 2011).
- Real estate-related insolvency – e.g. disclaimer/vesting orders, recovery of rent as an expense of administration or liquidation, disclaimer. He edits the insolvency chapter in one of the principal practitioner texts on landlord and tenant law (*Hill & Redman's Law of Landlord & Tenant*).

Some representative cases include:

- Advising the trustee in bankruptcy and liquidators of Simon Halabi (the well-known property investor reputed to have been one of the richest men in England) and his companies in attempts to recover assets for the benefit of creditors.
- Acting for the administrators of HMV in proceedings by its landlords for permission to re-take possession of stores, including its flagship Oxford Circus store.
- Acting for tax authorities of foreign state seeking avoidance of transactions by which insolvent tax debtor transferred many £100ms into offshore tax havens.
- Obtaining a vesting order under s 181 Insolvency Act 1986 in favour of the guarantor to help mitigate on-going annual costs of £2.5m pa following disclaimer of lease by liquidator of the insolvent tenant.



Commercial continued

- Advising administrators of an insolvent company regarding issues of priority arising between two secured lenders.
- Advising a lender as to potential voidability of proposed transactions with a customer under ss 238-239 Insolvency Act 1986.
- Advising landlords with insolvent retail chains as tenants in relation to their entitlement to payment of rent as an expense in the tenants' administration and Goldacre issues.
- Advising Halliwells' landlords regarding insolvency issues arising out of the firm's high-profile collapse.
- Acting for a well-known car dealership in a complex dispute arising out of the conduct of company administration.
- Advising the purchasers of apartments in a luxury development regarding their options following insolvency of the developer/landlord.
- Advising respondents to application by liquidators under s 236 Insolvency Act 1986 for disclosure of information relevant to a potential £50m claim.