



## James Goodwin

Call: 2013

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*“Extremely effective and an advocate who is able to hold his own against silks”*

The Legal 500 2022

### Publications

Contributing author, **Kerr & Hunter on Receivership & Administration (21st Edition)**

**'AIB v Redler'** (2014)  
*Wilberforce Legal Digest*  
(Issue 1) March 2015

**'Where there's a will there's a way: Marley v Rawlings'**  
[2015] *Modern Law Review*  
140-150

**'Purpose Trusts: Doctrine Policy'** [2013] *King's Law Journal* 102-110

**'Reflexive Effect and the Brussels Regulation'** [2013]  
*Law Quarterly Review* 317-320

**'A Remotely Interesting Case'**  
[2013] *Law Quarterly Review*  
485-488

**'Failure of Basis in the Contractual Context'** [2013]  
*Restitution Law Review* 24-45

*'Secret Profits, Opportunities, and Constructive Trusts'*  
[2013] **Restitution Law Review** 85-92 (with Edward Granger)

### Practice Overview

James is a commercial and chancery specialist. He is ranked in The Legal 500 as a 'Rising Star' (Tier 1) in Private Client: Trusts and Probate, being described as *"extremely effective and an advocate who is able to hold his own against silks"* with *"fantastic written advocacy"* (2022) and *"very intelligent, commercial and sensible"* with *"meticulous attention to detail"* and *"very good with clients"*. James' principal practice areas are:

- Commercial litigation (in particular civil fraud)
- Trusts (offshore and onshore)
- Property
- Insolvency
- Pensions
- Professional negligence

In the UK, James regularly appears in the High Court, the County Court and before arbitral tribunals, both as sole counsel and as part of a larger team. Much of James' work has an international element. In recent years, James' instructions have involved cases in Cayman, The Bahamas, BVI, Nevis, TCI, Guernsey, Liechtenstein, and Malta.

#### Recent notable instructions include:

- *Z Trust* litigation. James acts (led by Emma Jordan) for the former trustee of a Jersey trust. The matter was heard before a 7-member panel of the Judicial Committee of the Privy Council in June 2021 to determine the status of a trustee's equitable lien and its priority in circumstances where the trust is 'insolvent'.
- Ad Hoc Arbitration. James acts (led by [John Martin QC](#) and [Fenner Moeran QC](#)) for the claimant beneficiary in a multi-billion dollar trusts dispute, concerning a contested distribution of the entirety of the trust assets to the settlor-beneficiary. The proceedings raise issues of rectification, mistake, breach of trust, dishonest assistance and unconscionable receipt.
- *Eva Green v White Lantern*. James acts (led by [Max Mallin QC](#)) for White Lantern in a dispute between film star Eva Green and a production company in respect of the termination of a sci-fi thriller.

### Clerks' Details

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### Qualifications and Appointments

- MA in Law, University of Cambridge, graded First (1st in University)
- LLM, University of Cambridge, graded First (1st in University)
- Awarded a number of University and college prizes, including the Chancellor's Medal for English Law and Tapp Scholarship
- Taught contract law at several colleges in the University of Cambridge
- Beddingfield Scholar of Gray's Inn



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## Publications continued

'The last Defence of Wednesbury' [2012] *Public Law* 445-467

'Contract, Unjust Enrichment, and Risk' [2012] *Law Quarterly Review* 503-507

## Memberships

- Chancery Bar Association
- Commercial Fraud Lawyers Association
- The Commercial Bar Association (COMBAR) membership
- Property Bar Association
- Association of Pension Lawyers (associate member)

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## Practice Overview continued

- *Lim and others v Ong and others*. James acts (led by [James Bailey QC](#)) for the claimants in a wide-ranging commercial fraud proceedings. In support of their claims, the claimants applied for and obtained ex parte freezing and quia timet injunctions.
- *Morina and others v Scherbakova and others*. James (led by Giles Richardson) acts for the widow of a deceased Russian businessman in high value international probate litigation and related proceedings concerning the ownership of shares in a BVI company.
- *Al-Dowaisan v Al-Salam*. James (led by [Nikki Singla QC](#)) acted for the Claimants in a wide-ranging commercial dispute. The judgment contains important guidance on fiduciary duties, the duty to account, and the defence of illegality in the context of tax evasion. See [2019] EWHC 301 (Ch).
- *Meridian v Batista*: James acted (led by [Graeme Halkerston](#)) for the successful applicant in the Cayman Islands, obtaining a Worldwide Freezing Order against the Brazilian oil magnate and sometime 7th richest man in the world, Eike Batista. The case makes new law in respect of the circumstances in which a court will grant WFOs against non-residents and in support of 'treble damages' claims.
- *Deutsche Bank v SHI and Vik; SHI v Sarek et al*: James acts (led by [Tim Penny QC](#)) for Receivers appointed over assets of a Turks and Caicos Islands company previously controlled by Alexander Vik. James has appeared as sole counsel in the English High Court, and has acted in litigation in England, Guernsey, and the TCI. See e.g. [2017] EWHC 3265 (Comm)
- The Pensions Regulator: James regularly acts both for TPR and for Targets in respect of regulatory action brought by the Regulator. The nature of such projects is often confidential, but James has significant experience of the Regulator's powers to impose Financial Support Directions and under s. 231 of the Pensions Act 2004.

## Commercial

James undertakes a variety of commercial work, both in his own right and as part of a larger team.

### Recent instructions include:

- *Eva Green v White Lantern*. James acts (led by [Max Mallin QC](#)) for White Lantern in a dispute between film star Eva Green and a production company in respect of the termination of a sci-fi thriller.
- *Lim and others v Ong and others*. James acts (led by [James Bailey QC](#)) for the claimants in a wide-ranging commercial fraud proceedings. In support of their claims, the claimants applied for and obtained ex parte freezing and quia timet injunctions.
- *Al-Dowaisan v Al-Salam*. James (led by [Nikki Singla QC](#)) acted for the Claimants in a wide-ranging commercial dispute. The judgment contains important guidance on fiduciary duties, the duty to account, and the defence of illegality in the context of tax evasion. See [2019] EWHC 301 (Ch).
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- *Thomas v Frogmore Real Estate Partners GP1 Ltd* [2017] EWHC 25 (Ch): James acted, led by [Marcia Shekerdemian QC](#), in an application to set aside an administration order on grounds of improper purpose and COMI.



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## Commercial continued

- Acting in a major commercial breach of contract case against a major bank in respect of the sale of a portfolio of non-performing loans
- Acting (led by [Martin Hutchings QC](#)) for a defendant property developer in respect of a large dispute over architectural services
- Acting as sole counsel for a defendant forex broker in relation to a substantial claim for unlawful commissions and trading losses

James also has extensive experience of acting as sole counsel in significant contractual disputes, the subject matter of which has ranged from the international sale of car polish products to the provision of consultancy services for anaerobic digestion plants.

## Insolvency

James has a wide insolvency practice and appears regularly before ICC Judges. James also has a particular interest in receivership applications, being a contributing author to Kerr & Hunter on Receivers and Administrators.

### Recent instructions include:

- Acting (alongside [Thomas Robinson](#)) for the joint administrators of eight companies within the Carlauren Group of luxury hotels and care homes.
- Acting (unled) for the applicant in an application to (i) set aside the decisions of joint supervisors of an IVA to allow various creditors of disputed multi-million pound debts to vote at a creditors meeting; and (ii) to revoke the approval of a proposed IVA.
- Acting, led by [Marcia Shekerdemian QC](#), in an application to set aside an administration order on grounds of improper purpose and COMI: *Thomas v Frogmore Real Estate Partners GP1 Ltd* [2017] EWHC 25 (Ch)
- Acting (led by [Lexa Hilliard QC](#)) in a confidential application to restrain the presentation of a winding up petition in the context of a dispute between two high profile companies.
- A (potentially) high-profile application for bankruptcy, in which James successfully applied on behalf of the respondent for the hearing to be heard in private and listed under anonymised names.

## Pensions

James' pensions practice involves contentious and non-contentious matters relating to personal and occupational pension schemes (both defined benefit and defined contribution). In recent years, James had had particular experience of acting for the Pensions Regulator and in professional negligence.

### Recent instructions include:

- Advising and acting (led by [Mike Tennet QC](#)) in a professional negligence claim against a firm of solicitors in respect of advice given to a trustee of a scheme in respect of pension benefits liable to statutory indexation.
- Advising and acting for the employer of a Guernsey defined benefit scheme in respect of claims brought against it by scheme members, raising issues of the Imperial duty of mutual trust and confidence owed in circumstances of a closure of the scheme to future accrual.
- The Pensions Regulator: James regularly acts both for TPR and for Targets in respect of regulatory action brought by the Regulator. The nature of such projects is often confidential, but James has significant experience of the Regulator's powers to impose Financial Support Directions and under s. 231 of the Pensions Act 2004.
- Bloxwich Pension Scheme. James was instructed alongside [Jonathan Hilliard QC](#) to act for the defendant law firm facing professional negligence claims in relation to an alleged failure to equalise scheme benefits.



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## Pensions continued

- The wide-ranging and substantial litigation concerning the BA pension schemes appeals from the pension ombudsman.

James also has a wide advisory practice in relation to matters concerning pensions. Recent examples include advice in respect of:

- appeals from the pension ombudsman.
- The recovery of pension payments made by mistake.
- Whether benefits under a pension scheme form part of a bankruptcy estate.

## Professional Liability

James is often instructed in relation to professional liability claims, especially where such claims interact with commercial chancery matters.

Recent matters with which James has been involved include:

- Advising and acting (led by [Mike Tennet QC](#)) in a professional negligence claim against a firm of solicitors in respect of advice given to a trustee of a scheme in respect of pension benefits liable to statutory indexation.
- *Bloxwich Pension Scheme*. James was instructed alongside [Jonathan Hilliard QC](#) to act for the defendant law firm facing professional negligence claims in relation to an alleged failure to equalise scheme benefits.
- Acting (led by [Martin Hutchings QC](#)) for a defendant property developer in respect of a large dispute over architectural services
- Assisting [Lawrence Cohen QC](#) in *Symrise v BM*, a professional negligence claim arising out of the Mexican tax implications of a highly leveraged acquisition by a private equity fund.
- Acting in a successful claim against a negligent estate agent.
- Advising in relation to professional negligence claims brought against solicitors, IFAs, and investment managers.

## Property

James has a very busy property practice, and is regularly instructed to act in property litigation and to advise in respect of non-contentious property matters.

James has extensive experience of possession claims, in particular against trespassers. One high profile example was the eviction of the protestors occupying the historic Elephant & Castle pub (<http://www.standard.co.uk/news/london/squatters-led-away-in-their-underwear-after-occupying-elephant-and-castle-pub-in-foxtons-protest-10409357.html>)

Recent matters include:

- Acting as sole counsel in a number of disputes concerning disputed service charges (and dispensation from consultation requirements) before the County Court and the First Tier Tribunal.
- Acting as sole counsel for the successful sub-tenants in an application for a vesting order pursuant to sections 1017-1018 of the Companies Act 2006 in the unusual circumstances where a lease which had gone *bona vacantia* but was disclaimed by the Crown.
- Acting (with [Julian Greenhill QC](#)) in a wide-ranging dispute involving the application of the Access to Neighbouring Land Act and the Party Wall Act in the context of a major housing development.
- Acting (as part of a large team, including [Julian Greenhill QC](#) and [James McCreath](#)) for the sewerage undertaker (United Utilities) in the long-running dispute over the lawfulness of discharges of water and treated effluent into the Manchester Ship Canal.



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## Property continued

- Acting (led by [Joanne Wicks QC](#)) for a supermarket chain in a dispute over whether an agreement was lawfully terminated in circumstances where a satisfactory planning permission had not been obtained.
- Assisting [Jonathan Davey QC](#) in relation to *Phillips v Francis*, the leading case on when consultation requirements under section 20 of the LTA 1985 are triggered.
- Advising in relation to a variety of property matters, including forfeiture of leases, disputed service charges, invalid notices to complete and the subsequent recovery of deposits, the operation of the Right to Manage legislation, and renewal of business tenancies under the 1954 Act.

## Trusts, Tax, Probate and Estates

James has a busy practice in traditional and commercial chancery matters. He is ranked in The Legal 500 as a 'Rising Star' (Tier 1) in Private Client: Trusts and Probate, and described as follows: *"very intelligent, commercial and sensible. He goes the extra mile and is very good with clients. He has a meticulous attention to detail and is very thorough"*. He often acts as part of a large team in substantial disputes and has a growing practice as sole counsel. In the early part of 2015, James spent time as an associate in the offices of Carey Olsen, a leading Channel Island firm, and acted in a number of proceedings, primarily concerning high value trust litigation.

### Recent instructions include:

- *Z Trust* litigation. James acts (led by Emma Jordan) for the former trustee of a Jersey trust. The matter is listed to be heard before a 7-member panel of the Judicial Committee of the Privy Council in June 2021 to determine the status of a trustee's equitable lien and its priority in circumstances where the trust is 'insolvent'.
- Ad Hoc Arbitration. James acts (led by [John Martin QC](#) and [Fenner Moeran QC](#)) for the claimant beneficiary in a multi-billion dollar trusts dispute, concerning a contested distribution of the entirety of the trust assets to the settlor-beneficiary. The proceedings raise issues of rectification, mistake, breach of trust, dishonest assistance and unconscionable receipt.
- *Morina and others v Scherbakova and others*. James (led by Giles Richardson) acts for the widow of a deceased Russian businessman in high value international probate litigation and related proceedings concerning the ownership of shares in a BVI company.
- Acting as sole counsel for one of the professional trustees in the latest chapter of the Earl of Cardigan litigation.
- Assisting [Robert Ham QC](#) in *Marley v Rawlings*, the Supreme Court case about mirror wills, now the leading case on the validity, interpretation and rectification of wills.
- *Patel v Patel* (Royal Court, Guernsey): James acted for the defendant trustees in an application for information in the context of a worldwide dispute.
- Advising in the wide-ranging Guernsey proceedings concerning the Tchenguiz Discretionary Trust (*Investec v Glenalla*).
- Advising the trustees of the Church Property Trustees, statutory trustees of Christchurch Cathedral, New Zealand, as to the application of insurance proceeds received in relation to the contents of the Cathedral damaged in the Canterbury Earthquake Sequence of 2010-2011.
- Obtaining (alongside [Thomas Seymour](#)) a freezing injunction against personal representatives who had misappropriated assets.
- Assisting [Robert Ham QC](#) and [Andrew Mold QC](#) in a case concerning the administration of a charitable trust administered in the Isle of Man, resulting in a leading judgment on when trust proceedings will be held in private.
- Advising in relation to claims under the Inheritance (Provision for Family and Dependents) Act 1975 and applications under the Variation of Trusts Act 1958.



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## International Arbitration

James has experience in arbitrations under LCIA and UNCITRAL Rules, acting both as sole counsel and as a junior as part of a larger team. James' experience spans a number of industry sectors, including start-up companies, telecommunications, and oil and gas. Further, James has acted and advised in relation to the intersection between civil proceedings and arbitration, including parallel litigation, and interim relief in support of arbitral proceedings.

### Recent instructions include:

- Acting (as sole counsel) for the Claimant in an LCIA arbitration concerning:
  - o Specific performance of a contract for the grant of shares;
  - o Allegations of breach of fiduciary duty; and
  - o Valuation of the shares in private companies.
- Acting (alongside [John Martin QC](#) and [Fenner Moeran QC](#)) for the Claimant in a UNCITRAL arbitration of a multi-billion dollar trust dispute, concerning issues related to:
  - o Rectification;
  - o Mistake;
  - o Breach of trust;
  - o Dishonest assistance and knowing receipt;
  - o Reconstitution of trust assets and equitable compensation; and
  - o Replacement of trustees.