



## James Goodwin

Call: 2013

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### 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
- Bedingfield Scholar of Gray's Inn

## Publications

'[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 Bursells 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)

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

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

## Practice Overview

James has a very busy and diverse commercial chancery practice. He regularly appears in the High Court and the County Court, both as sole counsel and as a junior. His principal practice areas are:

- Commercial litigation (including civil fraud)
- Pensions
- Trusts (both offshore and onshore), wills and probate
- Property
- Professional negligence

### Recent notable instructions include:

- *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 acts (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.



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## Memberships

- APL associate membership
- Chancery Bar Association

## Commercial

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

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- *Meridian v Batista*: James acts (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.
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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.
- 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 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
- Advising (alongside Harris Bor) in a large claim brought by a Kuwaiti investor for losses in respect of property developments in various jurisdictions
- Acting, as part of a large team, in litigation brought by a US investor concerning losses in investment companies in Eastern Europe

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 also has a wide insolvency practice, and has extensive experience of bankruptcy and winding up petitions.

### Recent instructions include:

- 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.



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## Pensions

James has a busy pensions practice. Recent instructions include:

- 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.
- 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:

- *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 in adverse possession proceedings raising questions of use pursuant to an easement, extent of use and consent (trial forthcoming).
- 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.



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## Property continued

- 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 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.
- 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.
- 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 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:

- 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 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.

## 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.



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## International Arbitration continued

Recent instructions include:

- Acting for the Claimant in an LCIA arbitration concerning:
  - ◇ Specific performance of a contract for the grant of shares;
  - ◇ Allegations of breach of fiduciary duty; and
  - ◇ 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:
  - ◇ Rectification;
  - ◇ Mistake;
  - ◇ Breach of trust;
  - ◇ Dishonest assistance and knowing receipt;
  - ◇ Reconstitution of trust assets and equitable compensation; and
  - ◇ Replacement of trustees.