



## James McCreath

Call: 2009

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### Clerks' Details

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### Qualifications and Appointments

- BA Oxon (First Class), DipLaw (City) (Distinction)
- Major Scholar (Inner Temple), Scholar (Balliol College, Oxford)

***“He masters complex cases with relative ease”***

Chambers & Partners, 2016

## Memberships

- Chancery Bar Association
- Commercial Bar Association

## Publications

- Co-editor (with Andrew Mold) of the negligence section of *Cordery on Legal Services*
- Contributor to Atkins' Court Forms (Restrictive Covenants)

## Practice Overview

James has a growing reputation as an up and coming junior in Chambers' core areas, with a practice focusing on commercial disputes, property, pensions, trusts, and associated professional liability. He has been recommended in Chambers & Partners 2015 and 2016 for Commercial Chancery work (the first junior of his call to be ranked in this field), and in Chambers & Partners 2016 for Pensions. The directories noted his communication skills, his ability to get on top of the details of a case, and his attention to client service. He was also "highly recommended" in Legal Week's 2016 'Stars at the Bar'.

His recent highlights include acting as junior Counsel for the successful appellant in *Cavendish Square Holdings BV v Makdessi* [2015] UKSC 67, [2015] 3 WLR 1373, in which the Supreme Court redefined the test for identifying a contractual penalty. That was his second appearance in the Supreme Court in two years, having previously appeared for the successful appellant in *Manchester Ship Canal Company Ltd v United Utilities Water Plc* [2014] UKSC 40, [2014] 1 WLR 2576.

James' practice combines both advisory and litigious work and he has a busy practice acting in cases as junior to silks inside and outside Chambers, often in cases involving an international element or proceedings in several different jurisdictions. Alongside these, he also undertakes his own substantial cases and regularly appears as an advocate, appearing at all levels up to and including the Court of Appeal.

He has been recommended in the directories in the following terms:

- Chambers and Partners 2016, Chancery: Commercial: *"A notable young junior who has a growing reputation among solicitors and peers alike", "He is thorough and articulate and demonstrates very good research skills."*
- Chambers and Partners 2016, Pensions: *"He masters complex cases with relative ease, and is always helpful no matter what the demands of the case are."*
- Chambers and Partners 2016, Chancery: Commercial: *"He has an excellent grasp of detail and is very user-friendly and available."*



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## Commercial

James regularly acts in large and complex commercial disputes.

### His recent cases include:

- Acting (as junior to [Joanna Smith QC](#)) in *Cavendish Square Holdings BV v Makdessi* [2015] UKSC 67, [2015] 3 WLR 1373, the leading authority on contractual penalties. James was part of the team acting for the successful appellant in its appeal to the Supreme Court, where a 7 justice panel held that neither of the clauses in issue in a multi-million pound business acquisition agreement were unenforceable penalties, redefining the test to do so.
- Acting (as part of a cross-border team) in proceedings seeking a declaration as to the construction of voting rights in the articles of an AIM-listed company incorporated in the Isle of Man (*Origo Partners Plc v Brooks Macdonald Asset Management Ltd*).
- Acting (as junior to [James Ayliffe QC](#)) in multi-million pound tri-partite litigation brought by a government agency in respect of a failure to destroy documents which were subsequently fraudulently misused. The claim raised a variety of issues in contract (including as to liability, causation, and remoteness), tort, bailment, conversion, and deceit.
- Acting (as junior to [Joanna Smith QC](#)) in the defence of a liquidator accused of having sold millions of pounds worth of assets belonging to third parties (*Euromex Ventures Ltd v BNP Paribas & Others* [2013] EWHC 3007 (Ch)). The defence was wholly successful, and the Claimants were ordered to pay indemnity costs.
- Acting and advising in numerous breach of contract claims, both led and unled, and including in matters with an international element and where the governing law of the contract is not English law.
- Acting (as junior to [Martin Hutchings QC](#)) in a claim for breach of contract and for breaches of duty of confidence arising out of a bid for a development site.