



James Walmsley

Call: 2007

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Clerks' Details

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Qualifications and Appointments

- Maths & Philosophy MA (Oxon) 1995-1999 – top in year
- Graduate Diploma in Law 2005-2006 – distinction
- BVC 2006-2007 – outstanding
- Fellow of All Souls College Oxford 1999-2014

“A brilliant technical and strategic thinker.”

The Legal 500, 2022

Memberships

- Association of Pension Lawyers
- Chancery Bar Association
- Commercial Bar Association

Publications

- The pensions chapter of Lightman & Moss

Practice Overview

James has a broad commercial chancery practice including general commercial litigation and arbitration, trusts, pensions and professional liability.

He is recommended in both Chambers & Partners and The Legal 500 for his commercial and pensions work.

Chambers & Partners 2022:

Commercial Dispute Resolution *"Brainy and incredibly thorough, he is a fantastic team player."*

Pensions *"His ability to distil vastly complex fact patterns into practical advice is extremely impressive."*

The Legal 500 2022:

Commercial *"James provides laser-focused and practical advice; he cuts to the heart of the matter quickly and confidently. His written work is exceptional."*

Professional Negligence *"A brilliant technical and strategic thinker. He is particularly well-suited to large and complex cases and will get on top of the facts quickly."*

Pensions *"James is respected for his acumen and raw intelligence, particularly in actuarial or financial matters."*

Chambers & Partners 2021:

Commercial Dispute Resolution: *"He is incredibly logical and will look at things very thoroughly from all angles."*

Pensions: *"He is exceptionally good – extremely bright and hard-working."* *"He always adds value when considering difficult areas of contract law."*

The Legal 500 2021:

Commercial litigation: *"Extremely hard-working, on top of the papers, and has a fierce intellect."*



Practice Overview continued

Pensions: *"Very knowledgeable of pensions and more general civil procedure, demonstrating really considered advice that gives you confidence that he has the right answer."*

Professional negligence: *"He is extremely detailed oriented and has an absolute mastery of the law."*

Commercial

James is recommended in both Chambers & Partners and The Legal 500 for his commercial disputes work and is described as **"brainy and incredibly thorough, he is a fantastic team player."** **"James provides laser-focused and practical advice; he cuts to the heart of the matter quickly and confidently. His written work is exceptional."** His experience in this area (which covers the range from fraud claims to more straightforward contractual disputes) includes for example:

- *Renova Industries v Emmerson International Corporation* in the BVI Commercial Court.
- A large shareholder dispute including allegations of breach of director's duty concerned with the ownership of a supermarket business.
- Claims for director misappropriation of assets in relation to a French development company and related claims for professional liability.
- Acting for the Claimant in *Sabbagh v Khoury*, in the successful jurisdiction appeal, anti-arbitration injunction appeal, and main proceedings.
- A large multi-jurisdictional fraud claim with multiple court proceedings and arbitrations concerned with Chinese investment in a Cayman fund.
- Claims in relation to Government funding under a shareholders agreement of a large offshore defined benefit pension scheme.
- A licence and termination dispute settled shortly before trial in 2020.
- A claim for injunctive relief and compensation arising out of a pension liberation fraud.
- A large IT contract termination dispute relating to pension scheme administration (settled after mediation).
- A termination and fees dispute in relation to distribution licences.
- Acting in an expedited commercial arbitration concerning the interpretation of a payment clause.
- Acting for the Defendants in the case of *Khoudj v ACP & Anor* [2016] EWHC 2120 (Comm), concerned with circumstances in which a person will be treated as an agent of another so as to give rise to duties of accounting/disclosure.
- Acting for Samsung in the Ericsson/ Unwired Planet/ Samsung/ Huawei FRAND litigation, including in relation to passthrough licences, the proper interpretation of the scope of certain cross-licences, and related analyses in equity.
- Acting for the Claimant entity in an Isle of Man fraud claim arising out of property related investments made by an AIM listed entity in the Baltic States.
- Acting for the Defendant Nokia in a £100m Commercial Court claim founded on an alleged breach of warranty in connection with the sale of a technology business, and in Nokia's counterclaim that the private equity purchaser had rigged the tendering process through which it purchased the business in the first place.
- A £200m international arbitration concerning the failed purchase of a large stake in an Indonesian power station, which included issues as to the proper interpretation of project finance security documentation.
- A BVI shareholder dispute connected to a Russian agricultural machinery business (successful at first instant in the Eastern Caribbean Court of Appeal).



Commercial continued

- The Coward/Ambrosiadou litigation which included a three-week Chancery Division trial giving rise to amongst other things copyright issues, directors duties issues, partnership issues and the ownership of intellectual property used by a business. A decision of the Court of Appeal on an appeal on costs in one of the leading authorities on Calderbank discretion. The litigation also involved proceedings in Cyprus, Monaco and the BVI.
- *BC Capital v Societe Generale & Ors*. Large scale Commercial Court litigation relating to the interpretation of and market practice in relation to structured hedge fund products and, amongst other things, termination and redemption rights thereunder. This case was listed in *The Lawyer* as one of the top cases of 2011 but settled pre-trial.
- Assisting in the *Renova v Gilbertson Faberge* Cayman proceedings
- *Yukos/Rosneft*. An application to discharge a Chabra-type freezing order in the Commercial Court. A leading authority on the Chabra-jurisdiction.
- The *Odnoklassniki* case. High Court Chancery Division litigation surrounding the then leading Russian social networking website, raising issues of copyright, database right, confidential information, breach of fiduciary duty and breach of employment contract, constructive trusts, tracing, knowing receipt and the proper scope of 1978 Act contribution claims. Settled after start of trial.
- The easyJet brand licence case. High profile High Court Chancery Division litigation connected to easyJet's brand licence. Settled after a two-week trial.
- *GSK/Abbott*. Blockbuster drug Chancery Division litigation concerned with the proper interpretation of a royalty clause. Settled after three week trial.
- Arbitration proceedings in respect of an option to licence agreement relating to pharmaceutical patents. Case settled prior to arbitration.

International Arbitration

James has experience both of arbitrations and of proceedings through which arbitrations awards are challenged. He is currently acting in a LCIA arbitration concerned with the funding under a shareholders agreement of a large pension scheme. By way of other examples, he has acted in a large multi-jurisdictional dispute involving a number of arbitrations, has acted on a £220m ICC arbitration concerned with the failed purchase of a large stake in an Indonesian power station, and has also acted in an ad hoc arbitration set up to deal with swiftly with payment disputes under a royalty agreement.

Pensions

James has extensive experience in the pensions field, building on his financial and policy experience before joining the Bar. His expertise covers both regulatory (moral hazard powers, scheme funding, trustee appointments) and non-regulatory aspects, including construction, rectification and blessing claims, as well as professional liability actions. He is recommended in both *Chambers & Partners* and *The Legal 500* for his pensions work and is described as *"respected for his acumen and raw intelligence, particularly in actuarial or financial matters."* *"His ability to distil vastly complex fact patterns into practical advice is extremely impressive."* He was featured as one of the 10 stars at the Bar (five years call and under) in the 2013 edition of *Chambers & Partners*.

Relevant experience includes:

- Acting for the Pensions Regulator before the Determinations Panel, Upper Tribunal and Court of Appeal in connection with its pursuit of an FSD in relation to the Box Clever scheme.
- Acting for the Pensions Regulator in connection with the BHS Scheme, including in the Upper Tribunal in its action against Mr Dominic Chappell.



Pensions continued

- Acting for the administrators of Lehman Brothers entities in three different proceedings (*Nortel & Lehman v TPR* in the Supreme Court, Storm Funding in the High Court, FSD proceedings in the Upper Tribunal) arising out of the Regulator's pursuit of an FSD in relation to the Lehman Pension Scheme.
- Acting for the Trustee in the MNRPF litigation [2015] EWHC 448 (Ch).
- Acting for a group of employers in *PMPF v Taylor* (the "Pilots" litigation).
- Advising on a number of matters relating to the construction of pension scheme rules and rectification, including acting for the trustees of the MNOFP in a successful rectification claim in December 2013.
- Acting for targets, Trustees and the Pensions Regulator in connection with a number of high profile moral hazard investigations in addition to those referred to above.
- Acting for the Pensions Regulator in relation to a number of matters relating to the Regulator's scheme funding powers under S 231. Also advising trustees and employers on the resolution of funding disputes.
- Acting for the Pensions Regulator in relation to matters concerned with trustee appointments (including one case where the appointment was challenged and the matter reviewed by the Upper Tribunal) and also sections 15-16 of the Pensions Act 2004.
- Advising on the employer-related investment regime.
- Advising in relation to DB Superfunds.
- Advising on and acting in a number of professional negligence claims arising out of pension schemes (both occupational and personal), including in connection with failures to equalise and failures in connection with the execution of scheme documents.
- Acting for the Financial Conduct Authority, the Pensions Regulator and others in matters related to pensions liberation.
- Advising in connection with the PPF risk-based levy.
- Acting in connection with Pensions Ombudsman and PPF Ombudsman disputes.
- Acting in a number of cases concerning SPPs, commonly where the documentation has not catered for events that have arisen, and regularly involving property-related issues (enabling James to build on the experience in the property sector in earlier years of his practice).

Professional Liability

James has extensive experience in the field of professional liability, much, but not all of which, is connected to his pensions work and much, not all of which, is concerned with claims against solicitors.

He has in addition acted in claims concerning breach of director's duty (including in connection with the misuse of confidential information), claims against trustees for breach of trust, and claims involving allegations of conflicts of interest against trustees and solicitors.

James is ranked in this area by The Legal 500 2022 who describe him as "*A brilliant technical and strategic thinker. He is particularly well-suited to large and complex cases and will get on top of the facts quickly.*"

Trusts, Tax, Probate and Estates

Many of James' recent cases have a significant trust law element.

In addition to cases involving pension schemes, and commercial cases involving trust arguments, James' experience in this area includes:

- Acting for an executor where an issue arose as to the proper interpretation of a self-dealing authorisation clause, as well as the proper interpretation and scope of an exoneration clause. The executor succeeded: *Barnsley v Noble*.



Trusts, Tax, Probate and Estates continued

- Advising and acting as junior in a multi-faceted and multi-jurisdictional matrimonial dispute concerning inter alia the operation of family trust arrangements in Cyprus and the BVI.
- Advising on the proper interpretation of wills and trust documents.
- Acting for and against trustees in the context of alleged conflicts of interest.
- Acting on an application for court approval of an amendment to an employee benefit trust deed in the context of a £300m takeover of the employer, where the trustee was the major shareholder of the employer, and advising subsequently.