



## Jamie Holmes

Call: 2014

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### Clerks' Details

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### Qualifications and Appointments

- BCL, Balliol College, Oxford (awarded a scholarship by the Oxford Law Faculty)
- LLB, King's College London (1st Class, joint top of university) (awarded a scholarship by the King's Law Faculty)
- AKC, King's College London
- Awarded a number of university prizes including top overall marks in university in: second year LLB examinations, Property law, Tort law, IP law and Russian law
- Taught the law of trusts and wills at University College London
- Lincoln's Inn, Denning Scholar.
- Baker McKenzie Moot Competition, 1st place, King's (2011) – judged by Lord Clarke JSC

## Memberships

- Commercial Bar Association
- Chancery Bar Association
- ConTrA
- Commercial Fraud Lawyers Association
- Asset Recovery Next Gen

## Publications

- **Confidential Trust Information And Court Proceedings: Can Privacy Be Maintained?** [2020] (with [Edward Sawyer](#)) (soon to be published in *Trusts & Trustees*)
- **Singularis v. Daiwa and the Quincecare duty of banks: professional liability in the fraud and insolvency context** [2020]
- **Ways of quietly protecting trustees and sorting out a mess** [2019] (with [Michael Furness QC](#) and [Michael Ashdown](#))

## Practice Overview

Jamie has a busy commercial chancery practice focussed around corporate and personal insolvency, trusts and probate, civil fraud (with extensive experience of freezing injunctions and other forms of interim relief) and commercial work (including international and London-based arbitrations). He appears frequently as sole counsel and as a junior in both the High Court and County Court, and in arbitrations, for instructing solicitors based across the country and internationally.

In late 2018 Jamie went on a secondment to Ogier's offices in the Cayman Islands where he worked with Rachael Reynolds, Mark Kish and Ulrich Payne and their team on a number of international civil fraud, insolvency and contentious trusts matters.

### Notable recent work in contentious matters includes:

- Acting in on-going confidential c. €80m asset recovery proceedings offshore seeking a worldwide freezing injunction against an NYSE-listed public company.
- Acting for the defendants in €65m civil fraud proceedings in *KMG v Chen & CML* in the Commercial Court alleging liability under foreign law concerning the enforcement of a US\$200m NAI arbitration award; listed for a 3-week trial in July 2020 (with Jonathan Crow QC and [Graeme Halkerston](#)). This has involved a number of interlocutory hearings including most recently:
  - [2020] Bus. L.R. 133: concerning the rule against reflective loss and the conflicts of laws under *Rome II* and at common law.
  - [2019] EWHC 3634: on waiver of privilege and whether foreign law advice had been deployed.
- Acting for the successful claimants at trial in Summer 2019 in confidential multi-million-US\$ LME arbitration proceedings in London, concerning the supply of copper concentrate in China and SOGA, s51 (with [Alan Gourgey QC](#) and [Bobby Friedman](#)).
- Acting for the successful claimants in an 8-day trial in Spring 2018 in confidential ICC international arbitration proceedings in Singapore, concerning claims for breach of contract in relation to a petrochemical plant in Southeast Asia; with an award of over US\$40m (with [Graeme Halkerston](#)).
- Acting as sole counsel at short notice against a silk for one of the respondents and a third party to an application for freezing orders within bankruptcy proceedings, seeking an order as to the status of the third party's accounts.



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## Publications continued

- **The Potential impact of *Re Picard*** [2019] (with [James Bailey QC](#) and [Jack Watson](#))
- **'Human Rights & Private Sector Tenants'** (2017) *Wilberforce Property Update (Issue 3)* February 2017
- **Public Aspects of Pensions Law** [2017] (with [Jonathan Hilliard QC](#))
- **AG v Rosenlund** [2016] JRC 062 & 078; [2016] Lloyd's Rep. 495 – case note and commentary (with Nicholas Medcroft)

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## Practice Overview continued

- Acting as sole counsel in a jurisdiction challenge within VIAC proceedings claiming over half a million pounds for damages said to arise out of a contract to supply engines for specialist military equipment.
- Acting as sole counsel on behalf of a creditor presenting a bankruptcy petition for over £3.5m against an international businessman.
- Acting as sole counsel in successfully resisting in part an interim injunction (and obtaining fortification) involving allegations of fraud and claims for damages and lost profits in excess of half a million pounds.
- Acting for the defendant to £13m civil fraud proceedings in the Companies Court involving allegations of misfeasance, fraudulent and wrongful trading, dishonest assistance, knowing receipt, unjust enrichment, unlawful preference payments and *de facto*/shadow directorship (with [Marcia Shekerdermian QC](#)).
- Acting for the appellants in *Devoy-Williams v Hugh Cartwright & Amin* [2018] 5 Costs L.R. 1105, concerning the acceptance of Part 36 offer following allegedly dishonest non-compliance with an unless order (with [John Wardell QC](#)).
- Acting for the trustees in a pensions regulatory action, including the judicial review proceedings *Grace Bay II Holdings Sarl v The Pensions Regulator* [2017] Pens L.R. 7 (with [Monica Carss-Frisk QC](#), [Fraser Campbell](#) and [Jonathan Hilliard QC](#)).
- Advising a funder on the merits of an appeal to the Privy Council of a decision of the Court of Appeal of Trinidad & Tobago (with [Martin Hutchings QC](#)).
- Acting for a foreign government claimant in asset recovery proceedings in the Commercial Court, seeking orders for preservation of assets and evidence (with [David Phillips QC](#) and [Nikki Singla QC](#)).

## Commercial

Jamie has a broad and busy commercial practice, with a particular interest in civil fraud claims and related applications for freezing injunctions and other forms of interim relief. He has experience of cases with significant multi-jurisdictional or offshore elements, including in the asset recovery or enforcement context, and in cases that involve insolvency-related issues or complex trust structures.

Jamie appears frequently as sole counsel and as a junior in both the High Court and County Court, and in arbitrations, for instructing solicitors based across the country and internationally.

Jamie spent a month in late 2018 on secondment to Ogier's offices in the Cayman Islands where he worked with Rachael Reynolds, Marc Kish, Ulrich Payne and their team. This included a matter on behalf of a Cayman trust that had been named as a defendant in civil fraud proceedings in the (English) Commercial Court, and that was seeking to resist jurisdiction and set aside service out.

### Recent work as sole counsel includes:

- Acting at short notice against a silk for one of the respondents and a third party to an application for freezing orders within bankruptcy proceedings, seeking an order as to the status of the third party's accounts.
- Successfully resisting in part an interim injunction (and obtaining fortification) involving allegations of fraud and claims for damages and lost profits in excess of half a million pounds (settled before trial).
- Acting in a jurisdiction challenge to VIAC proceedings claiming over half a million pounds for damages said to arise out of a contract to supply engines for specialist military equipment.
- Succeeding at trial on behalf of a defendant managing agent of a large residential estate in Fulham as to its duties of care to tenants of the estate and the construction and effect of its on-site notices in light of the *Consumer Rights Act 2015*.
- Succeeding at trial on behalf of a claimant manufacturer of cold rolled steel in a battle of the forms case where the defendant relied on extensive witness evidence and the EWCA decision in *Tekdata v Amphenol* (2010).



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## Commercial continued

- Successfully defending at trial a claim for breach of contract on the basis of promissory estoppel.
- Acting for claimant former director shareholders of a company in a claim for over £2.75m against the present director shareholder, pursuant to an SPA and loan agreement.
- Acting on behalf of a defendant company in on-going proceedings seeking specific performance of an alleged agreement to acquire shares in a company, the business of which includes the promotion of medicinal uses of cannabis.
- Acting on behalf of a claimant casino operator and investor seeking to recover £250,000 pursuant to the terms of an agreement with a defendant casino developer and its sole director (settled before trial).
- Appearing as sole counsel at a CCMC for claimants seeking over £1m for breaches of fiduciary duty in a complex set of interrelated proceedings in the Business List (ChD) between the two shareholders of a number of companies.
- Successfully enforcing a Part 36 offer against defendants who alleged it had fraudulently been entered into without their authority, on the basis that it had been entered into with their apparent authority; and resisted an appeal.

### Notable work as a junior includes:

- Acting in on-going confidential c. £80m asset recovery proceedings offshore seeking a worldwide freezing injunction against an NYSE-listed public company.
- Acting for the defendants in €65m civil fraud proceedings in *KMG v Chen & CML* in the Commercial Court alleging liability under foreign law concerning the enforcement of a US\$200m NAI arbitration award; listed for a 3-week trial in July 2020 (with Jonathan Crow QC and [Graeme Halkerston](#)). This has involved a number of interlocutory hearings including most recently:
  - o [2020] Bus. L.R. 133: concerning the rule against reflective loss and the conflicts of laws under *Rome II* and at common law.
  - o [2019] EWHC 3634: on waiver of privilege and whether foreign law advice had been deployed.
- Acting for the successful claimants at trial in Summer 2019 in confidential multi-million-US\$ LME arbitration proceedings in London, concerning the supply of copper concentrate in China and *SOGA, s51*; with an award of the full sum sought by the claimant as its primary relief. The proceedings involved a number of interlocutory hearings, including a successfully resisted strike out application in Spring 2019 concerning *Attorney General v Blake* (with [Alan Gourgey QC](#) and [Bobby Friedman](#)).
- Acting for the successful claimants in an 8-day trial in Spring 2018 in confidential ICC international arbitration proceedings in Singapore, concerning claims for breach of contract in relation to a petrochemical plant in Southeast Asia; with an award of over US\$40m (with [Graeme Halkerston](#)).
- Acting for the defendant to £13m civil fraud proceedings in the Companies Court involving allegations of misfeasance, fraudulent and wrongful trading, dishonest assistance, knowing receipt, unjust enrichment, unlawful preference payments and *de facto*/shadow directorship (with [Marcia Shekerdermian QC](#)).
- Acting for a foreign government claimant in asset recovery proceedings in the Commercial Court, seeking orders for preservation of assets and evidence (with [David Phillips QC](#) and [Nikki Singla QC](#)).
- Advising a funder on the merits of an appeal to the Privy Council of a decision of the Court of Appeal of Trinidad & Tobago (with [Martin Hutchings QC](#)).
- Acting for the appellants in *Devoy-Williams v Hugh Cartwright & Amin* [2018] 5 Costs L.R. 1105, concerning the acceptance of Part 36 offer following allegedly dishonest non-compliance with an unless order (with [John Wardell QC](#)).



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## Commercial continued

- Acting for defendants in banking proceedings in Leeds District Registry of the Chancery Division arising out of a special administration under the Investment Bank Special Administration Regulations (with Nicholas Medcroft QC).
- Acting for defendants in proceedings in the Chancery Division for over £500,000 for breach of warranties in a share sale and purchase agreement (with [Max Mallin QC](#)).
- Acting for defendants and conducting a substantial document review for privilege and related issues in civil fraud proceedings for over £12m in the Commercial Court (with [Alan Gourgey QC](#)).

## Insolvency

Jamie has a broad and busy insolvency practice and frequently appears before the ICC Judges in the High Court, as well as in the County Court, on personal bankruptcy and corporate insolvency matters. Jamie is often instructed in cases involving allegations of fraud or dishonesty, and has experience acting in cases with a multi-jurisdictional or offshore element, complex trust or corporate structures, or in the enforcement or asset recovery context.

Jamie spent a month in late 2018 on secondment to Ogier's offices in the Cayman Islands where he worked with Marc Kish, Ogier's head of insolvency in the Caribbean and Asia, and his team. This included in particular in a matter on behalf of joint liquidators at the relatively early stages of a potentially complex liquidation of a Cayman company, investigating potential fraud claims against the company, the extent to which creditors could assert *Quistclose* or other trusts over the company's assets, and related *Berkeley Applegate* relief.

### Recent work as sole counsel includes:

- Acting at short notice against a silk for one of the respondents and a third party to an application for freezing orders within bankruptcy proceedings, seeking an order as to the status of the third party's accounts.
- Acting on behalf of a creditor presenting a bankruptcy petition for over £3.5m against an international businessman.
- Acting in a series of on-going hearings on behalf of the trustee in bankruptcy of a civil fraudster; including successfully obtaining orders for s366 examination of the bankrupt's father in his capacity as the administrator of the bankrupt's mother's intestate estate.
- Successfully obtaining an order at less than 24 hours' notice for the retrospective appointment of joint administrators by the holder of a qualifying floating charge.
- Acting in on-going proceedings on behalf of the corporate trustee of a Jersey trust disputing debts stat demanded by the former trustee, including on the basis of a cross claim concerning the trust's shareholding in a BVI company and the mismanagement of overseas proceedings concerning the same.
- Acting in a series of hearings concerning the validity of a second charge granted after bankruptcy, defended on the basis that the lender did not have notice pursuant to *LRA 2002*, s86, and seeking specific disclosure in the same on the basis that documents held by a third party were in the control of the respondent pursuant to *North Shore Ventures v Anstead Holdings* [2012] EWCA Civ 11 and *Suez Fortune Investments v Talbot Underwriting* [2014] EWHC 2848 (Comm) (settled before trial).
- Successfully obtaining an urgent order that a UK company had satisfied the requirements of the *Companies (Cross-Border Mergers) Regulations 2007* for the purposes of a merger with its German parent.
- Acting in on-going proceedings in which a company has been placed into MVL concerning whether monies paid to the company were by way of loan or an offer to purchase shares.
- Successfully obtaining permission pursuant to *Schedule B1, s65* of the *1986 Act* for administrators to make a distribution of a balance of £170,000 to non-preferential unsecured creditors, and an extension to their term of office.
- Successfully obtaining an order allowing a company to be placed retrospectively into MVL, following an initial defective process, and to remove related documents from the Register.



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## Insolvency continued

- Successfully obtaining an Insolvency Administration Order over a bankrupt estate, concerning a debt of £75,000 owed by the estate.
- Successfully obtaining an order for specific disclosure against the former director of a company, as part of an on-going dispute between its shareholders.
- Advising trustees in bankruptcy on a potential claim concerning a transfer at an undervalue of at least £300,000, and a potential s366 application.
- Acting in a series of hearings for a petitioning creditor law firm in debt-recovery proceedings against their former client, which ultimately included bankruptcy proceedings, and resisting an application to set aside the statutory demand.
- Successfully obtaining permission pursuant to s216 of the 1986 Act for persons to continue in office as directors of a new company with a similar name.

### Notable work as a junior includes:

- Acting in on-going confidential c. £80m asset recovery proceedings offshore seeking a worldwide freezing injunction against an NYSE-listed public company.
- Acting for the defendant to £13m civil fraud proceedings in the Companies Court involving allegations of misfeasance, fraudulent and wrongful trading, dishonest assistance, knowing receipt, unjust enrichment, unlawful preference payments and *de facto*/shadow directorship (with [Marcia Shekerdermian QC](#)).
- Acting for defendants in banking proceedings in Leeds District Registry of the Chancery Division arising out of a special administration under the Investment Bank Special Administration Regulations (with Nicholas Medcroft QC)

## International Arbitration

Jamie has acted in a number of high value arbitrations both internationally and with their seat in London. He has experience of advising on all stages of the arbitration process, and in working day-to-day in teams based in multiple time zones around the world.

### Although the details are confidential, the type of work Jamie has been involved in includes:

- Acting for the successful claimants in an 8-day trial in Spring 2018 in confidential ICC international arbitration proceedings in Singapore, concerning claims for breach of contract in relation to a petrochemical plant located in Southeast Asia; with an award of over US\$40m.
- Acting for the successful claimants at trial in Summer 2019 in confidential multi-million-US\$ LME arbitration proceedings in London, concerning non-delivery of goods and SOGA, s51; with an award of the full sum sought by the claimant as its primary relief.
- Acting as sole counsel in a jurisdiction challenge to VIAC proceedings claiming over half a million pounds for damages said to arise out of a contract to supply engines for specialist military equipment.
- Advising claimants in UNCITRAL arbitration proceedings in HKIAC concerning trade mark breaches in China.
- Acting for claimants in a 2-day hearing in ICC proceedings on the preliminary issue of whether there had been an unreasonable withholding of consent to an assignment of the claims (settled shortly before trial in 2017).
- Acting for the claimant in LME proceedings in successfully resisting a strike out application at a hearing in Spring 2019 concerning *Attorney General v Blake*.
- Acting for claimants resisting a jurisdiction challenge in ICC proceedings.
- Advising on the appointment/removal of an arbitrator in ICC proceedings.
- Acting for party seeking to join further parties to extant ICC proceedings.
- Advising on the ability of a party to disclose the existence of arbitration proceedings to a third party as part of share sale negotiations.



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## International Arbitration continued

- Acting for claimants in a costs dispute hearing in ICC proceedings, including as to the jurisdiction of the tribunal to order that costs in one arbitration be assessed only following the conclusion of related arbitration proceedings.

## Trusts, Tax, Probate and Estates

Jamie acts and advises as sole counsel on a broad range of contentious and non-contentious trusts, will and probate matters.

### Recent work includes:

- Advising as to and settling deeds transferring the assets of two discretionary family trusts to a single new trust, in addition to a number of distributions and satisfaction of debts.
- Settling pleadings and advising in proceedings concerning allegations of breach of trust and fiduciary duty with regard to a shared home estimated to be worth over half a million pounds.
- Advising as to and settling deeds of indemnity.
- Settling pleadings and advising on proceedings alleging professional liability on the part of financial advisors concerning IHT payable by an estate.
- Advising and drafting a compromise of proceedings for the possession of residential property in circumstances where the defendant had counterclaimed an interest in the property, the freeholder had lost capacity and a sale was necessary to pay for the freeholder's medical care, and the only available asset for any compromise was provision for the defendant in the freeholder's will.
- Acting in proceedings in the Court of Protection on behalf of the Deputy for a severely-disabled man, concerning the assets settled on his behalf, seeking and obtaining an order for sale and reinvestment.
- Advising on claims pursuant to *The Inheritance (Provision for Family and Dependents) Act 1975*.
- Settling pleadings and advising on proceedings concerning the validity of wills.
- Drafting pre-action correspondence and advising on proceedings concerning the proper construction of a will and seeking an account and alleging breach of trust as against the trustees of the will trust.
- Drafting pre-action correspondence and advising on proceedings concerning allegations of misconduct by executors, including claims against executors, applications for disclosure against executors, or the removal of executors.