

JAMES WIBBERLEY

CALL: 2009

"He's commercial, pragmatic and not afraid to get off the fence."
Chambers UK 2019

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James is a commercial and employment barrister, with experience of dealing with a wide range of disputes within the County Court, High Court and Employment Tribunal. He has a particular interest in cases that throw up novel or complex points of law and regularly deals with cases that straddle the divisions between his main practice areas.

PRACTICE AREAS

- Employment & Discrimination
 - Commercial
 - Professional Negligence & Indemnity
 - Costs & Litigation Funding
 - Technology & Construction
 - Banking & Finance
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EMPLOYMENT & DISCRIMINATION

James has a mixed commercial and employment practice and focuses primarily on cases that fall along the boundaries between these two areas of law. As well as more mainstream contractual disputes and claims involving restrictive covenants, James is regularly brought in to advise on cases involving the appropriation and misuse of confidential information, allegations of breach of fidelity and/or fiduciary duty and the economic torts (e.g. inducing a breach of contract, causing loss by unlawful means etc). Recent cases include representing a national HR consultancy in the enforcement of post-termination restrictions against a former franchisee and advising a major firm of solicitors on the recruitment of a partner of a competitor firm.

Within the Employment Tribunal, James primarily deals with unfair dismissal and disability discrimination disputes as well as a growing number of harassment and victimisation claims. James has a keen interest in non-employment related discrimination and believes that this is likely to be a growth area for employment and discrimination lawyers in the coming years

COMMERCIAL

James has a broad commercial practice focussing primarily on banking and financial services, company/shareholder, partnership professional negligence, and contractual disputes. James also has a keen interest in cases involving restraint of trade, breach of confidence and breaches of fidelity or fiduciary duty, and is regularly brought into cases that straddle his different practice areas such as claims following the sale/purchase of companies or the collapse of business relationships. He also has experience of dealing with more esoteric commercial work such as intellectual property disputes (including passing off and trade mark infringement) and defamation claims brought by commercial organisations.

Most of James' work is within the High Court and James has experience of acting as sole counsel in cases worth up to £20 million. Recent work includes acting for the purchaser of a multi-million pound waste management business in a claim for misrepresentation against its former owners, representing a soft toy company facing a \$4million claim for an alleged breach of an exclusive manufacturing agreement, and representing a financial advisor in restraint of trade proceedings following the sale of this IFA business to a national network.

Despite his relatively junior call, James has twice appeared in the Supreme Court in *Swynson Limited v Lowick Rose LLP* [2017] UKSC 21 (professional negligence; assessment of damages) and *Gavin Edmondson Solicitors Limited v Haven Insurance Co Limited* [2018] UKSC 21 (costs; solicitor's equitable lien). He is recommended in Chambers and Partner and the Legal 500 in the fields of Commercial Dispute Resolution, Professional Negligence and Costs and Litigation Funding

PROFESSIONAL NEGLIGENCE & INDEMNITY

James has a growing professional negligence practice and is regularly instructed (on both the Claimant and Defendant side) to deal with claims involving:

- Solicitors & Barristers
- Financial Advisors
- Insurance Brokers
- Surveyors
- Construction Professionals

Much of James' professional negligence work dovetails with his other areas of practice. He is regularly involved in cases where disputes have arisen about advice on costs exposure or litigation funding; often where coverage said to be provided by BTE or ATE is refused. James also deals with more conventional insurance disputes, again sitting alongside his more mainstream commercial practice.

James has a growing construction practice. In addition to dealing with claims for defective works, he is regularly asked to advise on issues of design and valuation, both for self-builders and commercial lenders. He is acutely aware of the multifaceted nature of construction litigation.

COSTS & LITIGATION FUNDING

James has a strong interest in all areas of costs and litigation funding. In addition to dealing with more conventional inter partes costs disputes such as drafting pleadings and attending detailed assessment hearings, James has experience of providing generic advice on the enforceability of funding arrangements, and is regularly asked to advise on issues of coverage and indemnity relating to BTE and ATE insurance agreements.

There is a significant overlap between this area of James' practice and his wider commercial work. James is therefore ideally placed to advise on solicitor - own client disputes and professional negligence cases involving disputes around the advice given about funding arrangements and/or costs liability.

James has experience of wasted costs and non-party costs applications both in commercial (including applications for costs against directors of insolvent companies) and personal injury disputes. He also deals with disputes surrounding the costs of insolvency proceedings.

James is regularly instructed on behalf of the Secretary of State for Energy and Climate Change to run arguments on the correct level of success fee in NIHL cases following the decision of the High Court in *Patterson v MOD* [2012] EWHC 2767.

TECHNOLOGY & CONSTRUCTION

James deals with a wide range of construction disputes arising from both residential and commercial developments. These disputes include claims for payment, delay and disruption, and defective workmanship as well as more niche matters such as the enforcement of adjudication awards and representing clients at arbitration hearings. James also has experience of dealing with disputes under the Party Wall Act 1996 and claims in nuisance and/or negligence for damage caused to neighbouring properties.

In addition, James' wider professional negligence practice regularly involves claims against Architects, Quantity Surveyors and Project Managers. James also has experience of dealing with claims against solicitors involved in the purchase and sale of development land (for example failure to advise on restrictions on development and/or listed building status).

BANKING & FINANCE

James has a broad banking and financial services practice advising and representing lenders, insurers, advisors, payment intermediaries and consumers alike.

The majority of James' banking work falls into two categories: (i) claims involving (allegedly) negligent advice or the mis-selling of financial products (both pro-neg and FISA claims); and (ii) the enforcement of loan agreements, guarantees, mortgages and other securities. James has a particular interest in cases involving allegations of misrepresentation, fraud or undue influence, or where there is a dispute about the authority of an intermediary under section 39 of the FISA and/or the common law principles of agency. James also undertakes non-contentious work such as advising on whether financial arrangements constitute collective investment schemes.

James' recent experience includes representing an international lender in a 260+ claimant group action for the mis-sale of high-cost-short-term credit, acting for a niche lender seeking to enforce personal guarantees worth over £1.5 million, and advising a Forex trader being sued for over-gearing investments. He also has experience of more esoteric issues affecting banks and financial institutions such as claims under the Data Protection Act and GDPR

RECENT CASES

- Swynson Ltd v Lowick Rose LLP (formerly Hurst Morrison Thomson LLP) (in liquidation) [2017] UKSC 32, [2017] 2 WLR 1161
 - Gavin Edmondson Solicitors Limited v Haven Insurance Company Limited [2018] UKSC 21, [2018] 3 All ER 273
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APPOINTMENTS:

- Junior Counsel to the Crown, having been appointed to the Attorney General's Regional Panel of Counsel
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EDUCATION:

- LLB, Nottingham Law School - First Class
 - History (Modern), Keble College Oxford, First Class
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RECENT NEWS

- Members of Guildhall provided training to NHS England, Department of Health & Local Government
 - Supreme Court rules costs payable in the event of direct settlements between claimants and insurer
 - Res inter alios acta? Hugh Sims QC and James Wibberley successfully resist appeal in £15m professional negligence claim - June 2015
 - ELA Masterclass - Employment Claims in the Civil Courts 2015 -Jan 2015
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