

JAMES WIBBERLEY

Call 2009

✉	james.wibberley@guildhallchambers.co.uk
☎	0117 930 9000



James Wibberley is a sought-after commercial litigation specialist who represents individuals and corporations in a wide range of disputes before the High Court, County Court and Court of Appeal.

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.

James is praised by clients and commentators for his approachability, and his commitment to working collaboratively as part of a wider legal team. James usually appears as sole counsel but is increasingly instructed to lead junior counsel teams.

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 – Litigation Funding**: solicitor’s equitable lien.

He is recommended in Chambers & Partners and the Legal 500 in the fields of **Commercial Dispute Resolution**, **Professional Negligence**, and **Costs Litigation**.

Expertise

Commercial Dispute Resolution

James specialises in corporate and commercial litigation, including company/shareholder disputes, partnership disputes, claims against directors, fraud/conspiracy claims, business purchase disputes (including claims for misrepresentation and breach of warranty) and breach of contract claims. 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 involved in claims against business vendors and departing employees for breaches of restrictive covenants. He also has experience of dealing with more esoteric commercial work such as intellectual property disputes (including passing off and trademark 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 (in each case as sole/lead counsel) includes:

- Acting for the Petitioner in an unfair prejudice claim concerning the management of a third largest logistics supplier to Amazon in the UK.
- Acting for the owner of a nightclub business in a £3 million fraud claim against a former director.
- Acting for a firm of finance brokers in a £2 million claim for commission due for arranging the financing of a major mining project in Brazil.
- Acting for a Chinese property investor in a multi-million-pound fraud claim against the co-owner of a construction company specialising in the construction of social housing. The case contains allegations of both of the misappropriation of funds, and of the diversion of business opportunities to companies owned by associates of the alleged wrongdoer.
- Defending a major high street chain in a multi-million-pound claim for the breach of the terms of the sales agency agreement. The case turned on the question of whether performance of the agreement had been rendered impossible by the Coronavirus Regulations.
- Advising a major legal expenses insurer on recovery actions (worth multiple millions) following the collapse of Pure Legal Limited.
- Both pursuing and defending IFAs in various restraint of trade proceedings following the sale of their businesses to a national networks.

In addition to his High Court work, James is increasingly instructed to represent clients ICC Arbitrations. Recent examples include representing a Belgian-based construction group in a dispute concerning the purchase of a UK piling company and representing a Mexico-based cryptocurrency company in a \$3.5 million claim against its payment services provider.

Featured Commercial Dispute Resolution cases

Tosi Ltd v 99 Hippos Limited [2023] EWHC 852 (Ch)

Unfair prejudice claim concerning a group of recruitment consultancies.

Camberley Group Plc v Foster [2022] EWHC 2643 (KB)

Breach of warranty, inducement to breach of contract and conspiracy claims brought against the former managing director of an international manufacturing business.

URE Energy Limited v Notting Hill Genesis [2022] EWHC 1809 (Comm)

Partially successful summary judgment application in claim for £3 million termination payment following the repudiation of an electricity supply agreement (led by Hugh Sims KC).

Veasey v McDougall [2022] EWHC 864 (Ch)

Application to enforce disclosure obligations under CPR PD 51U in unfair prejudice proceedings brought in respect of Peak Wildlife Park in Staffordshire.

Dowman Imports Limited v 2 Toobz Limited [2020] EWHC 291 (Comm)

Claims for breach of contract and in unjust enrichment for failure to honour the terms of an anticipated exclusive manufacturing agreement for a range of children's toys.

Business Protection & Injunctions

James' Business Protection work falls into four main categories.

As part of his wider commercial practice, James is regularly instructed to bring and defend claims against business vendors for breaches of restrictive covenants entered as part of sale (both asset and share sale agreements). Much of this work stems from the sale of financial services business, but James also has experience of acting in claims relating to solicitors' practices, and networks of estate/lettings agents and health and beauty providers. He also has experience of bringing and defending claims to enforce restrictive covenants in franchise agreements.

James also acts for parties in more 'traditional' restrictive covenant disputes, such as claims to restrain departing employees (and, increasingly, employee shareholders) from joining actual or potential competitor employers. Recent cases have included acting for two high-value employees within the power distribution industry said to have been key to the delivery of a contract worth £50 million per annum and advising an executive in the commercial hygiene industry.

In addition, James has a keen interest in cases involving allegations of breach of confidence, breaches of fidelity or fiduciary duty, and fraud/conspiracy. James has recent experience of defending a former director accused of misappropriating confidential product information to establish a competing business and representing a business owner accused of misappropriating funds and diverting business opportunities. He is currently acting for a Chinese property investor in a multi-million-pound fraud/breach of duty claim involving the diversion of business opportunities in the construction sector.

Finally, James is often instructed to advise upon and obtain freezing orders in advance of or to support the above types of claim.

Featured Business Protection & Injunctions cases

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.

Representing a financial advisor in restraint of trade proceedings following the sale of this IFA business to a national network.

Representing a national HR consultancy in the enforcement of post-termination restrictions against a former franchisee.

Acting for an IFA being sued for breaching his restrictive covenants following the sale of his business to a national network and advising a major firm of solicitors on the recruitment of a partner of a competitor firm.

James has experience of Business Protection disputes in a wide range of industries not just financial services and the law, but also advertising, human resources, sales and even hairdressing.

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.

Professional Negligence

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 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. J

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. As well as acting for private clients, corporations and local authorities, James also handles cases for and against public liability insurers.

James' recent experience includes acting for a large farming partnership in a £2.5 million damages claim following the installation of a defective biomass heating system, representing a software development company in a dispute surrounding the development of a custom iPad app, acting for a developer suing the insurers of an (insolvent) groundworks subcontractor after the incorrect demolition of supporting wall caused damage to a row of neighbouring properties.

James recently represented a contractor after the (allegedly) incorrect installation of a woodburning stove resulted in a fire destroying the property.

James also has experience of more routine cases such as disputes over the quality of residential building work (where he has handled cases worth up to £500,000), claims against tradesmen for leaks and fires and

claims for defective cavity wall insulation.

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

Banking & Finance

James has a broad Banking & Finance 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 prof-neg and FiSMA 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 FiSMA 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 loans, acting for a niche lender seeking to enforce personal guarantees worth over £1.5 million, and advising a For-ex 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.

Education

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