

James Stuart

James specialises in commercial relationship and employment litigation, focussing upon more substantial and complex cases in which the parties are connected by some form of contractual or equivalent relationship, and associated professional negligence and professional disciplinary tribunal litigation. His practice covers cases involving Employees, Directors, Shareholders, Partners, LLP Members, Agents, Commercial Agents, Franchises, Contractors, Professionals, Banks and other regulated Financial Institutions and Contracting Parties generally.

As his recently reported cases illustrate, James appears regularly in the Court of Appeal, all divisions of the High Court, the Employment Tribunals and EAT, and other Professional Tribunals.

James represents Individual and Corporate Claimants and Defendants or Respondents in such matters. In appropriate cases, he is prepared to undertake work on CFA and insurance-funded basis as well as the standard private payment basis.

James has built up considerable experience in recent years in conducting more protracted cases (especially those with substantial documentation or extensive witness evidence) and as a result of the nature of his practice he has developed a reputation for being able to deal with the most legally and factually complex disputes.

James also specialises in Consumer Law.

Further information

Qualifications

- MA (Law) Gonville & Caius College, Cambridge

Memberships

- COMBAR, Employment Law Bar Association, Employment Lawyers Association, TECBAR, Bar Golfing Society

Commercial

James deals with disputes covering a wide range of



Year of Call: 1990

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commercial areas, including specifically supply of goods and services and construction, sale and carriage of goods (domestic and international), partnerships, franchises, public procurement, commercial agency, agents, consumer credit, insurance, guarantees, banking and mortgages and COBS regulations.

In relation to Company and Insolvency litigation, over the past few years he has been instructed in substantial cases (including long trials, interlocutory and appellate work) for both personal and corporate clients, including shareholder disputes, minority shareholders' claims, directors' duties and directors disqualification proceedings.

In the Professional Negligence field, James's practice covers claims involving solicitors, accountants, financial advisors, surveyors and architects.

James also has considerable recent experience in relation to many areas of Professional Disciplinary Tribunal work – including barristers, solicitors, legal executives, property professionals and valuers.

James regularly deals with cases requiring Urgent Interlocutory Relief applications in commercial cases, including applications for Freezing Orders and other injunctions in restrictive covenant, confidentiality and similar disputes.

By way of some recently reported examples of James's current practice:

He recently represented the successful Appellant in *Kudos Catering (UK) Ltd –v- Manchester Central Convention Complex Ltd* [2013] EWCA Civ 38 in the Court of Appeal – a case involving the provision of services under a 5-year venue catering services agreement where the central issue involved the contractual interpretation of exclusion of liability clauses.

He also represented the Appellant in *Crinion –v- IG Markets Ltd* [2013] EWCA Civ 587 in the Court of Appeal, which involved issues regarding Regulated Financial Services trading, powers of attorney and classification under COB/COBS rules.

In *Cooke –v- Hopper* [2012] All ER (D) 66 Court of Appeal – James represented the successful property agents, in a case where the Court of Appeal considered the quantum meruit remedy.

James represented the successful Claimant in *Rodliffe –v- Rodliffe* [2012] EWHC 917 Ch – which involved a long trial of a shareholder dispute between family members and an unfair prejudice petition. In another shareholder dispute, *Cuatrecasas –v- Bergman* [2012] EWHC 1672 Ch –

the Court considered the issues arising where one party challenges an expert determination for manifest error.

In *Greaves –v- Stolkin* [2013] EWHC 1140 Ch – James represented the successful Claimant in a 2 week Chancery Division trial which concerned the validity of a codicil and testamentary capacity.

James's recent involvement in regulatory cases involving solicitors and others has included *Mireskandari –v- SRA* [2013] EWHC 907 – an appeal from the Solicitors Disciplinary Tribunal involving complex security for costs issues; and *Baxendale-Walker –v- Law Society* [2012] EWCA Civ 1864 – a case dealing with the relatively new and unusual provisions of CPR 3.11 relating to Civil Restraint Orders.

Related cases of interest

Kudos Catering (UK) Ltd –v- Manchester Central Convention Complex Ltd [2013] EWCA Civ 38 — James recently represented the successful Appellant in the Court of Appeal – a case involving the provision of services under a 5-year venue catering services agreement where the central issue involved the contractual interpretation of exclusion of liability clauses.

Crinion –v- IG Markets Ltd [2013] EWCA Civ 587 (Court of Appeal) — Regulated Financial Services trading – powers of attorney and classification under COBS rules

Mireskandari –v- SRA [2013] EWHC 907 — Solicitors Disciplinary Tribunal appeal and security for costs

Greaves –v- Stolkin [2013] EWHC 1140 Ch — James represented the successful Claimant in a 2 week Chancery Division trial which concerned the validity of a codicil and testamentary capacity

Cuatrecasas –v- Bergman [2012] EWHC 1672 Ch — Shareholder dispute, challenging expert determination for manifest error

Rodliffe –v- Rodliffe [2012] EWHC 917 Ch — James represented the successful Claimant in a long trial of a shareholder dispute between family members and an unfair prejudice petition

Cooke –v- Hopper [2012] All ER (D) 66 CA — James represented the successful property agents, in a case where the Court of Appeal considered the quantum meruit remedy

Baxendale-Walker –v- Law Society [2012] EWCA Civ 1864 — Solicitors – CPR 3.11 Civil Restraint Orders

Sagal –v- Atelier Bunz [2010] 1 All ER [Comm] 104 (CA) — commercial agents

Employment

James deals with a wide range of Employment and Equality cases, involving litigation on service contracts, restrictive covenants, confidentiality, discrimination and wrongful and unfair dismissal, whistle blowing and advising on TUPE and contractual interpretation

As well as High Court litigation, he regularly appears in the Employment Tribunals (throughout England), for both Claimant and Respondent clients.

By way of illustration of the breadth of James's employment practice, some recent cases (where the Written Judgments are available) are:

Wall –v- Ferrero UK Limited– 3303898/2011 – A 3 day trial in June 2012 where James represented the successful Respondent in relation to claims of sex and sexual orientation discrimination and unfair and wrongful dismissal;

Saunders –v- Credit Protection Association plc- 2410211/2011 – Another 3 day trial in April 2012 where James represented the successful Respondents in relation to unfair dismissal, breach of contract and WTR claims.

Benjamin –v- Forest School – 3203461/2011 – where James represented the successful Respondent in January 2013 in a case alleging disability discrimination.

Holian –v- Maple Leaf Bakery UK Ltd 13047661/2011 – in which James represented the successful Respondent in another disability discrimination matter.

Turullols –v-Brambles Holdings UK Ltd 2340295/2009 – A whistleblowing case where James represented the successful Claimant in achieving an Order for Interim Relief – which was at the time one of only a handful of cases where such relief has been granted.

Some reported employment cases in which James was involved include:

Related cases of interest

Fox –v- Ironopolis Film Co [2009] All ER (D) 156 (EAT) — Where James represented the largely successful Respondent in relation to an appeal on issues of sex discrimination.

Hundal –v- Initial Security Ltd [2006] All ER (D) 74 (EAT) — Where James represented the successful party in a race discrimination claim appeal.

Wigmore –v- Vasquez-Guirado [2005] All ER (D) 37 (EAT) — a working time regulations case in the EAT

Aon Training Ltd –v- Dore [2005] IRLR 891 (CA) — Where James represented the successful party in a Court of Appeal case regarding disability discrimination.

Yokohama –v- Gross [2004] All ER (D) 346 Ch — A High Court case where James represented the successful Claimants in pursuing their director for breach of duty

Murray –v- Newham CAB [2003] IRLR 340 (EAT) — A leading case on disability discrimination

Evans –v- Malley Organisation Ltd The Times 23.1.03 CA [2003] IRLR 156 (CA) — Another leading Court of Appeal decision where James represented the successful Respondent.

Pink Roccade –v- Thacker EAT 0316/03 19.9.03 (EAT) — A disability discrimination

Insolvency

James is regularly instructed in personal and corporate and partnership insolvency matters, representing administrators, liquidators, companies, LLPs, creditors, company directors and individuals facing personal bankruptcy proceedings. He has significant experience in Company Directors Disqualification proceedings (dating back to representing the successful directors in a Carecraft procedure in *SSTI -v- Banarse* [1997] 1 BCLC 653). More recently he has advised liquidators and administrators in relation to assigning causes of action, valuing such choses of action and deeds of settlement between companies in administration or liquidation and the directors of those companies.

Examples of recent insolvency work

- Advising Liquidators upon, and drafting deeds of settlement and release and assignments of causes of action under ss.212/238/239 & 423 Insolvency Act 1986 and advising re s.246ZD IA 1986. [Feb 2018]
- Representing creditor in defending claim brought by liquidators of a company under s.127 Insolvency Act 1986 – monies paid by Company to creditor post-presentation of winding-up petition – advising upon the application of *Express Electrical Distributors Ltd - v- Beavis* [2016] EWCA Civ 465 [May 2018]
- Successfully representing company director in Company Director Disqualification Proceedings brought under s.5 CDDA 1986 – Court exercised discretion not to disqualify the director [May 2018]
- Advising Administrators upon methodology for valuing choses in action to be assigned [May 2018]

Seminars/Training

- Company Directors Disqualification Proceedings – A

guide to process and assessment of length of disqualification.

- Express Electrical Distributors Ltd -v- Beavis – Claims under s.127 IA for void transactions.