

James Purchas

Call 1997



James is ranked as a top tier commercial barrister specialising in banking & financial services, insurance & reinsurance, commercial litigation, professional negligence and offshore work. The directories note that he is “an excellent barrister: extremely bright; an engaging manner with both clients and judges; calm and assured on his feet” (Legal 500 2022) and “the complete Barrister” (Chambers & Partners 2022).

He is highly sought after for financial services matters involving regulators both domestically and internationally. Alongside which, he has a particular specialism in heavy offshore matters in the Channel Islands. James’ expertise as a commercial advocate means he is regularly instructed as sole counsel or leading a team. He will often be involved from the outset and has plenty of experience in seeking and responding to urgent injunctive and other interim relief before the High Court.

James is also instructed in the UK Court of Appeal, Supreme Court and both domestic and international arbitrations.

He is also qualified to undertake Public Access work for both private individuals and companies without in-house legal teams.

Banking & Financial Services

James specialises in banking, financial services and insurance and reinsurance matters with a particular focus on the regulatory aspects of those engaged in financial services. In the regulatory field James is instructed by domestic and overseas regulators, the regulated and those on the cusp of the regulatory perimeter. In wider commercial matters his clients range from multi-nationals to private individuals and charities.

James has significant experience of national and international commercial disputes involving those in the banking, financial and insurance sectors. His work spans the breadth of issues ranging from contractual disputes through to matters arising under FSMA, the FSA 2012, the RAO and other secondary legislation. As well as commercial disputes

James has also advised and appeared in regulatory matters at the various stages of the process including heavy matters before the Upper Tribunal.

His work often has an international element, involving multiple jurisdictions as well as the complexities and issues arising in the interface between civil and criminal matters. He has particular expertise in the scope of regulatory powers and jurisdictional matters.

General Litigation

Featured General Litigation cases

Advising and representing two HNWI's in respect of the mis-selling of various IRHPs over several years. Issues include the roll-over of swaps into new structures and questions arising in respect of unfair relationship.

Advising a Swiss entity in respect of its regulatory arrangements for a UK subsidiary in the context of a commercial dispute with lead employees.

Advising a HNWI in respect of claims in respect of bespoke structured notes. Issues involved complex counter-party questions spanning four jurisdictions with a Middle-Eastern based IFA, a Channel Islands trust and a London based branch of a European principal.

Advising and representing a Russian individual in respect of a compromise agreement of a dispute arising from a joint investment arrangement through corporate vehicles with interests in Russia. Issues involved questions of jurisdiction and forum conveniens.

Advising and representing a Polish subsidiary of an overseas investment fund in respect of the repayment of convertible bonds pursuant to a guarantee and subrogated rights arising under Polish law and the application of an English jurisdiction clause in the underlying contractual documents.

Advising and representing multiple claimants in FSMA s. 90A proceedings against an AIM listed company.

Advising and representing 100+ claimants in respect of multi-million claims against IFAs for mis-selling of EZ Schemes.

Acting for defendant directors in proceedings in Jersey in respect of a Guernsey company's refinancing.

Acting for a Guernsey property development company in respect of a £100 million plus property development where the financing was withdrawn by funders.

Advising and representing an international trading company in dispute with its DMA provider over recovery of collateral payments and liability for stamp duty reserve tax on transactions.

Advising (in conjunction with US lawyers) on FCPA, RICO and SEC 'whistleblowing' matters in respect of activities undertaken in Europe by entities with listings in the USA.

Acting for a major UK Bank in resisting injunctive proceedings relating to the closing of an account. Issues included the interface between the Bank's mandate and its obligations under the Proceeds of Crime Act 2002.

Regulatory Investigations and Stock Exchange Matters

Featured Regulatory Investigations and Stock Exchange Matters cases

Acting for and advising the FCA in multiple matters in respect of Ponzi and other deposit taking schemes, collective investment schemes, land-banking schemes and market abuse matters in High Court proceedings.

Financial Conduct Authority v Page & Ors. [2022] UKUT 00124. Acting for the the FCA in a 5 week Upper Tribunal case involving 5 references from FCA Decision Notices in respect of 3 IFA firms and individuals involved in hundreds of pension transfers from retail individuals to SIPPS for investment in offshore loan notes and bonds involving millions of pounds. Issues of integrity, dishonesty and recklessness and prohibition and fines. Acting in consequential appeals and judicial review claims.

Financial Conduct Authority v Ferreira [2022] EWCA Civ 397 Acting for the FCA in the Court of Appeal on leading case relating to the requirements for claims under s. 382 for a person allegedly to be knowingly concerned in the contravention of FSMA s. 21.

Financial Conduct Authority v A Firm and various individuals: Acting for the FCA in high-stakes FCA Upper Tribunal case relating to market manipulation. Issues include the integrity of the bank and one of its leading individuals, substantial fines and lifetime prohibitions against the individuals.

Financial Conduct Authority v Skinner & Ors. [2020] EWHC 1097 Acting for the FCA in High Court proceedings under FSMA ss. 380 and 382 and FSA 2012 s. 89.

Financial Conduct Authority v Noerus Investments Ltd. [2017] EWHC 3256 Advising and appearing on behalf of the FCA in respect of proceedings under FSMA and under the Payment Services Regulations 2009. Issues included interim injunctive relief including freezing and search orders as well as the scope of FSMA s.382 and the Payment Services Regulations 2009.

The Financial Conduct Authority v Anderson & Ors. Advising and appearing on behalf of the FCA in respect of the UK's then largest Ponzi deposit taking scheme. Issues included the construction of RAO 5, the relevant exemptions under RAO 5 and the Business Order, the impact of POCA restraint orders, parallel criminal proceedings and Human Rights issues. Issues arising in the distribution stage include the impact of multiple tiered bankruptcies and the interface between the bankruptcies and the relevant s.382 distributions. Subsequently acting for FCA on contentious distribution hearings.

The Financial Conduct Authority v Millers & Ors. Advising and appearing on behalf of the FCA in seeking urgent injunctive relief against a corporate services provider and a solicitor linked with alleged illegal share promotions.

The Financial Conduct Authority v Sinaloa Gold Plc & Ors. [2011] EWCA Civ 1158; [2013] UKSC 11 Advising and appearing on behalf of the FCA in respect of an alleged share scale scam involving a Boiler Room and a UK plc listed on the Frankfurt Stock Exchange. Issues included sufficiency of evidence of fraud on an interlocutory injunction and appropriateness of cross-undertaking in damages to defendants and third parties. The case went to the Supreme Court on this last issue.

The Financial Services Authority v Mudge and Lewis. Advising and appearing on behalf of the FSA and then FCA. Issues involve deposit taking, collective investment schemes and the jurisdiction of the FSA/FCA under Part XXIV to commence bankruptcy proceedings pending resolution of Part XXV proceedings. Appearing for FCA in subsequent bankruptcy proceedings.

The Financial Services Authority v Bayshore & Others. Advising and appearing on behalf of the FSA in respect of a number of "Boiler Room" operations. Issues involved the extent and scope of RAOs 14, 21, 25, 40 and 51. Advising on distribution strategies and distribution.

Acting for and advising the FCA in connection with regulatory proceedings in the RDC and the Upper Tribunal:

- **Sussex Independent Financial Advisers Limited v The Financial Conduct Authority [2019] UKUT 228.** Acting for the FCA in connection with proceedings against a Firm and Individuals in respect of unpaid FOS awards.
- **The Financial Conduct Authority v Multiple Defendants.** Acting for the FCA on multiple referrals of Decision Notices relating to Firms and Individuals arising out of pension switch and pension transfer activities.
- **The Financial Conduct Authority v Third Parties.** Acting for the FCA in respect of Third Party References. Proceedings involved an application by Third Parties not to publish Decision Notices.

Advising FCA as to scope of regulatory powers under FSMA.

Acting for and advising FCA in respect of contentious insolvency proceedings with cross-border elements arising from land-banking schemes and the subsequent distribution of the sums recovered. **Financial Conduct Authority v Paradigm Consultancy SA [2019] EWHC 3648**

Acting for and advising FCA in respect of disciplinary proceedings relating to a senior executive within a major financial institution.

Acting for and advising FCA in respect of distribution schemes involving insolvent defendants and competing creditor claims.

Advising overseas stock-exchange as to the scope of its regulatory powers in enforcement proceedings.

Advising overseas stock-exchange as to the scope of its regulatory powers in the context of disciplinary proceedings, its D&O insurance needs and coverage and the scope of a statutory indemnity.

Private Instructions

Commercial disputes within regulated sector include:

- Advising lender in respect of alleged improper lending practices brought through a law firm whose authority to act on behalf of borrowers was in issue. Raises complex issues of warranty of authority, propriety of online opt-out consent forms and ratification.
- Advising insurers in respect of an insured's business model and the extent to which it infringed FSMA ss. 19 and/or 21 through its approach to delegated and outsourced activities.
- Advising and representing multiple claimants in FSMA s. 90A proceedings against an AIM listed company.
- Advising and representing 100 + claimants in respect of multi-million claims against IFA for misselling of EZ Schemes.
- Advising and representing various accountants and IFAs in respect of tax mitigation schemes. e.g. **Higgins v ERC Accountants and Business [2017] EWHC 2190**
- Advising and representing international trading company in dispute with its DMA provider over recovery of collateral payments and liability for stamp duty reserve tax on transactions.
- Acting and representing a director of a listed company in respect of a stock-loan dispute involving shares pledged in anticipation of a loan which was not advanced. Required urgent interim freezing and other interlocutory relief.
- Advising and representing offshore insurance intermediary network in dispute with UK SIPP provider as to liability for FOS awards arising out of the activities of a rogue agent.
- Advising leading Appointed Representative firm over liability for PPI repayments and disputes with principal insurer over responsibility for FOS settlements.

- Advising a major financial intermediary in respect of multiple claims seeking recovery of commission paid by creditors over many years. The case involves issues of scope of duty of an introducing agent, breach of fiduciary duty, secret commission and limitation. Strategic issues involving claims farming and successfully resisting attempts to consolidate and identify lead claims for a group action.
- Advising IFA about move to a competitor organisation. Issues included reporting issues of breach of FSMA to the FSA, the scope and reasonableness of audit work in respect of customer files, liability for funding the audit work, recovery of commission held by the former organisation and transfer of clients.
- Advising an IFA in respect of disputes arising over the attempted acquisition / merger of a competitor business which was never concluded and the liabilities arising.

FCA/FOS Investigations

Featured FCA/FOS Investigations cases

Advising UK national insurer in respect of potential judicial review challenge to Financial Ombudsman decision relating to redress beyond the insurer's contractual obligations.

Advising a leading international hedge fund in respect of its response to a regulatory investigation where very substantial sums are in issue and there are jurisdictional and other complexities arising including the involvement of parallel overseas regulatory investigations.

Advising a major insurer in respect of its regulatory responsibilities including SMCR issues in connection with its response to coverage and other issues arising from the COVID-19 pandemic.

Advising a regulated entity in the context of UK and overseas investigations arising from the "Cum-Ex" trading dispute. Issues included money laundering obligations and reliance on 3rd-party checks.

Advising domestic insurer in respect of a judicial review challenge to a FOS award including issues as to the FOS's jurisdiction among others.

Advising entity the subject of investigation in respect of a subscription-based business model and the extent to which it amounted to the provision of credit and/or hire purchase for the purposes of the Consumer Credit Act 1974 and the Regulated Activities Order.

Advising offshore network as to passporting rights, the jurisdiction and scope of the FCA's redress powers and FOS's investigation remit and potential liability to consumers in respect of unauthorised activities by appointed agents and representatives. Issues include the scope of a principal's liability for an AR acting outside of the AR's agreed role and the construction of FSMA s.39.

Advising individual subject to a prohibition order as to implications for subsequent work in the financial services sector.

Advising offshore marketing company in respect of a perimeter investigation in to an alleged collective investment scheme involving overseas land sales.

Advising on the legality of an alleged collective investment scheme.

Advising on "Land Bank" schemes.

Scope of Regulation

Featured Scope of Regulation cases

Advising charity as to whether its lending activities were being conducted ‘by way of business’ for the purposes of FSMA s. 22.

Advising employee benefits provider as to whether its activities comprised insurance and the application of exemptions under the RAO.

Advising network provider over regulatory responsibilities relating to pension transfers.

Advising property development group as to scope of FSMA s. 235 to fractional investment arrangements in offshore developments.

Advising international payments provider as to MLR registration requirements.

Advising an offshore insurer in dispute with its regulator in respect of the assessment of its solvency. Issues included the possibility of obtaining injunctive proceedings against the regulator and the negative impact of any publicity.

Advising international travel company as to whether its activities amounted to carrying on insurance. Issues involved interface of directives and different domestic provisions considered in conjunction with third-country law firms.

Advising substantial UK plc as to whether its commercial products and service arrangements were subject to regulation under FSMA.

Advising large business as to the structure of its business arrangements and the extent to which they require authorisation by the FCA.

Advising as to the FCA’s and Pension Regulator’s respective jurisdiction in respect of arrangements for transfers from SIPP/PPPs to OPSs in an FCA investigation into ‘pension unlocking/liberation’ schemes. Issues included the scope of RAO 25 and 52 and FSMA s.21.

Advising on the compliance and regulatory issues flowing from non-UK incorporation for insurers and reinsurers seeking to conduct business within the UK and EU.

Market Abuse/Insider dealing

Featured Market Abuse/Insider dealing cases

Advising and acting as junior counsel on appeal to Court of Appeal from Upper Tribunal in market manipulation case against a dissolved Canadian company (Swift Trade). Issues arising included the scope of s.118(5) and s.118(8) and their application to trading in contracts for difference and the ability of the regulator to pursue a company dissolved under Canadian law. **7722656 Canada Inc v Financial Services Authority [2013] EWCA Civ 1662**

Advising in an insider dealing case on the territorial scope of the Criminal Justice Act 1993 and the meaning of ‘professional intermediary’.

Insurance & Reinsurance

James regularly advises in a wide variety of insurance matters. He advises and appears on behalf of brokers, major UK and foreign insurers and re-insurers as well as private and commercial assureds in arbitrations and court proceedings.

James is also regularly instructed by insurers to represent their interests in related product liability and professional negligence and other matters. Further details can be found on the Commercial section of this CV.

Coverage issues

Featured Coverage issues cases

Arbitration involving very substantial Covid-19 business interruption claim against reinsurers of a captive under Vermont law with parallel proceedings taking place in the USA. Issues include the meaning of 'physical loss or damage' and the application of a contamination exclusion clause.

Arbitration involving a high value catastrophe excess of loss case involving claims for cancellation cover of major events including the Olympics, Wimbledon, National Conferences and pan-American sporting events. Involves untested aggregation issues and the effect of hours clauses.

Advising on composite PI and D&O cover for a large financial institution that has collapsed into insolvency causing enormous consumer losses and amidst substantial negative publicity. Issues include points arising under the Insurance Act 2015, the scope of exclusions and the interplay with fair presentation through to a suspected fraudulent business model.

Advising offshore stock-exchange as to the scope of its D&O coverage needs.

Advising a major international insurer as to the structure of a bespoke policy for an international clearing house. Issues included questions relating to the consequences of insolvency of a group entity, regulatory concerns as to financial guarantee insurance and the implications of being a valued policy.

Advising a leading insurer on a coverage issue where a directors was the subject of a criminal prosecution and the implications for coverage questions in related to administrative proceedings.

Advising and appearing on a s. 69 challenge to an Arbitration Award relating to aggregation issues arising following the World Trade Center terrorist attack.

Advising on scope of D&O cover in respect of proceedings brought in USA against group companies under New York single employer doctrine and intimated inter-group claims.

Advising large regional IFA in dispute with insurer over liability for regulator required changes to commission basis on an historic and ongoing basis.

Arbitration between US entity and insurer as to recoverability of a multi-million US punitive damages award under English law policy. Issues included whether such a recovery was prevented by English public policy, the scope of the meaning of "damages" and "arises from".

Arbitration acting for Lebanese insurers against UK and US based reinsurers in respect of medical cover. Issues

included disclosure, claims co-operation and scope of policy.

Sutherland Professional Funding Ltd v Bakewells & Ors and Chartis and RSA [2013] LLR IR 93. Instructed by insurers in respect of a claim for an indemnity by solicitors in respect of a guarantee given to third party funders of litigation where the ATE insurance has not met the claims. Issues include prior notification to other insurers and coverage.

Advising professional indemnity insurers in respect of liability for funding of failed group litigation.

Khan v Hargreaves. Acting for underwriters in a disputed claim under a jeweler's block policy. Issues involved disclosure pre / post inception, moral hazard, proof of loss and quantification of loss.

Advising legal expenses insurers about application of alternative insurance exclusions.

Acting for the assured in respect of the scope of a "hot works" exclusion.

Cover-holder disputes

Featured Cover-holder disputes cases

AmTrust v Thames. Instructed by cover-holder in respect of Commercial Court proceedings relating to risks written on a construction book of business. Issues involved questions relating to the scope of the binder, the duties of a coverholder to go beyond the pre-agreed Statement of Fact and internal and external referrals.

Cassidy Capital Limited & Ors. v Underwriting Agencies of Australia and QBE Insurance (Australia) Limited. Instructed by Lloyd's Syndicate in respect of dispute with former overseas cover-holder involving diversion of business to a competitor insurer, retention and use of confidential materials and withholding of claims float. Claim also involved challenges to the jurisdiction of the English courts.

ABIC Insurance Ltd v Torus Insurance (Europe AG) & Anr. Instructed by Lloyd's reinsurance broker in a multi-party dispute in respect of the reinsurance of a self-insured retention arising out of a US property programme. Issues included practice of reinsurance underwriting, expectation as to presentation of material on an 'as if' basis, affirmation and waiver.

Arbitration: Instructed by US cover-holder in respect of dispute with insurers over nature of policies written over four consecutive years. Issues included the scope and application of a guideline manual, the construction of its terms, cherry-picking and limitation.

Third Party Rights' Claims

Featured Third Party Rights' Claims cases

Instructed by insurer in respect of mass-group litigation (500 + claimants) where the insured has gone into administration. Legally significant in addressing implications of the Third Parties Rights against Insurers Act 2010 for insurers seeking to retain control of claims against their insured where claims are presented in the administration.

LA Fitness & Anr v Quinn: Instructed by LA Fitness in respect of 1930s Act fire claim against insurers. Issues included notification obligations and other coverage issues.

E.A. Foods v E.W. Spice Instructed in respect of a multi-million claim under the 1930s Act. Issues included whether contamination by admixture amounts to physical damage.

Instructed by insurers in respect of claim under 1930s Act against accountancy firm and individuals. Issues include scope of exclusions, impact of bankruptcy and discharge on validity of claims and whether conduct was carried on in a personal capacity rather than by firm.

Contractual obligations

Featured Contractual obligations cases

Acting for **NHBC** in a dispute with a builder in connection with contractual arrangements relating to claims made under Buildmark Cover and the right to recover sums against builders.

Instructed by insurers in a claim alleging a duty to provide ongoing cover and renewal pursuant to automatic renewal provision clauses in the policy.

Regulatory matters

Featured Regulatory matters cases

Advising an offshore insurer in dispute with its regulator in respect of the assessment of its solvency. Issues included the possibility of obtaining injunctive proceedings against the regulator and the negative impact of any publicity.

Advising and representing offshore insurance intermediary network in dispute with UK SIPP provider as to liability for FOS awards arising out of the activities of a rogue agent.

Advising international travel company as to whether its activities amounted to carrying on insurance. Issues involved interface of directives and different domestic provisions considered in conjunction with third-country law firms.

Advising substantial UK plc as to whether its commercial products and service arrangements were subject to regulation under FSMA.

Advising a new entrant to the insurance market in respect of the authorisation process.

Advising on the compliance and regulatory issues flowing from non-UK incorporation for insurers and reinsurers seeking to conduct business within the UK and EU.

Advising and appearing for multiple insurers in dispute with brokers over PPI liabilities.

Advising leading Appointed Representative firm over liability for PPI repayments and disputes with principal insurer over responsibility for FOS settlements.

Advising large regional IFA in dispute with insurer over liability for FSA required changes to commission basis on an historic and ongoing basis.

Other insurance issues

Featured Other insurance issues cases

Acting for and advising a major international insurer in a dispute with its US based loss adjuster in respect of the handling of a property damage claim following a hurricane which had resulted in proceedings being brought against the insurer for punitive damages.

Instructed by brokers in respect of two travel schemes. Issues related to term of treaty, liability for brokerage and renewals.

ARP and Capita London Market Services Ltd v Ross & Co and the Law Society Acting and appearing on behalf of a claims management company and insurers in successfully resisting a challenge to the structure and operation of professional indemnity insurance to UK solicitors.

Advising professional indemnity insurers in respect of endowment mis-selling claims.

Acting in claim against broker for failing to obtain adequate legal expenses insurance cover.

James is also regularly instructed by insurers to represent their interests in related product liability and professional negligence and other matters. Further details can be found on the Commercial section of this CV.

Commercial Litigation

James has a busy general commercial practice with instructions involving contractual, product liability, fire, distribution, M&A, jurisdictional and other issues. He is also regularly instructed by insurers to represent their interests in professional negligence disputes, particularly in the accountancy, financial services, valuation and legal sectors. His practice encompasses a wide variety of domestic and international claims. His clients include major contractors, national and international corporate organisations, private entrepreneurs, professionals and their insurers.

Arbitrations

Featured Arbitrations cases

Acting for a major UK company in the motor industry in respect of a dispute involving an exclusive distribution agreement. The case involved multi-party proceedings in the High Court and arbitration proceedings in Tokyo with complicated conflicts of law issues as well as multiple interlocutory matters including injunctive relief in the High Court.

Acting in s. 69 appeal to High Court on reinsurance dispute emanating from the World Trade Center attacks.
Simmonds v Gammell [2016] EWHC 2515

Acting in ad hoc arbitration for multi-national against insurer in respect of a claim on a public liability policy for a multimillion US jury punitive damages award.

Acting in ad hoc arbitration for US cover-holder in respect of dispute with insurers over nature of policies written over four consecutive years. Issues included the scope and application of a guideline manual, the construction of its

terms, cherry-picking and limitation.

Acting in ICC arbitration in Zurich for Bulgarian company in dispute with Swiss pharmaceutical company over exclusive distribution rights for pharmaceutical products.

Arbitration acting for Lebanese insurers against UK and US based reinsurers in respect of medical cover. Issues included disclosure, claims co-operation and scope of policy.

Acting in BCCI arbitration in Sofia for Bulgarian company in respect of a multi-million pound dispute between a pharmaceutical manufacturer and its local partner. Issues involved challenges to the competence of the arbitrators; the application and effect of the Commercial Agents Regulations, jurisdiction and compensatory issues.

Court

Featured Court cases

Advising founding majority shareholder of a leading You-Tube channel in respect of a dispute with a minority shareholder.

Advising two participants in a Guernsey based joint venture involving a property development involving complex issues of partnership and trust law.

Advising and acting for two HNWI individuals in a substantial IRHP misselling claim against a bank in respect of multiple lending facilities.

Advising a HNWI individual in respect of a claim in respect of a structured note that failed to respond in accordance with the manner in which it was intended to.

Acting for and advising a director in respect of claims brought by his former company's liquidators and related Directors' Disqualification proceedings.

Acting for and advising two directors in respect of claims brought against them in respect of the re-financing of the company's borrowings.

Advising (in conjunction with US lawyers) on FCPA, RICO and SEC 'whistleblowing' matters in respect of activities undertaken in Europe by entities with listings in the USA.

Acting for multi-national company in proceedings against two former employees who had taken confidential information to a competitor company. Instructed to obtain urgent injunctive relief.

Advising investor in fraud claim against company, directors and other shareholders in circumstances where shortly after his investment the company was put into administration and its business sold on by way of pre-pack to a competitor.

Acting for multiple insurers in dispute with brokers over PPI liabilities.

Acting for the vendors of a business in respect of a disputed earn-out payment due from the purchasers based on the company's subsequent performance. The dispute raised issues of contract construction, rectification, and a challenge to an expert determination.

Acting for the liquidators of a company in respect of loans to former employers.

Advising and acting for liquidators of a company in respect of recovery of a judgment debt against an individual subject to a restraint order and facing parallel criminal and insolvency proceedings.

Advising a major financial intermediary in respect of multiple claims seeking recovery of commission paid by creditors over many years. The case involved issues of scope of duty of an introducing agent, breach of fiduciary duty, secret commission and limitation. Strategic issues involving claims farming and successfully resisting attempts to consolidate and identify lead claims for a group action.

Civil Fraud

Featured Civil Fraud cases

Acting in complex international civil fraud case arising out of a dispute between Eastern European family investors and international shareholders over their investment via a Cyprus company into investment funds with parallel proceedings in various jurisdictions. Issues involve derivative claims alleging fraud on the English court and various allegations of conspiracy and fraud under a foreign civil code with losses alleged to be more than €100 m.

Sale of Goods

Featured Sale of Goods cases

Acting and appearing on behalf of an aggregator in a chain of supply contracts involving the supply of animal by-products and their onward process in to tallow. Issues involved the construction of the terms and the scope of the statutory implied terms, the impact of the change in EU Regulations and the involvement of a third party government body.

Acting on behalf of an auction house in its successful claim in restitution for intangible property. The case involved complicated areas of restitution and proceedings in the Court of Appeal.

Acting in multi-party stakeholder dispute in respect of highly valued Ferrari with disputes as to ownership, rights to sell, settlement agreements across multiple jurisdictions.

Professional Negligence

Featured Professional Negligence cases

Acting for auditors in alleged defective audit alleged to have been overly conservative.

Acting for auditors in alleged failure to detect fraud.

Various cases involving tax mitigation schemes that had failed representing clients and the relevant professionals. Cases are ongoing.

Acting against Guernsey based directors in respect of decisions to enter into a financing arrangement in association with

property development.

Acting for Jersey based directors wholly owned by a Guernsey based trust in respect of a decision to enter into a Swiss franc denominated re-financing arrangement in association with a substantial English estate.

Acting for insurer in respect of a claim against a US based third-party claims administrator where the insurer had been exposed to a punitive damages claim by reason of the alleged negligent claims administration.

Acting for and against lenders in respect of mortgage fraud claims.

Acting for and against numerous solicitors firms in claims arising out of advice, conduct of litigation and transactional work.

Acting and appearing for Gibraltar based firm and barrister in respect of alleged professional negligence in respect of a claim against a bank in English proceedings where claims are also made against two other barristers who were subsequently instructed. Issues include the viability of the pleaded claims, professional obligations in respect of pleading fraud and causation.

Advising surveyors and their insurers in respect of their potential liability to a peer-to-peer lending platform.

Acting for and against surveyors on residential and marine valuations.

Acting for Jersey based trustee in claim brought by beneficiaries in respect of the trust's historic non-Jersey tax obligations. The matter involves complex questions of a trustee's duty with regard to payments of uncertain foreign tax obligations as well as challenging limitation and causation issues.

Acting and appearing for an importer of spices alleged to have included a contaminant (Sudan Red) leading to one of the largest product recalls in Europe.

Acting for UK distributor of a bio-pesticide in multi-party proceedings in respect of the effectiveness of the product.

Acting for insurers of importer of horticultural products for damage caused by invasive foreign species.

Acting for insurers of public utility in respect of claims relating to congenital defects alleged to have been caused from contaminated water.

Acting in dispute arising from product recall of pharmaceutical products with non-compliant packaging and labels.

Acting for multi-national oil refinery maintenance contractor in respect of fire at major refinery.

Acting for insurers in respect of fire at luxury central London development.

Acting behalf of national utility in respect of fire at solar panel installations.

Acting on behalf of insurers in respect of responsibility for fire starting in a gym sauna.

Acting on behalf of warehouse owner and others in respect of multi-million fire claim allegedly caused by discarded cigarette.

Acting and appearing for owner of one of a set of terraced thatched cottages in multi-party dispute in respect of alleged fire escaping through recently re-pointed chimney.

Offshore Litigation

James is regularly instructed in a wide variety of offshore work including leading cases relating to directors' liabilities and company issues; in respect of regulatory matters in respect of insurers and their regulators and more generally in advising offshore regulators and stock exchanges. He has acted in litigation and non-contentious matters in a range of traditional offshore jurisdictions, including Jersey, Guernsey, Gibraltar as well as other jurisdictions including Bulgaria, Malaysia, Tokyo and Zurich.

Financial Services Matters

Featured Financial Services Matters cases

Advising Offshore Stock Exchange as to the potential regulatory exposure in respect of the restructuring of its internal Appeals Committee and the requirements for D&O insurance. Issues included the scope of a statutory exemption of liability to a private entity and whether that extended to its officers and/or employees and the interplay of this with the need for D&O insurance for senior decision makers.

An investigation by offshore (Singapore, Denmark and Germany) and UK regulators into various regulated entities who acted as counter-parties in various transactions related to the international Cum-ex trading scandal.

An investigation into the activities of an offshore Hotel Group and the structure of its investments and their marketing to UK companies. The case raised complex jurisdictional issues and matters relating to the structure of collective investment schemes.

Litigation involving the Gibraltar Regulator and a Gibraltar regulated insurer relating to concerns about solvency. The case involved the possibility of injunctive proceedings against the regulator and was commercially highly sensitive.

Litigation against offshore regulator seeking to appoint a provisional liquidator that had a conflict of interest over an insurer. Involved the interface between the regulatory rules and the offshore jurisdictions' insolvency rules.

Advising Swiss Regulated Entity and its UK Subsidiary about regulatory impact from removal of regulated individuals and impact on business.

Claims against directors

Featured Claims against directors cases

A Jersey dispute relating to a Guernsey company sitting under a Jersey trust and the conduct of its directors before and during the financial crisis. Issues included the interface between Guernsey company law and Jersey trust law and the rights of directors to have regard to the interests of the ultimate beneficial owner.

A Guernsey dispute involving a claim by a company against its directors in respect of a multi-million property development, the financing of it and the conduct of the directors in relation to the company's financial covenants.

Claims against trustees

Featured Claims against trustees cases

Litigation involving claims against a Channel Island's corporate Trustee's conduct in relation to the historic settlement of a Trust involving the impact of new Israeli tax legislation, a settlement with the Israeli Tax Authorities and causation and quantum issues, as well as the application of an exoneration clause.

Partnership and Joint Venture Disputes

Featured Partnership and Joint Venture Disputes cases

Channel islands litigation involving quasi-partnership, joint venture and trust issues in respect of a property development where two of the directors have been removed from the key operating entity by a co-investor.

Appointments

- Trained mediator

Publications

- Civil Appeals: Principle and Procedure. Sweet & Maxwell 1st Edition 2010. 2nd Edition 2015.
- Regular contributing editor on Financial Services, Professional Negligence and Insurance for Law Brief Update (electronic monthly newsletter for solicitors and practitioners).
- Lloyd's Law Reports: Financial Crime – Case reporter and commentator.

Education

- MA (Cantab) Classics
- Dip Law (City University)
- Dip European Law (London)

Languages

- French (working knowledge)

Recommendations

James is recommended as a leading junior for Banking & Finance, Financial Services and Insurance and Reinsurance, Offshore and Professional Negligence in the legal directories where comments include:

- The complete barrister. He has the full range of skills and expertise in the practice areas instructed on
- Highly responsive, extremely clever and user friendly
- He's very bright, hard-working and provides practical advice too which is extremely thorough. He spots points others would miss,
- Really bright and very good with the detail
- Exceptionally clever, a superb strategist and always one step ahead of the game
- A seasoned commercial court litigator with real expertise in financial services and insurance
- James is an excellent barrister: extremely bright; an engaging manner with both clients and judges; calm and assured on his feet. He is always immaculately prepared; very responsive and self-assured in the run-up to hearings, and unflustered by changing/unexpected developments; and someone in whom the clients and solicitors had complete confidence. A barrister who excels at – and seems to love – every aspect of the job.'
- Diligent, hard-working and extremely intelligent
- Brilliant with any form of really difficult FCA case.
- He's brainy and reliable, gives brilliant notes and produces excellent written advice
- He never lets you down...totally conscientious, totally unflappable and totally on the ball
- Intellectually sharp and admired for his depth of knowledge
- A litigator with bags of experience and plenty of fight
- He is excellent. He is extremely adept at complex matters but also turns around issues incredibly quickly. He is responsive and not afraid to get fully immersed in a matter. He is great at client handling and is helpful to try and find creative solutions to the often thorny problems.