



James Weale

Year of Call: 2007

Email address: jweale@serlecourt.co.uk

Overview

James has a very busy practice and is regularly instructed in matters involving general commercial and contractual disputes, professional negligence, trusts and equity matters, wills and probate, inheritance act claims, insolvency, property and cross-border disputes. He has substantial litigation experience in the High Court and County Courts.

Areas of expertise

- Commercial Litigation and Arbitration
- Trusts and Probate
- Insurance and Reinsurance
- Banking
- Insolvency
- Company, Partnership and LLP
- Civil Fraud
- Professional Negligence
- Art
- Property
- Charities
- Mediation
- Sports, Entertainment and Media
- Intellectual Property
- Regulatory and Disciplinary

Recommendations

Private client - trusts and probate (*Legal 500*)

Chancery: Commercial (*Chambers & Partners and Chambers Global*)

Dispute Resolution (*Chambers Global*)

Quotes

"The client has a huge amount of trust in his judgement, which is hugely deserved." "Both understanding and sympathetic," he's "a hard worker, who can think outside the box and always gets the best result for the client.": Chambers & Partners 2018 and Chambers Global 2018

"He is very sharp minded and a growing force in the field.": Legal 500 2017

"He's an excellent strategist and brings a huge amount of energy to his work which is always first rate. He's both very methodical and highly commercial in his approach": Chambers & Partners 2016

"He is excellent at identifying the issues and pushing things forward", and "In court he is incredibly competent and knowledgeable without coming across as arrogant": Chamber & Partners 2015

"He is a very good junior who punches well above his weight": Chambers & Partners 2014

"exceptionally talented and experienced beyond his years", and "someone who will go far": Chambers & Partners 2013

Star of the Bar: Chambers & Partners 2013

Commercial Litigation and Arbitration

Orion Holdings Overseas Limited and others v Mohammed Abu Al Haj and others CFI 033/2015, 8 February 2018 (DIFC). James acted (with Rupert Reed QC) on behalf of the claimants in successfully resisting a jurisdiction challenge brought by a Swiss Bank. The Court rejected the bank's argument that it should decline jurisdiction on the basis that the contracts which the claimants sought to set aside were subject to an exclusive Swiss jurisdiction clause.

Danilina v Chernukhin (2017-). Instructed by Clifford Chance (led by Jonathan Crow QC) on behalf of the defendants in a multi-million dollar dispute concerning the ownership of assets based on an alleged oral agreement. James also acted for the defendants in their successful application for security for costs [2018] EWHC 39 (Comm) (Cockerill J) and in successfully resisting the claimant's application for permission to rely upon documents disclosed in proceedings in support of her alleged rights under the Data Protection Act [2017] EWHC 3052 (Comm) (Teare J).

Deripaska v Chernukhin (2016-). Instructed by Clifford Chance (led by Jonathan Crow QC) on behalf of the defendants to four claims made pursuant to sections 67&68 of the Arbitration Act 1996. The claims follow a substantial (\$95 million) arbitration award in favour of the defendants in which James also acted. The claims have been listed for a 4-week trial in 2018.

LCIA Arbitration: (1) Vladimir Chernukhin (2) Navigator Equities Limited v (1) Oleg Deripaska (2) Filatona Trading Limited (3) Navio Holdings Limited. Instructed by Clifford Chance (led by Jonathan Crow QC) on behalf of the claimants in a shareholders dispute arising out of an extremely valuable real estate site in central Moscow. The claimants sought a buy out of their interest in a Cypriot SPV on the basis of oppressive conduct under s.202 of the Cyprus Companies Law. The claimants successfully resisted a jurisdiction challenge following a 3-day hearing in September 2016 and subsequently succeeded in obtaining an order for their shares to be bought out for \$95 million following a 2-week hearing in March 2017.

A v A; A v Line Trust Corporation Corporation & Ors (2017/CACIV/01) (Gibraltar). James acted (with Deborah

Bangay QC, Dakis Hagen QC and Jonathan Harris QC (hon)) for the applicant in one of highest value divorce cases in recent years. The dispute involved two complex overseas trust structures and generated 6 claims in 3 different jurisdictions (England, Gibraltar and the Cayman Islands). James acted as the applicant's principal advocate in the Court of Appeal in Gibraltar and in related proceedings in the Chancery Division.

Chaggar v Chaggar (2017-). Instructed by Shakespeare Martineau (led by Richard Wilson QC) on behalf of the claimant in a week-long trial in the High Court (Birmingham) in a complex contractual dispute involving allegations of fraud and economic duress. Judgment is awaited.

Campbell v Campbell [2017] JRC 108. Instructed by Dickinson Gleeson for the successful claimant in a complex claim for a declaration of trust over various assets including company loans in the Royal Court. The case raised a number of novel points of law in relation to the incidence and application of constructive trusts in Jersey.

Tseitline v Mikhelson (2015-). Instructed by Dechert (with David Lord QC) on behalf of the claimant in a multi-million dollar claim against one of the wealthiest businessmen in Russia arising out of a contract relating to a substantial commercial development in the centre of St Petersburg. The claimant succeeded before Phillips J in establishing that personal service was effected in London ([2015] EWHC 3065 (Comm)).

Keown v Nahoor [2015] All ER (D) 53 (Dec). Instructed (as sole counsel) by Vanderpump & Sykes on behalf of the claimant in a c.£750,000 claim for fraud, knowing receipt and unjust enrichment against the claimant's former accountant and two third parties. The claim succeeded before David Halpern QC (sitting as a Deputy Judge of the High Court).

Cherney v Deripaska (2012). Instructed by Dechert (with Mark Howard QC and David Foxtan QC) on behalf of the claimant in a claim for \$4 billion in relation to a disputed interest in the world's largest aluminium company, United Company Rusal. The case settled shortly after the commencement of the trial.

Trusts and Probate

Griffin v Higgs [2017] EWHC 2559 (Ch): Instructed by Mills & Reeve for the beneficiaries of a will trust in a claim brought for the removal of trustees. The claim was the subject of a 3-day trial in the High Court.

Martin v Williams [2018] 1 F.L.R. 125; [2017] W.T.L.R. 1041. Instructed by Frydenson & Co for the successful appellant/defendant in a claim under the 1975 Act before Mr Justice Marcus Smith. James succeeded in overturning the first instance judgment which had ordered an outright transfer of the estate's principal asset to the claimant (the deceased's long-term partner).

Henchley v Thompson [2017] EWHC 225 (Ch). Instructed by Withers (led by Richard Wilson QC) on behalf of the successful claimants in a trust dispute against one of the wealthiest businessmen in the United Kingdom. The claim involved an interesting question of whether a trust account is an absolute right or is in the discretion of the Court and the limitation period applicable to trust claims.

Ubbi v Corrado (2017-). Instructed by Russell-Cooke for the defendant to a claim by the deceased's minor children under the 1975 Act. The claim was the subject of a 3-day trial in the High Court in January 2018. Judgment is awaited.

Van De Merwe v Goodman [2016] 4 WLR 71; [2016] WTLR 913. Instructed by Berwin Leighton Paisner on behalf of the successful beneficiaries in an application to set aside a settlement on the grounds of mistake. The High Court (Morgan J) gave guidance as to where the boundary lies between mistake in contract and mistake in

equity in circumstances in which a transaction is entered into by agreement. In a subsequent judgment [2016] EWHC 926 (Ch), Morgan J refused permission to appeal.

Elliot v Simmonds [2016] EWHC 732 (Ch). Instructed for the Defendant to a probate claim in which the Defendant did not mount a positive defence but invoked the procedure under CPR 57.7(5). This is the first modern authority to give guidance as to the nature and scope of that procedure.

Wooldridge v Wooldridge [2016] Fam. Law 451. Instructed by Withers (initially as sole counsel and, later, with Richard Wilson QC) on behalf of the claimant in one of the highest value 1975 Act claims to come to trial.

Earl of Cardigan v Cotton and others [2015] W.T.L.R. 373. Instructed by Berwin Leighton Paisner (with Gilead Cooper QC) on behalf of the claimant in a claim to remove trustees and for compensation. Previously acted as sole counsel in relation to a successful amendment application before Barling J ([2014] W.T.L.R. 559). Following a 3-week trial, Newey J ordered the removal of one trustee and the payment of compensation for breach of trust.

Cotton v Earl of Cardigan [2015] W.T.L.R. 373, CA. Instructed by Berwin Leighton Paisner (with Gilead Cooper QC) on behalf of the appellant in relation to an application by trustees to “bless” the sale of the trust’s principal asset, Grade I listed Tottenham House, for the sum of £11.25m. This was the first decision of the Court of Appeal to consider the procedural and substantive principles applicable to *Public Trustee v Cooper* applications. The Court of Appeal hearing followed two first instance decisions heard in private ([2013] EWHC 4460 (Ch) and [2014] EWHC 1123 (Ch)).

Soomro v Khuawar [2015] All ER (D) 55 (Feb). Instructed for the successful claimant in the trial before Martin Mann QC (sitting as a Deputy High Court Judge). The Court ordered a declaration of beneficial ownership of the family property in favour of the Deceased’s following an application of the principles set out in *Vandervell v IRC* [1967] 2 AC 291.

Insolvency

Re Footprint Wireless (2017). Instructed by Morgan Rostron on behalf of the liquidator in a substantial claim against an alleged shadow director pursuant to the adjustment provisions of the Insolvency Act 1986. The claim, which had been listed for a 3-day trial in the High Court, settled on the day before trial

Re Denham Park Ltd (in liquidation) (2014-). Instructed by Devonshires (with Andrew Twigger QC) on behalf of a creditor seeking the replacement of liquidators in order to investigate the company’s current liquidators and former directors in relation to the misappropriation of assets worth c.£30 million. A replacement liquidator was agreed following the hearing of the application.

Company, Partnership and LLP

Re BW Ltd; Re BW Funding Ltd (2015). Instructed by Gibson Dunn and Walkers (Cayman) (with Andrew Twigger QC) on behalf of the respondents to a petition in the Cayman Islands for just and equitable winding up on the basis of alleged loss of substratum. The respondents formed part of a complex investment structure set up by Investcorp Bank BSC. The petitions were withdrawn as part of a settlement shortly before the hearing of the petition.

Re FSC Andrews Ltd [2015] EWHC 4042 (Ch). Instructed on behalf of the applicant by Leathes Prior (with

Andrew Twigger QC) in relation to an application to strike out a s.994 petition on the grounds of abuse of process. The application succeeded in the High Court (the report of the *ex tempore* judgment is awaited).

Thukral v The Official Receiver (2014). Instructed (as sole counsel) on behalf of the appellant director who appealed the order of Registrar Derrett imposing a disqualification period of 11 years following a 5-day trial. The appeal succeeded before HHJ Jarman QC (sitting as Judge of the High Court) who set aside the order below and ordered a retrial.

Hurd v TPL Holdings [2014] All ER (D) 266. Instructed by Stewart Moore (with Richard Wilson QC) for the successful respondent to an application to strike out a s.994 petition before George Bompas QC (sitting as a Deputy High Court Judge). The case settled shortly after the hearing.

Art

David Wood v Timothy Sammons (2015-). Instructed (as sole counsel) by Berwin Leighton Paisner on behalf of the claimants, the trustees of the WH Smith family trust, in relation to a claim to recover £1.6m arising out of a contract to sell a painting by Bernado Bellotto.

Robinson and Ors v Timothy Sammons (2015-). Instructed (as sole counsel) by Forsters on behalf of the claimants, the executors of the estate of the late Viscount Bedisloe QC, in relation to a claim for the recovery of a painting by Thomas Gainsborough.

Marquis of Northampton v Northampton BC (2014). Instructed (as sole counsel) by William Sturges on behalf of the claimant in a claim to recover a rare Egyptian artefact, the Sekhemkha statue, from the Northampton Museum and Art Gallery. The case settled before the statue was sold by the museum for £16million.

Sports, Entertainment and Media

Acted on behalf of David Greenwood and others in claims brought against them by the British Horseracing Authority for alleged betting conspiracies. Appeared before the BHA Tribunal and acted in High Court proceedings resisting an application for Norwich Pharmacal relief.

Regulatory and Disciplinary

Law Society / Solicitors Regulation Authority. Member of the Law Society's panel and have acted in several cases against solicitors whose practices have been intervened in by the Law Society. Instructed by Lester Aldridge, Blake Morgan, Devonshires and Shacklocks. Recent cases in the High Court include: *Law Society v Ahmad* (2015), *Law Society v Cassam* (2015), *Law Society v Franks* (2014), *Law Society v Enaw* (2014), *Law Society v Alabi* (2014), *Law Society v Hussein* (2014), and *Law Society v Ali* (2014).

Qualifications

LL.B (Hons) (1st Class) - University of Bristol (highest overall marks in second and final years)

BCL - University of Oxford
(Lincoln College)

BVC - BPP Law School (Outstanding)

Memberships

Chancery Bar Association

COMBAR

Association of Partnership Practitioners

Publications

Contributor to Palmer on Bailment (3rd ed.).

'Probate litigation: the incidence of costs', *Trusts & Trustees* 2015, 21(4), 449-456.

'A good arguable case for restricting the Canada Trust Gloss', *Journal of Business Law*, 2010, 1, 36.

'Still going strong: the irrepressible Hastings-Bass principle', *Trusts and Trustees*, 2010, 16(5), 340.

'Strike Out!', *New Law Journal*, 2009, 159 (7367), 630.