

## James Pearce-Smith

Head of Company and Commercial



YEAR OF CALL: 2002

INN: INNER TEMPLE

SOLICITOR: 1994

“ James has really strong analytical skills. He provides clear and client-friendly advice.”

CHAMBERS UK, 2022  
COMPANY

## Practice Overview

James, a former solicitor, is an experienced litigator specialising in commercial and property disputes. His practice includes company and partnership disputes, construction disputes and insolvency, and he is often instructed in complex disputes which span more than one of these disciplines. He has particular expertise in professional negligence claims. He also deals with traditional chancery work, such as disputes in relation to trusts and wills.

James has strong analytical and mathematical skills, enabling him to get to the heart of disputes quickly and effectively. His approach is to analyse cases thoroughly at the outset, to give clients a realistic appraisal of the chances of success and to help them adopt the most effective strategy.

James regularly appears in the High Court, in particular the Bristol Commercial Court. He has considerable experience of representing clients at trials in the High Court and the County Court, as well as acting for parties on interim applications, including urgent ex parte injunctions. He is often instructed in cases where other parties are represented by QCs.

Recently, James has acted for Airbus in a major secret commission trial, for Dyson in two confidential information cases involving ex parte injunctions and search orders, for Lloyds Bank of Scotland and Nationwide Building Society in a large number of substantial professional negligence claims, and for a rail freight company in a

substantial arbitration claim against Network Rail. James has also been instructed in many cases by SMEs and by private individuals.

## Areas of Expertise

### Commercial

James is the head of our commercial team and has over 25 years' experience as a commercial litigator, including 8 years as a commercial litigation solicitor at two major law firms before transferring to the Bar in 2002.

As a barrister, James has continued to specialise in commercial litigation, representing businesses from SMEs to major international companies (such as Airbus and Dyson) in a broad range of commercial disputes across a wide spectrum of industries (including IT, manufacturing, agriculture, food processing and the rail industry). As well as disputes between companies, James also regularly advises on share purchase disputes and claims against directors and employees for breaches of post-termination covenants and other breaches of duty.

James has strong analytical and numerical skills, and the ability to get to grips quickly with the technicalities and nuances of commercial disputes, no matter what the context. His approach is to get to the heart of the issue as directly as possible, to provide clients with effective and commercially-focused advice.

James has considerable experience of representing clients in trials, injunction hearings and other contested applications, typically in the Business & Property Courts, the High Court and arbitrations, and often against QCs. He also uses his skills as a qualified mediator to assist clients in commercial mediations.

### Company

James has over 20 years' experience as a commercial litigator, including 8 years as a commercial litigation solicitor prior to his transfer to the Bar in 2002. He regularly advises and represents parties in company disputes, including unfair prejudice petitions, claims against directors (including claims for breach of statutory and fiduciary duties and for breach of covenant), and disputes relating to the sale of shares.

### Insolvency

James has over 20 years' experience as a commercial litigator, including 8 years as a commercial litigation solicitor prior to his transfer to the Bar in 2002. He regularly acts and advises in insolvency matters. He has acted for both companies and individuals in applications to set aside statutory demands and to obtain injunctions to prevent presentation or advertisement of petitions, and has appeared at the final hearings of petitions. He advises on issues arising in insolvencies, such as claims by liquidators or trustees to set aside prior transactions. In addition he has acted for shareholders bringing winding-up petitions in conjunction with unfair prejudice petitions.

## Partnership

James has over 20 years' experience as a commercial litigator, including 8 years as a commercial litigation solicitor before his transfer to the Bar in 2002. Throughout that time James has regularly advised and represented parties in partnership disputes, especially in connection with professional partnerships. James has advised in connection with partnerships of solicitors, accountants, doctors, dentists and vets, as well as farming partnerships and commercial partnerships.

James is currently representing parties in a dissolution action in the High Court concerning a substantial farming partnership in Somerset. He is also acting for partners in a South Wales GP practice in another dissolution action. Recently, James has represented a partner expelled from a solicitors' practice in a complex dispute involving allegations of dishonesty.

## Construction & Engineering

James has over 20 years' experience as a commercial litigator, including 8 years as a commercial litigation solicitor prior to his transfer to the Bar in 2002.

Throughout his career as a barrister James has regularly represented parties in construction disputes, ranging from disputes between home-owners and builders over domestic building projects to complex commercial construction disputes. James has advised and represented parties in arbitrations and adjudications, as well as claims in the TCC (including enforcement of adjudication awards).

James has also acted and advised on a number of professional negligence claims relating to construction contracts.

## Mediation

James qualified as a mediator in January 2018. He is very experienced in representing parties at mediations, especially involving commercial disputes and claims for professional negligence, and is now able to use this experience to assist parties as a mediator.

James' qualities make him ideally suited to be a mediator. He is calm, pragmatic, empathetic and personable, a problem-solver with a sharp legal mind and considerable experience across a broad range of commercial and chancery matters.

James is also happy to act as a mediator in disputes outside his normal practice areas.

## Professional Negligence

James has particular expertise in professional negligence disputes. He specialised in professional negligence

claims as a solicitor, and has continued to do so as a barrister. He generally acts for claimants, but is also instructed from time to time to advise professionals in claims against them.

### **Professional Negligence in Banking**

James has particular expertise in professional negligence claims brought by lenders against solicitors and surveyors. As a solicitor he had conduct of two of the claims in *Nationwide BS v Balmer Radmore*. As a barrister he has represented Nationwide BS, Lloyds Bank, Bank of Scotland and Platform Home Loans and other lenders in more than 60 claims, many of them were complex multi-million pound claims relating to commercial or investment properties.

### **Professional Negligence in Company and Commercial**

He has considerable experience of acting for parties (usually claimants) in a wide range of professional negligence claims against:

- ▶ Solicitors concerning share sale/purchase agreements;
- ▶ Solicitors and surveyors in connection with conveyancing transactions;
- ▶ Solicitors and barristers about the conduct of litigation;
- ▶ Accountants concerning the preparation of accounts and the failure to warn about unlawful dividends.

He also has particular expertise acting for parties (usually claimants) in a wide range of other types of professional negligence claim, including claims against construction professionals.

### **Professional Negligence in Real Estate**

James acts for parties (usually claimants) in a wide range real estate claims. He has advised on claims against:

- ▶ Solicitors for negligent conduct of conveyancing transactions;
- ▶ Surveyors for negligent surveys (including failure to identify damp, dry rot, and the presence of asbestos);
- ▶ Architects planning consultants.

The lenders' claims invariably relate to real estate as well.

### **Real Estate**

James, a former solicitor, is an experienced litigator specialising in commercial and real estate matters. He regularly advises in relation to property disputes, often with a commercial flavour, including claims relating to commercial leases. He has acted in numerous claims relating to legal or beneficial ownership of land, boundaries and rights of way. He also specialises in professional negligence claims, and has considerable experience of advising on claims relating to conveyancing, property surveys, valuations and other property-related matters.

## Recent cases

- ▶ Nationwide v EMW [2018]
- ▶ GB Railfreight v Network Rail [2018]
- ▶ Travis-Jones v Specialist Xpress [2018]
- ▶ Nationwide BS v Colliers [2017]
- ▶ Thew v Davies [2017]
- ▶ Bobby Fowke v Bupa [2017]
- ▶ Sudicka v Morgan [2017]
- ▶ Cook v Maxim [2017]
- ▶ Chait v Harris Calnan [2017]
- ▶ Craig v Yiannou [2017]
- ▶ Wright v Skyline [2017]
- ▶ Yamato v Heffernan [2016]
- ▶ Framptons v Innocent [2016]
- ▶ Specialist Business Solutions v TC Consult [2016]
- ▶ Specialist Business Solutions v TC Consult [2016]
- ▶ Stenner v FDC [2016]
- ▶ Walford v Salter [2016]
- ▶ Fix Training v Welsh Ministers [2016]
- ▶ FB Beauty v Minto [2016]
- ▶ Gaze v Marcus Sinclair [2015]
- ▶ Airbus Operations Ltd v Withey [2014] EWHC 1126 (QB)
- ▶ Lloyd v James Blair and RO Dando & Sons [2015]
- ▶ Whitehouse v West Somerset Railway Association [2015]
- ▶ Lloyds Bank v Tollers [2015]
- ▶ Airbus v Withey [2014] EWHC 1126 (QB)
- ▶ Dyson v Pearson; Dyson v Nagy [2015]
- ▶ FB Beauty v Monsoon [2015]
- ▶ North Devon District Council v Midas and Craddy Pitchers [2015]
- ▶ Nationwide BS v Stags [2014]
- ▶ Pringle v Reynolds [2014]
- ▶ Bank of Scotland v Alder King [2014]
- ▶ Lloyds v Cooke & Arkwright and Cluttons [2014]
- ▶ Lloyds v Bankside and EMW [2014]

## Recommendations

"He has an eye for detail and great knowledge of this area of law. Always approachable and willing to go that extra mile."

**LEGAL 500**, 2022  
COMPANY AND INSOLVENCY

"The go-to barrister in Bristol for lender claims."

**LEGAL 500**, 2022  
PROFESSIONAL NEGLIGENCE

"James exudes an aura of knowledge and confidence. He is capable of providing case-changing analysis."

**LEGAL 500**, 2022  
COMMERCIAL LITIGATION

"James is really succinct and clear. His pleadings are detailed and he has strong analytical skills."

**CHAMBERS UK**, 2022  
COMMERCIAL DISPUTE RESOLUTION

"Someone to turn to as a sensible head; he gives good objective views and knows how to push things forward or take a more defensive position. Clear and client-friendly advice. His pleadings are detailed and he is very approachable."

**CHAMBERS UK**, 2022  
PROFESSIONAL NEGLIGENCE

"He is fantastic and no-nonsense."

**CHAMBERS UK**, 2022  
CONSTRUCTION

"He explains things in ways that clients can relate to and understand, and he is very responsive. In court, his advocacy is really great – he is tenacious and has a very good command of his brief."

**CHAMBERS UK**, 2021  
PARTNERSHIP

"Cuts to the heart of a case and addresses the true issues, with a level of legal knowledge that instils confidence in his clients."

**LEGAL 500**, 2021  
COMMERCIAL LITIGATION

"James is a very considered, careful and accurate lawyer. He's a very good trial advocate and is an excellent choice for difficult cases. 'He has an incisive brain and an ability to identify the strengths and weaknesses in a case. He's also very good with clients.' "

**CHAMBERS UK**, 2020  
PROFESSIONAL NEGLIGENCE

## Professional memberships:

- ▶ Chancery Bar Association

## Qualifications & awards:

- ▶ MA (Cantab)
- ▶ Admitted as a Solicitor 1994

Contact James:

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