

## James Pearce-Smith

Head of Company and Commercial



YEAR OF CALL: 2002

INN: INNER TEMPLE

SOLICITOR: 1994

“ 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

## 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 has over 20 years' experience as a commercial litigator, including 8 years as a commercial litigation solicitor at two major law firms prior to 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 beauty products).

### Company

James 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 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 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 and farming partnerships.

## Construction & Engineering

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

"James has a broad practice, spanning commercial litigation, company disputes and insolvency cases. 'He's very good – he's got a good reputation for being a careful person and a good practitioner.' "

CHAMBERS UK, 2019

COMPANY

"Well known for representing banks in professional negligence lender claims. 'He is exceptionally good with clients and has a good bedside manner. He can convey complex legal advice in a meaningful way.' 'He's very thorough and his opinions are written in a readily understandable way, so they can be passed on to the client who can then make complete sense of them.' "

CHAMBERS UK, 2019

PROFESSIONAL NEGLIGENCE

"Highly regarded junior with a thriving construction portfolio as part of a broader commercial practice. 'He is really good and very accessible, and is willing to go the extra mile.' 'He is very pragmatic and approachable and his advice is spot on.' "

CHAMBERS UK, 2019

CONSTRUCTION

"Recognised for his wide-ranging practice which includes chancery work and commercial litigation, with a specialism in company disputes. He advises on breach of warranty claims and shareholder disputes as well as professional negligence cases. 'He's thorough and is a great and effective mediator thanks to his abilities. He can dispense with disputes and concentrate with the salient points.' "

CHAMBERS UK, 2019

COMPANY

"Detail oriented and client friendly."

LEGAL 500, 2018

COMMERCIAL, BANKING, INSOLVENCY AND CHANCERY LAW

"An imperturbable barrister."

LEGAL 500, 2018

CONSTRUCTION

## Professional memberships:

- ▶ Chancery Bar Association

## Qualifications & awards:

- ▶ MA (Cantab)



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