

James Ballance

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Since joining Chambers in October 2010, James has developed a busy advocacy and advisory practice, encompassing a wide range of Chambers' areas of work. James has particular experience and specialism in property litigation, and professional negligence claims.

His areas of work include:

- General civil and commercial litigation
- Property litigation (including land, trusts and landlord & tenant)
- Civil Fraud & Proprietary/Equitable Claims
- Trusts and probate
- Professional negligence claims
- Insolvency (both corporate and personal)
- Company & partnership matters

James appears regularly in the High Court and the County Court (in London and elsewhere), and increasingly in the Court of Appeal. He is equally comfortable being instructed individually, or as part of a team.

General civil and commercial litigation

Instructed in a wide range of general civil and commercial litigation, including: contractual and other business disputes, claims involving urgent injunctive and/or freezing relief, lender claims against borrowers and/or guarantors, claims in restitution, unjust enrichment and subrogation. High profile claims include acting as junior in the *Gorbunova v Berezovsky* litigation. Familiarity with international arbitration, and instructed to act in a multi-million pound international arbitration concerning claims for breach of a contract to sell a business, which settled shortly before final hearing (2013).

Property litigation

Particular experience and specialism in property litigation. His principal fields of work involve:

- Real property litigation: conveyancing matters, co-ownership claims, land registration issues (both pre- and post-Land Registration Act 2002) and rectification claims, constructive trust and proprietary estoppel claims, trespass, boundary disputes, nuisance, adverse possession, contracts for the sale of land/agreements for leases, easements, restrictive covenants, mortgages, undue influence/duress claims, overreaching issues.
- Mortgage possession claims and related lender disputes, including lenders' powers of sale, LPA Receivers, and limitation/adverse possession issues.

- Commercial landlord & tenant disputes, including lease renewal applications, construction of leases, rectification, issues under the Landlord and Tenant (Covenants) Act 1995, break notices, forfeiture/termination, relief from forfeiture, breach of landlord and tenant covenants, and rent review provisions.
- Residential landlord & tenant claims, covering both ASTs and ATs (and earlier forms of secured residential leases), and long leases; possession claims, rent and service charge disputes, forfeiture & termination, relief from forfeiture, and extension / enfranchisement.

Also familiar with and able to advise and act on a wide variety of other property matters, including Sale of Goods Act claims, Village Green applications, applications for charging orders, orders for sale, and vesting orders.

Civil Fraud, Proprietary/Equitable Claims, Trusts and Probate

Wide experience of a range of equity, trusts and probate work. High profile cases have involved complex issues within the law of trusts and constructive trusts, breach of fiduciary duty and breach of trust (including offshore work). Increasingly instructed on civil fraud litigation. Also advises on a range of probate issues, including construction of wills, challenges to testamentary capacity, and Inheritance Act claims.

Professional negligence

Wide-ranging experience in professional negligence claims, against accountants, legal representatives and surveyors, including recent high-profile multi-million pound litigation brought by a company in liquidation against its former defence solicitors, involving complex issues in professional negligence, under the Companies Acts and in breach of fiduciary duty.

Insolvency

Advises and acts on a variety of corporate and personal insolvency matters. Regular appearances on winding-up petitions and rescission applications, bankruptcy petitions, annulment applications and applications to set aside statutory demands; familiarity with the making of administration orders (having notably appeared on the Cobbetts LLP administration application), extension and removal orders; and able to advise on a range of other insolvency matters including appointment of provisional liquidators, CVAs and IVAs, transactions at an undervalue and preferences.

Company & partnership matters

Advises and acts on a range of company and partnership matters, from share re-organisations, pre-emption rights and unfair prejudice petitions to disputes as to the existence, or terms of, partnerships, dissolution claims, and partnership accounts. Also familiar with the law on Law Society interventions into solicitors' firms, from an insolvency context and more generally.

Recent and notable cases

The Wellcome Trust Ltd v Soni (2018) Instructed to advise and appear on a complex and long-running claim for recovery of premises let under a long lease. Succeeded in obtaining an expedited hearing of an application for a writ of restitution in response to considerable evasion and obstruction from the tenants holding over.

Doberman v Watson [2017] 4 WLR 103: A High Court application which clarified for the first time the operation of *res judicata* doctrines in relation to applications in relation to restrictive covenants under s.84 of the Law of Property Act 1925.

Tindall Cobham 1 Ltd v Adda Hotels (2014) Instructed to appear in the Court of Appeal (with John McGhee QC) on an appeal concerning the proper construction of the assignment provisions in a commercial lease, in light of the Landlord & Tenant (Covenants) Act 1995, and issues of severance.

MCashback Limited (in liquidation) v Nabarro Nathanson (a firm) (2012-2014): Acted (with Christopher Parker QC) for the Claimant in a highly complex multi-million pound professional negligence claim brought by a company against its former legal defence solicitors in relation to a claim, which spanned 2006-2010, for (*inter alia*) breach of fiduciary duty. Settled on substantial terms some months before trial.

Gorbunova v Berezovsky (2013): Instructed (with Anthony Trace QC and Thomas Grant QC) in complex litigation involving claims in trust, breach of contract and/or trust, and in proprietary estoppel, with additional conflicts of laws issues.

Hague v Hague Plant Limited (2011-2012): Acted (with Thomas Grant QC) on a complex dispute between family members and family-owned companies, involving technical issues on conveyancing and land registration (pre-2002), and constructive trust and proprietary estoppel arguments. Settled in the 5th week of a six-week trial.

Memberships

Chancery Bar Association, COMBAR, Professional Negligence Bar Association, Property Bar Association, Financial Services Lawyers Association

Education

Having been awarded a Birkenhead Scholarship by Gray's Inn, he completed the BVC at City Law School, where he was classed as Outstanding and won a Scarman Scholarship for the second highest results. He was also awarded an Atkin Scholarship and the Richard DuCann Prize for Advocacy by Gray's Inn.

James joined Maitland Chambers in October 2010, following the successful completion of his pupillage.

Qualifications

BA (Hons) First Class; BCL (Distinction); MPhil (Distinction)

Languages

French, Dutch, German



Recommendations

Legal 500 UK

Professional Negligence

"He is excellent." (2020)