

## JAMES MITCHELL

CALL: 2018



### OVERVIEW

James has a busy practice focused on commercial, civil fraud, insolvency and property disputes. He has experience dealing with all stages of litigation from pre-issue through to enforcement of judgments in both court and arbitration proceedings.

James is experienced working as sole counsel in High Court and County Court proceedings, or as part of a wider team in larger complex disputes, often with an international dimension.

### EXPERTISE

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#### COMMERCIAL LITIGATION & ARBITRATION

James has a particular focus on commercial litigation and arbitration, whether that is acting as sole counsel or as part of a junior counsel team. James also has experience dealing with various issues of private international law that often arise in the cross-jurisdictional complex disputes that James regularly acts in.

- Acting (2022 – ongoing) (led by **George Hayman KC**) in an LCIA arbitration regarding the repayment of a syndicated loan for a construction project.
- Acting (2022 – ongoing) (led by John McGhee KC) in commercial court proceedings for defendants in a claim alleging that a portfolio of properties were sold at an undervalue.
- **WWRT Ltd v Tyshchenko** (2021 - ongoing) (led by Andrew Ayres KC and Thomas Munby KC) for the Claimants in a substantial claim under Ukrainian Law relating to the collapse of Fortuna Bank. It has led to a number of heavy interim applications including a return date for a worldwide freezing injunction, jurisdiction challenge, and cross-examination application **[2021] EWHC 939 (Ch)**; applications to stay

proceedings and for recusal [2021] EWHC 2129; and a summary judgment application [2023] EWHC 79 (Ch).

- Acted (2022) (led by **George Hayman KC**) in an ICC Arbitration concerning the development of part of the London Docklands, which had a six day final hearing.
  - Acted (2020-2022) (led by **Nicholas Peacock KC** and **Rosanna Foskett**) for the Defendants on two complex claims commenced by the FCA and individual investors which included claims alleging various misrepresentations and contraventions of FSMA.
  - Advised (2020) (led by **Catherine Addy KC**) on a claim and counterclaim relating to unpaid consultancy fees.
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## CIVIL FRAUD

James has substantial experience as a civil fraud litigator, both in English courts and in offshore jurisdictions. His recent instructions include:

- **WWRT Ltd v Tyshchenko** (2021 - ongoing) (led by Andrew Ayres KC and **Thomas Munby KC**) for the Claimants in a substantial claim under Ukrainian Law relating to the collapse of Fortuna Bank. It has led to a number of heavy interim applications including a return date for a worldwide freezing injunction, jurisdiction challenge, and cross-examination application **[2021] EWHC 939 (Ch)**; applications to stay proceedings and for recusal [2021] EWHC 2129; and a summary judgment application [2023] EWHC 79 (Ch).
  - Acting (2022 - ongoing) (led by **David Mumford KC** and others) in proceedings in the BVI and Cayman Islands to wind up investment funds on the just and equitable basis on grounds of want of probity. This included assisting in an appeal against the discharge of the appointment of provisional liquidators.
  - **VTB Bank (Public Joint-Stock Company) & Ors v Mazurov & Ors** (2021) (with **Gabriella McNicholas** and Andrew McLeod): instructed in the Isle of Man in enforcement proceedings and resisting applications to discharge freezing relief obtained in support of foreign judgments. James was instructed on the successful appeal of a disclosure order, whereby a Chabra defendant (and interveners) were ordered to provide disclosure pending an application to discharge a freezing injunction.
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## COMPANY & PARTNERSHIP

James is regularly instructed on matters raising issues of company law.

- Acting (2022 - ongoing) (led by **David Mumford KC** and others) in proceedings in the BVI and Cayman Islands to wind up investment funds on the just and equitable basis, including assisting in an appeal against the discharge of the appointment of provisional liquidators.
- Instructed on various cases seeking restoration of companies to the register, rectification of the register of companies and vesting orders of property following the dissolution of a company.

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## INSOLVENCY & ASSET RECOVERY

James has a busy insolvency practice, and acts on numerous bankruptcy and insolvency applications as sole counsel. He also has experience of cross-border insolvency issues.

- Acting (2022 - ongoing) (led by **David Mumford KC** and others) in proceedings in the BVI and Cayman Islands to wind up investment funds on the just and equitable basis, including assisting in an appeal against the discharge of the appointment of provisional liquidators.
- Advising (ongoing) (led by **Thomas Munby KC**) liquidators who are returning client money under CASS 7 following the liquidation of a regulated firm.
- Advised (2022) (led by **Nicholas Peacock KC**) the FCA in respect of a proposed administration of a regulated company.
- Acted (2021) (led by John Briggs) in a three day final hearing of a contested bankruptcy petition and corresponding application for recognition under the CBIR for an interested creditor.
- Acted (2021) in proceedings to wind up a dissolved foreign company.
- Acted in numerous winding up petitions and bankruptcy petitions often where a debt is disputed or a cross-claim is raised as defence to the petition. This is both as sole counsel in England and assisting in offshore proceedings, particularly the British Virgin Islands.

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## OFFSHORE & TRUSTS

James has experience assisting in proceedings offshore in particular in civil fraud, commercial and insolvency cases. James has experience of proceedings in the BVI, Cayman Islands and the Isle of Man.

- Acting (2022 - ongoing) (led by **David Mumford KC** and others) in proceedings in the BVI and Cayman Islands to wind up investment funds, including assisting in an appeal against the discharge of the appointment of provisional liquidators.
- **VTB Bank (Public Joint-Stock Company) & Ors v Mazurov & Ors** (2021): Instructed (with **Gabriella McNicholas** and Andrew McLeod) in the Isle of Man in enforcement proceedings and resisting applications to discharge freezing relief obtained in support of foreign judgments. James was instructed on the successful appeal of a disclosure order, whereby a Chabra defendant (and interveners) were ordered to provide disclosure pending an application to discharge a freezing injunction.
- Instructed (2020) in proceedings in the British Virgin Islands, successfully defending a winding up petition presented in a multi-jurisdictional dispute. Issues included various estoppels, financial assistance, guarantees and agreements to arbitrate.

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## BANKING & FINANCIAL SERVICES

James has particular experience in dealing with banking disputes and issues of financial regulation. In his practice

he has dealt with numerous retail banking claims for banks and regularly acts in cases which raise issues of financial regulation.

- Advising (ongoing) (led by **Nicholas Peacock KC**) the FCA in relation to the activities within the UK of a global cryptoasset exchange.
  - Acting (2022 – ongoing) (led by **George Hayman KC**) in an LCIA arbitration regarding the repayment of a syndicated loan for a construction project.
  - Advised (2022) (led by **Nicholas Peacock KC**) the FCA in respect of a proposed administration of a regulated company.
  - Acted (2020-2022) (led by **Nicholas Peacock KC** and **Rosanna Foskett**) for the Defendants on two complex claims commenced by the FCA and individual investors which included claims alleging various misrepresentations and contraventions of FSMA.
  - Advised (2021) on issues about the regulation of loans under the Consumer Credit Act 1974.
  - Acted as sole counsel for numerous retail banks on claims arising out of their retail business, including cases raising issues under the Payment Services Regulations.
  - Acted as sole counsel on various matters relating to mortgages.
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## REAL ESTATE

James regularly advises and acts on property disputes, whether they be issues of real property, landlord and tenant matters or claims about the beneficial ownership of properties. James also acts in possession proceedings and has experience dealing with charging orders over land following judgment.

- Acting (2021 – ongoing) (led by John McGhee KC) for a port owner in complex claims against a development corporation relating to access rights to land.
  - Acted (2020) for a bank striking out a claim alleging that a mortgage was void.
  - Acted (2020) for a defendant landlord in an application to appoint a manager under section 24 of the Landlord and Tenant Act 1987 in the First-tier Tribunal.
  - Acted (2020) for the Claimant in a substantial claim for a declaration that there was a common intention constructive trust over a property owned by his ex-partner.
  - Acted (2019) for the successful defendant in a 2-day multi-track trial in the Central London County Court concerning the sale of the beneficial interest under a trust of a property.
  - Acted in a number of residential service charge disputes.
  - James accepts instructions for all kinds of possession proceedings and has been instructed on a number of claims against trespassers, including obtaining an urgent abridgement of time to serve possession proceedings in the High Court.
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## PROFESSIONAL NEGLIGENCE

James has acted in a number of professional negligence disputes. His recent instructions include a claim against conveyancers in relation to the sale of a property, and a claim against solicitors regarding the incorporation of

an LLP for a property developer

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## CRYPTOASSETS

James has advised (led by **Nicholas Peacock KC**) the FCA in relation to the activities within the UK of a global cryptoasset exchange.

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## PRIVATE CLIENT

James has experience advising on private client matters including claims for relief under the Inheritance (Provision for Family and Dependents) Act 1975.

## MEMBERSHIPS

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- COMBAR
- Chancery Bar Association
- Property Bar Association

## QUALIFICATIONS

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- BCL, University of Oxford (University College) (2017)
- BA (Law), University of Cambridge (Downing College): First (2016)

## AWARDS

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**Lord Mansfield Scholarship, Lincoln's Inn (2018)**

**Hardwick Entrance Scholarship, Lincoln's Inn (2017)**

**Seton Scholar, Downing College (2016)**

**Clifford Chance CJ Hamson Prize for Aspects of Obligations, University of Cambridge (2016)**

Wilsey and Lerch Scholar, Downing College (2015)