

## JAMES SHAERF

**CALL:** 2021

DIFC (2025), SOLICITOR (2012)

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## OVERVIEW

James accepts instructions in commercial litigation and international arbitration (commercial and investor-state) matters, with particular experience in disputes relating to energy, construction, banking, commodities, and civil fraud.

Prior to coming to the Bar, James practised for more than a decade as a solicitor in major law firms in Paris and London, acting as counsel in more than 20 international arbitrations and in large-scale commercial litigation.

Since coming to the Bar, James has appeared led and unled in the High Court (Commercial Court and Chancery Division), in international arbitrations, and (unled) in the ADGM Courts.

James's recent publications include:

- “Australian appeal court rules on *functus officio*” in *Global Arbitration Review* (7 March 2023) (with David Brynmor Thomas KC)
- “Delay Claims – Law” in *Dealing with Delay and Disruption on Construction Projects* (Sweet & Maxwell: July 2020) (with Oliver Marsden and Bryan Dayton).
- “Making losses good – navigating the legal uncertainty of mitigation of damages in international maritime arbitration” (Paper on mitigation of damages under English and French law selected to be delivered at the International Congress of Maritime Arbitrators, Rio de Janeiro, March 2020).
- “Unjust Enrichment as a Primary Rule of International Law” in *General Principles and the Coherence of International Law* (Brill: 2019) (with Dr Ben Juratowitch KC)

James has additionally presented conference papers and lectures in recent years on damages and evidence in international arbitration, sovereign immunity, and legal ethics.

## LANGUAGES

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- James is fluent in French and is happy to accept instructions with a Francophone element.

## EXPERTISE

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### COMMERCIAL LITIGATION & ARBITRATION

Recent commercial cases of note:

- Instructed as part of the Claimant's counsel team in *NMC Health PLC (in administration) v Ernst & Young LLP* – an ongoing c. £2.5 billion Commercial Court claim against auditors arising from a substantial fraud being committed against, and the subsequent collapse of, a substantial healthcare business in the United Arab Emirates. In connection with this matter, James has appeared on his feet on heavily contested applications in the Commercial Court on three occasions, as well as in the ADGM Court.
- Instructed to appear on behalf of liquidators in the Insolvency and Companies Court to conduct the public examination of a director.
- *Palladian Partners LP & Ors v The Republic of Argentina & Anor* [2023] EWHC 711 (Comm) – acted on behalf of successful claimants in proceedings in the Commercial Court (Financial List) relating to GDP-linked securities issued by Argentina concerning the operation of the securities following Argentina's decision to rebase its GDP. Currently instructed for the claimants on the Republic of Argentina's appeal to the Court of Appeal.
- Acted unled in Chancery Division proceedings, *Hayre v Minhas*, seeking a proprietary injunction and ancillary disclosure orders.
- LCIA proceedings for a major hedge fund arising out of the rehypothecation of securities held by a recently collapsed prime broker (English law).
- Chancery Division proceedings on behalf of the trustees of a Guernsey trust pursued by the liquidators of offshore companies holding security interests over trust assets.

Recent International arbitration cases of note:

- ICC proceedings relating to the enforcement of a English law guarantee in respect of performance of a contract for hotel management in France (English law, Paris seat).
- Instructed in a commodities dispute under the Refined Sugar Association Rules, in respect of a substantial dispute regarding shipments of sugar to Cameroon (English and Cameroonian law).
- ICSID proceedings against Croatia relating to a real estate complex in Dubrovnik
- ICC proceedings for an Egyptian oil and gas company relating to non-delivery of gas to a downstream purchaser (English law)
- LCIA proceedings for a Russian client over the fraudulent dilution of a shareholding in the holding company for telecommunications assets (English law, with satellite BVI and Cyprus litigation)
- Ad hoc proceedings on behalf of a middle eastern government in relation to a defence offset agreement.

- ICC proceedings for an African businessman in a commercial dispute arising out of the operation of a large African precious stones mine (English law)
  - SCC proceedings for a Russian confectionary company in a post-M&A dispute regarding misstatements in sales accounts (English law)
  - UNCITRAL proceedings on behalf of a central Asian state in relation to a dispute regarding a commercial real estate project
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## REAL ESTATE

James has significant experience appearing in complex and technical construction disputes, including expert determinations. James also regularly advises in relation to construction adjudications under the Housing Grants, Construction and Regeneration Act 1996.

Recent real estate cases of note:

- Currently acting on multiple construction adjudications concerning major real estate development projects.
- Acting in Chancery Division proceedings relating to insurance cover for latent defects in commercial real estate development.
- ICC arbitration and expert determination proceedings for a consortium of Asian engineering and construction firms relating to a petrochemical plant in north Africa (Algerian law)
- SCC proceedings for a Russian oil and gas business related to the construction of gas turbines for use in a Moscow power plant (English law)
- LCIA proceedings for a European oil and gas multinational relating to the construction of a semisubmersible mobile offshore drilling unit for drilling operations off the Libyan coast (English law)
- ICC proceedings for a major European building materials company in a post-M&A purchase price-adjustment dispute and related expert determination (English law)

## QUALIFICATIONS

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- 2012: Solicitor of the Senior Courts of England and Wales (non-practising)
- 2007: Barrister and Solicitor of the High Court of New Zealand (non-practising)
- 2008-2009: University of Cambridge / LLM (First)
- 2001-2005: University of Canterbury (New Zealand) / LLB(Hons)/BA

## AWARDS

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**WM Tapp Studentship in Law (Cambridge) (2008)**

**Canterbury District Law Society Gold Medal in Law (top undergraduate) (New Zealand) (2005)**

## **NOTABLE CASES**

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