

# ESSEX COURT CHAMBERS

## BARRISTERS



### JAMES WILLAN KC

Call: 2006 Silk: 2021  
jwillan@essexcourt.com

24 Lincoln's Inn Fields, London WC2A 3EG, UK  
T +44 (0)20 7813 8000 | F +44 (0)20 7813 8080  
DX 320 Chancery Lane  
E clerksroom@essexcourt.com

## PROFESSIONAL PRACTICE

James will be appointed Queen's Counsel in March 2021.

James has a broad practice extending across the full range of commercial, banking and finance, fraud, conflict of laws, commercial chancery and offshore disputes. He holds nine top-tier (band 1) rankings across the legal directories, including for commercial litigation, banking and international arbitration. James is also singled out by Chambers & Partners as a "Star Individual" for civil fraud.

Before taking silk, James was recognised as one of the leading juniors at the commercial bar. He is the only junior barrister to have been identified by Chambers & Partners as one of its "Stars at the Bar", who have proved their excellence across a range of practice areas. Its editorial says of him:

*There are sources who say that James Willan of Essex Court Chambers is "destined for huge things"; one might say, taking his considerable achievements and our researchers' findings in the round, that he has well and truly arrived. A junior of 16 years call at the publication of the 2021 rankings, Willan is star-rated for his civil fraud practice and is also considered one of the leading barristers in banking and finance, commercial litigation, international arbitration, offshore and commercial chancery cases working in London today. Indeed, he has become a "senior junior of choice for complex, cross-border disputes." Sources note that he regularly appears unled against KCs and "holds his own," and that he is "an excellent barrister at his level who will no doubt be a superstar further down the line," declaring themselves "extremely*

*impressed with his written submissions as well as his oral advocacy.” Others are unabashedly fulsome in their praise, with one describing him as “remarkably brilliant – an absolute superstar who is spectacular on his feet, even completely by himself.” Alongside Willan’s clear mastery of his craft, it is reflections on his intellectual acuity that resonate most. Source after source remarks on his ability to “grasp complex, detailed points very quickly” and his “wonderful way of pursuing the complicated points.” ...*

James’ standing across his broad practice is reflected in the fact that he has been awarded “Junior of the Year” in three fields: Banking (Chambers Bar Awards, 2020), Commercial Litigation (Legal 500, 2017) and International Arbitration (Chambers Bar Awards, 2016). He also appeared in The Lawyer’s “Hot 100”, which described him as “*one of the big names at the bar in civil fraud and banking and finance litigation*”.

James wins praise from his clients for combining strong analytical skills (“*a brain the size of a planet*”, “*one of the most intellectually brilliant counsel you could come across*”, “*the brightest junior at the Bar*”) with powerful advocacy (“*simply astonishing in full flow, definitely a future super-silk*”, “*a brilliantly analytical and fast-thinking advocate*”, “*spectacular on his feet*”, “*an exceptional barrister who can read the courts and judges well*”).

James most frequently appears as case leader or sole counsel (in the High Court, the Court of Appeal, and a wide variety of *ad hoc* and institutional arbitrations) in addition to acting as a member of larger teams on heavyweight litigation, including some of the largest cases to come before the courts in recent years. He is equally at home in court or arbitration.

James is also frequently instructed in connection with litigation abroad. He has appeared in the BVI Commercial Court and the Eastern Caribbean Court of Appeal, and has been admitted *ad hoc* and appeared in both the Isle of Man and the Cayman Islands. James was also a member of the Attorney General’s “A Panel” for civil counsel until his appointment as silk.

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## **AREAS OF EXPERTISE**

- Commercial dispute resolution
- Arbitration & related court applications
- Civil fraud & asset recovery
- Banking & financial services
- Injunctions, interim relief
- Commercial chancery disputes
- Offshore litigation
- Conflicts of interest & confidential information
- Derivatives
- Insurance & reinsurance

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## WHAT OTHERS SAY

James is recommended by both Chambers and Partners and the Legal 500 in their top tiers (band 1) for Commercial Dispute Resolution. Comments have included:

- *“outstanding in every way and is in my opinion the best junior at the commercial bar – his written work is outstanding, his legal knowledge is deep and his advocacy is exceptional”*
- *“simply astonishing in full flow, definitely a future super-silk”,*
- *“quite simply, one of the best juniors at the commercial Bar”,*
- *“has the ‘Midas touch’ and is not only exceptionally knowledgeable and commercial, but readily grasps the issues concerning clients”.*

James is also ranked by both directories in band 1 for International Arbitration, where his recommendations have included:

- *“outstanding – a joy to work with and his work never falters in its sheer excellence”,*
- *“absolutely exceptional and super bright”,*
- *“clearly frighteningly bright, he’s very on the ball and understands very complex issues”,* and
- *“a silk in a junior’s disguise; definitely hot property and in great demand”.*

James is the sole junior to be identified as a “Star Individual” for civil fraud in Chambers & Partners, as well as holding a top-tier (band 1) ranking from Legal 500. Comments have included:

- *“the brightest junior at the civil fraud Bar with the maturity and judgment of a silk”,*
- *“simply one of the best juniors around, truly outstanding – he is a top KC in the making; drafts beautifully, is very commercial and is incredibly hard-working”,* and
- *“he is astonishing in every sense of the word – his judgement is second to none”.*

James is also ranked in both directories in band 1 for Banking & Finance, where quotes include:

- *“James is really exceptional. He grasps complicated things very quickly and is extremely sharp on detailed points”,*
- *“a superstar on all fronts. His intellect, analytical skills, ability to master documents, advocacy and his confident and assertive advice are all superb”,* and
- *“incredibly bright, incredibly quick, and all that you want from a top commercial junior”.*

James is also recognised for his specialisms in:

- Chancery commercial: *“truly, truly fantastic. Incredibly impressive in court and often better than the silks in the case, he is one of the biggest stars at the junior Bar right now”, “he is spectacular on his feet and has a remarkable knowledge of the law. His paperwork is also fantastic”, and*
- Offshore litigation: *“an incredibly clever barrister who is much in demand”, “he is phenomenally clever, extremely nice and very easy to work with. You can present him with a fiendish problem and he will go away and come back with a simple answer”, and “attracts consistently excellent praise from peers and instructing solicitors, who commend him as a top-notch commercial junior”.*

James was awarded “Banking Junior of the Year” at the Chambers UK Bar Awards 2020, having previously been named Legal 500’s Commercial Litigation Junior of the Year in 2017 and “International Arbitration Junior of the Year” at the Chambers UK Bar Awards 2016. James has also been one of The Lawyer’s “Hot 100”, described as *“one of the big names at the bar in civil fraud and banking and finance litigation”.*

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## EXAMPLES OF RECENT CASES

Examples of recent cases, which are typical of James’ practice, include:

- **FDIC v Barclays Bank:** James is acting (with Adrian Beltrami KC and Mark Brealey KC) for Barclays Bank in Financial List proceedings brought by the FDIC, a US federal government agency, against leading European banks and the British Bankers’ Association. The FDIC claims substantial damages for alleged LIBOR “lowballing”, alleging claims under EC competition law and for fraudulent misrepresentation.
- **Federal Republic of Nigeria v Shell:** James acted (with Lord Goldsmith KC) for Shell and its subsidiaries in securing the dismissal of claims worth over US\$3.5 billion relating to allegations of corruption in connection with a Nigerian oil prospecting licence.
- **Apache North Sea Limited v INEOS FPS Limited:** James acted (with Sonia Tolaney KC) for INEOS in respect of Commercial Court claims relating to the terms for access to critical North Sea oil infrastructure, giving rise to novel issues relating to when consent could be ‘not unreasonably withheld’.
- **National Bank Trust v Yurov:** James acted for one of the three former directors of one of Russia’s largest retail banks in defending claims valued at over US\$1 billion arising out of the allegedly dishonest management of the bank, which were the subject of a nine-week Commercial Court trial in late 2018.

- **Guralp Systems Ltd v Dr Guralp**: James acted for companies in pursuing substantial claims in the Commercial Court against a former director in respect of the alleged payment of bribes to a foreign public official to obtain public-sector business, which were the subject of parallel criminal prosecutions by the Serious Fraud Office.
- **Yukos International v Merinson**: James acts (leading Stephen Donnelly) for Yukos in its claim against a former employee, Mr Merinson, for allegedly taking unlawful kickbacks from banks. James successfully defended a jurisdiction challenge before the Court of Appeal raising several novel points relating to jurisdiction under the Brussels (Recast) Regulation.
- **IPCO (Nigeria) Ltd v NNPC**: James acted (with Jonathan Nash KC) for the Nigerian state-owned petroleum corporation in resisting claims for c. US\$400 million based on fraud in foreign proceedings. James also appeared in the Supreme Court (with Toby Landau KC) in NNPC's successful appeal leading to a ground-breaking decision relating to enforcement under the New York Convention.

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## COMMERCIAL DISPUTE RESOLUTION

James is an experienced and highly-regarded litigator. He acts and advises in connection with a wide range of commercial disputes, across the full range of industries and sectors. He appears regularly in the Commercial Court (as well as the Chancery Division) and in arbitration. He now most frequently appears as a team leader or sole advocate, but also as a member of a larger team in particularly substantial disputes. He has a particular interest in jurisdiction disputes and interim injunctions.

He is recognised by Chambers & Partners and Legal 500 as one of a handful of top-tier (band 1) commercial litigators. Recent comments in the directories have included: *“outstanding in every way and is in my opinion the best junior at the commercial bar – his written work is outstanding, his legal knowledge is deep and impressive and his advocacy is exceptional”*, *“simply astonishing in full flow, definitely a future super-silk”*, *“I have rarely come across somebody who just has that spark about him. He is incredibly bright, bordering on genius, and has the most brilliant rapport with the court”*, *“exceptionally able junior counsel who attracts resounding praise both from his instructing solicitors and his peers at the Bar”*, *“he has a brain the size of Jupiter, is tenacious, polite and very good on his feet”*, *“a brilliantly analytical and fast-thinking advocate”*, and *“has the ‘Midas touch’ and is not only exceptionally knowledgeable and commercial, but readily grasps the issues concerning clients”*.

In recent years, James' instructions have included by way of example:

- **FDIC v Barclays Bank**: acting (with Adrian Beltrami KC and Mark Brealey KC) for Barclays Bank in ongoing Financial List proceedings brought by the FDIC, a US federal government agency, against leading European banks and the British Bankers' Association. FDIC seeks substantial damages for alleged LIBOR "lowballing", bringing claims under EC competition law and for fraudulent misrepresentation.
- **Apache North Sea Limited v INEOS FPS Limited** [2020] EWHC 2081 (Comm): James acted (with Sonia Tolaney KC) for INEOS in respect of Commercial Court claims relating to the terms for access to critical North Sea oil infrastructure, giving rise to novel issues relating to when consent could be 'not unreasonably withheld'.
- **National Bank Trust v Yurov** [2020] EWHC 100 (Comm): acted (alone) for one of the three former directors of National Bank Trust, one of Russia's largest retail banks, defending claims valued at over US\$1 billion for the allegedly dishonest management of the bank. The claim was heard at a nine week Commercial Court trial in late 2018.
- **Guralp Systems Ltd v Dr Guralp**: acted for private equity-backed companies in pursuing substantial claims in the Commercial Court against a former director in respect of the alleged payment of bribes to a foreign public official to obtain public-sector business, which were the subject of parallel criminal proceedings by the Serious Fraud Office.
- **Yukos International v Merinson** [2020] QB 336: acting (leading Stephen Donnelly) in Yukos' claim against a former employee to rescind a settlement agreement and to recover damages caused by Mr Merinson allegedly placing business with financial institutions as a result of kick-backs. James successfully defeated a jurisdiction challenge brought by Mr Merinson in reliance on an exclusive Dutch jurisdiction clause, both at first instance and in the Court of Appeal, based on novel arguments under the Brussels (Recast) Regulation.
- **ACON Equity Management LLC v Apple Bidco Ltd** [2019] EWHC 2750 (Comm): acted for the successful claimant, a private equity investor, in proceedings to recover conditional payments following its exit from a consortium of investors in a power generation business.
- **Trafigura v Republic of South Sudan and Bank of South Sudan**: Acted for Trafigura in Commercial Court proceedings to recover substantial sums due under financing arrangements with the Republic of South Sudan and guarantees issued by its central bank in respect of oil transactions. James successfully secured summary judgment on all of Trafigura's claims.
- **Barclays Bank v Unicredit**: acted (with Joe Smouha KC) for Barclays Bank in resisting Unicredit's substantial Commercial Court claim for breach of warranty arising under a complex structured investment. The case settled during trial, after UniCredit abandoned a significant part of its case following the exchange of skeleton arguments.
- **Dexia Crediop SPA v Provincia di Crotone**: acted (alone) for an Italian investment bank in its successful Commercial Court claim to enforce high-value interest rate swaps against an Italian local authority, overcoming defences alleging lack of capacity under Italian law,

illegality and fraudulent misrepresentation.

- **Su v Clarksons Platou Futures Ltd** [2018] EWCA Civ 1115: acted (with Richard Millett QC) in obtaining the summary dismissal of claims against a broker for allegedly wrongly exposing Mr Su to a substantial personal liability without authority.

Previous reported decisions include:

- **Boreh v Republic of Djibouti** [2015] 3 All ER 577
- **Teekay v STX Offshore** [2015] 2 BCLC 210
- **Yukos Capital Sarl v OJSC Rosneft Oil Company** [2014] 1 QB 458
- **Euro-Asian Oil SA v Abilo (UK) Ltd** [2014] 1 All ER (Comm) 162
- **IPCO (Nigeria) Ltd v NNPC** [2014] 1 Lloyd's Rep. 625
- **Cruz City 1 Mauritius Holdings v Unitech Ltd** [2014] 2 CLC 784
- **Mid Essex NHS Trust v Compass Group UK** [2013] BLR 265
- **Antonio Gramsci v Stepanovs** [2012] BCC 182
- **Lomas v JFB Firth Rixson**[2012] 2 All E.R. (Comm) 1076
- **Telenor East v Altimo Holdings** [2011] ArbLR 9
- **Britannia Bulk Plc v Pioneer Navigation Ltd**[2011] 2 Lloyd's Rep 84
- **TMT Asia Ltd v Marine Trade**[2011] 1 CLC 976
- **Vossloh AG v Alpha Trains (UK) Ltd** [2011] 2 All ER (Comm) 307
- **Oceanbulk Shipping & Trading SA v TMT Asia** [2011] 1 AC 662
- **Linsen International Ltd v Humpuss Sea Transport Pte Ltd**[2011] 2 Lloyd's Rep 663

James also assists foreign lawyers in substantial overseas litigation, and has experience of acting in disputes before the Courts of the British Virgin Islands, the Cayman Islands, the Isle of Man, and St Christopher and Nevis. Further details are contained in the "Offshore Litigation" section below.

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## **ARBITRATION & RELATED COURT APPLICATIONS**

James advises and acts, both alone and as junior counsel, in a wide range of arbitral proceedings including under a variety of rules (including LCIA, ICC, SIAC, HKIAC and CIETAC) and *ad hoc*. He has acted in arbitrations under a range of foreign laws, including those of Bahrain, the BVI, the Cayman Islands, Hong Kong, the Isle of Man and Singapore.

Before taking silk, he was recognised as one of a handful of leading juniors in this area. In addition to holding top-tier (band 1) rankings in both Chambers & Partners and Legal 500, he was selected as the International Arbitration Junior of the Year at the Chambers UK Bar Awards



2016. Recent comments in the directories have included “*absolutely exceptional and super bright*”, “*outstanding – a joy to work with and his work never falters in its sheer excellence*”, and “*unbelievably clever. His judgment is first-rate*”.

James’ instructions usually concern high-value, international disputes. For example, James has recently acted:

- for a global pharmaceutical company in resisting high-value claims relating to the development of a humanised monoclonal antibody therapy (ICC);
- for a Cayman investment fund (with Tom Smith KC) relating to the ownership of two investments worth in excess of US\$2 billion, giving rise to issues relating to compliance with foreign investment regulation (HKIAC);
- for Viktor Pinchuk (with Jonathan Crow KC and David Foxtton KC) in a multi-hundred million US Dollar claim arising out of a Ukrainian ferroalloys business (LCIA);
- for purchasers (with Joe Smouha KC) on their claim for breaches of warranty under an SPA in respect of one of the largest Ukrainian M&A deals ever undertaken (LCIA);
- for the founders and sellers of a business in claims for consideration following the sale of their company to a NASDAQ-listed multinational group, which has given rise to difficult and important questions of the *res judicata* effect of national court decisions within the arbitral process and recoverability of third-party funding costs (SIAC); and
- for investors (with Huw Davies KC) in various claims, with a total value of around US\$1 billion, in respect of major development projects in Qatar (LCIA).

James also has extensive experience of court proceedings concerning arbitration including, in particular, enforcement of arbitration awards. Recent examples include:

- **BSG Resources Ltd v Vale SA**: acted (with David Foxtton KC) for Vale SA in successfully opposing challenges under ss. 24 and 68 to a US\$1.5 billion LCIA arbitration award arising out of a mining joint venture in the Republic of Guinea.
- **IPCO Nigeria Ltd v NNPC**: acted for the Nigerian state-owned oil company to resist enforcement of awards alleged to have been procured by fraud. The case has generated a number of seminal decisions relating to enforcement under the New York Convention, including [2017] UKSC 16 (Supreme Court: whether enforcing court has power to require security as condition of opposing enforcement) and [2009] 1 Lloyd’s Rep 89 (Court of Appeal: partial enforcement of New York Convention awards). The case settled at the beginning of an eight week trial of NNPC’s defences to enforcement.
- **P v Q, R, S and U** [2017] 1 WLR 3800 and [2017] 1 WLR 3823: acted (with David Foxtton KC) in opposing an application to remove two well-known commercial arbitrators. The proceedings having given rise to two reported decisions of general importance concerning



the circumstances in which the Court will order disclosure of the Tribunal's deliberations and the appropriate use of tribunal secretaries.

- **A v B**: acting (with David Foxtton KC) on multiple s. 67 and s. 68 challenges relating to the validity of notices of arbitration referring disputes under multiple contracts and whether a party is obliged to raise an objection to jurisdiction prior to service of its Statement of Defence under the LCIA rules.
- **Yukos Capital v Rosneft** [2014] 2 Lloyd's Rep. 435: acted (with Gordon Pollock KC) in proceedings to enforce arbitral awards, in which James' clients obtained a landmark decision holding that the English courts were able to enforce awards even if they had been set aside by the curial courts (the matter was settled before an appeal was heard by the Court of Appeal).
- **Cruz City 1 Mauritius Holdings v Unitech Limited** [2014] 2 CLC 784: James acted for the successful third parties in discharging a freezing order obtained in support of enforcement of a US\$350 million award on the basis that there is no jurisdiction to make freezing orders on the "Chabra" basis against foreign parties. The case also considers the power of the court to grant interim relief to grant relief against persons who are not parties to the arbitration.

James is also regularly instructed to seek interim relief in connection with arbitration under s. 44 of the Arbitration Act 1996, for example **Telenor East v Altimio Holdings** [2011] ArbLR 9 (with Joe Smouha KC, against Mark Howard KC, seeking an interim injunction to restrain a US\$6.5bn acquisition transaction) and a **confidential injunction** (with Helen Davies KC, against Lord Gribner KC, defending a mandatory injunction to ensure that payment was made before oil was taken).

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## CIVIL FRAUD & ASSET RECOVERY

James has particular interest in and experience of civil fraud litigation. He is one of only two "Star Individuals" in Chambers and Partners, as well as holding a band 1 ranking in the Legal 500. He is described as "*simply one of the best juniors around, truly outstanding – he is a top QC in the making; drafts beautifully, is very commercial and is incredibly hard-working*" and "*astonishing in every sense of the word – his judgement is second to none*". He is also identified as a "Global Leader" by Who's Who Legal for asset recovery.

James is involved in many of the heavyweight fraud disputes before in the Commercial Court. For example, he is currently instructed by the second defendant in **PIFSS v Al-Rajaan** (claim by a Kuwaiti public institution for over US\$800 million), by the claimant in **Privatbank v**

**Kolomoisky** (alleged misappropriation and laundering of US\$2 billion from a Ukrainian bank) and by Sberbank in **VTB Commodities Trading DAC v JSC Antipinsky Refinery**.

James has particular experience of disputes relating to Russia and the CIS, having acted (alone) for one of the three defendant directors in **National Bank Trust v Yurov** (claim for over US\$1bn relating to the allegedly dishonest management of one of Russia's largest retail banks, leading to a nine week trial), for Mr Boreh in **Republic of Djibouti v Boreh** (defending claims brought by the Republic of Djibouti alleging that benefits were obtained through abuse of public office), for Mr Ablyazov in **JSC BTA Bank v Ablyazov** (resisting claims of procuring fraudulent transactions worth over US\$2bn), for the claimants in the **Bitel litigation** (a claim by Russia's largest mobile telephone company for over US\$800 million relating to the misappropriation of a Kyrgyz telecoms company through corrupt court proceedings, which settled during a 10 week trial) and for Mr Ermatov in **Tajik Aluminium Plant v Ermatov** (concerning the operations of an aluminium smelting plant in Tajikistan, which settled during a 14 week Commercial Court trial).

Other recent instructions include:

- **Federal Republic of Nigeria v Shell** [2020] EWHC 1315 (Comm): James acted (with Lord Goldsmith QC) for Shell and its subsidiaries in securing the dismissal of claims worth over US\$3.5 billion relating to allegations of corruption in connection with a Nigerian oil prospecting licence.
- **Akhmedova v Akhmedov**: James is acting for Tatiana Akhmedova in her asset recovery efforts in respect of a £450 million divorce award. James has appeared for Tatiana (leading Mark Belshaw) in her efforts to break through Liechtenstein asset protection trusts, giving rise to complex and novel issues relating to the limits of the extraterritorial powers exercised by the English courts and their ability to make orders for return of assets notwithstanding foreign criminal laws and judgments, as well as in an important application relating to the use of illegitimately obtained evidence [2020] 4 WLR 15. James also appeared (with Alan Gourgey QC) in a three week trial of claims to set aside various transactions alleged to be in fraud of creditors and in striking out a challenge to the claims based on allegedly champertous litigation financing [2020] Costs LR 901.
- **Guralp Systems Ltd v Dr Guralp**: acted for companies in bringing substantial claims in the Commercial Court against a former director in respect of the alleged payment of bribes to a foreign public official to obtain public-sector business, which are the subject of parallel criminal prosecutions by the Serious Fraud Office.
- **IPCO Nigeria Ltd v NNPC**: acted (with Jonathan Nash KC) for the Nigerian state-owned oil company to resist enforcement of arbitral awards alleged to have been procured by fraud. James will appear in the eight week Commercial Court trial of the allegations that IPCO

systematically forged the documents relied upon in the arbitration and gave perjured evidence in support of its claims.

- **Arcadia Petroleum Ltd v Bosworth**: James acted (with Graham Dunning KC) for one of the defendants in resisting claims brought by shipping magnate John Fredriksen's Farahead Holdings group alleging that profits of c. US\$200 million were fraudulently extracted from an oil trading business.

James has particular experience (both alone and as junior counsel) of applying for and resisting applications for interim relief, including both freezing orders and search orders. He has acted in many of leading cases concerning the limits of the freezing order jurisdiction, including acting for the successful parties in **Yukos Capital v Rosneft** [2010] EWHC 784 (Comm) (ambit of the *Chabra* jurisdiction), **Linsen International v Humpuss Sea Transport** [2011] 2 Lloyd's Rep 663 and [2011] EWCA Civ 1042 (limits of the territorial jurisdiction to grant freezing orders against non-resident non-parties) and **Cruz City 1 Mauritius Holdings v Unitech Limited** [2014] 2 CLC 784 (power of court to grant freezing orders against non-parties in aid of arbitral proceedings), as well as **Yukos CIS v Wincanton** in the BVI Commercial Court and Eastern Caribbean Court of Appeal (availability of freezing orders in aid of foreign litigation in the absence of an equivalent of s. 25 of the CJA).

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## BANKING & FINANCIAL SERVICES

James has significant experience of acting and advising (both alone and with leading counsel) in complex financial and banking litigation. He is noted as one of the leading litigators in this area: he holds top-tier (band 1) recommendations in both Chambers & Partners and the Legal 500, and was awarded "Banking Junior of the Year" at the Chambers UK Bar Awards in 2020.

Comments in the directories include "*James is really exceptional. He grasps complicated things very quickly and is extremely sharp on detailed points*", "*a superstar on all fronts. His intellect, analytical skills, ability to master documents, advocacy and his confident and assertive advice are all superb*", and "*ridiculously impressive. A junior who performs way, way beyond his years*". He has featured as one of The Lawyer's "Hot 100", which observed that he was "*one of the big names at the bar in... banking and finance litigation*".

Recent instructions, which are illustrative of the high-value and complex nature of James' practice, include:

- **FDIC v Barclays Bank**: James is acting (with Adrian Beltrami KC and Mark Brealey KC) for Barclays Bank in Financial List proceedings brought by the FDIC, a US federal government agency, against leading European banks and the British Bankers' Association. FDIC alleges

that there was coordinated “lowballing” of USD LIBOR and is pursuing claims under EC competition law and for fraudulent misrepresentation.

- **ACON Equity Management LLC v Apple Bidco Ltd** [2019] EWHC 2750 (Comm): acted for the successful claimant, a private equity investor, in proceedings to recover conditional payments following its exit from a consortium of investors in a power generation business.
- **Trafigura v Republic of South Sudan and Bank of South Sudan**: Acted for Trafigura in Commercial Court proceedings to recover substantial sums due under financing arrangements with the Republic of South Sudan and guarantees issued by its central bank in respect of oil transactions. James successfully secured summary judgment on all of Trafigura’s claims.
- **Barclays Bank v Unicredit**: Acted (with Joe Smouha KC) for Barclays Bank in resisting claims, in the Commercial Court, brought by Unicredit for over €300 million concerning a complex structured investment. The case settled during trial, after UniCredit abandoned a significant part of its case following the exchange of skeletons.
- **Broker-dealer v client**: Acted for an FX broker-dealer in an arbitration relating to the timing and price of the liquidation of substantial Swiss franc positions following the unpegging of the Swiss franc in January 2015.
- **Barclays Bank v Saad Investment Co Ltd**: Acting for Barclays Bank in proceedings in the Cayman Islands under an accreting strike option where there are competing proprietary claims arising out of the alleged Al Gosaibi Group fraud. James appeared alone for the Bank in the Cayman Islands, successfully applying for permission to bring proprietary claims against two investment vehicles.
- **Dexia Crediop SPA v Provincia di Crotone**: Acted (alone) for an Italian investment bank in its successful Commercial Court claim to enforce high-value interest rate swaps against an Italian local authority, overcoming defences of lack of capacity under Italian law, illegality and fraudulent misrepresentation.
- **Barclays Bank v LG Chem Ltd**: Represented Barclays Bank (with Stephen Houseman KC) in Commercial Court proceedings relating to the duties of a bank processing CHIPS/SWIFT transfers to detect and prevent fraud.

James has particular expertise regarding the ISDA Master Agreement, having been involved in several of the recent leading cases on the interpretation of that standard form. He has acted in **Britannia Bulk Plc v Pioneer Navigation Ltd** [2011] 2 Lloyd’s Rep 84, **TMT Asia Ltd v Marine Trade** [2011] 1 CLC 976 and **Deiulemar v Transfield Shipping SpA** [2012] EWHC 928 (Comm). James appeared alone in the Court of Appeal concerning an important issue of construction of the Master Agreement in the joined ISDA appeals *sub. nom* **Lomas v JFB Firth Rixson** [2012] 2 All E.R. (Comm) 1076.

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## COMMERCIAL CHANCERY DISPUTES

Alongside his recognition as a top-tier commercial litigator, James is also specifically recognised by Chambers & Partners for his work in commercial chancery disputes, with recent comments including “*he is spectacular on his feet and has a remarkable knowledge of the law*” and “*a very well-regarded commercial junior who has expertise in insolvency, civil fraud and company law. Sources have high praise for his technical legal ability, as well as for his advocacy... ‘Truly, truly fantastic. Incredibly impressive in court and often better than the silks in the case, he is one of the biggest stars at the junior Bar right now’*”.

Many of James’ commercial cases – including complex banking and fraud disputes – are heard in the Chancery Division or give rise to issues traditionally regarded as falling within the “commercial chancery” sphere (including issues relating to proprietary claims/tracing, company law, trusts and insolvency). Recent examples include:

- **Guralp Systems Ltd v Dr Guralp**: Acting (alone, against silks) for companies in bringing substantial claims against a former director for breach of director’s duties under the Companies Act 2006 in respect of the alleged payment of bribes to a foreign public official. James is also resisting a counterclaim which seeks to avoid, in equity, a deed of variation relating to loan notes issued as part of the acquisition of the company.
- **Barclays Bank v Saad Investment Co Ltd**: Acting for Barclays Bank in advancing competing proprietary claims, involving complex issues of tracing assets, arising out of the alleged Al Gosaibi Group fraud. James has appeared (alone) for Barclays in obtaining permission from the Chief Justice of the Cayman Islands to commence proceedings against two investment vehicles which are in liquidation, and acted for Barclays in the English Companies Court in responding to an application by a foreign liquidator for information and documents under s. 236 of the Insolvency Act.
- **Re Acia Aero Group**: Acted for the majority shareholders in resisting claims for unfair prejudice arising out of an aviation business.
- Advising a Russian liquidator in connection with recognition under the Cross-Border Insolvency Regulations and the exercise of investigatory powers under ss. 234 and 236 of the Insolvency Act.
- Assisting in obtaining interim relief and pursuing claims in the Isle of Man to attack complex asset protection arrangements involving international trusts and a limited partnership.
- **Ismailaj v Debt International Advisory Limited** (BVI Commercial Court): Acted (alone) in proceedings to rectify a company’s register of members where the company had allegedly been seised in a corporate raid by the shareholders’ former advisors.

- **Trinity Management Group Ltd v Burke Consolidated Ltd** (BVI Commercial Court): Acted (with Paul McGrath KC) to obtain interim injunctions, in aid of arbitration and an unfair prejudice petition, preventing the sale of a business contrary to the wishes of a 50% shareholder.
- Acted (with Justin Fenwick KC) in sealed proceedings giving rise to issues of money laundering in connection with an offshore trust.

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## OFFSHORE LITIGATION

James has a particular interest in offshore litigation. He has been called to the Bar of the Eastern Caribbean Supreme Court in the BVI, has been admitted *ad hoc* as an advocate in the Isle of Man and has been granted limited admission in the Cayman Islands. He has also assisted with proceedings being heard in St Christopher and Nevis, Singapore and Hong Kong.

He is ranked as a top-tier (band 1) junior by Chambers & Partners, which notes that he “*is excellent and a very, very good advocate*” and “*is much in demand*”. He has previously been described as “*a phenomenally clever lawyer who is very easy to work with*” and “*phenomenally clever, extremely nice and very easy to work with. You can present him with a fiendish problem and he will go away and come back with a simple answer*”.

Illustrative instructions in offshore proceedings include:

- **Yao Juan v Kwok Kin Kwok** (British Virgin Islands): instructed by the claimant for her appeal to the Privy Council, following the decision by the Eastern Caribbean Court of Appeal to overturn the BVI Commercial Court’s judgment in her favour (which had appointed a liquidator due to unfairly prejudicial conduct by Madam Kwok).
- **Barclays Bank v Saad Investment Co Ltd** (Cayman Islands): acting for Barclays Bank in proceedings in the Cayman Islands under an accreting strike option where there are competing proprietary claims arising out of the alleged Al Gosaibi Group fraud. James has been granted limited admission to practise in the Cayman Islands and appeared (alone) for the Bank in obtaining permission to commence proceedings against two investment vehicles.
- **Bitel LLC v Kyrgyz Mobile Tel** (Isle of Man): acted (with Graham Dunning KC) for the claimants, subsidiaries of Russia’s largest mobile telephone company, in respect of a claim before the High Court of the Isle of Man for in excess of US\$800 million, arising out of the alleged misappropriation of a Kyrgyz telecoms company through corrupt court proceedings and asset laundering. James has conducted interlocutory hearings alone (including obtaining an order for disclosure of documents said to be subject to Swiss banking secrecy laws and

resisting an application for disclosure of documents held by a parent company). The dispute settled part-way through a 10 week trial.

- **IOTA Violet LLC v Woman LLC** (Isle of Man): assisting Manx advocates in obtaining interim relief and pursuing proceedings to attack complex asset protection arrangements involving offshore trusts established in St Vincent and the Isle of Man, including under the Fraudulent Assignments Act 1736.
- **Appointment of provisional liquidators** (BVI Commercial Court): advising and acting in proceedings to appoint a provisional liquidator in the BVI over a foreign company following the failure to satisfy a multi-hundred million USD arbitral award.
- **Ismailaj v Debt International Advisory Limited** (BVI Commercial Court): acting (alone) in proceedings to rectify a company's register of members where the company had allegedly been taken over unlawfully by formerly trusted advisors.
- **Trinity Management Group Ltd v Burke Consolidated Ltd** (BVI Commercial Court): acting (with Paul McGrath KC) to obtain interim injunctions, in aid of arbitration and an unfair prejudice petition, preventing the sale of a business contrary to the wishes of a 50% shareholder.
- **Sealed proceedings** (High Court of Nevis and BVI Commercial Court): acted (with Justin Fenwick KC) in proceedings in an Eastern Caribbean jurisdiction giving rise to issues of money laundering in connection with an offshore trust.
- **Yukos CIS v Wincanton** (BVI Commercial Court and Eastern Caribbean Court of Appeal): successfully resisting applications for freezing and receivership orders against former Yukos subsidiaries. The applications gave rise to important issues relating to the availability of ancillary relief in aid of foreign litigation in the absence of an equivalent of s. 25 of the CJA (the *Black Swan* jurisdiction).

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## INSURANCE & REINSURANCE

James acts and advises in a wide range of insurance and reinsurance disputes, both in court and arbitration.

Recent experience includes:

- **Disputes relating to 9/11**: James is acting for various (re)insurers in arbitrations relating to cover and aggregation in respect of losses arising out of the 9/11 attacks, including claims relating to injuries suffered during the emergency response and subsequent clean-up operations.



- **Equitas v Arab Insurance Group BSC**: James acted for Equitas in claims to recover alleged overpayments from insurers following recoveries made from the UN Compensation Commission and Republic of Libya.
- **Equitas v Export Credit Guarantee Corporation of India**: James acted for Equitas in claims relating under the settlement of a political risks reinsurance treaty in respect of the failure to achieve proper recovery in respect of Iraqi trade credit debts.
- **British-American Insurance (Kenya) Ltd v Matelec SAL**: James acted (alone) in resisting substantial claims in ARIAS arbitration, arising out of property damage and business interruption/delayed start-up claims in respect of a power station development in Kenya, on the basis of breach of warranty.
- **Lapanday Food Corp v Charter Ping An Ince Co**: James acted (alone) for insurers in defending claims for losses said to be due to Chinese governmental action, including decisions by the Chinese customs authorities which are alleged to have been politically motivated.
- **M/V “Sea Coral”**: Acted (with Jeremy Russell KC) for underwriters in a Commercial Court total loss claim said to arise from the operation of microbially-influenced corrosion. The claim, which gave rise to complex issues of a technical nature and of English law, settled shortly before a 6 week trial.
- **Fedra Navigation SA v Brit UW Ltd**: Acted (with Graham Dunning KC) for a ship owner in Commercial Court proceedings for a total loss, being defended on the basis of wilful misconduct.

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## CAREER

March 2021: to be appointed one of Her Majesty’s Counsel (Q.C.)

2017: Appointed to the Attorney General’s “A” Panel of Civil Counsel to the Crown

2010: Called to the Bar of the Eastern Caribbean Supreme Court (BVI)

2008: Admitted to the Courts of the DIFC

2006: Call: Gray’s Inn

2006: Supervisor in the Law of Equity, Clare College, Cambridge

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## EDUCATION

2009: MA, Trinity Hall, University of Cambridge

2006: BVC (Outstanding), BPP Law School (ranked first in year)

2005: BA (Starred First Class Hons.) (Law), Trinity Hall, University of Cambridge (ranked first in year)

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## **AWARDS**

2007: Arden Scholarship for pupillage, Gray's Inn

2006: Bedingfield Scholarship for BVC, Gray's Inn

2005: Slaughter and May Prize for best results in Law, University of Cambridge

Clifford Hamson Prize for Aspects of Obligations, University of Cambridge

Herbert Smith Prize for Conflict of Laws, University of Cambridge

Bateman Scholar, Trinity Hall

2004: Falcon Chambers Prize for Land Law, University of Cambridge

Rebecca Flower Squire Scholar, University of Cambridge