

## JAMES MCWILLIAMS

Call: 2011



### Introduction

James' practice covers a wide range of commercial and chancery disputes. He is regularly instructed in high-value, complex and often international litigation in the Commercial Court and the Chancery Division, both as sole counsel and as part of a larger legal team.

The directories have ranked him as one of the top ten commercial juniors under eight years' call at the Bar (Legal 500, 2016) and said "**Bright, tenacious and not afraid of a challenge – a star of the future**".

His experience includes business agreements and contractual disputes of all kinds, civil fraud, company, partnership and insolvency matters, media and entertainment, fiduciaries and professional negligence. Much of his work has an international element, involving questions of foreign law and jurisdiction. Some of his recent cases include:

- **Cyprus Popular Bank v Vgenopoulos & Ors** [2017] 2 WLR 67– led by Charles Samek QC – acted for the respondent to an application for declaratory relief as to whether notifying a third party bank of a Cypriot worldwide freezing order was a "*measure of enforcement*" for the purposes of Art. 47.3 of the Judgments Regulation (44/2001)
- **Abela v Baadarani** [2017] EWHC 269 (Ch) – led by Charles Samek QC – acted on application to set aside a search order made, unprecedentedly, against non-cause of action respondents on the grounds that the court lacked jurisdiction to make the order it did
- **Arab v MerchantBridge** [2016] – led by Ali Malek QC and David Lascelles – acted for the Claimant in a US\$31m Commercial Court fraud claim in relation to a share sale and purchase agreement which settled at the conclusion of the trial
- **Cyprus Popular Bank v Vgenopoulos & Ors** [2016] EWHC 1695 (QB) – led by Charles Samek QC – acted for the claimant on a successful application for a €3.79bn domestic freezing order by way of protective measures pursuant to Art. 47 of the Judgments Regulation (44/2001)
- **Franses v Hay** [2016] BPIR 355 – as sole counsel – acted for the supervisor of an individual voluntary arrangement on an application for directions as to the effect of a notice of termination
- **Hellenic Capital Investments v Trainfx Limited** [2015] EWHC 3713 (Ch) – as sole counsel – acted for the successful applicant on a heavily contested administration application which turned on the proper construction of a business services and royalty agreement

In 2014, James undertook a three-month secondment to PCB Litigation LLP where he worked on, amongst other things, **BAT Industries plc v Windward Propsects Limited**, a £1bn Commercial Court claim concerning indemnitor liabilities in respect of the remediation of the Fox River in Wisconsin, USA, following contamination by paper producers in the 1950s to 1970s.

James read History at Peterhouse, University of Cambridge where he received several academic prizes and graduated with First Class Honours in 2009. That same year, he won the Maitland Advocacy Prize. He completed both the Graduate Diploma in Law and the BPTC at City University, London during which time he was awarded the Inner Temple Major and Princess Royal Scholarships.

## Commercial Litigation

James is ranked by the Legal 500 directory as one of the top ten commercial juniors under eight years' call at the Bar for commercial litigation, where he is described as "**Bright, tenacious and not afraid of a challenge – a star of the future**" (2016 edition). He regularly acts (led and as sole counsel) in commercial disputes of all kinds.

His recent experience includes:

- **Cyprus Popular Bank v Vgenopoulos & Ors** [2017] 2 WLR 67– led by Charles Samek QC – acted for the respondent to an application for declaratory relief as to whether notifying a third party bank of a Cypriot worldwide freezing order was a "*measure of enforcement*" for the purposes of Art. 47.3 of the Judgments Regulation (44/2001)
- **Arab v MerchantBridge** [2016] – led by Ali Malek QC and David Lascelles – acted for the Claimant in a US\$31m Commercial Court claim in relation to a share sale and purchase agreement which settled at the conclusion of the trial
- **Abela v Baadarani & Ors** [2016 – ongoing] – led by Charles Samek QC – acting for a non-cause of action respondent to a search order in heavily contested proceedings in the Chancery Division
- **Cyprus Popular Bank v Vgenopoulos & Ors** [2016] EWHC 1695 (QB) – led by Charles Samek QC – acted for the claimant on a successful application for a €3.79bn domestic freezing order by way of protective measures pursuant to Art. 47 of the Judgments Regulation (44/2001)
- **DAS UK Holdings Limited & Ors v Asplin & Ors** [2016 - ongoing] – led by Stuart Ritchie QC – acting for the second defendant, a former senior employee of the claimant, in a claim for breach of fiduciary duty
- **Guan Siang Chiang & Ors v Graham & Rosen & Ors** [2016 – ongoing] – as sole counsel – acting for a group of 19 international claimants, all investors in a series of London hotel developments, in a professional negligence action against their former solicitors
- **Business Energy Solutions Limited v Scrivener & Ors** [2016] – led by David Reade QC – acting for the claimant in a claim alleging unlawful means conspiracy against the operator of, and contributors to, a website inducing the claimant's customers to break their energy supply contracts with the claimant
- **A v B** [2016 – ongoing] – led by Stuart Ritchie QC – acting for the claimant, the former CEO of an AIM listed company, in a high-value claim for sums due pursuant to a consultancy agreement with that company
- **A v B** [2016] – as sole counsel – acting for the claimant in a professional negligence action against his former solicitors for their role in unwittingly facilitating a fraud perpetrated against him
- **A v B** [2015] – led by Tim Penny QC – acting for the defendant, the CEO of a hedge fund, in a US\$60m claim for breach of fiduciary duty
- **A v B** [2015] – led by Charles Samek QC – acted for the defendant in a substantial claim involving allegations of business diversion and the taking of secret commissions
- **A v B** [2015] – as sole counsel – advising an internationally published magazine in a contractual dispute with its printers
- **A v B** [2015] – as sole counsel – a multi-million pound claim for sums due under a series of loan agreements and guarantees
- **Mohammedzadeh v Tack** [2014] – as sole counsel – acted for the successful claimant in a five-day trial concerning the enforceability of a loan agreement and the scope of mortgagees' duties (2014)
- **Seakom Limited v Knowledgepool Group Ltd** [2013] EWHC 4007 (Ch) – led by Jamie Riley - acted for the claimant in a dispute concerning the proper construction of a commission contract

## Civil Fraud

James has considerable experience of civil fraud and asset tracing claims.

He has particular experience of interim applications in this context, including worldwide freezing orders, search orders, s. 25 CJA 1982 relief in support of foreign proceedings, *Norwich Pharmacal* and *Bankers Trust* orders,

passport orders, bench warrants and tipstaff orders, cross-examination as to asset disclosure and committal for contempt of court.

His recent experience includes:

- **Cyprus Popular Bank v Vgenopoulos & Ors** [2017] 2 WLR 67– led by Charles Samek QC – acted for the respondent to an application for declaratory relief as to whether notifying a third party bank of a Cypriot worldwide freezing was a “*measure of enforcement*” for the purposes of Art. 47.3 of the Judgments Regulation (44/2001)
- **Cyprus Popular Bank v Vgenopoulos & Ors** [2016] EWHC 1695 (QB) – led by Charles Samek QC – acted for the claimant on a successful application for a €3.79bn domestic freezing order by way of protective measures pursuant to Art. 47 of the Judgments Regulation (44/2001)
- **Abela v Baadarani & Ors** [2016 – ongoing] – led by Charles Samek QC – acting for a non-cause of action respondent to a search order in heavily contested proceedings in the Chancery Division involving allegations of deliberate non-compliance with a third party disclosure order and threatened committal proceedings and a receivership application
- **Arab v MerchantBridge** [2016] – led by Ali Malek QC and David Lascelles – acted for the Claimant in a US\$31m Commercial Court fraud claim in relation to a share sale and purchase agreement which settled at the conclusion of the trial
- **Sheikh Saoud Bin Abdullah M. Al-Thani v Affat** [2014-2015] – led by Charles Samek QC – acted for the claimant in a series of successful applications for a worldwide freezing order and proprietary injunction; a passport order and bench warrant; a cross-examination order and default judgment
- **Sheikh Saoud Bin Abdullah M. Al-Thani v Affat** [2015] – as sole counsel – cross-examined the defendant respondent to a worldwide freezing order and proprietary injunction on his asset disclosure
- **A v B** [2015] – led by Charles Samek QC – acted for the defendants in a successful application to discharge a worldwide freezing order for material non-disclosure
- **A v B** [2015] – led by Tim Penny QC – acted for the defendant and respondent to a worldwide freezing order in a US\$60m claim for breach of fiduciary duty involving allegations that substantial secret commissions had been paid and received (led by Tim Penny QC, 2015)
- **A v B** [2015] – as sole counsel – acted for a world-leading university in an application for *Norwich Pharmacal/Bankers Trust* relief to uncover a substantial fraud perpetrated by one of its employees

## Insolvency

James is regularly instructed on insolvency matters by officeholders, debtors and creditors. He has extensive experience of transaction avoidance claims, enforcement powers under the Insolvency Act 1986 including search orders and arrest warrants, applications for administration orders, all aspects of winding-up orders, setting aside statutory demands, bankruptcy petitions and applications for possession and sale of bankrupts' homes.

His recent experience includes:

- **Franses v Hay** [2016] BPIR 355 – as sole counsel –acted for the supervisor of an individual voluntary arrangement on an application for directions as to the effect of a notice of termination in circumstances where there was doubt as to the effect of the R3 standard IVA conditions
- **Topplan & Ors v Pels & Anor** [2016 – ongoing] – led by Raquel Agnello QC – acting for the applicant officeholders in a multi-million pound claim for breach of fiduciary duty against the former directors of companies now in insolvent liquidation
- **Hellenic Capital Investments v Trainfx Limited** [2015] EWHC 3713 (Ch) – as sole counsel – acted for the successful applicant on a heavily contested administration application which turned on the proper construction of a business services and royalty agreement

- **Re Pikeville Investments LLP** [2015] – as sole counsel – acted for the receivers appointed over the membership interest in an LLP by way of equitable execution in the **JSC VTB Bank v Shkurikhin** litigation in a successful application for an administration order involving difficult questions as to solvency
- **Re Todd** [2013 – 2016] – as sole counsel – applications under sections 364, 365 and 366 of the Insolvency Act 1986 against a bankrupt and a number of connected entities in the context of a long-running, rancorous bankruptcy
- **Re Topplan Limited and Eurodale Limited** [2016] – as sole counsel – a successful application under ss. 234 and 236 of the Insolvency Act 1986 against a firm of solicitors and accountants for the provision of information regarding a substantial property development; resisting a counter-application by the solicitors and accountants for their costs of compliance
- **Re El-Bhoukari** [2015] – as sole counsel – acting for the officeholder in a contested application for possession and sale of the bankrupt's home involving a significant dispute as to beneficial ownership of the property
- **A v B** [2015] – as sole counsel – advising an investor in an unsuccessful development scheme as to the rejection of his proof by the liquidator
- **A v B** [2015] – as sole counsel – acting for the petitioning creditor on a disputed bankruptcy petition presented for substantial sums due under a guarantee where allegations of want of consideration, duress and undue influence were raised
- **A v B** [2015] – as sole counsel – a successful wasted costs application against solicitors responsible for bringing a misconceived application on behalf of an undischarged bankrupt

### Company and Partnership

James frequently advises on and appears as an advocate in Company and Partnership matters, including shareholder and partnership disputes, claims against directors and directors' disqualification.

His recent experience includes:

- **A v B** [2015] – led by Charles Samek QC – a claim against a former managing director of a significant company for business diversion and the taking of secret commissions
- **A v B** [2015] – led by Tim Penny QC – acting for a former director of a hedge fund in a US\$60m dispute concerning allegations of breach of fiduciary duty
- **A v B** [2015] – as sole counsel – a shareholders' dispute concerning the rights to and exploitation of a well-known piece of software
- **A v B** [2014] – as sole counsel – an LLP dispute concerning the management of a private equity investment fund
- **A v B** [2014] – as sole counsel – advising on a petition for the just and equitable winding up of a quasi-partnership Company
- **A v B** [2014] – as sole counsel – acting in a solicitors' partnership dispute arbitration

### Media & Entertainment

James often acts in contractual, copyright and other intellectual property disputes involving the media and entertainment industry.

His recent experience includes:

- **A v B** [2016] – as sole counsel – acting for the defendant in a contractual dispute concerning the grant of a synchronisation license for a television advert
- **A v B** [2015] – as sole counsel – advising an international magazine in a contractual dispute with its UK printers
- **A v B** [2015] – as sole counsel – acting for a singer in a contractual dispute concerning an option to manage as a result of his participation in a national talent competition

- **A v B** [2015] – as sole counsel – acting for a high-profile Indian playback singer in a claim for infringement of her performers' rights in a highly successful music video
- **A v B** [2014] – as sole counsel – a multi-party contractual and intellectual property dispute in the Chancery Division concerning the copyright in a 1973 UK hit
- **A v B** [2014] – as sole counsel – acting for two production companies in claims against advertising agencies under contracts for the production of viral film advertisements

### Property Litigation

James has considerable experience of a wide range of property litigation work, including mortgage claims and fraud, disputes over commercial property developments, co-ownership, boundary disputes, and landlord and tenant. That experience makes James particularly well placed to handle commercial, fraud or insolvency disputes with a property element.

His recent experience includes:

- **A v B** [2016] – as sole counsel – a professional negligence claim against a firm of solicitors in respect of their involvement in a fraudulent conveyance
- **A v B** [2015] – as sole counsel – acted for the purchaser of a property sold by a vendor who had obtained title of the property by fraud in rectification proceedings brought by the rightful owner in the Property Chamber of the First-tier Tribunal
- **A v B** [2015] – as sole counsel – a two-day trial concerning the beneficial ownership of a property purchased in a sole name
- **A v B** [2015] – as sole counsel – acted for the tenant of a commercial property in a complex rent dispute (2015)
- **A v B** [2015] – led by Charles Samek QC – a claim by the victim of a fraudulent transfer of title to high-value London property subsequently charged by the fraudster to an innocent lender
- **A v B** [2014] - as sole counsel – a five-day trial for a secured lender involving allegations by the borrower that the mortgagee in possession had breached its duties to the mortgagor

### Memberships

- Chancery Bar Association
- COMBAR
- CFLA
- Insolvency Lawyers' Association
- Young International Arbitration Group