

James Wynne

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Barrister

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“Persistent and determined”, he handles a broad spectrum of employment and commercial disputes, and has a strong reputation for his excellent performances in the tribunal. Sources particularly stressed his skill at handling appellate cases.”

“He is incredibly knowledgeable and clients love him.” “very thorough, calm and mild-mannered”

“a fine knowledge of employment law” and ***“the ability to think on his feet when needed”***. He is ***“an excellent advocate with a calm demeanour”*** and is ***“adept at handling cases with complex factual backgrounds”***.
(Chambers & Partners)

James’ practice covers individual employment law, commercial litigation, injunctions, collective/trade union aspects of labour law, the regulation of charities, and professional liability.

- Commercial expertise covers contractual disputes, directors duties, civil fraud, partnership, shareholder rights, soft IP, copyright and passing off, jurisdiction disputes, insolvency and agency.
- Regularly instructed in injunction proceedings both for claimants and defendants, James has experience of confidential information and team move cases, springboard injunctions, search orders and injunctions relating to the inspection of electronic documents. He has experience of industrial action injunction proceedings and injunctions protecting charities from maladministration.
- Acts in high profile discrimination, TUPE and collective employment matters and has often been instructed to appear before the EAT and Court of Appeal.
- Has a particular interest in the administration of charities. His work includes governance issues and management disputes, trustee duties, constitution interpretation, employment and contractual/commercial disputes.
- A number of his cases have involved international disputes and foreign jurisdictions. He has rights of audience before the DIFC Courts in Dubai, where he has undertaken full trials at first instance and appeals before the DIFC Court of Appeal.

James contributes to the loose leaf “Transfer of Undertakings” (Sweet and Maxwell), and wrote chapters for The Law of Industrial Action and Trade Union Recognition, 2nd ed 2011 (OUP) .

Before studying law James studied engineering at Cambridge University, and worked as an engineer for the Ministry of Defence and in the private sector.

RECOMMENDATIONS

“an excellent advocate with a calm demeanour”

Chambers & Partners

“adept at handling cases with complex factual backgrounds”.

Chambers & Partners

AREAS OF LAW

Commercial

James’ commercial expertise includes contractual disputes, directors duties, civil fraud, partnership, shareholder rights, soft IP, confidential information and database rights, copyright and passing off, unjust enrichment, the sale and supply of goods and services, conflict of laws (including anti-suit injunctions), insolvency and employment agency contracts.

Recent instructions include:

- Acting for claimants following fraud and misrepresentation in relation to an investment in their business.
- Advising foreign nationals on claims in conspiracy brought in the UK arising from business dealings in a gulf state.
- Acting in a two-week trial in a claim for passing off.
- Acting for the claimant in the High Court to obtain repayment of a substantial loan.
- Advising on copyright as to the content of a website.
- Acting and advising in a number of agency disputes.

In insolvency related matters James’s recent work has included:

- Advising on breach of fiduciary duties and rights to IP following an insolvency.
- Acting for and advising parties to TUPE transfers from insolvent transferors on numerous issues.
- Advising a potentially defrauded creditor on actions against a phoenix company.
- Advising an administrator on a distribution whilst there remained unresolved issues surrounding leases.

James’ practice regularly involves international disputes and foreign jurisdictions. He has rights of audience before the DIFC Courts in Dubai, where he has undertaken full trials at first instance and appeals before the DIFC Court of Appeal.

Injunctions

James is regularly instructed in injunction proceedings both for claimants and defendants. He has experience of confidential information, maturing business opportunity and team move cases, springboard injunctions, search orders and orders relating to the inspection of electronic documents. He has experience of industrial action injunction proceedings and injunctions protecting charities from maladministration.

Recent work includes:

- Acting for the defendant in a claim for breach of confidence and on an application for the inspection of electronic images obtained from a search order.
- Acting for the claimant in a springboard injunction application following the creation of a competing business developed in cooperation with the claimant’s most significant client.
- Obtaining an interim injunction for a charity to prevent a third party passing off its activities as those of the charity or trespassing on its church’s premises.

- Acting for a defendant setting aside an improperly obtained search order.
- Acting for the proposed defendant in a claim for diversion of clients from an accountancy firm.
- Advising various clients on potential injunctions following the threat of industrial action.

James has lectured on amongst other matters the practical and procedural aspects to obtaining injunctions.

Employment - Tribunal and High Court

James' practice covers tribunals, County Court, High Court and Court of Appeal, multi claimant cases and test cases.

James' **High Court** practice covers director/senior employee disputes particularly applications for injunctions to protect business assets and remuneration/bonus disputes. His work covers breach of fiduciary duties and restrictive covenants, applications to obtain springboard relief and search orders, and ownership of IP rights.

Recent instructions include:

- A claim brought on the breach of a director's termination agreement.
- Advising individuals on the effect of their fiduciary duties on the pursuit of their 'outside interests' in various sectors.
- A claim following a conspiracy to divert insurance business and poach existing employees.
- A claim in the High Court against a well-known fashion house by a senior executive.

James has advised a number of organisations on the operation of employment agencies and employment businesses, on both a national and an international level.

James' **Employment Tribunal** practice covers all statutory employment claims with particular emphasis on TUPE, collective issues and industrial action, interim relief, whistleblowing, discrimination and employee/worker status.

Employment tribunal instructions include:

- The transnational reorganisation of a European business raising issues under TUPE and the Cross-Border Mergers Regulations.
- Strike out and costs applications for employers against WTR holiday pay claims, including acting for one of three respondents awarded approximately £450k under a wasted costs order.
- Acting for a senior officer of Unite in a successful claim alleging sexual harassment and discrimination against the union and its senior officials including its Chief of Staff.
- Acting for a private jet operator successfully defending a whistleblowing claim brought by a senior pilot.
- Acting for and advising insolvent transferors in relation to TUPE.
- Advising a charity on the TUPE and collective issues of it taking over a public service contract.
- Advising various employers on pension rights and employer obligations to pension schemes.

Collective/Trade Union

James regularly advises on industrial action and collective/trade union matters. He has represented a number of organisations during national strike action, and advised employers on their dealings with trade unions. He has broad experience of trade union related statutory employment rights including consultation, detriment and dismissal claims, blacklisting, and also individuals' rights against trade unions such as the s64 TULR(C)A 1992 right not to be unfairly disciplined.

Recent (collective level) instructions concern:

- Advising on the responses to and opportunities available during major leverage disputes.
- Advising on the negotiation and operation of a collective agreement for an airline.
- Acting for a manufacturer in a dispute over the operation of its Health and Safety consultation machinery.

- Advising on the legality of and practical approach to threatened strike action in a number of sectors.
- Acting for a party to a £100m property transaction on claims to alleged contractual entitlement to trade union recognition.
- Acting for parties during the Fire Brigades Union strikes.

Recent (individual rights level) instructions concern:

- Acting for a senior officer of Unite against the union in successful claims for sex discrimination, raising issues of the agency status of lay reps, currently awaiting the decision from Unite's appeal to the EAT.
- Acting for an airline against a claim for unlawful refusal of employment for trade union membership.
- Advising a construction company on the enforceability of provisions incorporating collective agreements into an EPC and individual contracts of employment.
- Acting for construction companies in claims alleging trade union detriment/discrimination.

James contributed chapters to The Law of Industrial Action and Trade Union Recognition, 2nd Ed 2011 (OUP), and the leading loose leaf "Transfer of Undertakings" (Sweet and Maxwell).

Charities Law

- Advising on a range of issues regarding the operation of a charity's constitution.
- Acting for a charity against a trustee accused of misusing charity resources.
- Advising a charity on a contractual/agency dispute regarding work the charity had undertaken for a third party.
- Advising a charity on the protection of the sensitive and confidential information it obtained during its work.
- Obtaining an interim injunction for a charity to prevent a third party passing off its activities as those of the charity.
- Acting for a charity against one of its major sources of funding in a dispute over its intellectual property.
- Advising a charity on the TUPE and collective issues of it taking over a public service contract.

James is a member of the Charity Law Association's working party consulted by the Charity Commission on its forthcoming guidance 'Charities and Litigation' CC38.

Disciplinary, Regulatory & Professional Liability Regulation Group.

His experience includes:

- Professional body disciplinary and regulatory panels.
- Cases involving doctors, nurses and teachers.
- Cases involving internal disciplinary proceedings, injunctive relief, tribunal claims and regulatory proceedings.
- Acting as a legal assessor to the General Optical Council.

James has worked with solicitors on complex internal investigations and has acted at internal disciplinary hearings.

James' practice also covers advice and advocacy in claims for professional liability. Recent experience includes:

- Claims against solicitors firms for negligent advice and representation.
- Claims against trade unions for breach of terms of membership and negligent representation.
- Claims against barristers for negligent advice (and on one occasion, allegedly discriminatory advice).

James has extensive experience of appellate advocacy and is regularly instructed on appeals. He has appeared at appeals in the High Court, the Court of Appeal in England and Wales and and the Court of Appeal in Dubai at the DIFC.

His notable cases include:

- Unite the Union v Nailard UKEAT/0300/15/BA (27.09.2016)
- Niksun Inc v Hills, CA, on a security for costs application
- Kahiga v London Borough of Barnet, [2015] EWCA Civ 857
- Gebremariam v Ethiopian Airlines Enterprise (t/a Ethiopian Airlines) [2014] IRLR 354
- Hannah al Herz v DIFC Authority CA 004/2013
- Marwan Lutfi v DIFC Authority CA 003/2013
- Seawell Ltd v Ceva Freight (UK) Ltd [2012] IRLR 802
- Kerr v Ernst & Young Services Ltd [2011] ICR D13
- Sheffield Forgemasters International Ltd v Fox [2009] IRLR 192
- David Wilson Homes Ltd v (1) Glass (2) Horner [2008] All ER (D) 120 (Jun)
- Northgate HR Ltd v Mercy [2008] IRLR 222 CA
- Humphries v Chevler Packaging Ltd UKEA T/0224/06, IDS Brief 819 (December 2006)
- Real Time Civil Engineering Ltd v Callaghan [2006] All ER (D) 222 (Jan)
- Voith Turbo Ltd v Stowe [2005] IRLR 228 EAT

Arbitration

James has acted and advised in arbitrations in his core areas of work, including a dispute arising from a commercial contract for the performance of work for the UN, and a multi jurisdiction employment dispute.

For James' core areas of expertise please see the other headings on this CV.

Personal Background

James has a masters in Labour Law from LSE, where he wrote his dissertation on the application of the Acquired Rights Directive and TUPE to insolvent transferors. He has an LLB from UCL and a BA and MA from Cambridge University following an engineering degree where he was awarded the Unilever prize. He wrote for IDS Brief whilst undertaking his BVC, contributing articles on employment law developments and several chapters of the Disability Discrimination Handbook. He has worked as an engineer both for the Ministry of Defence and in the private sector.

James contributes to the loose leaf "Transfer of Undertakings" (Sweet and Maxwell), and contributed chapters to The Law of Industrial Action and Trade Union Recognition, 2nd ed 2011 (OUP) and Equality Act 2010: a Guide to the New Law, 2010 (Law Society Publishing). He edited the Employment Tribunal Remedies Handbook (1st and 2nd editions) 2014-2016.

James lectures on injunctions, TUPE and industrial action.

His professional memberships include COMBAR, ELBA, CLA, APP, PNBA and ELA.

James lives in Oxford and is prepared to hold client conferences outside London.

Outside of law, James has competed at national level in two sports and twice been a national champion in his age group. He is a keen rock climber and cyclist having cycled from London to Istanbul and the length of the Rhine from the sea to its source in the Swiss alps.
