



## James Fagan

Call: 2019

**Barrister**

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James joined Radcliffe Chambers as a tenant in December 2020, following the successful completion of his pupillage. He is developing a busy practice of his own, and has been instructed to appear in both the County Court and the High Court. He accepts instructions across chambers' core practice areas.

Before joining the Bar, James trained and practised as a solicitor in the litigation department of a leading US law firm in its London and Hong Kong offices. During his time as a solicitor, James gained experience of advising clients on a variety of commercial disputes with international dimensions.

Between 2017 and 2018, James was a judicial assistant to Lord Hughes and Lady Black at the Supreme Court of the United Kingdom.

### COMMERCIAL

James is instructed in his own right as counsel in commercial claims. James gained experience on a variety of commercial matters during his pupillage, including:

- Advising on whether default interest rate provisions in a loan contract constituted unenforceable penalties.
- Drafting particulars of claim for recovery of overpaid fees from an independent contractor.
- Assisting on a breach of contract dispute between a Belgian medical device manufacturer and its UK counterparty under a virtual manufacturing agreement concerning a failure to by the UK counterparty to assist in maintaining CE certification.
- Assisting on a partnership dispute in relation to misappropriation of partnership funds and the availability of a claim for account.

James also has extensive commercial law experience from his time as a solicitor including:

- Advising a US based private equity house specialising in energy investments on a dispute concerning its operating rights in a UK based chemicals plant.
- Advising a UK property manager in relation to threatened proceedings arising out of an uncontrolled datacentre shutoff.
- Advising a Dutch holdco (in a private equity fund structure) in a HKIAC arbitration concerning fraud and misrepresentation allegations in the

establishment of its parent fund and the subsequent acquisition of the target company by the Dutch holdco.

- Advising causes of action, on remedies, and jurisdiction issues in an investment dispute for a global insurance company
- Advising on discrete matters arising in the negotiations of mergers and acquisitions.
- Managing disclosure reviews on large commercial litigation cases.

## **INSOLVENCY AND COMPANY LAW**

James has appeared as sole advocate in the High Court and County Court in relation to winding up petitions and other insolvency applications. During pupillage, James gained experience in a broad range of insolvency matters, including:

- Successfully obtaining a rescission of a winding up order for a medical services company.
- Advising on strategy relating to issuing statutory demands against a property development company.
- Successfully obtaining an order pursuant to sections 234 and 236 of the Insolvency Act 1986 requiring delivery up of company papers and records and requiring former directors to attend for public examination.
- Assisting with analysis of available proprietary remedies following the wrongful retention of leased equipment after a pre-pack administration.
- Assisting on particulars of claim for liquidators in a breach of director's duties claim arising out of a misappropriation of company funds.
- Assisting on drafting submissions for a hearing to obtain a validation order.

## **PRIVATE CLIENT**

James gained experience in a broad range of wills, trusts and estates matters during his pupillage, including:

- Assisting on an opinion in relation to proposed Inheritance (Provision for Family and Dependants) Act 1975 claims.
- Assisting on an opinion regarding the validity of a will trust, inheritance tax issues and potential professional negligence claims against professional trustees.
- Assisting on drafting a defence in a divorce case arguing that a family company was held on trust in equal shares for all members of a family instead of on a 50/50 split between husband and wife.
- Assisting on a statutory will application for a 20-year-old man with severe, life-long disabilities whose biological father disputed the terms of the proposed will as not being in the man's best interests.
- Assisting with an advice in relation to the validity of a trust for the upkeep of a family tomb.

## **PROPERTY**

James has appeared in possession hearings and drafted possession claims and applications. Work during pupillage includes:

- Successfully obtaining an interim possession order against trespassers to a commercial property
- Successfully resisting applications to set aside warrants of possession.
- Assisting with a dispute between landowners concerning a proposed change of land use from agricultural use to residential use and the operation of a deed of covenant restricting changes of land use.

## **PENSIONS**

James gained experience in pensions matters during his pupillage, including:

- Assisting with an opinion on the proper construction of a pension scheme's

rules and the validity of a proposed closure to accruals.

- Assisting with drafting a part 8 claim form for the rectification of a pension trust deed.
- Assisting with drafting particulars of claim against solicitors for negligent drafting of a pension scheme.
- Attending the Association of Pensions Lawyers Beginners Course.

## QUALIFICATIONS

- BTT, BPP College of Law (2019)
- LPC, University Of Law (Distinction) (2013 - 2014)
- BCL, Mansfield College, University of Oxford (Restitution of Unjust Enrichment, Commercial Remedies, Corporate Insolvency Law and Principles of Civil Procedure) (2012 - 2013)
- BCL International (First Class Honours, First in Class), University College Dublin (2008 - 2012)

Between 2017 and 2018, James was a judicial assistant to Lord Hughes and Lady Black at the Supreme Court of the United Kingdom. During this time, he assisted the Justices in a range of high-profile cases across many different areas of law and observed and discussed leading cases including:

- *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67 (landmark case on the test for dishonesty)
- *Steel and another v NRAM Limited* [2018] UKSC 13 (concerning solicitors' liability to lenders for negligent misstatement)
- *Goldman Sachs International v Novo Banco SA* [2018] UKSC 34 (concerning the European Bank Recovery and Resolution Directive 2014/59/EU)
- *Rock Advertising Limited v MWB Business Exchange Centres Limited* [2018] UKSC 24 (leading case on 'no oral modification' clauses)

James has also taught as a Teaching Fellow in Commercial Law at University College London.

## SCHOLARSHIPS

- Freshfields Bruckhaus Deringer Scholarship (University of Oxford) (2012)
- James C. Brady Memorial Medal for 1st Place in Equity and Trusts (University College Dublin) (2012)
- CALI Excellence for the Future Award for 1st Place in International Trade Law (DePaul College of Law, Chicago, Illinois) (2011)
- Bank of Ireland Tort Essay Bronze Medal (University College Dublin) (2009)
- Butterworths Law Prize (University College Dublin) (2009)
- Stage 1 Scholarship (University College Dublin) (2009)
- High Achievers Award (University College Dublin) (2008)

During his legal studies, James participated in a number of mooting competitions, becoming a finalist in the Shearman and Sterling Moot 2013 and winning the Atkin Chambers Moot 2013.

## POLICIES

Read James' [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#).