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# James Petkovic

Barrister
Call 2009

## Scope of Practice

• Agency • Arbitration • Asset Tracing and Recovery • Banking and Financial Services • Civil Fraud and Investigations • Company and Insolvency • Economic Torts • Energy and Natural Resources • Injunctions • Jurisdiction and Conflict of Laws • Professional Liability • Restitution • Sale of Goods and Supply of Goods and Services

## Overview

James is presently on a period of leave from Chambers, and is working as a member of the Litigation & Insolvency team at Harneys in the British Virgin Islands.

When practising at the Commercial Bar in London, James has a broad commercial litigation and arbitration practice encompassing a wide range of disputes, frequently, but not exclusively, with an international element. James is comfortable acting both led and unled.

James was until recently engaged in ***Suppipat & Ors v Nop Narongdej & Ors*** - US$2bn cross-border fraud proceedings in the Commercial Court (listed as one of The Lawyer's Top 20 cases for 2022). He has also recently acted for a commercial core participant in the ***Grenfell Tower Inquiry***.

James' practice has also encompassed commercial disputes arising in the context of the international arbitration sector. He acted as part of an extensive legal team in ad hoc (PCA administered) arbitration proceedings claiming significant damages as a result of failure to deliver under a gas supply agreement. He acted in English-seated ad hoc arbitration proceedings for a government department which sought a range of relief including payment in excess of £50m. He also acted on behalf of an investor in ICSID proceedings. In ***ZCCM Investments Holdings plc v. Kansanshi Holding plc & Anr*** [2019] EWHC 1285 (Comm), James appeared in a s68 arbitration claim before the Commercial Court, arising out of UNCITRAL proceedings; and he appeared (as sole counsel) in LCIA proceedings concerned with payments under a loan agreement and a guarantee resulting in an award well in excess of US$20m.

James has experience in obtaining urgent injunctive relief, appearing in ***SDI Retail Services Limited v. Rangers Football Ltd & Ors*** [2018] EWHC 1697 (Comm).

Notable prior engagements have included ***Dar Al Arkan & Anr v Al Refai & Ors*** (alleged fraud / breach ME banking practice), listed as one of The Lawyer's Top 20 cases for 2014 and 2015: Global Disputes in the English Courts and ***Chesterfield United Inc & Anr v Deutsche Bank AG & Ors*** (€500m sale of credit-linked notes).

James considers pro bono work is an important aspect of a Barrister's practice. He is a CLIPS Pro Bono Champion

2021 and 2022 for his work in respect of the Chancery Bar Association's litigant in person scheme.

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# Examples of Recent Cases

## Arbitration

In recent years, James' practice has encompassed commercial disputes arising in the context of the international arbitration sector. He acts as part of an extensive legal team in ad hoc (PCA administered) arbitration proceedings claiming significant damages as a result of failure to deliver under a gas supply agreement. He has also acted in English-seated ad hoc arbitration proceedings for a government department which sought a range of relief including payment in excess of £50m. Separately, James has acted in a s68 arbitration claim before the Commercial Court, arising out of UNCITRAL proceedings and (as sole counsel) in LCIA proceedings concerned with payments under a loan agreement and a guarantee resulting in an award well in excess of US$20m.

In October 2018, James presented a joint paper (with Michael Sullivan QC) on the measures available to deal with recalcitrant parties in international arbitration (including under the ICSID and UNCITRAL Rules) at the 8th Investment Treaty Arbitration Conference in Prague. An updated and amended version of this talk is available here.

- LCIA Arbitration (2022)
  Acted with Neil Kitchener KC in a high value LCIA arbitration between two major international conglomerates. The arbitration raised issues pertaining to the construction of contracts and penalty clauses.
- ICSID Proceedings
  Acted for an investor in ICSID proceedings which raised issues of, among other things, jurisdiction, fair and equitable treatment and disclosure.
- ZCCM Investments Holdings plc v. Kansanshi Holding plc & Anr [2019] EWHC 1285 (Comm); [2020] 1 All E.R. (Comm) 132.
  Acted (with Hannah Brown QC), for the applicant in a s68 challenge before the Commercial Court arising out of UNCITRAL proceedings.
- LCIA Proceedings
  Acted (as sole counsel) for a bank in high value LCIA arbitral proceedings concerned with payments under a loan agreement and a guarantee resulting in an award well in excess of US$20m.
- Ad hoc Proceedings
  Acted (with Simon Colton QC) for a government department in arbitration which sought a range of relief including payment in excess of £50 million.
- Ad hoc Proceedings
  Acted with Salim Moollan QC and Ricky Diwan QC in a London-seated (PCA-administered) ad hoc arbitration in respect of a high-value dispute arising out of the non-delivery of gas.
- LCIA Proceedings
  For (with Michael Sullivan QC) the co-owner of an oil depot on the Black Sea in a dispute arising out of corporate management conflicts issues and the transfer of shares in the venture.
- LCIA Proceedings
  Assisted (while at Clifford Chance LLP and Cavenagh Law) on an LCIA Arbitration between joint venture parties concerning the payment of LTIP charges.

## Asset Tracing and Recovery

- Advised (with Sonia Tolaney QC) a major bank in respect of issues pertaining to foreign-governmental asset-expropriation.
- Assisted David Wolfson QC in preparing a successful application to a foreign court for service out of the jurisdiction and a high-value worldwide freezing injunction arising out of allegations of fraud. The litigation pertained to efforts to recover a significant company, the ownership of which had been wrongfully changed.
- Represented a major UK building society in fraud proceedings which raised asset tracing issues.
- Dar Al Arkan & ors v (1) Al Refai, (2) Kroll & ors [2012] EWHC 3539 (Comm)
  For (with Craig Orr QC and Nicholas Sloboda) the second defendant, Kroll Associates, in significant litigation

relating to allegations of fraudulent/iniquitous banking practices. The case raised issues, inter alia, pertaining to the movement of monies in the context of highly complex transactions.

## Banking and Financial Services

- Assisting (Stephen Auld QC) in the preparation of expert opinions on English law on behalf of Commerzbank in relation to claims against Deutsche Bank and Bank of New York Mellon.
- Assisted (Stephen Auld QC) in the preparation of an expert opinion on English law on behalf of Morgan Stanley in relation to high-value claims brought against it by an SPV in the Supreme Court of the State of New York in relation to the sale of RMBS. The court held that the SPV's claims were to be dismissed. Also assisted in the preparation of a number of other expert opinions for other investment banks relating to similar issues arising out of claims brought against them by the SPV.
- **Chesterfield United Inc & Anr v Deutsche Bank AG & Ors [2016] (Ch)**
  Acted for (with Sonia Tolaney QC and Saul Lemer) Deutsche Bank in (c. €500 million) litigation arising out of the sale of credit-linked notes.
- **Dar Al Arkan & ors v (1) Al Refai, (2) Kroll & ors [2012] EWHC 3539 (Comm)**
  Acted for (with Craig Orr QC and Nicholas Sloboda) the second defendant, Kroll Associates, in significant litigation relating to allegations of fraudulent/iniquitous banking practices. The work gave James exposure to banking practice issues in Bahrain, in particular issues relating to the granting of credit, as well as the financial regulatory systems of Bahrain, Saudi Arabia and Malaysia. The case settled on mutually satisfactory terms. Listed as one of The Lawyer's Top 20 Cases for 2014
- **NRAM**
  Advised on assignment of certain claims in the context of the November 2015 sale of the taxpayer-owned NRAM mortgages from UK Asset Resolution to the investment fund, Cerberus, a deal thought to be the largest financial asset sale to date by a European government. See the linked article: .
- Supported a senior independent reviewer in their assessment of a large UK bank's remediation programme
- Advised (with Sonia Tolaney QC) a major bank in respect of issues pertaining to foreign-governmental asset-expropriation.
- Advised (with Susanna Fitzgerald QC) a betting company in respect of the application of FSMA and the Gambling Act 2005 in respect of a proposed new product.
- Working on secondment at the Financial Services Authority in relation to various projects including tax transparent funds, master-feeder structures and the Alternative Investment Fund Managers Directive which seeks, among other things, to regulate the operation of hedge funds and private equity. Subsequent to his secondment, assisted the FSA in relation to the redrafting of its Handbook on the division of the FSA into the FCA and the PRA; and assisted the FCA in respect of issues concerning Brexit and the CSDR.

## Civil Fraud and Investigations

- Advised (with Steven Elliott KC) a private equity firm in respect of potential misrepresentation claims pertaining to the purchase of a major European business (2022).
- **Suppipat & Ors v Nop Narongdej & Ors [2021] EWHC 3259 (Comm); [2022] EWHC 1806 (Comm)**
  Acted for a defendant in substantial and complex cross-border fraud proceedings commenced by the former owner of Thailand's largest renewable energy company. 17 defendants were joined to the proceedings, with the claimants seeking between £1-2 billion. Listed as one of The Lawyer's Top 20 cases for 2022.
- Assisted David Wolfson QC in preparing a successful application to a foreign court for service out of the jurisdiction and a high-value worldwide freezing injunction arising out of allegations of fraud.
- **Dar Al Arkan & ors v (1) Al Refai, (2) Kroll & ors [2012] EWHC 3539 (Comm)**
  For (with Craig Orr QC and Nicholas Sloboda) the second defendant, Kroll Associates, in significant litigation relating to allegations of fraudulent/iniquitous banking practices. The work gave James exposure to banking practice issues in Bahrain, in particular issues relating to the granting of credit, as well as the financial regulatory systems of Bahrain, Saudi Arabia and Malaysia. The case settled on mutually satisfactory terms. Listed as one of The Lawyer's Top 20 Cases for 2014

## Commercial Litigation

- **Virgin Enterprises Limited v Brightline (2023)**
  Acted (with Anthony De Garr Robinson KC) in a one-day hearing on this matter which raised issues

pertaining to expert evidence and disclosure.

- Advised (with Steven Elliott KC) a private equity firm in respect of potential misrepresentation claims pertaining to the purchase of a major European business (2022).
- **Suppipat & Ors v Nop Narongdej & Ors [2021] EWHC 3259 (Comm); [2022] EWHC 1806 (Comm)**
  Acted for a defendant in substantial and complex cross-border fraud proceedings commenced by the former owner of Thailand's largest renewable energy company. 17 defendants were joined to the proceedings, with the claimants seeking between £1-2 billion. Listed as one of The Lawyer's Top 20 cases for 2022.
- **High Court Claim (2021)**
  Acted in a US$4m claim in the High Court arising out of a share transfer. The claim raised, among other things, issues of limitation, contractual construction and assignment.
- Providing an expert opinion on English law aircraft lease agreements and guarantees for submission to the High Court of Milan.
- **SDI Retail Services Limited v The Rangers Football Club Limited [2018] EWHC 1697 (Comm)**
  Acted (with Sa'ad Hossain QC) for SDI Retail Services Limited in proceedings involving the determination of issues of contractual construction and the obtaining of urgent interim injunctive relief.
- **Dar Al Arkan & ors v (1) Al Refai, (2) Kroll & ors [2012] EWHC 3539 (Comm)**
  For (with Craig Orr QC and Nicholas Sloboda) the second defendant, Kroll Associates, in significant litigation relating to allegations of fraudulent/iniquitous banking practices. The work gave James exposure to banking practice issues in Bahrain, in particular issues relating to the granting of credit, as well as the financial regulatory systems of Bahrain, Saudi Arabia and Malaysia. The case settled on mutually satisfactory terms. Listed as one of The Lawyer's Top 20 Cases for 2014.
- Assisted (while at Clifford Chance LLP and Cavenagh Law) on a dispute relating to the operation of deadlock notice provisions in a joint venture agreement.
- Assisted (while at Clifford Chance LLP and Cavenagh Law) on a high-value trust dispute which, among other things, raised issues relating to the UK Supreme Court decision in *Prest v Petrodel Resources* [2013] UKSC 34 as well as the operation of trusts law in Singapore.

## Energy and Natural Resources

- Acted with Salim Moollan QC and Ricky Diwan QC in a London-seated (PCA-administered) ad hoc arbitration in respect of a high-value dispute arising out of the non-delivery of gas.
- **ICC Proceedings**
  Assisted John McCaughran QC in high value, gas price review proceedings for a global energy major.
- Assisted (during pupillage) Laurence Rabinowitz QC in advising upon the liabilities of an energy company. Issues relating to, among other things, penalty clauses were considered.
- Assisted (during pupillage) Sa'ad Hossain and Michael Watkins in relation to an arbitration between two petrochemical companies.

## Injunctive Relief

- **SDI Retail Services Limited v The Rangers Football Club Limited [2018] EWHC 1697 (Comm)**
  Acted (with Sa'ad Hossain QC) for SDI Retail Services Limited in proceedings involving the determination of issues of contractual construction and the obtaining of urgent interim injunctive relief.

## Public Inquiries and Statutory Investigations

- **Grenfell Tower Inquiry**
  Acted with Craig Orr QC in representing a commercial core participant in the Grenfell Tower Inquiry. The Inquiry has considered issues connected with construction and manufacturing.
- **Investigation into the FCA's regulation of London Capital and Finance**
  Working with Dame Elizabeth Gloster in her Investigation (established pursuant to sections 77 and 78 of the Financial Services Act 2012) into the FCA's regulation of London Capital Finance (the collapse of which firm impacted over 11,000 retail investors who had invested over £230m). The Investigation raised issues of regulatory law including pertaining to ISAs, financial promotions, FCA interventions and capital raising through bond issues. The Investigation's Report, together with the relevant ministerial statement and FCA responses, is available here: . James also gave oral evidence to the Treasury Select Committee on 1 February 2021. A link to the transcript is here:

### Restitution

- Advised on the possible restitutionary implications of a wrongly paid insurance premium and assisted in the drafting of a settlement agreement in relation to that premium.

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# Academic Achievements

- Trinity College, Cambridge University: Hooper Declamation Prize (Winner) [2006] (Placed) [2007]
- Trinity College, Cambridge University: James Webb Prize [2006]
- Trinity College, Cambridge University: Greaves Prize [2007]
- Trinity College, Cambridge University: Senior Scholar
- Lord Haldane Scholarship, Lincoln's Inn [2007]
- Hardwicke Entrance Award, Lincoln's Inn [2008]
- Lord Denning Scholarship, Lincoln's Inn

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# Publications and Talks

- "Environmental, Social and Governance (ESG) Litigation Risk for Lenders" - PLC Article (2022), Please see the article
- In October 2018, James presented a joint paper (with Michael Sullivan QC) on the measures available to deal with recalcitrant parties in international arbitration (including under the ICSID and UNCITRAL Rules) at the 8th Investment Treaty Arbitration Conference in Prague. An updated and amended version of this talk is available here.

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# Other Achievements

- Winner - Jonathan Brock QC Memorial Essay Prize 2015, "Does the availability of an illegality defence depend on the scope of the duty owed?" - http://www.lclcba.com/index.php/prize2015/the-result-of-the-2015-competition
- Shearman and Sterling Mooting Competition, Oxford, Semi-Finalist
- Shortlisted, 1 Chancery Lane Tort Law Essay Prize, City University

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# Education

- University of Cambridge, Trinity College: BA (Hons) History (Double First) [2004 - 2007]
- City University: GDL (Distinction) [2007 - 2008]
- City Law School: BVC (Very Competent) [2008 - 2009]
- University of Oxford, Christ Church: BCL (Distinction) (Subjects: Restitution, Commercial Remedies, Conflict of Laws, Transnational Commercial Law) [2009 - 2010]

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# Awards

Chambers TOP RANKED UK Bar 2026 One Essex Court

TOP TIER SET Legal500 UNITED KINGDOM 2026

# Contact Clerks



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