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## James Davies

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**Year of Call:** 2009

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**Clerk:** Raj Lamba

### PRACTICE AREAS

Insolvency & Restructuring

Property

Company

Commercial

### PROFILE

James is a leading junior in the field of commercial Chancery work, with particular expertise in contentious insolvency, company law and civil fraud. He is regularly instructed in high value and complex litigation, often involving a cross-border element.

James' current and recent caseload include:

- Representing a defendant in an ongoing Commercial Court claim involving conspiracy and a transaction defrauding creditors worth around €100m. James previously acted as sole counsel but is

now led by Hugo Page KC.

- Representing liquidators in a claim against a director for misfeasance worth over £2m. James was successful at a three-day High Court trial in 2022 ([2022] EWHC 197 (Ch)) and has recently secured the dismissal of the director's appeal together with an application by the director to adduce new evidence.
- Representing a claimant on a contractual claim in the Commercial Court for damages in the sum of €37m based on the non-performance of an agreement to supply bicycles and related products.
- Representing a claimant on a claim for fraudulent breach of duty (against a bankrupt), unlawful means conspiracy and knowing receipt based upon the disposal of a property portfolio.

The directories describe James as “an excellent all-rounder”, “a great team player, who is great with clients and manages expectations appropriately”. “He is calm and measured on his feet, which gives him credibility, but his written work is also excellent”. “You want James on your side”. “The quality of his advice, written and oral, is excellent.”

James is an experienced trial advocate; his cross examination has been described by a Judge as “courteously hostile” [2019] EWHC 1657 (Ch).

## PRACTICE AREAS

### Insolvency & Restructuring

James has a vast experience of all areas of contentious insolvency both in the corporate sphere (including matters relating to partnerships and LLPs) and the personal sphere. He is instructed by office holders and others both as sole counsel and as part of a wider team.

James is regularly instructed on applications to set aside statutory demands, applications to restrain the presentation and advertisement of winding up petitions, on the hearing of bankruptcy and winding up petitions, on applications for administration orders and on the full range of claims under the Insolvency Act 1986. James also has extensive experience of applications to remove officeholders.

James has particular experience of cross border insolvency including acting for officeholders of foreign companies bringing claims in England and Wales and seeking assistance from the English courts pursuant to section 426 of the Insolvency Act 1986.

James is a member of R3 and INSOL.

### Recent cases include:

- Acted for a group of successful investors in the latest case about administrations of companies being used to raise funds from investors to renovate property in return for the grant of leases of individual rooms within the property: *In the matter of CHF 2 Ltd and Ors* [2020] EWHC 2685 (Ch)
- Acting for the successful liquidator of an LLP in a four-day trial and securing judgment for misfeasance and pursuant to section 214A of the Insolvency Act 1986: *In the matter of C.J. & R.A. Eade LLP* (sub nom *McTear v Eade*) [2019] EWHC 1673 (Ch)
- Acting for the liquidator in the four-day trial of a claim against the company's former directors for wrongful trading, misfeasance and various claims under the Insolvency Act 1986: *In the matter of Contract Utility Services (CUS) Limited* (sub nom *Jackson v Casey*) [2019] EWHC 1673 (Ch)
- Acting for a well-known financial institution in securing an injunction restraining the presentation of a winding up petition against it
- Acting for the liquidator of a Panamanian company in a fraud claim against a former solicitor for over

£4.5m

- Acting for two creditors in an application to remove joint liquidators from office
- Acting for the officeholders in an application to remove them from office: *Ve Vegas Investors IV LLC v Shinnars* [2018] EWHC 186 (Ch)

## Property

James has extensive experience of all aspects of real property and landlord and tenant matters. He has particular expertise in the interaction between property law and insolvency and is regularly instructed to advise on issues such as forfeiture, receivership, disclaimer, the validity and enforceability of security and the impact of Company Voluntary Arrangements on leasehold interests.

James is a member of the Property Bar Association and the Agricultural Lawyers Association.

### Recent cases include:

- Led by Zia Bhaloo QC and subsequently Tim Morshead QC on a substantial claim for professional negligence in the context of a conveyancing transaction, involving complex issues relating to an overage agreement: *Tanea Holdings Limited v Bower Cotton Solicitors*
- Appearing for the successful claimant in five-day trial of a proprietary estoppel claim: *Attridge v Bird* (<https://www.dailymail.co.uk/news/article-7127619/Market-traders-daughter-71-siblings-war-London-flat-bought-40-000.html>)
- Acting for the claimant in a claim for the appointment of a receiver and for dissolution of a farming partnership with assets worth several million pounds
- Acting for a successful claimant in a three-day trial seeking a declaration that the claimant had acquired an easement by prescription

## Company

James' company practice overlaps substantially with his insolvency practice. He is experienced in all forms of shareholder disputes, unfair prejudice petitions and derivative claims as well as claims for breach of directors' duties and unlawful distributions.

### Recent cases include:

- Acting for the petitioners in an unfair prejudice petition presented in the High Court in respect of a substantial company, which had attracted a great deal of publicity amongst celebrity and life-style magazines
- Acting for the successful claimant shareholders of a company incorporated to produce a "retro" version of the celebrated Sinclair ZX Vega Plus. James obtained an injunction to prevent the directors wrongfully forfeiting the claimants' shares in the company
- Advising a high-profile founder of a start-up company on how to negotiate a dispute with a major shareholder

## Commercial

James is regularly instructed in commercial cases, often with a cross-border element. He is often asked to advise on contractual disputes, including sale of goods claims, and matters relating to debt recovery and enforcement.

For several years, James was led by Peter Arden QC and Stephen Kenny QC on a claim in the Commercial Court by 350 individuals against a Cypriot bank and developer in relation to the miss-selling of Cypriot property. The claim gave rise to jurisdiction disputes involving questions of consumer status and rights in rem.

### Recent cases include:

- Representing the successful respondents in an application to discharge a freezing injunction on the grounds of alleged material non-disclosure: *Bokhari v Shah* [2019] WLUK 165
- Acting for the claimant in a long-running dispute against various Kuwaiti defendants involving the priority and validity of certain security interests
- Representing the claimant in the trial of a sale of goods case involving the Factors Act 1889
- Advising on the *Commercial Agents (Council Directive) Regulations 1993*

## SIGNIFICANT CASES

### **In the matter of CHF 2 Ltd and Ors [2020]** EWHC 2685 (Ch)

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Acted for a group of successful investors in the latest case about administrations of companies being used to raise funds from investors to renovate property in return for the grant of leases of individual rooms within the property.

### **In the matter of C.J. & R.A. Eade LLP (sub nom McTear v Eade) [2019]** EWHC 1673 (Ch)

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James acted for the successful liquidator of an LLP in a four-day trial and secured judgment for misfeasance and pursuant to section 214A of the Insolvency Act 1986.

### **In the matter of Contract Utility Services (CUS) Limited (sub nom Jackson v Casey) [2019]** EWHC 1673 (Ch)

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James acted for the liquidator in the four-day trial of a claim against the company's former directors for wrongful trading, misfeasance and various claims under the Insolvency Act 1986.

### **BGP Al-Baho v BGP Global Services Ltd [2017]**

EWHC 2494 (Ch); [2018] 3 Costs LR 503

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James acted for the successful respondent in this case, which considered the criteria for applying to set aside an order for security for costs where that order contained provision for there to be liberty to apply.

### **In Re a Company [2016]**

EWHC 3811 (Ch)

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James acted for the successful applicant in this application to restrain advertisement of a winding-up petition. The case is notable because the court required the company to make a substantial payment into court as a condition of the grant of the injunctive relief.

### **Taylor v Giovani Developers [2015]**

EWHC 328 (Comm)

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James obtained default judgment for the claimant in a claim brought in the Commercial Court against a Cypriot property developer in connection with the purchase of a holiday flat. This decision, which involved consideration of extending time for the purposes of filing an acknowledgment of service, has been considered in numerous other authorities.

### **Barclay-Watt v Alpha Panareti Public Limited [2012]**

WLUK 702

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James was led by Peter Arden QC and Stephen Kenny QC on a claim by 350 individuals against a Cypriot bank and developer in relation to the miss-selling of Cypriot property. The claim gave rise to jurisdiction disputes involving questions of consumer status and rights in rem.

## **CAREER AND ASSOCIATIONS**

International Corporate Rescue Award for Excellence, 2010

Sunley Scholarship, Lincoln's Inn, 2010

LLM Corporate Law (Distinction), University College London, 2009 – 2010

Called to the Bar, Lincoln's Inn, 2009

Bar Vocational Course (Very Competent), BPP London, 2008 – 2009

Thomas More Bursary, Lincoln's Inn, 2008

Master en Droit Européen, Université de Rennes I, 2007 – 2008

Hardwicke Scholarship, Lincoln's Inn, 2007

LLB European (French) (Hons), University of Exeter, 2004 – 2007

Member of the Chancery Bar Association

Member of R3

Member of Insol

Member of the Property Bar Association

Member of the Agricultural Lawyers Association

## PUBLICATIONS

Dealing with deposits

Contributor to Butterworths Property Insolvency

Contributor to The Rural Law Notebook

The Nature and Scope of the Anti-Deprivation Rule in the English Law of Insolvency – Part One (2011) 8 Int. C.R. 155

The Nature and Scope of the Anti-Deprivation Rule in the English Law of Insolvency – Part Two (2011) 8 Int. C.R. 231



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