


James Malam

Call 2002



Clerks

 Joe Mawson
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Memberships

- Professional Negligence Bar Association
- TECBAR
- Chancery Bar Association
- Northern Circuit Commercial Bar Association

Education

- Judicial Assistant to the Court of Appeal, 2007
- Bar Vocational Course, Nottingham Law School, Very Competent, 2002
- Lord Justice Holker Award, Gray's Inn, 2001
- LLB (Hons) Law, University of Sheffield, 2001
- Plessington High School, Wirral, 1991-1998

Commercial

James acts in high value disputes across the full range of commercial litigation; he has been recommended in the Legal 500 for commercial work since 2011 and is recommended in this area in the 2025 edition of Chambers and Partners.

James has particular experience of disputes revolving around the proper interpretation of parties' contracts, including whether and to what extent standard terms form part of the contract; claims on security, in particular those relying on surety liabilities; acting in arbitrations and expert determinations both domestically and internationally, including under the LCIA and ICC rules and under bespoke rules; directors' and shareholders' rights and duties; the incidence of duties of care; substantial pre-action and interim applications such as freezing injunctions and other relief; and limitation.

Commercial Cases:

- Two day ICC arbitration hearing in London. Represented a consultant claiming fees arising from its procurement on behalf of a multinational aerospace company of contracts with the Mauritian government. The respondent resisted payment in reliance on alleged 'red flags' suggesting possible fraud on the part of the consultant. The consultant was awarded its fees in full.
- Defence, with David Mohyuddin KC, of a £4.5m claim to a beneficial interest in company shares transferred by one side of a two-family company to the other, based upon a recording of the Defendant in conversation with the now-deceased transferor director.
- Acting for a multinational dairy company in a dispute about the conversion of its milk trollies.
- Acting for a Formula 2 and 3 racing team to obtain Norwich Pharmacal and Bankers' Trust relief following a push payment fraud.

- Claim by the governing body of a sport to recover grant monies paid for a facility not satisfactorily constructed. Issues of interpretation of the grant contract and when and whether an entitlement to reclaim the grant had accrued.
- Acting for a multinational oil company in a dispute with the owner of a number of petrol stations following the termination of the parties' relationship.
- Appeal against judgment for £850,000 on claim under a bridging loan. The court accepted the argument in the grounds and skeleton James drafted, that the loan interest provisions constituted a penalty and were unenforceable, and granted the appeal, without any attendance on behalf of the appellant (who then acted in person but was too ill to attend the hearing) and despite the respondent being represented by counsel. *Seculink Limited v Eren Salih* [2023] EWHC 1706 (KB)
- Acting for a government agency in a deceit and conspiracy claim for the recovery of monies against a former temporary worker, including obtaining a freezing order.
- Resisting an application to set aside statutory demands and obtaining bankruptcy orders on guarantee debts of c.£29m owed by two well-known hotel operators.
- Long running dispute regarding the retirement of three of seven partners from a farming partnership with several million pounds of assets. Dispute revolved around the proper interpretation of the partnership deed and whether and when the retiring partners' half share fell due. *Liddle v. Liddle* [2019] EWCA Civ 346, [2019] B.P.I.R. 947; [2017] EWHC 2261 (Ch), [2017] B.P.I.R. 1538.
- Successfully resisted conjoined appeals to Freedman J. against the court's refusal to permit the claimant to change experts, despite the expert's refusal to continue acting and it being common ground that without new expert evidence the claims would fail. *Doyle v. HDI Global Specialty SE* [2023] EWHC 2722 (KB)
- Obtaining summary judgment in a £1.1m guarantee claim.
- Three day TCC trial regarding the interpretation of parties' contract in which an engineer agreed to design 'sewers' and whether that obliged it to specify the type of package sewage treatment plant to be used in the care home the claimant was constructing. Limitation issues revolving around when the Defendant's right to a contractual indemnity accrued under the terms of the contract. *Baylham Care Centre Ltd v. Mixbrow Ltd* [2019] EWHC 2645 (TCC).
- Appeal to Marcus Smith J. regarding the set-aside of a compromise agreement for mistake of law. Raised issues as to whether it is possible to set aside compromise agreements in circumstances where the matter about which the parties were mistaken was not the subject matter of the compromise between them, but was the premise of the agreement, and as to what constitutes a mistake versus a misprediction. *Elston v. King* [2020] EWHC 55 (Ch), [2020] B.P.I.R. 501; [2018] B.P.I.R. 1281.

- Appeal to Court of Appeal (David Richards, Newey LJ) regarding judge's refusal to award indemnity costs of enforcing judgment. Judgment makes clear that conduct need not be 'unusual', only 'out of the norm' (ie. unacceptable) to attract indemnity costs. *Whaleys (Bradford) Ltd v Bennett* [2017] 6 Costs L.R. 1241.
- Representing the Defendants to an action on a guarantee which raised questions of private international law, the EU Insolvency Regulation and the impact of Irish insolvency law on the enforceability of a guarantee which was subject to English law but given over the indebtedness of an Irish company.
- Successfully represented the Respondent in first Court of Appeal case on interpretation of s.1032 Companies Act 2006: whether restoration of a company to the Register was retroactive so as to validate proceedings issued against it while struck off. *Peakstone Ltd v. Jodrell* [2013] 1 WLR 784, [2013] 1 All ER 13.
- Representing debtors at first instance and on appeal in test cases against banks under section 78 of the Consumer Credit Act 1974. *Teasdale v. HSBC* [2010] 4 All ER 630 and *Brookes v. HSBC* [2011] EWCA Civ 354.

Recommendations

"James Malam has dealt with a number of cases for us at all stages and has always been easy to communicate with, provided excellent and practical advice, and shown an ability to present complex matters in a clear and concise manner in court."

Chambers and Partners 2024, Construction

"All the work James produces is very well written, he sets the arguments clearly and is a good strong advocate. He is low-key, effective, sensible, pragmatic and easy to deal with."

Chambers and Partners 2024, Construction

"James Malam is technically sound, accessible, thorough, reliable and commercial."

Chambers and Partners 2024, Construction

"He sets the arguments clearly, and is a good strong advocate, who is sensible and easy to deal with."

Chambers and Partners 2024, Professional Negligence

"He's very helpful; he gets a grip of things really quickly and gives us a steer on the direction we need to go in. He is very accessible."

Chambers and Partners 2024, Professional Negligence

"James is calm under pressure. His advocacy is strategic and poised."

The Legal 500 2024, Professional Negligence

“James is excellent at spotting the important details and utilising these to the benefit of the client, and on a number of occasions he has spotted issues which have been vitally important. He takes a very considered approach to advocacy, he explains clearly and concisely his points and their relevance, and in contrast to many of his opponents, he does not need to be questioned by judges to elaborate on or explain his arguments.”

The Legal 500 2024, Commercial Litigation

“A detail-orientated junior who is serene under pressure. He takes a measured approach to advocacy.”

The Legal 500 2024, Property and Construction

“James has an excellent knowledge of the area. He is very thorough with a keen eye for detail, a sensible approach to pleading and the ability to ‘think outside the box’. He provides practical solutions when problems arise.”

Chambers and Partners 2023, Construction

“James is a really good lawyer: technical, commercial and straight-talking.”

Chambers and Partners 2023, Construction

“James is extremely diligent with personable manner, is good to work with and is a formidable advocate. He is not afraid of hard work and regularly hits time deadline. He’s definitely a safe pair of hands.”

The Legal 500 2023, Professional Negligence

“James Malam is client-friendly, very good technically, commercially minded when dealing with litigation, and is always very well prepared.”

Chambers and Partners 2022, Construction

“He is calm and able to get to the crux of the issues. He has good cross-examination skills.”

Chambers and Partners 2022, Professional Negligence

“Strong technical advice, clear and robust drafting of pleadings, incisive and effective advocacy. Also very easy and pleasant to work with, and prepared to give an off-the-cuff view if asked and to work through the wider strategy of a claim with us. Understands the requirements and priorities of insurer clients”

The Legal 500 2022, Professional Negligence

“James is quick to identify the key issues and gets to grips with the case within a short period of time, performing well at trial.”

The Legal 500 2022, Commercial Litigation

“James was organised and effective in presentation of our client’s case. He presented it with clarity and persuasion, both on paper and on his feet. He was calm and reassuring to work with.”

Chambers and Partners 2021, Construction

“Very good on paper, with clear and forceful pleadings. Just as good before the court. Always feel in safe hands with James on determining the key technical points, putting forward our best case on them.”

The Legal 500 2021, Professional Negligence

“Technically sound, accessible, thorough, reliable and commercial.”

The Legal 500 2021, Property and Construction

“Technically sound, accessible.”

The Legal 500 2021, Commercial Litigation

“He is very commercial and client-friendly.”

Chambers and Partners 2020, Construction

“He is very good with clients and puts them at ease.”

Chambers and Partners 2020, Construction

“Technically sound and accessible.”

The Legal 500 2020, Commercial, Banking, Insolvency and Chancery Law

“Technically sound, accessible, thorough, reliable and commercial.”

The Legal 500 2020, Construction, Planning and Environment

“Supportive and thorough.”

The Legal 500 2018/19, Commercial, Banking, Insolvency and Chancery Law

“He has a keen eye for the key issues of a case.”

The Legal 500 2018/19, Construction, Planning and Environment

“Knowledgeable and meticulous.”

The Legal 500 2017, Commercial, Banking and Insolvency.

“A strong advocate, who provides sensible and pragmatic advice.”

The Legal 500 2016, Commercial, Banking and Insolvency.

“His courteous and helpful manner enables him to readily deal with even the most difficult of clients.”

The Legal 500 2015, Commercial, Banking and Insolvency.

“Has a sound grasp of the technicalities of a legal problem.”
The Legal 500 2015, Construction, Planning and Environment.

“Understands the need for commercial cost-effective solutions”
The Legal 500 2014, Construction, Planning and Environment.

“He has a swift grasp of the key issues in his cases”
The Legal 500 2014, Commercial, Banking and Insolvency.

Recommended for professional negligence work
The Legal 500 2013, Chancery and Commercial.

“Quick to grasp the strengths and weaknesses of a case”.
The Legal 500 2012, Chancery and Commercial.

“Very careful, easy to work with and bright’...has a practice that is
ahead of his call”
The Legal 500 2011, Chancery and Commercial.

Beyond the Bar

James enjoys reading, photography, cycling, swimming, food and
drink and spending time with his family.