



## James Davies

Call: 2004

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*"Intrepid and imaginative."*

**Legal 500 UK Bar 2019**

### Practice Overview

James Davies is an experienced commercial and traditional chancery barrister with an established County Court and High Court practice. His practice encompasses commercial litigation, company and shareholder disputes, insolvency and wills and trusts disputes. Prior to coming to the Bar James qualified as a Chartered Accountant specialising in SMEs. Many of his cases feature complex financial elements or multi-generational family business disputes which draw on this expertise: *"he's brilliant on detail. He's particularly good where there is a debate over figures or where there are issues over complex transactions"* and *"methodical and thorough in high-value disputes"*. He has been consistently ranked in Legal 500 and Chambers & Partners for commercial litigation.

James acts as the editor of the Surveyors and Accountants chapters of the Encyclopaedia of Professional Partnerships by Sweet & Maxwell. He is a regular contributor to LexisNexis PSL and LexisNexis Webinars.

James also has an established practice as a mediator, having successfully mediated a number of business and chancery disputes.

### Commercial Litigation

James' experience extends to factoring agreements, guarantees, the Commercial Agent Regulations, franchising and disputes under long term supply contracts. It includes cases with allegations of financial misconduct. Most of his cases involve a significant financial element and can turn on the operation of a company's internal controls and accounting systems. Recent work has included:

- A jurisdiction dispute following termination of a commercial agent's retainer in Norway.
- Represented a household name waste disposal contractor in a trial concerning bribery of weighbridge operators including the use of covert surveillance footage and forensic reconstruction of deleted records.
- *Howden Joinery Ltd v Brain* [2015] 3999 (QB): representing the Respondent, as he had at trial, where James had persuaded a Recorder to cure a defect in failing to join a Part 20 Defendant by joining them under CPR 19.2. James secured the dismissal of the appeal.
- Appearing for a franchisor at trial on the termination of a franchise agreement, including an injunction for enforcement of restrictive covenants.

### Insolvency

James came to the Bar from a financial background having previously qualified as a Chartered Accountant. He has extensive experience of both corporate insolvency and bankruptcy, acting for debtors and officeholders and is a

member of R3. He is able to use his accountancy skills in complex financial transaction cases, including breach of fiduciary duty, fraud, preferences and transactions at an undervalue. His work has included:

- Appearing for the liquidator on an application for a Berkley Applegate order to distribute client account monies where there had been a substantial shortfall on the client account.
- *Everitt v Budhram* [2010] Ch 170 - Representing a trustee in bankruptcy on appeal to the High Court on the meaning of 'needs' of the bankrupt in Section 335A of the Insolvency Act along with whether the court was entitled to consider the circumstances of the making of the original bankruptcy order on an application for an order for sale. The trustee's appeal succeeded.
- *Singh v Hicken* [2018] EWHC 3277 (Ch) representing a trustee in bankruptcy in an appeal against the decision of a County Court judge refusing permission to Mr Singh, a discharged bankrupt, to challenge his trustee's remuneration. The case is the first appellate guidance on the application of permission.

## Trusts, Wills & Estates

James has a significant trusts and probate practice encompassing the Inheritance Act, applications to remove executors, construction of wills, and contentious probate. When acting in Inheritance Act claims he is able to use the analytical skills he learned as an accountant. James has also acted in claims involving the alleged misuse of Lasting Powers of Attorney over the deceased's affairs. Cases have included:

- An application for a statutory will involving dispensation from service and service out of the jurisdiction. The protected party was at risk of dying intestate with the consequence that the majority of the estate would have passed to a husband who had not been seen for sixty years.
- Representing a beneficiary under a will in a two day trial under the Inheritance Act which involved consideration as to the extent of "reasonable" needs and whether parents could be said to have assumed responsibility to look after an adult child who had simply never left home.
- Acting for a charity beneficiary under a contested probate dispute which involved a complex capacity dispute and video footage of the deceased executing the will.

## Company & Partnership

James has considerable experience of dealing with a full range of company disputes, including breach of fiduciary duty claims, minority shareholder disputes and disputes under share purchase agreements. James has particular expertise in dealing with disputes which turn on the observance of formal requirements under the Companies Act and Articles. In addition to his contentious practice James also has a significant drafting practice, including investment agreements, shareholder agreements, and amendments to articles. His work has included:

- Acting throughout in a dispute concerning a shareholder agreement including representing at a four day trial at Central London County Court before His Honour Judge Dight and subsequently in related s.994 proceedings through to a successful mediation.
- *Mastermailer v Sandison & others* LTL 21/4/2011: Representing the Appellant on an appeal to the High Court Judge against the Master's decision to order security for costs in a complex case involving serious allegations against the former directors of a public company. Cited in the White Book.
- Acting for a founder director/ shareholder in a West End design consultancy in a minority shareholder dispute involving exclusion from management on a spurious basis. James acted from initial letter of claim through to a highly successful mediation.

## Mediation

Initially coming to mediation as an advocate, James trained as a mediator in 2015. Prior to coming to the bar James was a Chartered Accountant with a particular emphasis on family owned companies. He is now a fellow of the ICAEW. He is able to draw on this commercial expertise, combined with fifteen years of practice in commercial and chancery litigation, to identify the central issues in disputes, and pragmatic solutions to them. James has mediated a broad range of disputes, but he has a particular emphasis on director/ shareholder disputes and disputes concerning accountants. He is also the sub-editor of the Accountants Chapter of the Encyclopaedia of

Professional Partnerships published by Sweet & Maxwell. He has acted as an expert assessor on the IBA-CDRC Consensual Dispute Resolution Competition in Vienna.

Mediations have included:

- Boundary disputes
- Disputes over accountants' practice sale agreements
- Accountants' fee disputes and related professional negligence claims
- Director/ shareholder disputes in creative, technology and construction businesses
- Misfeasance claims by a liquidator against directors
- Family loan disputes

## **Additional Information**

### **Qualifications / Education**

1998 BA (Hons) Jurisprudence Hertford College, University of Oxford  
2001 Qualified as a Chartered Accountant (ICAEW)  
2003 Bachelor of Civil Law Hertford College, University of Oxford  
2004 BVC Bristol Institute of Legal Practice  
STEP Advanced Certificate in Trusts Disputes  
STEP Certificate in the Taxation of Trusts

### **Awards**

2003 – Lord Denning Scholar

### **Professional Appointments**

2016 - Qualified Mediator

### **Memberships**

Chancery Bar Association  
International Bar Association  
R3 (Member)  
STEP (Affiliate Member)  
ICAEW (Fellow)

### **Public Access**

Yes

### **ADR**

Yes

## **Articles**

<b>Date</b>	<b>Title</b>	<b>Contributors</b>
01 Sep 2020	HMRC v Parry – Supreme Court [2020] UKSC 35 – Gratuitous Dispositions, Omissions and Transfers of Value Published in	James Davies

24 Jul 2019

Providing required information on websites—icons and cursors (Viagogo AG v Competition and Markets Authority)

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