



JAMES EGAN

Call: 2015

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James Egan has a busy and successful practice spanning the full breadth of Chambers' core practice areas, but with a particular focus upon commercial and business disputes, contentious trusts and estates, private client (non-contentious), property and Court of Protection work. Both in and out of Court, he is often commended for his attention to detail, focused legal analysis, and his persuasive written and oral advocacy. He takes a calm and considered view to all cases, combining his legal knowledge with practical, commercial advice.

Whilst James is regularly instructed in cases of all sizes and complexity, his expertise has led him to be instructed by a number of leading firms often in high value and/or complex reported cases including *Re A Company* [2022] EWHC 943 (Ch); *Royal Commonwealth Society for the Blind (also known as Sightsavers International, registered charity number 207544) v John Wayland Beasant (in his personal capacity and as Personal Representative of the estate of Audrey Thelma Arkell deceased) & Ors* [2021] EWHC 351 (Ch); and *Harbour Fund III LP v Kazakhstan Kagazy PLC & Ors* [2021] EWHC 1128.

James is also frequently instructed in cases brought by or against children and/or protected parties, and he is very familiar with acting on behalf of, or litigating against, 'litigation friends' for children and protected parties whether in civil and/or insolvency proceedings. James is adept at adapting his approach sensitively to ensure the best and most appropriate handling of such cases.

EXPERTISE

TAX

James has a keen interest in capital taxes. His experience includes:

- Advising on sections 142 and 144 of the Inheritance Tax Act 1984 and section 62 of the Taxation of Chargeable Gains Act 1992 when dealing with variations and distributions from will trusts;
- Advising on gift with reservation of benefit issues arising in the context of Discounted Gift Trusts;
- Advising on the calculation of the residence nil-rate band in a high value estate;
- Drafting Deeds of Appointment out of a discretionary will trust;
- Drafting a Defence & Counterclaim in a claim concerning negligent tax advice;
- Advising upon the capital tax implications of a complex *inter vivos* trust arrangement related to a co-owned property, and its



planned winding-up

James also has experience in winding-up and bankruptcy cases arising from tax-related liabilities.

COURT OF PROTECTION

James has a particular interest in advising and representing parties in applications before the Court of Protection. Having been instructed both by individual parties and by the Official Solicitor acting as litigation friend for P, James has been praised for his sensible and pragmatic handling of proceedings focused upon assisting the parties narrow and, where possible, compromise the contentious issues to be determined by the Court. His recent experience includes:

- Applications to revoke a Lasting Power of Attorney and consequent removal of Attorneys (including on grounds of alleged misconduct);
- Applications to remove Deputies (including on grounds of alleged misconduct);
- Applications to approve a statutory will on behalf of P;
- Applications to appoint an Interim Deputy;
- A complex Financial Dispute Resolution hearing involving a multi-million pound estate and a number of company and trust structures;
- Advising beneficiaries and personal representatives in relation to the Code of Practice for LPA Attorneys concerning *inter vivos* gifts and dispositions.

James has particular experience in applying for freezing injunctions and other interim relief, as well as the consequent substantive claims, against P's Attorney/Attorneys where they have allegedly misapplied P's monies entrusted to them under Lasting Powers of Attorney for Property & Financial Affairs and/or Deputyships, whether during P's lifetime and/or in post-death disputes relating to P's estate.

COMMERCIAL & BUSINESS DISPUTES

CIVIL FRAUD & ASSET RECOVERY

James has considerable experience in dealing with civil fraud and asset recovery matters both in terms of urgent injunctive relief as well as substantive Part 7 claims for final relief. As the nature of such civil fraud and asset recovery cases often necessitate extensive disclosure, James is fully familiar with advising on and seeking pre-action disclosure orders under CPR 31.16, specific disclosure orders under CPR 31.12, and non-party disclosure orders under CPR 31.17 (particularly *Norwich Pharmacal* Orders) to assist in locating, identifying and recovering misappropriated assets.

James's experience in this area includes:

- Advising on asset 'tracing' and other equitable relief;
- Obtaining worldwide freezing orders;
- Obtaining worldwide proprietary injunctions;
- Obtaining and defending other interim injunctive relief;
- Obtaining pre-action disclosure orders against potential parties;
- Obtaining pre-action non-party disclosure orders against firms of solicitors;
- Seeking *Norwich Pharmacal* disclosure orders against third party banks;

James has a particular interest in the 'overlap' between the civil jurisdiction to make freezing orders/injunctions, and the complementary jurisdiction in the Criminal Courts to make account freezing orders/restraint orders under the Proceeds of Crime Act 2002. In this regard, James has experience of cases where civil freezing orders/proprietary injunctions are sought by one party against the backdrop of



restraint orders already obtained by a different third party.

Once final relief has been obtained via Part 7 proceedings, James is also regularly instructed at an enforcement stage and thus he is fully familiar with seeking, amongst other things, charging orders over property, and transfers of legal title.

COMMERCIAL DISPUTES

James is regularly instructed to handle commercial disputes of all kinds. As an example of his expertise in this area, in the reported case of *Harbour Fund III LP v Kazakhstan Kagazy Plc* [2021] EWHC 1128 (Comm) James, led by Rupert D’Cruz QC, successfully defended Kazakhstan Kagazy JSC against numerous claims by Harbour Fund III LP in relation to a \$300 million judgment obtained in early *Kagazy v Zhunus* litigation. This dispute spanned multiple areas of law including alleged contractual variation and interpretation, alleged agency and authority issues, and alleged unjust enrichment/restitution. His wider experience in this area includes:

- Obtaining worldwide freezing and proprietary injunctions, *Norwich Pharmacal* orders, interim injunctions and orders for disclosure (including in respect of judgments obtained abroad);
- Advising and representing banks, credit providers and customers within commercial disputes arising out of the sale of goods (including pursuant to the Sale of Goods Act 1979, Supply of Goods & Services Act 1982, Consumer Rights Act 2015 and The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013);
- Drafting proceedings and representing parties in bailment, trespass to goods, conversion and other Torts (Interference with Goods) Act 1977 claims;
- Advising on agency agreements and the authority of agents;
- Representing parties in claims concerning guarantees and indemnities;
- Advising on and representing parties in Consumer Credit Act 1974 claims;
- Advising on jurisdictional disputes (forum and choice of law) arising from international supply contracts;
- Advising on and drafting pre-action correspondence in claims concerning *Quistclose* trusts, and statutory trusts (for example, under the Estate Agents Act 1979) in the commercial context; and
- Advising and drafting unjust enrichment and restitution claims;

James also enjoys being instructed to review, advise on and draft contractual terms in the contract drafting/contract renewal processes.

COMPANY

James enjoys advising and representing parties in all aspects of company disputes. His experience in this area includes:

- Advising on and dealing with winding-up petitions (including by contributories);
- Advising on and dealing with unfair prejudice petitions under section 994 of the Companies Act 2006;
- Applying to relieve a director from liability for breach of directors’ duties under section 1157 of the Companies Act 2006;
- Advising and drafting corporate governance documentation (including resolutions, minutes of meetings, and amendments to Articles of Association); and
- Assisting Lesley Anderson QC in *Bhullar v Bhullar & Ors* [2017] EWHC 407 (Ch) which was a complex High Court derivative claim trial concerning breach of directors’ duties, the *Re Duomatic* principle, limitation issues under sections 21 and 32 of the Limitation Act 1980, and relief under section 1157 of the Companies Act 2006.

INSOLVENCY

James has extensive experience in the full range of insolvency matters, and has been instructed in proceedings across the country. The nature of his specialism means that several of his cases have been reported including *Re A Company* [2022] EWHC 943 (Ch), and *Harbour Fund III LP v Kazakhstan Kagazy Plc & Others* [2021] EWHC 1128 (Comm) in which James, led by Rupert D’Cruz KC, successfully



defended Kazakhstan Kagazy JSC against numerous claims by Harbour Fund III LP in relation to a \$300 million judgment and which necessitated consideration of the authority of a Rehabilitation Manager under Kazakh insolvency law.

His further experience in this area includes:

- Representing one of the defendant directors in a multi-day High Court misfeasance trial with allegations of transactions at an undervalue and/or preferences claimed in the hundreds of thousands of pounds.
- Drafting, obtaining and defending winding-up petitions against domestic and international companies (latterly with a UK presence or base), insolvent partnerships under the Insolvent Partnerships Order 1994, and/or the winding-up of LLPs under s14 LPPA 2000 and the LPP Regulations 2001.
- Obtaining and defending injunctions to restrain presentation and/or advertisement of winding up petitions (including relying upon the temporary restrictions on presenting winding-up petitions during the coronavirus pandemic under the Corporate Insolvency and Governance Act 2020, as well as the ongoing restrictions under the Commercial Rent (Coronavirus) Act 2022));
- Applying to rectify the register of members and appoint directors following the death of the sole director/shareholder of a 'Model A' Articles company;
- Advising on and successfully obtaining orders to re-vest the family home following bankruptcy where the automatic re-vesting provisions were not engaged;
- Obtaining extensions of company administrations;
- Setting aside an alleged sham trust within bankruptcy proceedings;
- Obtaining validation orders for payments made/to be made following presentation of a petition;
- Advising upon and obtaining orders for restoration of companies to the Register; and
- Making and opposing applications to set aside statutory demands;

PARTNERSHIP & LLP

James's experience in partnership/LLP work includes:

- Advising individual members in relation to mergers, partnership exits, transfers of business and the dissolution of partnerships;
- Advising on the construction of partnership and LLP agreements generally;
- Advising on the conflicts of laws as to the appropriate jurisdiction to litigate a partnership dispute within;
- Drafting proceedings for declarations of the existence of a disputed partnership, its dissolution by notice, and consequently for all the usual accounts/inquiries to bring about the dissolution;
- Defending claims for an account in respect of dissolution proceedings;
- Advising on and representing partners and partnerships in insolvency proceedings particularly in relation to the winding-up of insolvent partnerships (and concurrent bankruptcy petitions of individual partners) under the Insolvent Partnerships Order 1994, and/or the winding-up of LLPs under s.14 LLPA 2000 and the LLP Regulations 2001.

James has particular experience in dealing with disputes arising out of GP partnerships and he is thus fully familiar with the need to ensure the underlying NHS Contracts are protected.

PROPERTY

LANDLORD & TENANT

James has a keen interest and significant experience in all aspects of property and landlord and tenant law. He regularly advises and deals with property work in all its constituent areas, whether that is issues arising in the context of assured shorthold tenancies and/or longer residential leases of residential property, business property, and/or more specialist property holdings (such as agricultural tenancies, and



specialist arrangements for pubs and other licensed premises). His experience in this area includes:

- Advising and representing parties (both landlords and tenants/occupiers) in residential landlord and tenant and/or licensee possession claims, particularly under section 8 and 21 of the Housing Act 1988, as well as in rent increases before the County Courts and First Tier Tribunal;
- Advising and representing parties (both landlords and occupiers) in commercial; landlord and tenant matters, both contested and uncontested leasehold renewal claims, under the Landlord & Tenant Act 1954, together with drafting all associated documentation (including Notices to Quit, section 25 and section 26 notices, and all court related documentation);
- Advising on whether or not a particular business tenancy is protected under the Landlord & Tenant Act 1954;
- Advising on protected business tenancies and the renewal and termination processes (including drafting applicable notices and counter-notices);
- Advising and representing parties in alleged breaches of residential and business tenancy agreement whether that relates to rent/service charge/monetary arrears under the tenancy agreement, or breaches of other terms such as the covenant for quiet enjoyment, permitted use agreements and/or repair obligations;
- Handling defences to residential possession claims based on alleged discrimination arising from disability (s15 Equality Act 2010), alleged indirect discrimination (s19 Equality Act 2010), and postponement of possession for exceptional hardship;
- Advising on and drafting pre-action correspondence for the recovery of residential tenancy deposits and, similarly, advising, drafting and representing parties in claims concerning financial penalties for failure to register tenancy deposits under sections 212-215 of the Housing Act 2004;
- Advising on claims for a new residential tenancy pursuant to section 42 of the Leasehold Reform, Housing and Urban Development Act 1993;
- Advising on an 'acquisition order' under Part III of the Landlord & Tenant Act 1987;
- Advising the landlord of a residential property on termination of a long residential lease where the Deceased had died with no known next of kin or personal representatives.

REAL PROPERTY

Aside from extensive experience in landlord and tenant work, James has a keen interest in wider real property law, including trusts, conveyancing, mortgages, easements and other property rights. His experience in this area includes:

- Advising on and drafting claims for a declaration of an interest and/or quantification of an interest in property under TOLATA;
- Advising on and drafting claims for occupational rent and/or enhanced beneficial interests under section 37 of the Matrimonial Proceedings and Property Act 1970;
- Advising on and drafting applications for orders for sale of property;
- Advising and drafting applications to the Land Registry for prescriptive easements;
- Advising on and drafting applications to the Land Registry for acquisition of freehold garden land;
- Advising on and defending applications to the Land Registry based on adverse possession;
- Advising on the construction of pre-emption rights;
- Representing parties in possession claims and trials of all kinds, and handling defences based on alleged discrimination arising from disability (s15 Equality Act 2010), alleged indirect discrimination (s19 Equality Act 2010), and postponement of possession for exceptional hardship;
- Representing parties in applications to set aside Interim Charging Orders;
- Representing parties in obtaining contested Final Charging Orders;
- Representing mortgagees-in-possession seeking to pay surplus proceeds of sale into Court pursuant to section 63 of the Trustee Act 1925;
- Representing mortgagees in claims for breach of common law and equitable duties associated with the sale of a residential property at an undervalue, and declarations of unfair relationship and other relief under the Consumer Credit Act 2006;
- Advising on escheat and rights following dissolution of a company and disclaimer;
- Advising on and representing parties within business rates avoidance schemes and subsequent applications to set aside liability



orders.

PERSONAL PROPERTY / CHATTELS

James also has a keen interest in personal property law. His experience includes:

- Drafting proceedings and representing parties in bailment, trespass to goods, conversion and other Torts (Interference with Goods) Act 1977 claims; and
- Drafting proceedings and representing parties in claims under the Sale of Goods Act 1979, Supply of Goods & Services Act 1982, Consumer Rights Act 2015 and The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

CONTENTIOUS TRUSTS & ESTATES

PROBATE & WILL DISPUTES

James has extensive experience in advising, drafting, and representing parties in claims related to the validity of Wills and revocation of Grants, and claims brought against the estates of deceased persons. He is regularly instructed by both the personal representatives, beneficiaries and other interested third parties who may have an interest in the assets of the estate both in pre-action stages, in mediations and at all stages of litigation. His experience in this area includes:

- Advising on and drafting proceedings for potential claimants on testamentary challenges (including lack of capacity, want of knowledge and approval, undue influence and fraudulent calumny);
- Advising on and applying by way of originating summons to remove final caveats;
- Advising on and drafting section 116 Senior Courts Act 1981 passing-over proceedings;
- Advising on and representing beneficiaries in construction/rectification claims;
- Advising on and removing and defending personal representatives in removal claims (both onshore and offshore).
- Advising on and drafting proceedings to compel trustees to transfer assets to absolute beneficiaries;
- Applying for an account and inventory of estates;
- Advising on, drafting and recovering possession of the Deceased's property;
- Advising on potential claims for an account of lifetime transfers allegedly procured through undue influence and/or non-compliance with the Code of Practice for LPAs;
- Advising on survivorship to joint bank accounts;
- Applying to rectify the register of members and appointing directors after the sole director/shareholder of a 'Model A' Articles of Association company has died;
- Advising on, drafting proceedings for and obtaining *Cobden-Ramsay v Sutton* Orders (including analogous orders for more other intimated but un-issued claims against estates);
- Advising on, drafting proceedings for and obtaining orders approving the final accounts where disputes have been raised by beneficiaries;

James is also instructed to advise in relation to offshore jurisdictions, including most recently in a trustee removal application in the Isle of Man.

FAMILY PROVISION CLAIMS

James has extensive experience in advising, drafting, and representing parties in claims brought pursuant to the Inheritance (Provision for Family & Dependents) Act 1975, whether brought as a freestanding claim or intimated as an initial 'defence' to a claim for possession brought by the personal representatives against the occupier of a property falling within the Deceased's estate. James is regularly asked to



advise and represent personal representatives, beneficiaries and applicants both at pre-action, mediations and at all stages of the litigation.

Prior to joining Ten Old Square, James enjoyed pupillage at a leading 'Band 1' divorce chambers which gave him a specialist understanding of the mechanics and principles applied in the divorce context and this places him in an unrivalled position to be able to advise upon the application of the 'divorce fiction' under section 3(2) in spousal/civil partnership 1975 Act claims.

That said, James enjoys dealing with all 'categories' of 1975 Act claimant having advised, settled 1975 Act claims and represented spouses, former spouses, 'deemed' spousal claimants under section 14, cohabitants, dependents and children of the Deceased. James's experience in this area covers estates of all values, from more modest estates through to those valued in the several millions of pounds.

James has particular experience in dealing with claims where jointly owned assets have passed outside the Deceased's estate by survivorship and seeking orders that the severable share be treated as part of the net estate under section 9. Similarly, advising upon whether nominated pensions benefits are capable of falling within the Deceased's estate under section 8.

James's practical and commercial approach to 1975 Act cases often means he is asked to review settlement offers and prepare draft offers/counteroffers, as well as (once agreement has been reached) preparing or reviewing Deeds of Settlement and/or Deeds of Variation.

As many 1975 Act claims involve beneficiaries who may be children and/or protected parties, James is familiar with drafting and obtaining approval applications under CPR 21.10 for compromises which affect any children or protected parties.

James is also willing to consider acting on a Conditional Fee Agreement ('CFA') in these contexts.

TRUSTS

James enjoys dealing with all aspects of trusts disputes, whether those trusts are trusts of land, will trusts, other express trusts (including Discretionary Trusts), and/or implied trusts such as constructive and resulting trusts. His recent experience includes:

- Advising and drafting TOLATA claims by both beneficiaries and trustees, including claims for occupational rent and/or enhanced beneficial interests under section 37 of the Matrimonial Proceedings and Property Act 1970;
- Advising on and drafting proceedings to secure the removal, replacement and/or substitution of trustees;
- Representing mortgagees-in-possession seeking to pay surplus proceeds of sale into Court pursuant to section 63 of the Trustee Act 1925;
- Advising on the operation of Discounted Discretionary Gift trusts in wills;
- Advising on equitable tracing and personal remedies for the recovery of misapplied trust monies;
- Advising on non-charitable purpose trusts;
- Advising on the applicable perpetuity period;
- Advising on entitlement to 'trust assets' where the trust was void ab initio or otherwise failed.

PRIVATE CLIENT (NON-CONTENTIOUS)

James has extensive experience in advising, drafting, and representing parties in all aspects of non-contentious private client work. He is regularly instructed by both the personal representatives, beneficiaries and other interested third parties who may have an interest in the assets of the estate and trusts. His experience in this area includes:

- Advising on the interpretation and effect of wills and trusts
- Advising on the scope and exercise of trustees' powers
- Drafting trust documents, including trust deeds, deeds of appointment and advancement and deeds relating to the appointment and retirement of trustees



- Drafting wills
- Drafting post-death deeds of variation / deeds of appointment to mitigate IHT
- Drafting, and advising upon, applications by trustees and personal representatives for directions;
- Drafting, and advising upon, applications under section 57 of the Trustee Act 1925;
- Advising generally upon the administration of trusts and estates
- Advising upon, and representing parties in litigation, on professional negligence and other mistakes arising in the creation and administration of trusts (including applications for the rectification or rescission of trust documents)
- Advising on and drafting section 116 Senior Courts Act 1981 passing-over proceedings;
- Applying for an account and inventory of estates;
- Drafting various non-contentious documentation including Deeds of Variation, Deeds of Assent, Deeds of Disclaimer and Deeds of Appointment.

James is also instructed to advise in relation to offshore jurisdictions, including most recently in a trustee removal application in the Isle of Man.

TRUSTS

James enjoys dealing with all aspects of trusts disputes, whether those trusts are trusts of land, will trusts, other express trusts (including Discretionary Trusts), and/or implied trusts such as constructive and resulting trusts. His recent experience includes:

- Advising on parties' rights under the Trusts of Land and Appointment of Trustees Act 1996 (TOLATA), section 37 of the Matrimonial Proceedings and Property Act 1970 and/or under general trust principles;
- Advising on the operation of Discounted Discretionary Gift trusts in wills;
- Advising on equitable tracing and personal remedies for the recovery of misapplied trust monies;
- Advising on non-charitable purpose trusts;
- Advising on the applicable perpetuity period;
- Advising on entitlement to 'trust assets' where the trust was void ab initio or otherwise failed;
- Drafting various non-contentious documentation such as Deeds of Variation, Deeds of Disclaimer, and Deeds of Appointment.

CHARITIES

James is frequently instructed to advise on charity law and related matters, and accepts instructions from charities (and other interested third parties) in administration, construction, probate and Court of Protection claims often in relation to the construction of charitable gifts in wills and the problems that may arise when a charity ceases to exist since the date of the will and/or where the charity did not exist in name/form stated in the will. His recent experience includes:

- Advising the trustees of a charity on whether a will dispute should be compromised;
- Advising on gifts to charities in wills, including gifts that have failed; and
- Advising on *cy-près*

ARBITRATION, MEDIATION & ADR

James is regularly instructed to represent parties at mediation, as well as drafting correspondence and offers to assist in alternative dispute resolution. James's practical and commercial approach to mediation and alternative dispute resolution has led to a strong track record of successful mediation with the overwhelming majority of his mediation cases to date settling either at the mediation itself or shortly thereafter (having substantially narrowed the issues at mediation itself).



By virtue of his experience in this area, James is comfortable taking the lead in identifying and drafting potential settlement offers / counter-offers, and reviewing offers made. In addition, once agreement has been reached, James is regularly instructed to prepare and review Deeds of Settlement and/or Deeds of Variation.

As many trusts and estate claims can involve minors and/or protected parties, James is further experienced in making approval applications for the compromise of such claims under CPR 21.10, and providing the relevant Opinion on Merits for the Court.

ASSOCIATIONS & MEMBERSHIPS

- Contentious Trusts Association ('ConTrA')
- Chancery Bar Association

AWARDS

James has been awarded several academic prizes for academic performance including:

- Hubert Greenland Pupillage Award, 2015 – Lincoln's Inn
- Buchanan Prize, 2015 – Lincoln's Inn
- Graduating Scholar, 2014 – Downing College, University of Cambridge
- Senior Harris Scholarship, 2014 – Downing College, University of Cambridge
- Platt Prize for Especial Distinction in University & College Examinations, 2014 – Downing College, University of Cambridge
- Clifford Chance CJ Hampson Prize 20 June 2014
- Lord Denning Scholarship, 2014 – Lincoln's Inn
- Excellence Award, 2014 – BPP Law School
- James William Squire Scholarship, 2013 – Faculty of Law, University of Cambridge
- Hardwicke Entrance Award, 2013 – Lincoln's Inn
- Harris Scholarship, 2013 – Downing College, University of Cambridge
- Seton-Cavendish Award – Downing College, University of Cambridge

EDUCATION & QUALIFICATIONS

- MA, Downing College, University of Cambridge (2018)
- Bar Professional Training Course (Outstanding), BPP University (2015)
- BA Law (Double First Class), Downing College, University of Cambridge (2014)

REGULATORY INFORMATION

James Egan is a self-employed, independent barrister whose practice is regulated by the Bar Standards Board [Bar Ref 66449] and governed by the Conduct Rules of the Bar of England and Wales. He is fully insured with the Bar Mutual Indemnity Fund [BMIF Ref



2360/078] to provide legal services, please refer to the [BMIF website](#) for full details of the cover provided. He is registered for VAT under the reference 256487860.