

NEW SQUARE CHAMBERS

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James Bailey

Call: 1999

James's practice covers a broad range of commercial and chancery work and his areas of specialism include personal and corporate insolvency, company law (in particular directors' duties and s.994 petitions), commercial disputes and partnership matters.

James has been called to the Cayman Islands Bar and has been involved in a number of contentious trust and company/commercial cases there. In particular he spent several months acting for Enron's liquidators in both the Cayman Islands and the United States.

He has been involved in a commercial dispute relating to the design of warheads of Tomahawk missiles which has taken him to the United States and Italy. The litigation ran from 2002 until 2008.

James has been involved in a very significant offshore trusts dispute in the Bahamas. More recently, much of James's time has been spent on a UK/Japanese commercial dispute in the Chancery Division which has taken him to Hong Kong and Tokyo.

Although some of James's work has international aspects to it, the majority of these cases are fought in the High Court in England where he appears regularly.

In 2008 James appeared in the significant bankruptcy decision in *Halabi* and was also involved in the *Metronet* litigation. In 2009 he was involved in litigation pertaining to the provenance of a painting alleged to have been stolen in Austria in 1936, and a number of cases involving alleged frauds on major banks.

Areas of practice

Commercial Chancery

Company and Insolvency

Trusts and Estates

Offshore work & other areas

Appointments

2003-2006 - Elected member of the Bar Council, Education and Training Committee, Young Barristers' Committee

2000-2001 - Finals Examiner at London School of Economics (Commercial Law)

1998-2001 - Law Tutor: London School of Economics (Commercial Law)

Interests

Sport - Lightweight Rowing Blue (Oxford v Cambridge Lightweight Boat Race), Great Britain Indoor Rowing Team.

Music - Jazz pianist

Languages

French (basic)

Education and Qualifications

2002 - M.A. (Oxon)

2001 - Called to the Cayman Island's Bar

1997-98 - B.C.L. (Oxon)

1993-97 - B.A. (Hons.) - Brasenose, Oxford

1988-93 - Winchester College

Directories and Acknowledgments

Leader at the Bar - Chancery: Commercial - Chambers UK 2011

Leader at the Bar - Restructuring/Insolvency - Chambers UK 2011

"regarded as a strong commercial litigator who enjoys the full support of the market"

Chambers UK 2010 - Chancery: Commercial

"great at seeing through problems very quickly"

Chambers UK 2010 - Restructuring/Insolvency

"Peers consider him a rising star, pointing to his capacity to handle intellectually demanding cases."

Chambers UK 2010 - Restructuring/Insolvency

"a very bright spark"

Chambers UK 2010 - Restructuring/Insolvency

Up and Coming - Chancery: Commercial - Chambers UK 2010

Leading Junior - Restructuring/Insolvency - Chambers UK 2010

"reliable, flexible and hands-on"

Legal 500, 2009 Edition - Insolvency

Leading Junior - Insolvency - Legal 500, 2009 Edition

Ten years' call or under ranking - Commercial Litigation - Legal 500, 2009 Edition

"rising star"

Chambers UK 2009 - Restructuring/Insolvency

"applauded for being 'very bright and promising.'"

Chambers UK 2009 - Restructuring/Insolvency

Up and coming - Restructuring/Insolvency - Chambers UK 2009

Leading Junior - Insolvency - Legal 500, 2008 Edition

"James Bailey is a barrister who is catching the eye. Increasingly experienced he has acted for the liquidators of Enron in the Cayman Islands and is identified by more mature rivals as 'someone who makes life tougher for you than you might have expected considering his relatively junior year of call'."

Chambers UK 2008 - Insolvency/Corporate Recovery

Up and coming - Insolvency/Corporate Recovery - Chambers UK 2008

Leading Junior - Insolvency - Legal 500, 2007 Edition

"incredibly ambitious, responsive and practical."

Legal 500, 2006 Edition

Leading Junior - Insolvency - Legal 500, 2006 Edition

Memberships

Chancery Bar Association

Combar

Cases

Commercial Chancery

Name: Seyfried v Euro-IB

Reference: [2010] All ER (D) 203 (Mar)

Comment: Claim by investment banker for remuneration – bank asserted remuneration was exclusively discretionary with no salary – claimant was also a director of the bank.

Court: High Court

Name: Ella v Ella

Reference: [2009] BPIR 441

Comment: Section 282(1)(a) of the Insolvency Act 1986 – application by wife to annul husband's bankruptcy where husband had presented his own petition as a weapon in their divorce – bankruptcy petition was held to be an abuse of process.

Court: High Court

Name: Societa Esplosivi Industriali SPA v Ordnance Technologies Ltd and others

Reference: [2008] 2 All ER 622; [2008] IP & T 650; [2007] All ER (D) 74 (Dec)

Comment: Italian arms manufacturer claiming breach of fiduciary duty by agent - breach of contract - unregistered design right in warhead of Tomahawk missiles - passing off - conversion.

Court: High Court

Name: Patel v Euro Investments (UK) Ltd and others

Reference: [2005] All ER (D) 438 (May)

Comment: Claim for partnership, *Banner Homes* constructive trust and quantum meruit in respect of commercial property acquired for development.

Court: High Court

Name: Sarayah v Suren and others

Reference: [2004] All ER (D) 62 (Sep)

Comment: Joinder of parties after expiration of the limitation period - CPR r.19.5(2)(b) - wording of Part 19 inconsistent with s.32A Limitation Act 1980 - matter for the Rules Committee - cited in the White Book (CPR 23.10.2)

Court: High Court

Name: Societa Esplosivi Industriali SPA v Ordnance Technologies Ltd and others

Reference: [2004] 1 All ER (Comm) 609; [2004] All ER (D) 156 (Jan)

Comment: Italian arms manufacturer claiming breach of fiduciary duty by agent - breach of contract - unregistered design right in warhead of Tomahawk missiles - passing off - conversion.

Court: High Court

Name: Moore v Newservice Ltd and another

Reference: [2002] All ER (D) 247 (Jun)

Comment: Whether declaration of trust valid - section 53(1)(b) of the Law of Property Act 1925.

Court: High Court

Company and Insolvency

Name: Ella v Ella

Reference: [2009] BPIR 441

Comment: Section 282(1)(a) of the Insolvency Act 1986 – application by wife to annul husband's bankruptcy where husband had presented his own petition as a weapon in their divorce – bankruptcy petition was held to be an abuse of process.

Court: High Court

Name: Halabi v London Borough of Camden

Reference: [2008] BPIR 370; The Times, 25 March 2008; [2008] All ER (D) 213 (Feb)

Comment: Section 282(1)(b) of the Insolvency Act 1986 - the standard procedure on bankruptcy annulments was beyond the jurisdiction of the court – undertakings to pay the bankruptcy debts upon the making of an annulment order were not sufficient

Court: High Court

Name: Ahmed v Mogul Eastern Foods and another

Reference: [2005] All ER (D) 56 (Oct)

Comment: Appeal against a refusal to annul/rescind a bankruptcy order - the nature of new evidence necessary for the purposes of section 282(1)(a) and section 375 of the Insolvency Act 1986.

Court: High Court

Name: Re a Company (No. 2272 of 2004)

Reference: [2005] BPIR 1251; [2005] All ER (D) 370 (Feb)

Comment: Application by a company to restrain presentation of a winding up petition.

Court: High Court

Name: Re Local London Residential Ltd

Reference: [2004] BPIR 599, [2004] 2 BCLC 72, [2004] All ER (D) 119 (Jan)

Comment: Liquidator's application for remuneration to be paid from assets the company might hold on trust - application of the decision in *Berkeley Applegate*.

Court: High Court

Name: Glaxosmithkline Export Ltd v UK (Aid) Ltd

Reference: [2003] All ER (D) 48 (Aug)

Comment: Refusal to admit proof of debt - I.R. r.4.70

Court: High Court

Name: Re Planet Inns Ltd

Reference: [2002] All ER (D) 82 (Nov)

Comment: Application for administration order.

Court: High Court

Name: Re Optimal Communications Ltd

Reference: [2002] All ER (D) 406 (Oct)

Comment: Winding up petition adjourned by agreement - company sought to dispose of its principal asset immediately after adjournment ordered - company passed resolution for CVA - adjournment adbridged - compulsory liquidation ordered.

Court: High Court

Name: Herskovic v Davenport & Lyons (a firm)

Reference: [2002] All ER (D) 464 (May)

Comment: Bankruptcy appeal - no right to have papers translated into Braille - cited in the White Book (CPR 5.1.7)

Court: High Court

Name: Re Mouse Corporation Ltd

Reference: [2001] All ER (D) 251 (May)

Comment: Winding up petition - disputed debt - company not obliged to have commenced litigation on its cross-claim to have bona fide dispute.

Court: High Court