

James Gardner

CALL: 2018

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Overview

James became a member of Twenty Essex in September 2019 on successful completion of his pupillage. He is now seeking to establish a broad practice in commercial law.

During pupillage James had exposure to a wide range of work in Chambers' core practice areas. In particular, he has experience of: shipping; civil fraud; banking and financial services; commodities; energy; enforcement; arbitration; companies.

Prior to joining Twenty Essex, James read for undergraduate and masters degrees in English Literature at Keble College, Oxford, obtaining a series of scholarships and prizes. He then undertook the law conversion course at City University, coming eighth in the year.

Alongside his legal studies, James was an enthusiastic mooter and competed in finals (sometimes successfully) before Carr J, Sharp LJ and Lord Mance.

James is interested in developing a practice in sports law. He is currently assisting with the representation of an athlete facing a doping charge.

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Education

- City Law School: BPTC, Very Competent (2018)
- City University, London: GDL, Distinction (2017)
- University of Oxford, Keble College: MSt English Literature (1550-1700) (2016)
- University of Oxford, Keble College: BA English Language and Literature, First Class (2015)

Awards / scholarships / prizes

- Hardwicke Entrance Award, Lincoln's Inn (2017)
- Lord Haldane Scholarship, Lincoln's Inn (2016)
- Academic Scholarship, City University, London (2016)
- Graduate Scholarship in Memory of John Keble, Keble College, Oxford (2015-16)
- Academic Scholar, Keble College, Oxford (2015)
- Nigel Smith Prize for English, Keble College, Oxford (2014)
- Winner: Inner Temple Inter-Varsity Moot

(2017) , Inner Temple Magna Moot
(2017)

- Runner up: City University GDL Moot (2017)
- Finalist: Lincoln's Inn Internal Moot (2017)

Example cases

Below is a selection of matters on which James assisted members of Chambers during pupillage:

- Assisted with the Commercial Court trial of a claim brought under a sale and purchase agreement alleging that the target company's accounts failed to give a true and fair view of (inter alia) its trading liability to a Lehman Brothers entity.
- Assisted with a Supreme Court appeal concerning the proper scope of the rule against reflective loss.
- Assisted with an application to intervene in a Supreme Court appeal regarding removal of arbitrators for want of impartiality pursuant to s. 24 of the Arbitration Act 1996.
- Assisted with a High Court enforcement action in respect of a £100m BIT arbitration award against a state, raising issues of state immunity and public policy including those arising from the decision of the ECJ in *Achmea* and the UK's exit from the European Union.
- Assisted with successful UNCITRAL arbitration claims in contract and tort brought by a well servicing company in respect of a misconducted tender process.
- Assisted with the representation of an athlete charged with a doping offence, including with respect to mitigations in sanction.
- Assisted with the preparation of an arbitrator's decision on his own substantive jurisdiction, following a challenge which raised issues of the applicable law of an arbitration agreement and the hierarchy of two inconsistent dispute resolution clauses.
- Assisted with a claim by a boutique investment bank for payment of a success fee allegedly due from its client under an engagement letter for the provision of services in relation to corporate finance transactions.
- Assisted with pleadings arising from charterparty claims of unseaworthiness and counterclaims of loading dangerous goods going to the allocation of responsibility for a catastrophic fire on a vessel.

Arbitration

During pupillage, James gained experience of arbitrations under GAFTA, UNCITRAL, and LMAA rules as well as arbitration related court applications. Examples include:

- Assisted with an application to intervene in a Supreme Court appeal regarding removal of arbitrators for want of impartiality pursuant to s. 24 of the Arbitration Act 1996.
- Assisted with successful arbitration claims brought by a well servicing company in respect of an allegedly misconducted tender process.
- Assisted with the preparation of an arbitrator's decision on his own substantive jurisdiction, following a challenge which raised issues of the applicable law of an arbitration agreement and the hierarchy of two inconsistent dispute resolution clauses.
- Assisted with pleadings arising from charterparty claims of unseaworthiness and counterclaims of loading dangerous goods going to the allocation of responsibility for a catastrophic fire on a vessel.
- Assisted with the preparation of an application for a freezing injunction in support of an arbitration award, sought against third parties to the dispute and the arbitration agreement on a *Chabra*-type basis.

Banking and financial services

- Assisted with a Commercial Court trial of a claim brought under a sale and purchase agreement alleging that the target company's accounts failed to give a true and fair view of (inter alia) its trading liability to a Lehman Brothers entity.
- Assisted with the preparation of claims in fraud and conspiracy brought against a bank.
- Assisted with a claim by a boutique investment bank for payment of a success fee allegedly due from its client under an engagement letter for the provision of services in relation to corporate finance transactions.

Civil fraud and asset tracing

- Assisted with preparation for an application for a freezing injunction in support of an arbitration award, sought against third parties to the dispute and the arbitration agreement on a *Chabra*-type basis.
- Instructed to seek a final third party debt order against a fraudster's bank accounts.
- Assisted with the preparation of pleadings for a claim against a bank in deceit and unlawful means conspiracy.

Jurisdiction, conflicts and enforcement

- Assisted with the preparation of an arbitrator's decision on his own substantive jurisdiction, following a challenge which raised issues of the applicable law of an arbitration agreement and the hierarchy of two inconsistent dispute resolution clauses.
- Assisted with an application to continue anti- and anti-anti-anti suit relief in respect of foreign enforcement proceedings.
- Instructed to seek a final third party debt order against a fraudster's bank accounts.

Shipping

James gained experience of a wide range of shipping disputes of all stripes during pupillage. Examples include:

- Assisted with pleadings arising from charterparty claims of unseaworthiness and counterclaims of loading dangerous goods going to the allocation of responsibility for a catastrophic fire on a vessel.
- Assisted with advice concerning the proper construction of an off hire clause, in particular whether it provided for calculation on a net loss of time or period basis.
- Assisted with claims arising from the failure of a vessel to perform a sharp turn on leaving a river port due to (inter alia) her unsuitable light running margin.
- Assisted with a claim in respect of a charterparty said to have come into being despite broker negotiations being expressed to be subject to suppliers' approval.
- Assisted with defence and counterclaim submissions in response to a claim for damaged cargo.

Commodities and international trade

- Assisted with advice on the proper construction of a demurrage clause in a contract for the sale of goods, in particular whether it provided for an indemnity or a free-standing right to demurrage.
- Assisted with advice on a claim for non-delivery in respect of contaminated oil.

Energy and infrastructure

- Assisted with successful arbitration claims brought by a well servicing company in respect of an allegedly misconducted tender process.

Company law

- Assisted with a Supreme Court appeal concerning the proper scope of the rule against reflective loss.

