

James Potts QC

Call: 1995 Silk: 2013



clerks@erskinechambers.com

Appointed Silk in 2013, James has 20 years' experience of all aspects of corporate, insolvency, banking, financial services and general commercial law.

His work is predominantly contentious (although he maintains a strong corporate advisory practice) and he is an experienced advocate, appearing at all levels up to the Supreme Court and Privy Council, as well as in overseas jurisdictions.

He also has expertise in arbitration, mediation and expert determination (particularly in the context of shareholder/joint venture disputes and warranty claims). He is a CEDR Accredited Mediator.

He is client-friendly and approachable and seeks to provide clear, concise and commercial advice to clients.

Litigation & Arbitration

- Shareholder disputes
- Joint venture disputes
- LLP / partnership disputes
- Professional negligence
- Breach of fiduciary duty / misfeasance
- Breach of warranty claims
- Civil fraud and asset recovery
- Interim remedies
- Mediation and expert determination

Significant cases and transactions include:

Melvin v Roache Judgment of the Chief Justice (Gibraltar) 18 October 2017

Trial adjourned, affidavits directed and cross-examination ordered of Respondents to a shareholder dispute in respect of documents created after the dates on the face of those documents and deployed in pleadings and witness statements.

Brightside Group Ltd v RSM UK Audit LLP [2017] 1 WLR 1943

Acting for Claimant in professional negligence claim against auditors. Successfully resisted application to dismissal of proceedings based on alleged non-service of Claim Form.

JSC Mezhdunarodniy Promyshlenniy Bank v Pugachev [2016] EWHC 248 (Ch).

Successfully resisted application by trustees for discharge of a worldwide freezing order. Real risk of dissipation in the context of rights as a protector of the trusts and facts indicating de facto control.

Birdi v Specsavers Optical Group Ltd [2015] EWHC 2870 (Ch); Official Transcript

Acted for Specsavers in s.994 petition at trial of issues under a s.994 petition. Widescale allegations of impropriety rejected by the Court. Petitioner failed to recover adjustments greater than the Respondents' early Part 36 offer, leading to a substantial overall costs order against the Petitioner.

Dilato Holdings Pty Ltd v Learning Possibilities Ltd [2015] EWHC 592 (Ch); [2015] 2 B.C.L.C. 199

Acted for Applicant who successfully obtained injunctive relief to obtain access to books and records as a director and to restrain his removal as a director pending determination of his claim to a controlling interest in the company.

Airey v Taffinder & Ors (Re Hills Solutions Ltd) [2015] EWHC 3854 (Ch)

Acted for Claimant in successfully obtaining permission to continue a double derivative claim and a full indemnity from the company in respect of a restructuring of the group at an alleged undervalue.

Autonomy Corporation Ltd v Lynch and Hussain

Acting for HP entities in relation to a claim against former directors of Autonomy in a £3bn breach of fiduciary duty and deceit claim.

Re Charterhouse Capital Ltd [2015] EWCA Civ 536; [2014] EWHC 1410 (Ch)

Acted at trial and on appeal for successful Respondents in relation to private equity firm unfair prejudice petition.

Arbitrations:

Currently acting in relation to an international UNCITRAL joint venture dispute arbitration.

Currently acting in relation to an arbitration of an unfair prejudice dispute

Halliwells v Austin [2012] EWHC 1194 (Ch)

Acted for former partner in successful summary judgment application defeating claims by liquidator of the firm.

Currently advising in relation to a large professional negligence claim.

Global Energy Horizons Corp v Grey [2012] EWHC 3703 (Ch)

Imposition of fiduciary duties in a non-traditional context.

Royal Bank of Scotland Plc v Hicks [2012] EWHC 2699 (Ch)

Acted for RBS in relation to contest for control of Liverpool FC.

Royal Bank of Scotland Plc v Hicks [2011] EWHC 287 (Ch)

Successful application for anti-suit injunction in relation to contest for control of Liverpool FC.

Fulham Football Club (1987) v Richards [2011] EWCA Civ 855

Leading case which established the arbitrability of shareholder disputes.

Re Microsulis [2008] EWHC 587

Successful strike out of unfair prejudice petition; costs against solicitors for breach of warranty of authority.

BTA v Ablyazov

Acted for proposed court receivers in various applications.

Great Future International v Sealand Housing Corporation & Ors [2002] EWHC 2454 (Ch)

Damages of over US\$45million assessed; numerous hearings and applications in the Turks & Caicos Islands, freezing orders; committal for contempt of defendants.

Various recent proceedings in Gibraltar

Including an ongoing shareholder dispute, and a commercial dispute arising out of the insolvency of a law firm.

Restructuring & Insolvency

- Winding up
- Administration
- CVAs
- Receivership
- Contentious insolvency
- Cross-border issues
- Director' disqualifications
- Misfeasance
- Company charges

Significant cases and transactions include:

Recently advising HMRC on insolvency and commercial issues arising out of a very high value dispute.

Belmont Park Investments Pty Ltd v BNY Corporate Trustee Services Ltd [2011] UKSC 38

Scope of anti-deprivation principle in insolvency.

Re Lehman Brothers International (Europe) (in administration) v CRC Credit Fund [2009] EWHC 3228 (Ch)

Directions in relation to issues relating to client monies.

Sigma Finance Corporation (in administration) [2009] UKSC 2

Acting (without a leader) for Security Trustee in directions hearing to construction of provisions dealing with the distribution of assets in a security trust deed entered into by a structured investment vehicle.

Re Hans Brochier Holdings (unrep, 15 August 2006)

Test to be applied in establishing centre of main interest (COMI) of English company with business operations in Germany. Presumption rebutted.

Corporate

- Reductions of capital
- Cross-border M&A
- Schemes of arrangement
- Takeovers
- Conduct of meetings
- Company advisory
- Shareholder disputes
- Joint venture dispute

James Potts QC

Significant cases and transactions include:

Re Dee Valley [2017] EWHC 184 (Ch)

High profile contested scheme of arrangement – acted for seven individual shareholders opposing the sanction of the scheme.

Hollis v Marylebone Cricket Club [2013] EWHC 3547 (QB)

Acted for MCC in successful resistance of injunction to restrain the holding of a general meeting of the Club.

Re Auger Investments Ltd [2012] EWHC 94

Security for costs against Liberian company in context of unfair prejudice petition.

MSL Group Holdings Ltd v Clearwall International Ltd [2012] EWCA Civ 1440

Test for disguised distributions.

Fulham Football Club (1987) v Richards [2011] EWCA Civ 855

Leading case which established the arbitrability of shareholder disputes.

Re Woven Rugs [2010] EWHC 230 (Ch)

Acted for successful Petitioner at trial on s.994 petition. Backdated order and interest.

Re Microsulis [2008] EWHC 587

Successful strike out of unfair prejudice petition; costs against solicitors for breach of warranty of authority.

Memberships and publications

COMBAR

Chancery Bar Association

Contributor to Buckley on the companies Acts, Practice and Procedure of the Companies Court; Company Directors: Law and Liability; podcasts for CPDcast.

Ranked in

Chambers & Partners –

Company, Restructuring & Insolvency, Commercial Dispute Resolution, Chancery: Commercial

Legal 500 –

Company & Partnership, Commercial Litigation

Who's Who Legal –

Insolvency & Restructuring