

## James Malam

Call 2002



### Clerks' Details

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### Memberships

- Professional Negligence Bar Association
- TECBAR
- Chancery Bar Association
- Northern Circuit Commercial Bar Association

### Education

- Bar Vocational Course, Nottingham Law School, Very Competent, 2002
- Lord Justice Holker Award, Gray's Inn, 2001
- LLB (Hons) Law, University of Sheffield, 2001
- Plessington High School, Wirral, 1991-1998

### Beyond the Bar

James enjoys reading, photography, cycling, swimming, food and drink and spending time with his family.

### Professional Negligence CV

#### Overview

James has extensive experience acting both on behalf of claimants, defendants and insurers in disputes involving professionals such as architects, civil and structural engineers, insurance brokers, surveyors, estate agents, solicitors, accountants and tax advisors. He has also worked with those of a more niche profession, such as agronomists.

Prior to joining chambers, James worked at Fishburns Solicitors, where he specialised in insurance backed professional indemnity work.

## Recommendations

“James Malam has dealt with a number of cases for us at all stages and has always been easy to communicate with, provided excellent and practical advice, and shown an ability to present complex matters in a clear and concise manner in court.”

**Chambers and Partners 2024, Construction**

“All the work James produces is very well written, he sets the arguments clearly and is a good strong advocate. He is low-key, effective, sensible, pragmatic and easy to deal with.”

**Chambers and Partners 2024, Construction**

“James Malam is technically sound, accessible, thorough, reliable and commercial.”

**Chambers and Partners 2024, Construction**

“He sets the arguments clearly, and is a good strong advocate, who is sensible and easy to deal with.”

**Chambers and Partners 2024, Professional Negligence**

“He’s very helpful; he gets a grip of things really quickly and gives us a steer on the direction we need to go in. He is very accessible.”

**Chambers and Partners 2024, Professional Negligence**

“James is calm under pressure. His advocacy is strategic and poised.”

**The Legal 500 2024, Professional Negligence**

“James is excellent at spotting the important details and utilising these to the benefit of the client, and on a number of occasions he has spotted issues which have been vitally important. He takes a very considered approach to advocacy, he explains clearly and concisely his points and their relevance, and in contrast to many of his opponents, he does not need to be questioned by judges to elaborate on or explain his arguments.”

**The Legal 500 2024, Commercial Litigation**

“A detail-orientated junior who is serene under pressure. He takes a measured approach to advocacy.”

**The Legal 500 2024, Property and Construction**

“James has an excellent knowledge of the area. He is very thorough with a keen eye for detail, a sensible approach to pleading and the ability to ‘think outside the box’. He provides practical solutions when problems arise.”

**Chambers and Partners 2023, Construction**

“James is a really good lawyer: technical, commercial and straight-talking.”

**Chambers and Partners 2023, Construction**

“James is extremely diligent with personable manner, is good to work with and is a formidable advocate. He is not afraid of hard work and regularly hits time deadline. He’s definitely a safe pair of hands.”

**The Legal 500 2023, Professional Negligence**

“James Malam is client-friendly, very good technically, commercially minded when dealing with litigation, and is always very well prepared.”

**Chambers and Partners 2022, Construction**

“He is calm and able to get to the crux of the issues. He has good cross-examination skills.”

**Chambers and Partners 2022, Professional Negligence**

“Strong technical advice, clear and robust drafting of pleadings, incisive and effective advocacy. Also very easy and pleasant to work with, and prepared to give an off-the-cuff view if asked and to work through the wider strategy of a claim with us. Understands the requirements and priorities of insurer clients”

**The Legal 500 2022, Professional Negligence**

“James is quick to identify the key issues and gets to grips with the case within a short period of time, performing well at trial.”

**The Legal 500 2022, Commercial Litigation**

“James was organised and effective in presentation of our client’s case. He presented it with clarity and persuasion, both on paper and on his feet. He was calm and reassuring to work with.”

**Chambers and Partners 2021, Construction**

“Very good on paper, with clear and forceful pleadings. Just as good before the court. Always feel in safe hands with James on determining the key technical points, putting forward our best case on them.”

**The Legal 500 2021, Professional Negligence**

“Technically sound, accessible, thorough, reliable and commercial.”

**The Legal 500 2021, Property and Construction**

“Technically sound, accessible.”

**The Legal 500 2021, Commercial Litigation**

“He is very commercial and client-friendly.”

**Chambers and Partners 2020, Construction**

“He is very good with clients and puts them at ease.”

**Chambers and Partners 2020, Construction**

“Technically sound and accessible.”

**The Legal 500 2020, Commercial, Banking, Insolvency and Chancery Law**

“Technically sound, accessible, thorough, reliable and commercial.”

**The Legal 500 2020, Construction, Planning and Environment**

“Supportive and thorough.”

**The Legal 500 2018/19, Commercial, Banking, Insolvency and Chancery Law**

“He has a keen eye for the key issues of a case.”

**The Legal 500 2018/19, Construction, Planning and Environment**

“Knowledgeable and meticulous.”

**The Legal 500 2017, Commercial, Banking and Insolvency**

“A strong advocate, who provides sensible and pragmatic advice.”

**The Legal 500 2016**

“His courteous and helpful manner enables him to readily deal with even the most difficult of clients.”

**The Legal 500 2015, Commercial, Banking and Insolvency**

“Has a sound grasp of the technicalities of a legal problem.”

**The Legal 500 2015, Construction, Planning and Environment**

“Understands the need for commercial cost-effective solutions.”

**The Legal 500 2014, Construction, Planning and Environment**

“He has a swift grasp of the key issues in his cases.”

**The Legal 500 2014, Commercial, Banking and Insolvency**

Recommended for professional negligence work.

**The Legal 500 2013, Chancery and Commercial**

“Quick to grasp the strengths and weaknesses of a case”.

**The Legal 500 2012, Chancery and Commercial**

“Very careful, easy to work with and bright’...has a practice that is ahead of his call.”

**The Legal 500 2011, Chancery and Commercial**

## Cases

### Example cases of note include:

- Representing an IFA who advised the Claimant not to transfer out of an occupational pension scheme, but on the Claimant insisting advised him on the best replacement product to purchase. Issues of limitation and whether the Defendant ‘concealed’ any wrongdoing by failing initially in response to the complaint to disclose the advice document it produced.
- Claim arising from alleged solicitor’s negligence acting for vendors in a share sale agreement, in that the solicitors failed to limit all warranties given to the vendors’ knowledge and belief where the business was complex with multiple sites and employees and three vendors did not participate in management. Complex and difficult causation issues as to the effect of the purchasers’ claim alleging numerous fraudulent misrepresentations, which allegations (if true) could have been pursued regardless of any limitation on the warranties. Claim for £4.3m.
- Defending claim by liquidators of well-known company specialising in modifying high-end 4x4s against the former administrators/liquidators of that company. Allegations of impropriety in how the administrators came to be appointed and as to the payments made by them to the appointing charge holder. Numerous and complex allegations, made more complex by their historic nature (the alleged misconduct was 9 years old) and the state of the documentation now available.
- Instructed by solicitors’ professional indemnity insurers in a claim arising from the grant of a lease of a Grade II listed boatyard. Alleged failure to advise that the landlord had no title to grant the rights of way stated in the lease such that the claimant’s business was not viable. Case involved expert reports in four separate disciplines and issues of scope of duty/the SAAMCo ‘cap’. Claim for c.£2.1m.
- Claim against an accountant for breach of a contract to value shares arising from the settlement of an unfair prejudice petition. Accountant’s breach permitted one of the parties in dispute in the unfair prejudice petition to resile from the settlement and resume the dispute. The unfair prejudice petition and the company were Scottish whereas the accountant was based in England. Complex issues of the effect of the Scottish judgment permitting resumption of the unfair prejudice dispute and its relevance to a claim against the accountant on the English contract.
- Claim for c.£300,000 against conveyancing solicitor for failure to advise vendor on a clause in the sale contract which required the vendor to procure that a covenant restricting development of the land sold be lifted. Issues as to the adequacy of the advice allegedly given as to the existence of

the covenant and whether an explanation of the effect of it was required.

- Claim against a contract administrator arising from the restoration of a Grade II listed building following a substantial fire. Whether and when the contract administrator was obliged to review a scaffolding contract and consider whether it remained appropriate value for money.
- Claim against an IFA arising out of its failure to properly advise on an imminent reduction in the sum insured under a critical illness policy. Questions of the standard to be reached by an IFA generally but also of its obligations under the FSA code of conduct.
- Claim against an accountant for its advice on a film-finance-style tax mitigation scheme. Whether (having said expressly that it could not recommend the scheme but in fact informing the client of all the potential benefits of it) the accountant was in breach of duty in failing to give proper advice on the scheme and whether and what loss was suffered.
- Claim against insurance broker for improperly enquiring as to, improperly taking down, or misstating to insurers, information given during telephone conversation with insured as part of proposal for insurance of four public houses.
- Claim against an agronomist for negligent advice as to chemical treatment of winter oil seed rape crop and as to preparation of seed bed for drilling. Complex questions of agronomy expertise and causation.
- Claim against litigation solicitors who negligently caused c. £750 worth of costs orders to be made against their client and then did not satisfy the orders or inform the client of them. Whether damages could be recovered when the impact on the client's credit rating allegedly caused a mortgagee to repossess c. £1m of buy to let property owned by the client.

#### **While at Fishburns:**

- Claim regarding an accountant's tax advice preventing reliance on spouse exemption from IHT, c. £1.5m tax liability.
- Auditors' breach of duty claims, including failure to warn of systemic vulnerabilities in the company's organisation and to discover forged receipts/invoices. Losses of c. £100k-£1.3m.