

James Malam

Call 2002



Clerks' Details

- Joe Mawson
0161 817 2753
- Tom Gornall
0161 817 7139
- Prya Anisa
0161 817 2794

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.

Insurance CV

Overview

James has substantial experience of advising and representing insurers, insureds and insurance brokers in all manner of disputes arising from insurance policies, including those relating to pre-inception breaches (under the common law and under the Acts of 2012 and 2015); declinature of claims; the construction of the parties' rights more generally; and claims under the Third Party (Rights Against Insurers) Acts 1930 and 2010.

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

Recommendations

“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:

- Test case in relation to a claim on a public and products liability insurance under the TP(RAI)A 1930. Questions of whether the insurer was entitled to decline the claim for breach of a condition requiring 'you' (ie. the insured) to give notice of the claim when the insured had not provided notice but the claimant's solicitor had; and as to the extent of the insured's obligations to provide documents which may have existed at some time but appeared to have been lost through no fault of the insured by the time of the request.
- Test case as to proper interpretation of legal expenses insurance policy and whether the insurer was estopped from relying upon the policy terms by reason of having paid out on numerous other policies when the insured had been guilty of the same breach. The case was relevant to hundreds of other policies written by the same insurer with clients of the same firm. The case raised complex questions in relation to estoppel given the representation was to the claimant's agent (the solicitor) in relation to policies held by persons unknown to the claimant.
- TCC claim for c. £6m. Representing claimant purchasers of a development of 51 flats created out of a former office block suffering from wide ranging defects including the use of allegedly flammable cladding and lack of fire stopping between flats. Complex claim against various parties including the new-build home warranty insurer.
- Advising on the merits of potential claims under a bespoke policy insuring against cancellation of contracts to supply goods and services for the 2020 Tokyo Olympics.
- Claim on an event cancellation policy arising from the cancellation of a gig due to be played to c.30,000 people by an internationally well-known band. Interpretation of various conditions as to insurers' liability.
- Advising on the merits of insurers' imposition of new terms on a missing beneficiary insurance policy pursuant to the Consumer Insurance (Disclosure and Representations) Act 2012, including the proper interpretation of the statement of facts document and whether the requirement of a lack of reasonable care was made out.
- Claim against a home and contents insurer following its loss or disposal of the insured's possessions after a fire and before the insured was able to value them. The insurers sought to reduce the claim in reliance on an alleged understatement of the value of the contents of the property.
- Advising an insurance broker on a claim for commission against an insurer arising from a binding authority granted by the insurer to an underwriter. Raised issues of the extent to which a broker must be the effective cause of

the transaction giving entitlement to commission (and whether the broker's role could be proven) and as to interpretation of the notice clause in the binder.

- Claim under a motor trader's block policy regarding a Rolls Royce Phantom lost in an arson attack. Claim for circa £100k.
- Claim against insurance broker for secret profits made by failing fully to disclose commission paid to it by the insurer, which commission was in addition to a fee charged directly to the insured by the broker.

While at Fishburns:

- Advice on policy construction: whether various allegations by the same client in relation to the same construction project 'arose out of' a circumstance notified to insurers and whether they constituted one 'Claim' or two, so that they attached to the same policy year. Claim for circa £5 million.
- Conduct of successful defence of two professional indemnity policy claims in respect of two £30 million losses arising from refurbishment of a London hotel and a PFI project for construction of a major scientific establishment, including interviewing/examining many underwriting witnesses and drafting the policy avoidance letter.