

James Goudkamp

Call: 2014

'A phenomenal source of knowledge and an extraordinarily meticulous, hardworking and helpful team player.'

Legal 500



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James Goudkamp practises in all areas of commercial law, although his principal interests are civil fraud, professional negligence and commercial tort law more generally. He regularly appears in the Commercial Court and has a growing appellate practice having appeared in the Supreme Court, Privy Council and Court of Appeal.

James is described in the legal directories as “*incredibly hard-working, extremely knowledgeable and thorough*”, “*extraordinary meticulous*”, “*very able*”, “*responsive and practical*”, “*a phenomenal source of knowledge*”, “*brilliant*”, “*fabulous*” and as the person to go to “*if you have a difficult point of law*”.

The following are some illustrations of his recent work.

- ***AerCap Ireland Ltd v AIG Europe SA***: Instructed in the lessor insurance aviation claims in the Commercial Court arising out of Russia’s invasion of Ukraine in which in excess of US\$5 billion is claimed in aggregate (led by Stephen Phillips KC).
- Appeared for the appellant in an appeal concerning the defence of illegality in a claim in the tort of negligence (***Lewis-Ranwell v G4S Health Services (UK) Ltd [2024] EWCA Civ 138*** (led by Judith Ayling KC)).
- Appeared for the successful respondent in a jurisdictional challenge in ***Lakatamia Shipping Co Ltd v Su [2023] EWHC 1874 (Comm)*** (led by Stephen Phillips KC). The challenge concerned the test for intention in various economic torts, the tort, property and necessary or proper party gateways in CPR Practice Direction 6B and *forum conveniens*.
- Appeared for the successful respondent in an appeal to the Supreme Court concerning the illegality defence (***Henderson v Dorset Healthcare University NHS Foundation Trust [2020] UKSC; [2021] AC 563*** (led by Angus Moon QC)).
- Appeared for the successful claimant in ***Lakatamia Shipping Co v Su [2021] EWHC 1907 (Comm)***, which obtained, following a four-week trial of claims for unlawful means conspiracy and the Marex tort, judgment for approximately US\$40m (led by Stephen Phillips QC).
- Appeared in the Court of Appeal in an appeal regarding shipbreaking work in Bangladesh (***Begum v Maran (UK) Ltd [2021] EWCA Civ 326; [2022] 1 All ER (Comm) 940*** (led by Robert Bright QC)). The appeal concerned the duty of care element of the tort of negligence, limitation periods and applicable law.
- Appeared for the successful appellant in an appeal to the Court of Appeal following which a US\$27m worldwide freezing order was restored (***Lakatamia Shipping Co v Morimoto [2019] EWCA Civ 2203; [2020] 2 All ER (Comm) 359*** (led by Stephen Phillips QC)).

- Acted for an elite professional footballer in a £16m professional negligence and defamation claim against an anti-doping authority (*Sakho v World-Anti Doping Agency* (led by Richard Waller QC)). The World Anti-Doping Agency gave Mr Sakho an apology in open court in which it said that the dispute had been settled and that it had paid “*a substantial of damages*”.
- Appeared for the applicant in three sets of committal proceedings against a former billionaire in which custodial sentences of 21 months, 4 months and 24 months were imposed for breaches of freezing and other orders (*Lakatamia Shipping Co Ltd v Su* [2019] EWHC 1145 (Comm), [2020] EWHC 314 (Comm) and [2021] EWHC 1929 (Comm) (led by Stephen Phillips QC)). James also successfully opposed an appeal against the third of these sentences (*Lakatamia Shipping Co Ltd v Su* [2021] EWCA Civ 1355; [2022] 4 WLR 2).
- Successfully opposed an appeal seeking the discharge of a passport order (*Lakatamia Shipping Co Ltd v Su* [2021] EWCA Civ 1187 (led by Stephen Phillips QC)).
- Appeared in an appeal to the Privy Council regarding joint bank accounts (*Whitlock v Moree* [2017] UKPC 44; [2017] 20 ITCLR (led by Gavin Kealey QC)).

James’s practice involves a mixture of work in which he is led and work in which he is instructed as sole counsel. Alongside litigation, his practice extends to arbitration in insurance and shipping matters and involves a significant advisory element.

In addition to his busy practice, James is Professor of the Law of Obligations at the University of Oxford and is the author of more than 100 publications. His work is regularly cited by judges throughout the common law world (an illustration at the highest level is *Darnley v Croydon Health Services NHS Trust* [2018] UKSC 50; [2019] AC 831 at [23]), and James is widely regarded as a leading expert on tort law. Internationally recognised for his work in this regard, James is a member of the American Law Institute and serves as an Advisor to the *Restatement (Third) of Torts: Intentional Torts to Persons* (which is the most important source of tort law in the United States). His writings address myriad topics including the duty and standard of care in the tort of negligence, the illegality defence, the law of contributory negligence (on which he has recently written two books) and the law of damages.

James’s numerous university qualifications are at the highest level. They include two master’s degrees and a doctorate, which he completed as a Clarendon Scholar at the University of Oxford (Magdalen College). James was awarded the University Medal in Law for placing first in his year in his undergraduate studies, which he completed in Australia. In 2005–2006, James was a judicial assistant to the Hon Justice Michael Kirby AC CMG, who was then a Justice of the High Court of Australia, which is Australia’s ultimate appellate and constitutional court. James is admitted as a lawyer in the Supreme Court of New South Wales.

If you are interested in instructing James, please contact the clerks in order to ascertain his availability.

Expertise

Banking & Finance

- Advised (with by Jonathan Gaisman QC) in connection with a complex, high-value (exceeding £100m) professional negligence dispute in the banking and accounting context. The case concerned issues in tort law, contract law, limitation of actions, and private international law.
- *Whitlock v Moree* [2017] UKPC 44; [2017] 20 ITCLR: Appeared (led by Gavin Kealey QC) in this appeal to the Privy Council, which concerned joint bank accounts and issues in the law of trusts.
- Instructed (led by James Drake QC) in a claim by a lender in a dispute between borrowers and their guarantors. The case

presented difficult procedural questions, including in relation to freezing injunctions.

Civil Fraud

A large proportion of James's practice concerns civil fraud where he is sought after as one of the leading experts on tort law in England. James's experience in this regard includes freezing and proprietary injunctions and search orders as well as matters incidental thereto such as applications for fortification of cross-undertakings in damages and committal for contempt. Illustrations of his work in this area are as follows.

- **Lakatamia Shipping Co v Su [2021] EWHC 1907 (Comm)**: James (led by Stephen Phillips QC) obtained, following a four-week trial of claims for unlawful means conspiracy and the Marex tort (i.e., the tort of intentionally interfering with rights in a judgment debt), judgment for approximately US\$40m.
- **Lakatamia Shipping Co Ltd v Su [2020] EWHC 806 (Comm) and [2020] EWHC 865 (Comm); [2020] 1 WLR 2852**: James (led by Stephen Phillips QC) acted for the applicant in an application for an electronic search order. The order made required the respondent to disclose email and social media credentials to an independent reviewing lawyer.
- **Lakatamia Shipping Co Ltd v Su [2019] EWHC 1145, [2020] EWHC 314 and [2021] EWHC 1929 (Comm)**: James (led by Stephen Phillips QC) represented the applicant in three sets of committal proceedings against Mr Su, who was formerly a billionaire and one of Asia's richest businessmen. Mr Su was committed to prison for 21 months, 4 months and 24 months for numerous contempts (principally breaches of a freezing order). James also appeared in the Commercial Court resisting applications by Mr Su to purge his contempt: **[2019] EWHC 3180 (Comm)** and **[2020] EWHC 806 (Comm)**.
- **Lakatamia Shipping Co Limited v Su & Ors [2019] EWHC 898 (Comm) and [2019] EWCA Civ 2203; [2020] 2 All ER (Comm) 359**: Instructed (led by Stephen Phillips QC) in these Commercial Court proceedings for US\$27m in the tort of unlawful means conspiracy and the Marex tort. James appeared in a successful application for permission to serve the claim form out of the jurisdiction and in a successful appeal to the Court of Appeal against an order discharging a freezing order that had been obtained *ex parte*.
- **Orb a.r.l. v Ruhan [2015] EWHC 3638 (Comm)**: Represented (led by James Drake QC) the Orb parties in these Commercial Court proceedings, which were on a vast scale. The case concerned a complex high-value fraud dispute arising from the sale of hotels next to Hyde Park (involving a claim for around £250m and a counterclaim for approximately £200m). The litigation involved numerous parties and many claims and culminated in a very heavy four-day hearing of assorted applications following which the case settled. The proceedings, which had been listed for a 16-week trial, raised difficult questions in the law of contract, torts, unjust enrichment, trusts and civil procedure. Freezing and proprietary injunctions and fortification featured prominently in the litigation.
- Instructed (led by Timothy Saloman QC) in a misrepresentation claim in the context of a fine art transaction.

Entertainment & Sport

- **Sakho & Ors v The World Anti-Doping Agency**: The First Claimant in this High Court litigation is an elite professional footballer. In 2016, he was charged with an anti-doping offence. That charge was dismissed and the First Claimant sought £16m in damages in claims for professional negligence and defamation against the World Anti-Doping Agency. James was led by Richard Waller QC. The World Anti-Doping Agency gave Mr Sakho an apology in open court in which it said that the dispute had been settled and that it had paid "a substantial of damages".

General Commercial Disputes

- Advised (with Jonathan Gaisman QC) in connection with a complex high-value (exceeding £100m) professional negligence dispute in the banking and accounting context. The case concerned issues in tort law, contract law, limitation of actions, and private international law.
- **DP World Limited v MSC Mediterranean Shipping Company SA:** Instructed (led by David Bailey QC) in a US\$27m claim in the Commercial Court regarding a volume and rebate agreement. The case raised issues concerning estoppel, waiver, implied terms and the non-prevention principle.
- **Sakho & Ors v The World Anti-Doping Agency:** The First Claimant in this High Court litigation is an elite professional footballer. In 2016, he was charged with an anti-doping offence. That charge was dismissed and the First Claimant sought £16m in damages in claims for professional negligence and defamation against the World Anti-Doping Agency. James was led by Richard Waller QC. The World Anti-Doping Agency gave Mr Sakho an apology in open court in which it said that the dispute had been settled and that it had paid “*a substantial of damages*”.
- **Lakatamia Shipping Co Ltd v Su [2019] EWHC 1145, [2020] EWHC 314 and [2021] EWHC 1929 (Comm):** James (led by Stephen Phillips QC) represented the applicant in three sets of committal proceedings against Mr Su, who was formerly a billionaire and one of Asia’s richest businessmen. Mr Su was committed to prison for 21 months, 4 months and 24 months for numerous contempts (principally breaches of a freezing order). James also appeared in the Commercial Court resisting applications by Mr Su to purge his contempt: [2019] EWHC 3180 (Comm) and [2020] EWHC 806 (Comm).
- **Lakatamia Shipping Co Limited v Su & Ors [2019] EWHC 898 (Comm) and [2019] EWCA Civ 2203; [2020] 2 All ER (Comm) 359:** Instructed (led by Stephen Phillips QC) in these Commercial Court proceedings for US\$27m in the tort of unlawful means conspiracy and the *Marex* tort (i.e., the tort of intentionally interfering with rights in a judgment debt). James appeared in a successful application for permission to serve the claim form out of the jurisdiction and in a successful appeal to the Court of Appeal against an order discharging a freezing order that had been obtained *ex parte*.
- **Das v George Weston Limited [2017] ONSC 4129:** This litigation, which was of immense proportions, arose out of a factory collapse in Bangladesh in which more than one thousand people died and many more were injured. CAD\$2 billion was claimed from corporate entities within a global supply chain. James was instructed to give expert evidence as to English law regarding the duty of care element of the tort of negligence, the doctrine of vicarious liability and the law of fiduciary duties. He was cross-examined and his evidence is discussed at [405], [412], [414]–[415], [419], [425], [437], [441]–[442], [448], [450], [452], [457], [461], [570]–[571], [576].
- **Orb a.r.l. v Ruhan [2015] EWHC 3638 (Comm):** Represented (led by James Drake QC) the Orb parties in these Commercial Court proceedings, which were on a vast scale. The case concerned a complex high-value fraud dispute arising from the sale of hotels next to Hyde Park (involving a claim for around £250m and a counterclaim for approximately £200m). The litigation involved numerous parties and many claims and culminated in a very heavy four-day hearing of assorted applications following which the case settled. The proceedings, which had been listed for a 16-week trial, raised difficult questions in the law of contract, torts, unjust enrichment, trusts and civil procedure. Freezing and proprietary injunctions and fortification featured prominently in the litigation.
- **Harbour Fund III LP v Kazakhstan Kagazy Plc:** Instructed (led by Dominic Kendrick QC) in a claim in the Commercial Court by Harbour Litigation Funding. The proceedings raised issues regarding the doctrines of mitigation of damage, subrogation and legal professional privilege.
- Instructed (led by James Drake QC) in a claim by a lender in a dispute between borrowers and their guarantors. The case presented difficult procedural questions, including in relation to freezing injunctions.
- **ACB Properties Limited v White & Co (UK) Ltd:** Instructed (led by other Counsel) in a High Court negligence claim against accountants in respect of investment, accounting, and tax-planning advice.

- Instructed (led by Timothy Saloman QC) in a misrepresentation claim in the context of a fine art transaction.

Injunctions

A significant part of James's practice concerns injunctive relief, especially freezing and proprietary injunctions. He is often instructed in relation to urgent matters in this connection which require work around the clock.

- ***Lakatamia Shipping Co Ltd v Su* [2019] EWHC 1145, [2020] EWHC 314 and [2021] EWHC 1929 (Comm)**: James (led by Stephen Phillips QC) represented the applicant in three sets of committal proceedings against Mr Su, who was formerly a billionaire and one of Asia's richest businessmen. Mr Su was committed to prison for 21 months, 4 months and 24 months for numerous contempts (principally breaches of a freezing order). James also appeared in the Commercial Court resisting applications by Mr Su to purge his contempt: [2019] EWHC 3180 (Comm) and [2020] EWHC 806 (Comm).
- ***Lakatamia Shipping Co Limited v Su & Ors* [2019] EWHC 898 (Comm) and [2019] EWCA Civ 2203; [2020] 2 All ER (Comm) 359**: Instructed (led by Stephen Phillips QC) in these Commercial Court proceedings for US\$27m in the tort of unlawful means conspiracy and the *Marex* tort (i.e., the tort of intentionally interfering with rights in a judgment debt). James appeared in a successful application for permission to serve the claim form out of the jurisdiction and in a successful appeal to the Court of Appeal against an order discharging a freezing order that had been obtained *ex parte*.
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- Instructed (led by James Drake QC) in a claim by a lender in a dispute between borrowers and their guarantors. The case presented difficult procedural questions, including in relation to freezing injunctions.

Insurance & Reinsurance

James has experience in relation to both marine and non-marine insurance matters. Much of James's insurance work is in arbitration.

- ***AerCap Ireland Ltd v AIG Europe SA***: Instructed in the lessor insurance aviation claims in the Commercial Court arising out of Russia's invasion of Ukraine in which in excess of US\$5 billion is claimed in aggregate (led by Stephen Phillips QC).
- Acted for an insurer in arbitration proceedings in the oil and gas context (exceeding US\$300m) (led by Dominic Kendrick QC).
- Acted for an insurer of a major pharmaceutical company in arbitration proceedings in the context of a product liability claim (exceeding US\$25m) (led by Gavin Kealey QC).
- ***The British Amateur Gymnastics Association v Zurich Insurance Limited***: Instructed (led by James Drake QC) in this long-running action in the Commercial Court which concerned a dispute between insureds, two insurers and brokers. The case raised points regarding insurance brokers' duty of care in the tort of negligence and contract as well as in relation to the doctrines of waiver, estoppel and rectification. The proceedings also gave rise to applications regarding legal professional privilege and specific disclosure.

International Arbitration

A substantial proportion of James' practice involves international arbitration, often with an insurance dimension, and James has been instructed in a range of arbitrations (including Bermuda Form and LMAA). By way of example, James has acted:

- For cargo interests in a fraud claim (exceeding US\$65m) (led by David Bailey QC).
- For an insurer in a claim in the oil and gas context (exceeding US\$300m) (led by Dominic Kendrick QC).
- For an insurer of a major pharmaceutical company in the context of a product liability claim (exceeding US\$25m) (led by Gavin Kealey QC).
- In a contractual dispute raising issues in connection with the Bribery Act 2010.

Jurisdiction/Conflict of Laws

Much of James's practice involves a significant international element raising issues in the conflict of laws. By way of example, James has:

- Appeared for the successful respondent in a jurisdictional challenge in ***Lakatamia Shipping Co Ltd v Su* [2023] EWHC 1874 (Comm)** (led by Stephen Phillips KC). The challenge concerned the test for intention in various economic torts, the tort, property and necessary or proper party gateways in CPR Practice Direction 6B and *forum conveniens*.
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- ***Lakatamia Shipping Co Limited v Su & Ors* [2019] EWHC 898 (Comm) and [2019] EWCA Civ 2203; [2020] 2 All ER (Comm) 359: Instructed** (led by Stephen Phillips QC) in these Commercial Court proceedings for US\$27m in the tort of unlawful means conspiracy and the *Marex* tort (i.e., the tort of intentionally interfering with rights in a judgment debt). James appeared in a successful application for permission to serve the claim form out of the jurisdiction and in a successful appeal to the Court of Appeal against an order discharging a freezing order that had been obtained *ex parte*.

Professional Negligence

- Appeared for the appellant in an appeal concerning the defence of illegality in a claim in the tort of negligence (***Lewis-Ranwell v G4S Health Services (UK) Ltd* [2024] EWCA Civ 138** (led by Judith Ayling KC)).
- Appeared for the successful respondent in an appeal to the Supreme Court concerning the illegality defence (***Henderson v Dorset Healthcare University NHS Foundation Trust* [2020] UKSC; [2021] AC 563** (led by Angus Moon QC)).
- Advised (with Jonathan Gaisman QC) in connection with a complex high-value (exceeding £100m) professional negligence dispute in the banking and accounting context. The case concerned issues in tort law, contract law, and private international law.
- Appeared in the Court of Appeal in an appeal regarding shipbreaking work in Bangladesh (***Begum v Maran (UK) Ltd* [2021] EWCA Civ 326; [2022] 1 All ER (Comm) 940** (led by Robert Bright QC)). The appeal concerned the duty of care element of the tort of negligence, limitation periods and applicable law.
- ***Sakho & Ors v World Anti-Doping Agency***: The First Claimant in this High Court litigation is an elite professional footballer. In

2016, he was charged with an anti-doping offence. That charge was dismissed and the First Claimant sought £16m in damages in claims for professional negligence and defamation against the World Anti-Doping Agency. James was led by Richard Waller QC. The World Anti-Doping Agency gave Mr Sakho an apology in open court in which it said that the dispute had been settled and that it had paid “*a substantial of damages*”.

- **Das v George Weston Limited [2017] ONSC 4129:** This litigation, which was of immense proportions, arose out of a factory collapse in Bangladesh in which more than one thousand people died and many more were injured. CAD\$2 billion was claimed from corporate entities within a global supply chain. James was instructed to give expert evidence as to English law regarding the duty of care element of the tort of negligence, the doctrine of vicarious liability and the law of fiduciary duties. He was cross-examined and his evidence is discussed at [405], [412], [414]-[415], [419], [425], [437], [441]-[442], [448], [450], [452], [457], [461], [570]-[571], [576].
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Shipping and Transport

- Appeared in the Court of Appeal in an appeal regarding shipbreaking work in Bangladesh (**Begum v Maran (UK) Ltd [2021] EWCA Civ 326; [2022] 1 All ER (Comm) 940** (led by Robert Bright QC)). The appeal concerned the duty of care element of the tort of negligence, limitation periods and applicable law.
- **DP World Limited v MSC Mediterranean Shipping Company SA:** Instructed (led by David Bailey QC) in a US\$27m claim in the Commercial Court regarding a volume and rebate agreement. The case raised issues concerning estoppel, waiver, implied terms and the non-prevention principle.
- Acted for cargo interests in a fraud claim in an LMAA arbitration (exceeding US\$65m) (led by David Bailey QC).

Education

- Master of Arts (by resolution), University of Oxford (2012).
- Doctor of Philosophy, Magdalen College, University of Oxford (2011).
- Master of Philosophy in Law (Distinction), Magdalen College, University of Oxford (2008).
- Bachelor of Civil Law (Distinction), Magdalen College, University of Oxford (2006).
- Graduate Diploma in Legal Practice, University of Wollongong (2005).
- Bachelor of Science (Distinction) and Bachelor of Laws (Hons), University of Wollongong (2003).

Prizes and Awards

- Clarendon Scholar, University of Oxford.
- Joint Runner-up for the Society of Legal Scholars' Peter Birks' Prize for Outstanding Legal Scholarship (2014) for the book *Tort Law Defences* (2013).
- Recipient of numerous prizes throughout both undergraduate and postgraduate studies, including the Clifford Chance Prize in Civil Procedure for placing first in the subject 'Principles of Civil Procedure' in the Bachelor of Civil Law, University of Oxford.
- Recipient of the University Medal in Law (2003) in undergraduate studies for ranking outright first in graduating class.