



## James Tipler Called 2013

### Practice Summary

James is a leading junior with extensive experience of property litigation at all levels up to and including the Supreme Court, as well as arbitration, mediation and other forms of ADR.

James has particular expertise in the use of land for telecommunications infrastructure under the Electronic Communications Code (Sch. 3A CA 2003) and its predecessor code, having built a busy practice working with mobile network operators in telecommunications litigation and advising on site-specific and portfolio-wide legal matters.

He accepts instructions in all areas of real property and landlord and tenant law, and regularly provides advice and representation relating to business tenancies, property insolvency, property damage, mortgages and receivership, adverse possession, nuisance, dilapidations, development contracts, easements, restrictive covenants, land registration, trusts of land, proprietary estoppel and professional negligence.

He also retains a keen interest in rights to light, having worked with the Law Commission as a research assistant developing its proposals for reform (Law Com. 356) prior to his career at the Bar, and advises landowners and developers as to their rights and remedies in commercial and residential contexts.

- Notable Cases

- **Quinn & 190 Others v Friesian Developments Limited PT-2022-000625** James is currently briefed as junior counsel (led by Gary Cowen KC) for the Defendant purchaser in a claim brought by 191 Claimants each seeking to establish long-term rights in respect of dwellings within a substantial chalet park in the West Midlands by virtue of (inter alia) proprietary estoppel and/or an alleged grant of perpetually renewable leases. The trial is expected to take place over three weeks in 2024/2025.
- **Vodafone Ltd v Potting Shed Bar and Gardens Ltd (formerly Gencomp (No.7) Ltd) [2023] EWCA Civ 825** James appeared in the Court of Appeal for the respondent Vodafone (lead by Graham Read KC) in this important appeal considering the interaction of landlord and tenant principles with the Electronic Communications Code, and in particular, whether a concurrent lessee is to be treated as a party to an existing Code agreement for the purposes of the Code.
- **Odukoya v Topaz Finance Ltd (t/a Malanite Mortgages) [2023] EWHC 441 (Ch)** James secured the making of an extended civil restraint order against a litigant who had made repeated unmeritorious applications seeking to impugn a mortgage and prevent recovery of possession by the lender and realisation of its considerable security.
- **Oceanfill Ltd v Nuffield Health & Cannons Group Ltd [2022] EWHC 2178 (Ch)** James appeared as sole counsel for the defendants (against Stephen Jourdan KC and Imogen Dodds) in this application to the High Court considering a claim against guarantors of Virgin Active's liabilities under an assigned lease following the well-publicised entry of the Virgin Active companies into a novel s.26A Companies Act 2006 "cross-class cramdown" restructuring plan and their resultant release from liability to pay the rents on certain of their gym premises. James argued that the true effect of the plan and/or the terms of the relevant guarantee meant that the guarantor defendants had been released from liability to a like extent. Deputy Master Arkush found for the claimants but has granted permission to appeal noting the case raises novel issues of wider importance (appeal outstanding).



- **CTIL v Compton Beauchamp Estates Ltd; CTIL v Ashloch & AP Wireless II (UK) Ltd; On Tower UK Ltd v AP Wireless II (UK) Ltd [2022] UKSC 18; [2022] 1 W.L.R. 3360 (Supreme Court)** James appeared as junior counsel for CTIL (led by John McGhee KC and Oliver Radley-Gardner KC) in two of the three conjoined appeals leading to the Supreme Court's landmark decision which substantially endorsed CTIL's arguments and reversed the "wrong turn" taken by the Court of Appeal in Compton Beauchamp, confirming that an operator in occupation of land is not thereby precluded from obtaining new Code rights over that land under Part 4 of the Code.
- **Goodenough College v Nuffield Health Wellbeing Ltd (H65YX924) (17 May 2022)** James successfully resisted an application for summary judgment by a landlord for substantial arrears of rent accruing during the defendant's forced closure as a result of the COVID-19 lockdown, arguing that a stay should be granted instead to allow time to explore arbitration under the Commercial Rent (Coronavirus) Act 2022 and to await clarification on the law in a forthcoming judgment of the Court of Appeal.
- **EE Ltd & H3G UK Ltd v Stephenson & AP Wireless II (UK) Ltd [2021] UKUT 167 (LC); [2021] 4 W.L.R. 116.**  
James appeared for the successful operators (led by Graham Read KC) in this important judgment on the scope of Part 5 of the Code, confirming the Tribunal's jurisdiction to make orders for termination and replacement of code agreements (particularly older "subsisting" agreements) without the need for the operator to aver a site-specific need for such an order. The Tribunal also provided important guidance that the presumption against changes to terms of agreements on renewal established by the House of Lords in *O'May v City of London Real Property Co Ltd* [1983] 2 A.C. 736 should not, in contrast to the position governing s.35 of the 1954 Act, apply in respect of Part 5 renewals under the Code.
- **Reay & Reay v Taylor REF/2019/0903 (21 Sept 2021)** James appeared for the successful claimants in this trial before Judge Jackson in the FTT (Property Chamber) (Land Registration) of their opposed application for a determination of the boundary between their and the defendants' property pursuant to s.60 LRA 2002, and successfully resisted a late application for rectification of the operative conveyance.
- **EE Ltd & H3G UK Ltd v Hackney LBC [2021] UKUT 142 (LC).** James appeared alone for the successful claimant operators in this dispute over the terms of an access to survey agreement sought by the operators against the respondent landowner council. Martin Rodger KC (Deputy Chamber President) accepted James's submissions that his earlier dictum in *EE Ltd & H3G UK Ltd v Islington LBC* (No. 1) [2018] UKUT 0361 at [48] that the terms of an agreement imposing interim Code rights should "put the full risk of the operation on which the operator wishes to embark on the operator and none of the risk on the site provider", and the requirement in para 23(5) of the Code to include the terms appropriate to minimise loss and damage caused by the exercise of Code rights to relevant persons – did not require the inclusion of a term in the agreement sought that would have obliged the operators to give a wide-ranging indemnity against all liabilities, costs, expenses, damages and losses arising out of or in connection with the agreement.
- **Bermondsey Exchange Freeholders Limited v Kevin Conway (County Court at Lambeth, November 2016)**, in which James successfully represented the claimant landlord in a claim for an injunction to prevent a tenant from letting his flat to short-stay guests via Airbnb and similar web services. Upheld on appeal [2018] 4 WLUK 619, HHJ Luba KC.
- **Vanquish Properties (UK) Limited Partnership v Brook Street (UK) Limited [2016] EWHC 1508 (Ch); [2016] L & TR 33** in which James advised and appeared for the successful defendant tenant in a break clause dispute concerning a significant proposed development in the City of London (led by Guy Fetherstonhaugh KC).
- Education, Awards and Qualifications
  - MA Law (First Class) – Christ's College, University of Cambridge (2012)
  - Diploma in French Legal Studies – Université de Poitiers (ERASMUS Scheme) (2011)
  - BPTC – Kaplan Law School, London (2013)
  - Called to the Bar 2013, Inner Temple
  - Major Exhibition Award (BPTC Scholarship): Inner Temple
  - De Hart Prize: Christ's College, University of Cambridge
  - James is a member of the Chancery Bar Association and the Property Bar Association.
  - Languages: French, Swedish (Conversational)
  - James is a classically-trained pianist and cellist.
- Publications

James writes and speaks regularly on current legal issues, and has assisted with the preparation of recent



Blundell lectures on topical issues in property law including Lady Chief Justice Carr's 2022 lecture on professional negligence "*The Supreme Court on SAAMCO: has it reached the summit?*"

Further highlights include:

- Navigating the Lease Renewals Pilot N.L.J. 2018, 168(7786), 13-14 (with Caroline Shea KC)
- Game of Drones (Bill of Middlesex, Spring 2017 p.14) (with Ciara Fairley)
- Charging Orders on Land, S.J. 2017 161(15) 27 (with Stephanie Tozer KC)
- Implied terms: from "characteristically inspired discussion" to authoritative guidance (Case comment) L. & T. Review 2016, 20(1), 4-12 (with Toby Boncey)
- Under Occupation 165 NLJ 7675 (with Joseph Ollech).

### Published Comments

---

"James is excellent. He is a very good advocate who is calm and assured. He knows what he is talking about." *Chambers and Partners UK Bar Guide 2024*

"His advice is clear and prompt. He always knows what the client wants and how best to achieve it." *Chambers and Partners UK Bar Guide 2024*

'He is a very responsive barrister – James is an extremely competent, efficient and effective counsel.' *Legal 500 2024*

'Incisive, inquisitive, easy to work with, responsive and works well in a team.' *Legal 500 2024*

"He is always extremely prepared and responsive. He comes across very well in court." *Chambers and Partners UK Guide 2023*

"His advice is clear and concise, and geared towards reaching the best commercial outcome." *Chambers and Partners UK Guide 2023*

'James is a truly excellent junior. He is more than just a rising star. He will be utterly brilliant and is more than capable of reaching the very very top of his profession.' *Legal 500 2023*