



James Palmer

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James Palmer's practice is widely based on contractual, tortious and general common law matters.

The contractual elements consist of insurance and general commercial matters, consumer finance and lending, product liability and recalls, based litigation in product liability.

His common law practice covers personal injury and industrial diseases (asbestos, hearing loss, VWF), professional negligence and some clinical negligence.

In the field of employment, he acts both in Employment Tribunal cases and contractual disputes arising from the termination of employment of senior employees and directors. In this latter field, he has also been involved in CDDA applications and Companies Court actions.

He has been involved in many aspects of disciplinary and regulatory work and sits as legal assessor to a number of professional bodies, as well as appearing on behalf of public and statutory bodies in public enquiries and providing them with advice generally.

He is a CEDR accredited mediator, with experience of mediating international commercial and construction disputes. He is a director of Resolex Limited, a company dedicated to delivering market leading tools and services for stakeholder engagement, risk reduction and dispute resolution.

James accepts Direct Access matters.

Finance & Consumer Credit

James has acted cases covering all aspects of the Consumer Credit legislation. He has acted on behalf of finance houses or lending institutions, the suppliers of goods under credit agreements, and from time to time the debtor.

He has advised on, reviewed and drafted terms and conditions for finance houses and credit card companies (including store cards). He has acted on behalf of Citibank, UDT, Lombard, Blackhorse Finance and many of the credit companies providing dedicated motor vehicle finance under specific manufacturer's brands.

In addition James has acted on behalf of banks in undue influence claims relating to secured credit and personal guarantee claims, as well as claims arising out of asset, business and working capital finance agreements, including the drafting and implementation of invoice finance and factoring agreements.

He also acts on in credit hire cases.

Representative Cases

- *Banco-Exterior Internacional v Mann* [1995] 1 All ER 936, CA
Adequacy of steps taken by lender to avoid constructive notice of undue influence.

Product Liability

His work in the product liability field has covered a wide range of industries, including the motor industry, consumer goods, food and beverages.

Recent cases have predominantly involved paints, plastics and polymers incorporated into manufactured items giving rise to third party issues and/or potential liability for product recalls. Claims related to:

- defective plastic provided for the manufacture of engine parts;
- defective paint used on a fleet of liveried commercial vehicles;
- defective polymer valves incorporated into a range of domestic and industrial boilers distributed widely throughout Europe over a period of approximately 8 years;
- general recall of Christmas puddings alleged to be defective by major national supermarket chain.

These claims have led to associated matters involving packaging, labeling and product description.

James has also advised a world-wide manufacturer of All-Terrain Vehicles and a manufacturer of aircraft engine parts in relation to liability to users of their products. He has also provided evidence as to domestic law in relation to product liability for use and proceedings in United States jurisdictions.

Employment

James Palmer regularly advises employers both in advance of and following decisions to dismiss or make employees redundant.

He acts in the Employment Tribunals in claims concerned with:

- Unfair dismissal
- Redundancy
- Discrimination – Sexual, Racial and particularly Disability discrimination
- Transfer of Undertakings
- Equal Pay

- Unlawful deductions of wages
- Enforcement Notices under Health & Safety legislation

In the majority of cases he has acted on behalf of employers, although he also advises and represents company directors and senior employees.

As a separate element of his employment practise, James is frequently asked to advise and act in injunctive proceedings arising out of the termination of employment, of directors and/or senior employees etc. The majority of such work is concentrated on urgent advice and drafting leading to an application for injunctive relief, both with and without, notice to enforce restrictive covenants and/or protect employers against breaches of director's duties and/or breaches of confidence or for the recovery of confidential material and copyright infringement.

This area has led additionally to issues relating to directors duties generally and involvement in CDDA applications and litigation in the Companies Court.

Representative Cases

- *Turner & Ors v Commonwealth & British Minerals [2000] IRLR 114, CA*
Construction and application of restrictive covenant signed as part of severance package.
- *Mission Capital PLC v Sinclair & Anor [2008] LTL 5/8/2008 Administrative Court Floyd J*
Whether permission should be granted to a director to continue with a derivative action under the Companies Act 2006 s.261.

Personal Injury & Professional Negligence

James' tortious practice covers Personal Injury, Professional and Clinical Negligence.

His personal injury practice covers all aspects of the field. As well as general public liability claims, he has been involved in a range of industrial injury claims, including asbestos, pneumoconiosis, VWF, deafness and dermatological claims. Generally, he acts on behalf of defendant insurers, but has also represented Claimants (including under CFA agreements).

Professional Negligence areas in which he has been involved include accountants, solicitors and surveyors, again generally instructed by insurers on behalf of the Defendant.

Clinical Negligence (acting on behalf of individual practitioners and Health Authorities and Trusts) dealing with negligent management and diagnosis in a wide range of medical specialities.

Representative Cases

- *Allen v BREL [2001] PIQR Q101 CA*
Apportionment of damages between consecutive tortfeasors.

- *Gardner v Marsh & Parsons [1997] 1 WLR 489*
Recoverability of damages against negligent surveyor where damage avoided as result of collateral benefit.

Health & Safety

James has been involved in all aspects of Health & Safety arising in many different fields of activity. Areas have included manufacturing, construction, educational establishments, shops and office premises, landowners (including operators of leisure facilities), highway authorities, hospitals, prisons and railways.

James has been regularly retained to advise companies as to compliance with regulations and has represented both companies and individuals in civil and criminal disputes both at first hearings and on appeal. He has appeared on behalf of interested parties at many inquests, including insurers, the Department of Transport, railway companies and mental health trusts arising from deaths in secure hospitals.

He has practical knowledge and experience of issues arising from breach of Health & Safety and Food Hygiene regulations in hotels, restaurants and licensed premises and has worked with a company which provides specialist services in this area.

He also acts for prosecuting authorities and has prosecuted all types of matter, including recently the prosecution of a director of a residential care-home for manslaughter.

Contract & Commercial

James cover a variety of general commercial matters, including Sale of Goods, international cross-border trading contracts, insurance and commercial disputes involving, recovery of goods and property.

He has been involved in a number of company law and partnership actions relating to insolvency and dissolution. These have involved applications under the Company Directors Disqualification Act, both resisting applications to disqualify and applications for permission.

He has advised on shareholder and private equity agreements.

Representative Cases

- *Mission Capital PLC v Sinclair & Anor [2008] LTL 5/8/2008 Administrative Court Floyd J*
Whether permission should be granted to a director to continue with a derivative action under the Companies Act 2006 s.261.
- *Top Creative Ltd & Anor v St Albans District Council [1999] EWCA Civ 1174*
Status of a company having been struck off and pending application under S. 653 of Companies Act 1985.

Professional Discipline & Regulation

Providing advice and representation to Local Government and Public Authorities in relation to a variety of regulatory issues arising out of the discharge of their functions and compliance with domestic and European legislation and Directives.

Recent matters have included advice on application of directives on airline tariffs and ticket sales to airport operators.

Acting as legal assessor to professional disciplinary tribunals.

Representative Cases

- *Ladbroke Grove Rail Inquiry*
On behalf of the Office of the Rail Regulator.

Mediation & ADR

James is a CEDR trained and Accredited Mediator. He has acted both a representative and Mediator regularly.

He is a director of Resolex Limited, a company dedicated to delivering market leading tools and services for stakeholder engagement, risk reduction and dispute resolution.

Appointments

- CEDR Accredited Mediator
- Legal Assessor to professional disciplinary bodies

Memberships

- Bar European Group
- COMBAR
- Employment Lawyers Association
- Employment Law Bar Association
- Personal Injury Bar Association
- Regulatory & Disciplinary Lawyers Association
- Health & Safety Lawyers' Association

Education

- MA (Cantab)

Awards & Recognitions

