

## James Rowley QC

Called: 1987

Silk Date: 2006



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James.Rowley@byromstreet.com



### Practice Overview

Chambers & Partners 2019 (PI)

He is lauded by sources for his attention to detail and understanding of complex quantum issues

Chambers & Partners 2019 (Clin Neg)

He is commanding in negotiations, a meticulous forensic analyst and always well prepared

### PRACTICE AREAS

Personal Injury

Clinical Negligence

Inquiries and Inquests (with P.I or medical content)

### APPOINTMENTS

Hardwicke Scholar of Lincoln's Inn

Recorder of the Crown and County Courts (2003-2015)

Chairman of the Personal Injuries Bar Association (2010-12)

PIcArbs Arbitrator (2015- )

### ASSOCIATIONS

Personal Injuries Bar Association

Professional Negligence Bar Association

### PERSONAL INFORMATION

Born in 1964 in North Staffs., educated at Stonyhurst and Emmanuel College, Cambridge, James studied Classics (MA) before converting to Law. He lives in the Cheshire countryside with his wife and 3 grown up sons. He still tries to open the batting and hang on to catches in the gully but with declining success. Otherwise he describes himself as an armchair sportsman, gardener and cook. He keeps a small wine cellar.

### Personal Injury

James Rowley specializes in Personal Injuries litigation of maximum severity or special interest. His breadth of experience allows him to cover the entire spectrum of cases. An understanding of medical/expert evidence,

numeracy and attention to detail in paperwork maximizes his client's position.

James has a detailed understanding of the law of tort and procedure as applied to personal injury cases, as well as knowledge of the relevant statutory duties and accompanying case law. He has covered cases on liability involving almost every conceivable type of personal injury claim including:

- accidents on the roads
- accidents on construction sites, in factories and involving Occupiers' Liability
- military accidents in training (including SAS selection in the Brecon Beacons) and disasters in Iraq and Afghanistan
- sporting injuries
- injuries arising out of faulty consumer goods

On the quantification and settlement of claims, James takes an active role in choosing and leading the team; he undertakes the preparation of detailed Statements of Case, Schedules and Counter Schedules himself in heavy actions; he knows the ins and outs of early pathfinder JSMs and how to guide a case towards its best tactical resolution. He has particular experience in cases of:

- Brain injury including hemiplegia, blindness and dysexecutive syndrome and where the issue of capacity is borderline
- Spinal injury including paraplegia and tetraplegia, partial and total, and at different levels
- Amputee cases at all levels, including bilateral amputation
- Psychiatric Injury and especially P.T.S.D
- PPOs for overseas residents including Brazil and Australia
- Reverse indemnity agreements / abatement clauses from PPO orders in respect of statutory funding to the benefit of both claimant and insurer
- reduced expectation of life and the medical literature associated with its evaluation

## REPORTED CASES

Faisal v Younis & Active Brands [2018] EWHC 1111 (QB)

APPORTIONMENT : BREACH OF DUTY OF CARE : CHILDREN : CONTRIBUTION : COSTS : DEFECTIVE PRODUCTS : FORESEEABILITY : LABELLING : MANUFACTURING : PACKAGING : PERSONAL INJURY : POISONS : SHOPS

In a case where a two-year-old child, accompanying his mother to a convenience store, had been able to open a bottle of caustic soda and ingest from it, the recorder had been entitled to apportion responsibility on the basis that the manufacturer should bear two-thirds and the shopkeeper one-third.

(Represented the successful manufacturer, having admitted liability, in gaining contribution from the shopkeeper).

## Dunhill v Burgin

A litigant's capacity to conduct proceedings was to be judged on the basis of the claim which she actually had, not on the basis of the claim as formulated by her lawyers. CPR Pt 21 invalidated a consent judgment involving a protected party where it had been reached without the appointment of a litigation friend and court approval, even

where the individual's lack of capacity had been unknown at the time of the compromise.

"There was much more to the defendant's arguments than this, and they were made with conspicuous learning and skill. It was certainly not counsel's fault that we rejected them." - Baroness Hale, after summarizing his arguments, in the Peter Taylor Memorial Lecture 2014 to the Professional Negligence Bar Association.

Scott and Evans v Griffiths QBD, HHJ Oliver-Jones sitting as a Deputy High Court Judge, Lawtel 29/01/2014 - A motorist had taken the precautions a reasonable motorist would have taken in the circumstances before his car struck a pedestrian who had stepped onto the carriageway. He had reacted to the presence of the pedestrian at the side of the road by taking his foot off the accelerator and steering towards the centre of the road; there had been insufficient time to brake and, consequently, no breach of his duty of care in failing to brake.

Threlfall v. Hull City Council [2010] EWCA Civ 1147 - The court gave guidance about the correct approach to the Personal Protective Equipment at Work Regulations 1992 reg.4 and reg.6, with particular emphasis on how to determine whether personal protective equipment was "suitable".

Stanley v Bryn Close t/a Armthorpe Moto Parc [2009] EWHC 2849 (QB) - The court determined that a motor track operator was both vicariously and directly liable for the actions of one of its track marshals, following a collision between two motorcyclists, as it had failed to properly employ and train the marshals.

The Kajaki Dam Disaster v MoD (2008) - Liability compromised on confidential terms between a section of 3PARA losing limbs and life in a minefield in Afghanistan in 2006. Chinook rescue helicopter attempted to land, the downwash causing further detonations. Issues on liability involving combat immunity and the duty of care; resources; practicalities; military planning and deployment of proper aircraft in Medevac.

Samantha Roberts v MoD (2006) - Liability and quantum compromised on confidential terms. Sgt Roberts, the 1<sup>st</sup> British casualty of the 2<sup>nd</sup> Gulf War, was shot and killed by his own side having given up his body armour, which was in short supply and would have saved his life. Issues involving combat immunity and the duty of care; political constraints on the open purchase of equipment in the run up to the declaration of hostilities while UN Inspection Teams were still in Iraq; deficiencies in training in the firing of the coaxial machine gun of the Challenger 2 tank.

In the PTSD Group Actions - Multiple Claimants v MOD [2003] EWHC/1134 (QB) - Ministry not generally in systemic breach in the past when the risk of chronic/delayed PTSD was thought to be low. Ministry immune under Statute prior to 1987 and with continuing Common Law combat immunity as widely defined. However, 4 of the 14 Lead Claimants established liability (subject to statutory immunity in early cases) for *Bolam* breaches in their care after combat. CBT and drug therapy found to be effective in the treatment of PTSD.

Craven v John Riches et al and Knockhill Racing Circuit [2001] EWCA CIV 375 - The respondents had been negligent by allowing riders of motorcycles travelling at high speeds to be on the race track at the same time as riders travelling at slow speeds.

Jebson v MOD[2000] 1 W.L.R. 2055, I.C.R. 1220 CA - "Ministry liable for injury after night out" - where an obligation of care was implied or assumed in respect of a person who was likely to be drunk, that liability could not be avoided because the person was inebriated.

### SAMPLE CURRENT CASES

Too numerous to specify. Relevant cases will be supplied on specific request.

### Clinical Negligence

James has covered all the common sorts of case on liability over the years and many unusual ones. He has particular experience in the interpretation of CTG traces (applying the NICE Guidelines of 2001, 2007, 2014 and

2017) and cases of infant meningitis and septicaemia. An ability to find and focus on the key factors within the unique matrix of each case is what counts; but his experience includes:

- Obstetric/midwifery and neo-natal mismanagement

Failure in CTG monitoring, IUGR, excessive use of Syntocinon, cases of twin and home delivery, amniotic fluid embolism, premature labour, cord prolapse and shoulder dystocia. Perineal tears. HIE, hypoglycaemia and polycythaemia, persistent pulmonary hypertension, vitamin K deficiency and GBS infection in the newborn, retinopathy of prematurity, achondroplasia / foramen magnum decompression, neonatal balloon valvuloplasty for valve stenosis

- Delay in diagnosis

Premature precipitate labour, cancers (especially breast and colon), meningitis, subarachnoid haemorrhage, brain abscess, tetanus, diabetic foot, abdominal aortic aneurysm, cervical myelopathy, spinal extradural haematoma leading to paralysis.

- Cardio-vascular events

Cardiac disease, stroke, mismanagement of hypertension, peripheral arterial and vascular disease, DVT, delay in relief of tension pneumothoraces

- Generally

Minimally-invasive (keyhole) surgery, ERCP including torn oesophagus, gastro-enterological and colo-rectal disease, acute pancreatitis and hepato-biliary tract disease; gastrectomy and vagotomy; radiation enteritis; mismanagement of schizophrenia

James prefers to draft his own Statements of Case - usually for disclosure as the pre-action protocol letter of claim - to refine the issues at an early stage. Following agreement/ determination of liability, he is active in the preparation for and negotiation of claims to assess damages.

#### RECENT REPORTED CASES

Beech v Timney [2013] EWHC 2345 (QB) - A GPs record of low/normal blood pressure (110/80) in a 34-year old man was not inaccurate or negligently obtained. Even if the BP had been  $\geq 180/110$ , the absence of anti-hypertensive treatment, stepping up gradually over 6 months prior to a haemorrhagic stroke, made no difference as it would have happened anyway. Efficacy of treatment of high blood pressure considered.

Spencer v NHS North West [2012] EWHC 2142 (QB) - A health authority had not been negligent in its treatment of a baby who had developed Group B haemolytic streptococcus shortly after her birth, causing irreversible brain damage. There was no basis for finding that no reasonable midwife would have acted as had the midwife in the case, and the fact that the illness had been preventable did not mean that it had been caused by negligence on the part of the health authority.

Parkes v Mann [2011] EWHC 1724 (QB) - No liability on a GP for failing to refer to hospital a woman in fact in *premature* labour but presenting with slow, almost silent dilation of the cervix (similar to common discomfort in pregnancy) rather than contractions. *Precipitate* delivery was not reasonably foreseeable: a GP could reasonably give advice to seek further assistance if there was some development.

### SAMPLE CURRENT CASES

Too numerous to specify. Relevant cases will be supplied on specific request.

### **Inquiries and Inquests (with a P.I. or medical content)**

James was Counsel to the *Alder Hey* Inquiry without a leader in 2000, entailing months of detailed preparation and the development of management and information retrieval systems for cases involving heavyweight documentary evidence.

James has, in 2008, represented the family of Cpl Mark Wright, George Cross, at the Inquest in Oxford arising out of the Kajaki Dam Disaster when he questioned the Surgeon General on the lack of provision of suitable Medevac and rescue helicopters. In 2006 he appeared for the Widow of Sgt Steven Roberts in the "body armour" Inquest, where he unlocked the cooperation of the MoD in providing sensitive evidence by applying for a witness summons in respect of the former Secretary of State for Defence, Geoff Hoon. For more on both cases, see above.

Reported cases

Report of the Royal Liverpool Children's Inquiry - HMSO (2001)

Sample current cases

No pending Inquiries and Inquests

### **Directory Comments**

Chambers & Partners 2019 (Personal Injury)

Maintains a balanced practice representing both claimants and defendants in catastrophic injury cases. Deals with claims of the utmost severity, including amputations along with brain and spinal injuries. He is lauded by sources for his attention to detail and understanding of complex quantum issues. "He is outstanding. One of the most frighteningly bright practitioners on the circuit." "He is a tenacious and fearsome technical opponent, and a great advocate who has done brilliant work on cases involving complex liability issues." Recent work: Successfully acted for a defendant drain cleaner producer in a claim involving an infant who, while in a shop, had eaten granules of caustic soda from a bottle with a defective top.

Chambers & Partners 2019 (Clinical Negligence)

Particularly well known as a leading expert on quantum issues in high-value brain injury cases. He frequently represents child claimants at all stages of complex clinical negligence cases arising from negligence at birth. He has further proven strength of delayed diagnosis of meningitis cases in adults and children. "He has an exceptional eye for detail and achieves excellent results for clients. He has particular expertise in maximising quantum and thoroughly understanding cardiocography traces and other technical matters." "James Rowley is a joy to work with. He is commanding in negotiations, a meticulous forensic analyst and always well prepared. He is pragmatic, clients like and respect him and it is a privilege to work with him." "He leaves no stone unturned and his attention to detail is fantastic - if there are any problems with the case he makes us aware of them from the start." Recent work: Advised the claimant in a case where a newborn child suffered brain damage during a procedure to correct a life-threatening congenital heart defect.

**Chambers & Partners Directory 2018 (PI)**

Maintains a balanced practice representing both claimants and defendants in catastrophic injury cases. Deals with claims of the utmost severity, including amputations along with brain and spinal injuries. He is lauded by sources for his attention to detail and understanding of complex quantum issues.

**Strengths:** "He has an amazing ability with medical and causation disputes." "Incredibly thorough and technically very well prepared. He leaves no stone unturned dealing with experts and is a very impressive advocate."

**Chambers & Partners Directory 2018 (Clinical Negligence)**

Particularly well known as a leading expert on quantum issues in high-value brain injury cases. He frequently represents child claimants at all stages of complex clinical negligence cases arising from negligence at birth. Has further proven strength on the defendant side of delayed diagnosis of meningitis cases in adults and children.

**Strengths:** "I don't know anyone else that has such a knowledgeable, robust and tactical approach to his cases." "He's an extremely knowledgeable and thorough tactician who is able to hone into the complex details of a case whilst maintaining his strategy on the major issues."

**Recent work:** Negotiated a commercial compromise of £1 million shortly prior to trial, regarding a GP meningitis case.

## Lectures, Seminars and Publications

Items include:

**PNBA Facts & Figures - Chapter K1: Care and attendance**

At the invitation of the Editors, James re-wrote this important section for the 2012/13 edition and has updated the Chapter for each subsequent edition. He delivered a paper based on the updated Chapter to the Personal Injuries Bar Association at its Annual Conference in Oxford in March 2013.

**CTG Interpretation: a legal workshop on the "quality control" of expert evidence in obstetric claims**

Workshop first delivered at the Byrom Street Lectures - November 2011 - and repeated with new NICE Guidance since then

**Serious Personal Injury Litigation - a Quantum Update [2008] JPIL 109**

Original paper delivered at numerous conferences and seminars including the PIBA Annual Residential Conference 2008 and APIL conferences. A much expanded and updated version is available at [www.byromstreet.com](http://www.byromstreet.com).

**Loss of Pension, Personal Injuries' Handbook, Sweet & Maxwell 3rd edition 2007**

Original paper delivered at numerous PIBA Annual Residential Conferences over the years and available at [www.byromstreet.com](http://www.byromstreet.com)

**Periodical Payments Orders - Useful or useless? Kemp incorporating Quantum 1/2007**

Original paper delivered at the Byrom Street PPO Seminar in 2006 and available as published (March 2007) at [www.byromstreet.com](http://www.byromstreet.com)

**Combat Immunity and the Duty of Care [2004] JPIL 280**

Original paper delivered at the Byrom Street Symposium 2004 and also available as published at [www.byromstreet.com](http://www.byromstreet.com)