

James Rowley QC

Called: 1987

Silk Date: 2006



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Practice Overview

Chambers & Partners 2022 (PI) - a Band 1 Silk
Strengths: "His attention to detail is second to none."

Chambers & Partners 2022 (Clin Neg) - a Band 1 Silk
Strengths: "He is a genius when it comes to getting to the heart of the matter, and his attention to detail is second to none. He manages clients and their expectations very well. When you send him a set of papers you know he has read everything and has gone over and above in terms of research - he is really excellent." "Extremely hands-on and comes into his own when dealing with the quantification of complex, catastrophic brain injury claims."

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 has 3 grown up sons. He continues to open the batting and hang on to catches in the gully if they come straight at him. 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:

- Serious brain injuries and where the issue of capacity is borderline
- Spinal injuries at all levels
- Amputee cases at all levels, including bilateral amputation
- Psychiatric injury and especially PTSD
- 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

Moreira v Moran (t/a ACH Joinery and Building Contractors [2021] EWHC 1800 (QB)

Two self-employed builders were equally liable for the brain injury sustained by a labourer who fell from a mezzanine onto a concrete floor. Their negligence in failing to provide a safe place and system of work had caused his accident. In the circumstances, the owner of the premises had not breached its common duty of care under the Occupiers' Liability Act 1957 s.2 and was not liable. (Represented the successful occupier of the premises.)

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

On appeal 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 with faulty top 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 for displaying hazardous goods at pushchair height.

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

Dunhill v Burgin [2014] 1 WLR 933, [2012] EWHC 3163 (QB), [2012] EWCA Civ 397, [2011] EWHC 464 (QB)

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 2014 WL 16579 - A motorist had taken the precautions a reasonable motorist would have taken in the circumstances before his car struck a pedestrian who had stepped on to 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 [2011] ICR 209 - The Court of Appeal 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 employ and train the marshals properly.

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 first British casualty of the 2nd 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 - On a track day, 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, uterine rupture and shoulder dystocia, perineal tears, HIE, hypoglycaemia and polycythaemia, persistent pulmonary hypertension, vitamin K deficiency and GBS infection in the new-born, 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.

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 antihypertensive 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.

Morris v Blackpool Victoria Hospital NHS Trust [2003] EWHC 1744 (QB) and [2004] EWCA Civ 1294

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.

In 2008, James 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

None pending

Directory Comments

Chambers & Partners Directories 2020 - 2022 say this:

"James Rowley QC (a Band 1 Silk in both Clinical Negligence and Personal Injury sections each year) ...

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 in delayed diagnosis of (cancer and) meningitis cases (in adults and children)." (2020-22 with minor variation in brackets)

- Strengths: "He is known as a quantum expert on Circuit: everyone reads his articles and case updates on the subject and he is the go-to for many solicitors on tricky quantum issues."

"He has been able to find the fine detail that enables the case to move forward and has a wonderful understanding of medical evidence."

"Recent work: Acted for the claimant in a case against Stockport NHS Foundation Trust, regarding an alleged breach of duty by a supervising consultant leading to a case of severe cerebral palsy in one of a pair of twins. The case was settled at £6.1 million." (2020)

- Strengths: "His technical ability and strategic planning is extremely impressive." "His knowledge of the case law is brilliant, and his ability to recount the details and apply it to the case at hand is second to none."

Recent work: Represented a claimant who suffered dyskinetic cerebral palsy and cognitive disability as a result of delayed delivery. **(2021)**

- Strengths: "He is a genius when it comes to getting to the heart of the matter, and his attention to detail is second to none. He manages clients and their expectations very well. When you send him a set of papers you know he has read everything and has gone over and above in terms of research - he is really excellent." "Extremely hands-on and comes into his own when dealing with the quantification of complex, catastrophic brain injury claims."

Recent work: Represented the claimant in a birth injury case with complex midwifery and obstetric breech issues. **(2022)**

Personal Injury

"[He] 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." (2020-22)

- Strengths: "Thorough, exceptionally well organised and very clear about the steps he needs a solicitor to take without straying into micro-management. He's very collaborative when building a case strategy and has an understated and effective authority in court."

"The combination of his exceptional intellect with his reliability, care and attention to detail makes him one of the best barristers to work with."

"Recent work: acted for the defendant employer in a case concerning an employee who suffered a serious brain injury after engaging in a dangerous sporting activity while attending a sales conference in Norway." **(2020)**

- Strengths: "A very bright individual - his instincts are exceptional." "Very impressive and a tough negotiator." **(2021)**

- Strengths: "His attention to detail is second to none." **(2022)**

Lectures, Seminars and Publications

Books

PNBA *Facts & Figures* (annually) - General Editor and Author of Chapters K1: Care and attendance and H1:

Notes on Pension Losses

Serious Personal Injury Litigation - Quantum Updated to 2021: Author

"... a meticulous and masterful work ..." the Honourable Mr Justice Turner (in the Foreword)

A PIBA Guide to Pension Loss Calculation (2020): Main Author

"This publication calls for compliments, but I am not being merely complimentary in suggesting it will become indispensable" the Right Honourable Lord Justice Irwin (in the Foreword)

Articles

James has published articles on the themes in the above book titles for many years and in addition:

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

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

Seminars

James speaks regularly (to both sides): on the quantification of damages in serious cases; in Schedules Masterclasses, drafting tricky heads of damage on screen; on CTG interpretation for lawyers in obstetric claims with the evolving NICE Guidance.