

## JAMES MACDONALD

Year of call  
2010



James is a leading junior barrister specialising in clinical negligence, group litigation and other claims arising out of serious and catastrophic injuries and fatalities.

James is ranked as a Leading Junior by the Legal 500 in the areas of clinical negligence and group litigation. He is instructed by both claimants and defendants across the spectrum of his expertise, regularly appearing in the High Court, County Court and at coroners' inquests across the country.

James' work focuses on serious medical negligence claims, as well as cases involving corporate liability, breaches of the Human Rights Act, and defective and dangerous consumer products.

James acts for injured persons, families of the deceased, local authorities, and corporate and public bodies. He is also qualified to accept instructions directly from clients and is registered under the Bar Council's Public Access Scheme, meaning that members of the public who seek specialist advice can come directly to him. In addition, he welcomes instructions from solicitors, in-house law departments, qualified foreign lawyers, and clients licensed by the Bar Council to give instructions direct to barristers under the Bar Council's Licensed Access Scheme. For more information please visit our [Direct Access page](#).

## LEGAL EXPERTISE

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### Clinical Negligence

James is a recognised specialist in clinical negligence, ranked as a Leading Junior by the Legal 500.

James is regularly instructed in high-value and catastrophic injury claims. He is also frequently asked to act in cases of negligent mental health care, particularly those engaging the Human Rights and Fatal Accidents Acts. He is known for his approachable style and easy rapport with clients.

## Selected Cases

### Re HUY

Cerebral palsy claim complicated by rare, underlying genetic condition. James acts for the injured child, led by Simeon Maskrey KC.

### Re CS

Case involving a failure to diagnose cauda equina syndrome leading to catastrophic injury for the claimant, a legal secretary in her 40s. James acts for the claimant, led by Richard Baker KC.

### Re: NA & Others

Complex fatal case in which the Deceased was allegedly negligently discharged from hospital following a suicide attempt. Following discharge that night, he killed his wife and then committed suicide.

Significant legal issues including application of the doctrine of illegality where the perpetrator has killed himself due to the alleged negligence (in light of the Supreme Court decision in Henderson [2020] UKSC 43).

### Re: SC

Fatal failure to diagnose pulmonary embolism. Case complicated by the Deceased's history of asthma and low risk factors for DVT/PE. The Deceased was a single mother of two young children with a mixed income comprising both earnings and benefits, as well as caring responsibilities for her elderly mother.

James advised the family on merits and the complex dependency claims, before successfully representing the family at mediation and the subsequent Court approval hearings. Settlement was reached for compensation in excess of £300,000.

### Re: CW

Claimant suffered a posterior shoulder dislocation which was negligently misdiagnosed; subsequently requiring reduction surgery rather than re-location via simple manipulation. The Claimant developed a joint infection ultimately requiring shoulder replacement surgery. He was unable to return to his former work and was left with permanent disability.

James drafted pleadings and provided extensive advice on quantum and litigation risk leading to settlement for a figure in excess of £200,000.

### Re: TK

Stillbirth case with complex fetal medicine background. Mother suffered psychiatric injury and claimed general damages plus damages for loss of earnings, treatment costs, cremation and memorial costs.

Complex legal and medical issues including allegations of negligent failure to offer caesarean section and negligent failure to advise mother to contact the hospital if ongoing reduced fetal movements in line with Royal College of Obstetrician Guidelines.

James advised, drafted pleadings, represented the Claimant mother at mediation, and then again at a 3-day trial (breach, causation and quantum all in issue).

## Re: JM

Case concerning a fatal failure to diagnose peritonitis. The claim was brought by the Deceased's daughter under Fatal Accidents Act 1976 and Law Reform (Miscellaneous Provisions) Act 1934.

James advised on the expert evidence and the issue of causation was subsequently conceded by the Defendant following joint meeting of expert colorectal surgeons.

The claim proceeded to trial on the novel point of whether an adult daughter, who had moved in with the Deceased prior to his death to provide companionship, could recover damages for lost dependency following his negligently-caused death. James represented the Claimant at trial.

## Product Liability

James' product liability practice primarily involves claims involving defective medical equipment. He has advised and represented clients both in and outside of significant GLOs, including the PIP Litigation and the JJML POP Products Litigation. He is ranked as a Leading Junior in group litigation by the Legal 500.

James also has a wealth of experience in non-clinical product liability cases. His work has encompassed claims ranging from defective bicycles to designer dining tables causing alleged lead poisoning.

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## Selected Cases

### Re MH

Consumer Protection Act case involving the sudden shattering of a glass outdoor table, causing injury to a child's eye.

### Re: JH

Case joined up with the JJML POP Products Litigation proceeding in the High Court.

Legally and factually complex claim involving the insertion of allegedly defective medical transvaginal mesh and issues of medical consent and the scope of reasonable surgical advice.

## Re: KS

Case involving insertion of defective breast implants manufactured by the French company, PIP.

James was instructed in relation to an individual claimant as part of the PIP Group Litigation Order in the High Court, achieving a successful settlement for his client.

## Inquests & Inquiries

James regularly appears in coroners' inquests across the country. He is often instructed in cases involving complex medical issues and where the questioning of expert and non-expert clinical practitioners is required.

James is especially sought after in cases of apparent suicide involving allegations of substandard mental health care. He is well-known for his empathetic and sensitive approach to client care in such cases, as well as his legal expertise, particularly in cases engaging Article 2 of the ECHR.

James also represents families and interested persons (both state and non-state) in non-clinical inquests, typically those involving medical complexity and/or highly sensitive or confidential material. He is periodically instructed to review and advise in various sensitive areas of Government-related litigation, including inquests and inquiries, and has previously been instructed by the Home Office to act as a member of the junior counsel team to the statutory Undercover Policing Inquiry.

James is part of the writing team that produced the practitioner textbook *Coroners' Investigations and Inquests* for LexisNexis Butterworths. He is the author of its chapters on Scope, Article 2 ECHR, Road Traffic Collision Deaths, and Inquests and Public Inquiries.

## Selected Cases

### [Inquest touching the death of Baby Finn Kennedy](#)

Case involving repeated failures to properly monitor Baby Finn's heart rate during the second stage of labour. The Senior Coroner found that a lack of clear leadership at the birth centre where he was born contributed to his tragic death eight days later.

The Senior Coroner was sufficiently concerned by the evidence he had heard to take the exceptional course of writing a letter pursuant to paragraph 37 of The Chief Coroner's Guidance No. 5 – Reports to Prevent Future Deaths, addressed to the London Maternity and Neonatal System.

James represented Finn's family at the inquest.

### [Inquest touching the death of Mollie Stansfield](#)

Case involving the tragic death of Mollie, aged 22, who fell from the top of a multi-storey carpark whilst an outpatient under the care of a local mental health authority. James acted for Mollie's family at the inquest touching her death, successfully persuading the Senior Coroner to overturn his original decision that the case did not engage ECHR, Article 2 and hold a full Middleton/s.5(2) inquest into her death.

### Inquest touching the death of Polly Ross

Suicide of informally detained psychiatric patient allowed unescorted leave. Following James' legal submissions, the Senior Coroner reversed his initial decision that ECHR, Article 2 was not engaged.

James represented the family at inquest, securing a finding that very serious failings in Polly's care were causally related to her death. James also subsequently advised and represented the family in civil proceedings arising out of Polly's death.

### Re: SC

Complex case in which a patient with multiple chronic health issues died following discharge from the hospital. Pathology identified acute opioid toxicity in the Deceased's body.

James represented the Deceased's family at the inquest into his death. This involved questioning the key medical staff involved in the Deceased's care, particularly in relation to the records of opiate analgesia administered during the Deceased's inpatient stay at hospital.

James continued to represent the family in the litigation that followed and advised on settlement of their claim for damages arising out of the incident (complicated by the disabled status of the Deceased's daughter).

### Re: SW

The Deceased was admitted to hospital with chest pain. She was diagnosed with acute coronary syndrome, but only given middle-grade monitoring. Whilst unmonitored, the Deceased collapsed, fractured her skull, and tragically died.

James represented SW's widower at inquest, questioning the clinical staff on his behalf in light of the complex medical history and issues surrounding the ultimate cause of death.

James continued to represent the family in the litigation that followed and advised on settlement of their claim for damages arising out of the incident.

### Re: PP

Case arising out of the death of an elderly care home resident following an epileptic fit. The Deceased's family were concerned that she had been given a sub-therapeutic dose of anti-epileptic medication due to suboptimal management at the care home.

James represented the Deceased's family at inquest. Following James' questioning of the nurse who had mis-prescribed the deceased's medication, the inquest hearing had to be adjourned by the Coroner in order to

allow for further police investigations.

Inquest subsequently resumed with Coroner finding evidence of suboptimal management, record-keeping, and medication-dispensing processes.

## Public Law

The majority of James' public law instructions involve judicial review claims arising from coroners' inquests and failures to provide medical treatment. He has most recently been involved in judicial review proceedings arising out of NHS England's decision to change its commissioning policy for sufferers of pectus chest deformities.

James has particular experience in dealing with highly confidential material and is periodically instructed to review and advise in various sensitive areas of Government-related litigation. He has previously been instructed by the Home Office to act as a member of the junior counsel team to the statutory Undercover Policing Inquiry.

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## Business & Human Rights Law

James' business and human rights practice typically involves issues of corporate liability, breaches of the Human Rights Act, and/or defective and dangerous consumer products. He is increasingly instructed in such cases with an international dimension. To date, this has included areas as diverse as corporate fraud, breaches of Government sanctions, and large-scale group actions arising out of corporate environmental disasters or breaches of foreign competition law.

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## Selected Cases

### [Flavio de Carvalho Pinto Viegas & others v Cutrale & others](#)

Substantial cartel claim brought in England under Brazilian competition laws.

James was instructed as part of an English counsel team acting for a large class of Brazilian orange growers

suing members of an alleged cartel in the English courts.

### Município de Mariana & others v BHP Group plc

Class action arising from the collapse of the Fundão mining dam in Brazil in 2015. The collapse killed 19 people and released approximately 40 million cubic metres of waste into the Rio Doce.

One of the largest cases filed in the English courts: over 200,000 claimants affected by the disaster, including individuals, Brazilian municipalities, indigenous communities, and the Catholic Church.

## Offshore & International Disputes

James accepts instructions in offshore and international disputes touching on various different aspects of his domestic practice. To date, this has included areas as diverse as corporate fraud, breaches of Government sanctions, and large-scale group actions arising out of corporate environmental disasters or breaches of foreign competition law.

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## Selected Cases

### AG v Arthur

Instructed by the Attorney General of Jersey as junior counsel in a multi-million-pound complex fraud case involving the former managing director of BDO in Jersey.

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### Município de Mariana & others v BHP Group plc

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## Personal Injury

James acts for claimants and defendants in high-value and high-complexity personal injury claims. His clients typically include local authorities and NHS Trusts, as well as individuals who have suffered serious or catastrophic injuries.

James has a particular interest in group litigation class actions and international claims. He is ranked as a Leading Junior in group litigation by the Legal 500.

James is known for his detailed analysis of complex medical evidence, as well as his practical negotiation skills. He is particularly sought after in cases arising out of fatal accidents and is regularly instructed by families for the deceased in both civil and coronial proceedings. He is well-known for his empathetic and sensitive approach to client care in such cases, as well as his legal expertise, particularly in cases engaging Article 2 of the ECHR.

## Court of Protection

James has a burgeoning practice in the Court of Protection arising out of his experience with severely injured clients in clinical negligence, product liability and personal injury litigation. James' expertise lends itself particularly to welfare hearings and he accepts instructions on behalf of protected parties, local authorities, and the Official Solicitor.

## Memberships

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- AvMA
- CBA
- IBA
- INQUEST
- PIBA
- YFLA