

JAMES MACDONALD

Year of call
2010



James Macdonald specialises in clinical negligence and product liability claims, coroners' inquests and related aspects of public law, and offshore and international litigation.

James is a recognised specialist in clinical negligence, ranked as a Leading Junior by the Legal 500. His expertise in claims arising out of fatal accidents means that he is regularly instructed by families for the deceased in both civil and coronial proceedings. He is particularly sought after in cases involving psychiatric patients where medical complexities and legal issues, typically involving Human Rights Act and Fatal Accidents Act claims, overlap. James is well-known for his empathetic and sensitive approach to client care in such cases, as well as his legal expertise. James is also a contributing author to the practitioner textbook *Coroners' Investigations and Inquests* (Butterworths: 2021), having written the chapters on Scope, Article 2 ECHR, and Inquests & Public Inquiries.

James' experience in clinical negligence litigation has led to him increasingly being instructed in product liability claims involving defective medical equipment. His work includes group litigation class actions and international claims, and he is ranked as a Leading Junior in Group Litigation by the Legal 500. James also has a burgeoning practice in the Court of Protection arising out of his experience with severely injured Claimant clients. In non-clinical injury litigation, James is frequently instructed by Claimants and Defendants in medium to high-value claims. He is sought after particularly in cases requiring detailed analysis and negotiation skills.

James' offshore and international practice is centred around business and human rights law. His experience in both civil and criminal jurisdictions in England and Wales means that he is increasingly instructed to advise in complex crossover cases. To date, these have 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.

James remains periodically instructed by the CPS and other prosecuting bodies to assist with cases involving serious criminal offences including offshore financial crime, money-laundering, homicide, and drug-

trafficking. James' experience and understanding of complex criminal litigation during his early career mean that he is often asked to advise in crossover civil and public law cases, particularly those with an international dimension.

Between 2017 and 2019, James also acted as a member of the junior counsel team to the statutory Undercover Policing Inquiry, advising and working with the Chair, Sir John Mitting. James' experience in dealing with highly confidential material means that he continues to be instructed to review and advise in various sensitive areas of Government-related litigation, particularly in relation to counter-terrorism and national security.

James is 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

Clinical Negligence

James is a recognised specialist in clinical negligence, ranked as a Leading Junior by the Legal 500. He is known for his detailed analysis of complex medical evidence, as well as his practical negotiation skills. James' background in wider areas of civil and, in particular, criminal litigation means that he is also frequently sought after in claims requiring the cross-examination of expert medical witnesses in court.

James has a particular interest in claims arising out of fatal accidents and is regularly instructed by families for the deceased in both civil and coronial proceedings. He is often asked to act in cases involving psychiatric patients where complex medical and legal issues overlap, particularly in cases involving Human Rights Act and Fatal Accidents Act claims. James is well-known for his empathetic and sensitive approach to client care in such cases, as well as his legal expertise.

James is a member of both the Professional Negligence Bar Association and the AvMA Lawyers' Group, organised and co-ordinated by the charity, Action Against Medical Accidents.

Selected Cases

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' experience in clinical negligence litigation has led to him increasingly being instructed in product liability claims involving defective medical equipment. James has advised and represented clients both in and outside of significant GLOs, including the PIP Litigation and the JJML POP Products Litigation. He is a member of CORLA, the Collective Redress Lawyers Association and 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. James is 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 direct 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](#).

Selected Cases

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.

The DePuy ASR Hip Litigation

Worked as a junior junior with Hugh Preston QC and other members of 7BR on pre-action litigation arising out of the DePuy prosthetic implant recall.

Inquests & Inquiries

James is a recognised specialist in clinical negligence, ranked as a Leading Junior by the Legal 500. He has expertise in claims arising out of fatal accidents and is regularly instructed by families for the deceased in coroners' inquests up and down the country.

James is particularly sought after in cases involving psychiatric patients where medical complexities and legal

issues, typically involving Human Rights Act and Fatal Accidents Act claims, overlap. James is well-known for his empathetic and sensitive approach to client care in such cases, as well as his legal expertise.

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.

James is a contributor to the practitioner textbook *Coroners' Investigations and Inquests* (Butterworths: 2021), and authored the chapters on Scope, Article 2 ECHR, Road Traffic Collision Deaths, and Inquests & Public Inquiries. He is a member of the Inquest Lawyers' Group, organised and coordinated by the charity INQUEST.

Between 2017 and 2019, James also acted as a member of the junior counsel team to the statutory Undercover Policing Inquiry, advising and working with the Chair, Sir John Mitting. James' experience in dealing with highly confidential material means that he continues to be instructed to review and advise in various sensitive areas of Government-related litigation from time to time.

Selected Cases

Re: PR

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

James represented the family at inquest, securing a finding of very serious failing in care causally related to death, and subsequently advised and represented the family in civil proceedings.

- The Deceased was a single mother of 2 young children at the time of her death and the family's claim finally settled for a sum of £450,000, including compensation for lost dependency and breach of ECHR, Article 2.

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: MS

Case involving the tragic death of a young woman who fell from the top of a multi-storey carpark whilst an outpatient under the care of a local mental health authority. James was instructed on behalf of MS's family to draft written submissions following the Coroner's finding that ECHR, Article 2 was not engaged.

PIRH subsequently held where the coroner adopted James' submissions and overturned his original decision, holding that ECHR, Article 2 was engaged and that a Middleton/s.5(2) inquest needed to be held.

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 work involves judicial review claims arising out of coroners' inquests or immigration litigation. However, James' experience and understanding of complex criminal litigation means that he is also increasingly sought after in crossover civil and public law cases, often involving actions against the police.

James is a member of ALBA, the Administrative Law Bar Association. Between 2017 and 2019, James also acted as a member of the junior counsel team to the statutory Undercover Policing Inquiry, advising and working with the Chair, Sir John Mitting. James' experience of dealing with highly confidential material means that he continues to be instructed to review and advise in various sensitive areas of Government-related litigation, particularly in relation to counter-terrorism and national security.

James is 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 direct 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](#).

Business & Human Rights Law

James' experience in clinical negligence litigation has led to him increasingly being instructed in group litigation/class action 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, and is a member of CORLA, the Collective Redress Lawyers Association.

James' offshore and international practice is also centred around business and human rights law. His experience of both civil and criminal jurisdictions in England and Wales means that he is increasingly instructed to advise in complex crossover cases. To date, these have 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.

James is ranked as a Leading Junior in Group Litigation by the Legal 500.

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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' offshore and international practice is centred around business and human rights law. His experience of both civil and criminal jurisdictions in England and Wales means that he is increasingly instructed to advise in

complex crossover cases. To date, these have 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.

James is ranked as a Leading Junior in Group Litigation by the Legal 500.

James is a member of both the IBA, the International Bar Association, and CORLA, the Collective Redress Lawyers Association. James is 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 direct 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](#).

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.

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

Substantial cartel claim brought in England under Brazilian competition laws.

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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.

Personal Injury

James is frequently instructed by Claimants and Defendants in medium to high-value personal injury claims. His clients typically include local authorities and NHS Trusts, as well as individuals who have suffered serious injuries during the course of their employment.

James' work includes group litigation class actions and international claims. He is known for his detailed analysis of complex medical evidence, as well as his practical negotiation skills. James' background in wider areas of civil and, in particular, criminal litigation means that he is also frequently sought after in claims requiring the cross-examination of expert medical witnesses in court.

James has a particular interest in claims 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.

James is a member of both PIBA, the Personal Injury Bar Association, and CORLA, the Collective Redress Lawyers Association.

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. He is a member of the CPBA, the Court of Protection Bar Association.

James' expertise lends itself, particularly to welfare hearings and he accepts instructions on behalf of protected parties, local authorities, and the Official Solicitor.

Memberships

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