

James Gilberthorpe

Call year: 2002

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James is particularly focused on professional negligence and disciplinary work. James advises both Claimants and Defendants in a range of clinical negligence actions and has regularly appeared at inquests. In the context of solicitors' negligence, James has experience in claims concerning conveyancing and wills. James is a member of Hailsham's costs group and he feels this compliments his professional negligence practice. Not wanting to be confined to Chambers, James regularly appears before professional disciplinary tribunals and relishes the opportunity for oral advocacy that these cases provide.

Practice Profile

Medical Law

James advises both Claimants and Defendants in a range of clinical negligence matters, including Fatal Accident Act claims, claims for psychiatric injury, misdiagnosis, mistreatment and failure to properly advise. James has represented both NHS Trusts and the families of the Deceased at inquests. Other work includes advising on claims under the Human Rights Act, advising a leading London teaching hospital on the legality of a proposed 'Do Not Resuscitate Order' and obtaining an injunction under the Protection of Harassment Act 1997 against a violent trespasser on hospital property.

Professional negligence

James is happy to accept instructions in all area of professional negligence and has particular experience of claims relating to conveyancing and wills. James has previously been instructed by Winterthur Swiss Insurance Company as an auditor in their action in negligence against former panel solicitors of The Accident Group.

Regulatory & Disciplinary

Fewer and fewer civil cases now end in a contested trial, therefore the opportunity for practitioners to continue developing their skills in oral advocacy are diminishing. Regular instruction in disciplinary matters not only provides James with specialist knowledge of professional disciplinary tribunals, but also ensures that he is experienced in oral advocacy, which is of benefit when James is instructed in other practice areas. James has represented solicitors accused of breaches of the Solicitors Accounts Rules, failure to adhere to Law Society Guidance on Mortgage Fraud and Money Laundering, obtaining secret profits and charges of acting dishonestly, among other matters before the Solicitors Disciplinary Tribunal.

In the medical context, James regularly appears before the Nursing and Midwifery Council's disciplinary panels, representing Registrants whose fitness to practice is alleged to be impaired on the grounds of health, capability or misconduct. Recent cases include:

- a. A Registered Nurse Practitioner alleged to have acted beyond her qualifications and competency by holding clinics offering medical services akin to those offered by a General Practitioner.
- b. A Registered Nurse alleged to have forged documents necessary to pass her midwifery course.
- c. A Registered Nurse alleged to be incompetent due to numerous purported drug administration errors.
- d. A Registered Nurse alleged to be incapable of practice due to alcoholism.

Costs

With his own Conditional Fee Agreements in mind, James has kept a watchful eye over the development of the law relating to the enforceability of such funding arrangements. James has experience of detailed assessments, together with cases concerning the predictive costs regime, implied terms as to the payment of costs and an appeal on the grounds of apparent bias in the way in which a Judge conducted a detailed assessment. James is a member of the costs group.

Personal injury

James has advised and represented claimants and defendants in a wide variety of personal injury litigation including employer's liability, tripping and slipping, road traffic accidents, occupier's liability, injuries arising from the disrepair of property and claims under the Package Tour Regulations. In addition James has been instructed to represent clients before the Criminal Injuries Compensation Appeals Tribunal and the CRU Appeals Tribunal.

Commercial Litigation

James has represented parties in a range of contractual disputes.

Other

James has conducted and advised on many credit hire cases arising out of road traffic accidents and has experience of cases relating to alleged poor workmanship by builders and other tradesmen together with actions in nuisance. James has also had conduct of numerous cases in the Magistrates, Youth and Crown Courts; providing the opportunity to cross-examine a number of expert medical witnesses.

Further Information

Specialist areas: Clinical negligence and other professional negligence, professional disciplinary (medical and otherwise), costs, personal injury, contractual claims and general common law

Education: Girton College, Cambridge MA

Publications and Lectures

Jackson Costs Review talk provided to the Medical Protection Society March 2010

Proceeding With Procedure before The Nursing & Midwifery Council. Joint talk provided to the Royal College of Nursing legal department July 2009

Why Bother with the Human Rights Act? AvMA Briefing (factsheet published April 2008)

New Part 36 Joint talk provided to solicitors in October 2007

Fatal accidents update Joint talk provided at AvMA LSG in September 2007
