



James Williams

Contents

Product Liability & Group Actions	1
Representative Cases	2
Company, Commercial & Insolvency	2
Employment	3
Representative Cases	4
Health & Safety and Inquests	4
Appointments	5
Memberships	5
Education	5



James Williams

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James practices in three core areas: product liability and group actions; the law of the workplace, including employment and health & safety; and general commercial work.

His recent experience includes: appearing for the worker as sole counsel in the Court of Appeal and ECJ in an ongoing dispute over payments in lieu on termination for unpaid holiday pay; being instructed by the defendant Jersey funds in an arbitration under LCIA rules, involving allegations of commercial fraud bank by the claimant in Germany and Luxembourg; and acting for Cape in a major High Court trial, resisting contribution claims by insurers towards mesothelioma payouts, followed by ongoing litigation over access by a third party to documents used at the trial.

After qualifying as a solicitor in 2008, James spent two years as an associate in the corporate group at Slaughter and May. He was then a judicial assistant at the Court of Appeal in 2010, where he assisted Arden LJ. He is committed to giving practical advice and resolving disputes as quickly and cost-effectively as possible.

James read history at Christ's College, Cambridge, where he was a choral scholar and Levy-Plumb scholar. He graduated with a First in 2003 before taking the GDL and LPC at BPP Law School in London. He is Chairman of the Holst Singers and was a TA soldier from 2004 until 2008. James will consider accepting pro bono instructions, particularly in employment disputes.

Product Liability & Group Actions

James was part of the team acting for the defendant in *Concept 70 v Cape Intermediate Holdings*, led by Justin Fenwick QC, Geraint Webb QC and Andrew Kinnier. The case concerned liabilities for historic asbestos exposure: the former employers of workers suffering from mesothelioma sought (through their insurers) a contribution from Cape under the Civil Liability (Contribution) Act 1978 towards settlement sums paid out. The case settled after the conclusion of a six-week trial in the Queen's Bench Division in February 2017. James is also instructed in the ongoing litigation over non-party access to documents used at the trial which reached the Court of Appeal in the summer of 2018.

Also in the field of industrial disease, James is currently instructed as junior by the Department of Business, Energy and Industrial Strategy (as successor to the liabilities of the National Coal Board) in the British Coal

Coke Oven Workers Litigation under a GLO.

James was instructed by Smith & Nephew, the medical equipment manufacturers, in the early stages of the recent metal-on-metal hip replacement litigation.

In individual product liability matters James was led by Geraint Webb QC acting for Bednest Ltd following the death of a baby in a bedside sleeper in April 2015; and for BMW in relation to the death of Narayan Gurung following an accident involving a BMW 3 Series. He has also acted on a range of smaller disputes over allegedly defective goods including domestic appliances, fertilizers and vehicle components.

As a C Panellist, James has also been involved several multi-claimant actions for the Ministry of Defence, including the Q Fever, Noise-Induced Hearing Loss and Non-Freezing Cold Injury litigation. He also assisted with some of the complex costs issues arising out of the GLO following the dismissal of the claim by the British Nuclear Test Veterans in the Supreme Court.

Representative Cases

- *Concept 70 v Cape Intermediate Holdings*
- *Cape Intermediate Holdings Ltd v Dring (for and on behalf of the Asbestos Victims Support Groups Forum) [2018] EWCA Civ 1795*
- *The British Coal Coke Oven Workers Litigation [2018] EWHC 2009 (QB)*
- *The Metal-on-Metal Hip Litigation*

Company, Commercial & Insolvency

James has a broad and growing commercial practice. He was recently instructed by a Jersey-based fund in a major arbitration under LCIA Rules over its refusal to pay out to an investor associated with various alleged frauds in different European jurisdictions.

His background as a City solicitor enables James to advise on all aspects of company law. Whilst an associate at Slaughter and May he worked in the corporate / insurance group on a range of transactions, including the creation of the Asset Protection Scheme by HM Treasury to deal with the UK banking crisis in 2009, and Prudential PLC's proposed rights issue and \$36bn bid in 2010 for the AIA insurance group. He also gained experience of commercial agreements, regulatory, outsourcing, insurance and IT issues.

Between 2014 and 2016 James undertook a part-time secondment at HSBC, assisting with the FCA-led Review of mis-sold interest-rate hedging products and the assessment of consequential loss claims by HSBC customers.

Instructions Include

- Advising an AIM-listed company about its liability for brokers' commission payments following a successful placing.

- Appearing in the Chancery Division (on behalf of a creditor with the benefit of a retention of title clause) in resisting an application by the administrators of a digital media company for an order under paragraph 72 of schedule B1 to the Insolvency Act 1986 to dispose of an asset in its possession.
- Acting for a major bus operator in a dispute with a software supplier over the performance of an IT system designed to reduce fuel consumption and emissions.
- Acting for the MoD in relation to a claim over condition and description of two former RFA vessels intended for recycling.
- Appearing in the TCC on behalf of the successful applicant in *AMP v Persons Unknown* [2011] EWHC 3454 (TCC), [2012] All ER (D) 178 (Jan), believed to be the first case in which an injunction was used to restrain file-sharing through BitTorrent technology.
- Advising an English local authority on the viability of financial derivative / swap transactions in the light of the Localism Act 2011.
- Advising a construction company on the application of the Arbitration Act 1996 to its dispute with a state government in Nigeria over a major infrastructure project.
- Advising a British chemicals company over the purported termination by its main German customer of their longstanding trading relationship.
- Advising a commercial vehicle manufacturer over the enforcement of personal guarantees from the directors of its insolvent counterparty.

Employment

James has wide experience of all aspects of statutory employment work including employment status, unfair dismissal, TUPE, discrimination, redundancy and whistleblowing. He appears frequently in the Employment Tribunal and EAT.

James has a particular interest in working time and is currently instructed as sole counsel on perhaps the most significant case on holiday pay to reach the ECJ in the last few years: *King v Sash Window Workshop Ltd* C-214/16. James has acted for Mr King throughout in a case concerned primarily with the entitlement to payments in lieu on termination under the Working Time Regulations 1998. The case is particularly relevant in cases where the worker (like Mr King) has been miscategorised during the employment relationship and not paid any holiday pay. The outcome will be of great importance to the balance between employers and workers in the developing gig economy.

James is also regularly instructed in common-law employment disputes and injunction applications involving employee competition, confidential information, wrongful dismissal and restrictive covenants. He advises both employees and employers.

Helped by his experience in group actions involving personal injury, James is also familiar with the law of employer's liability and workplace injury claims.

Instructions Include

- Advising an employee of a recruitment company threatened with an injunction for breach of restrictive covenants in simultaneous High Court and Employment Tribunal proceedings.
- Acting for a group of former employees of a car manufacturer who lost significant employment benefits following a TUPE transfer when their division was outsourced.

Representative Cases

- *Sash Window Workshop v King* [2015] IRLR 348 and in the ECJ *King v SWWL* [2018] 2 CMLR 223, [2018] ICR 693
The case returns to the Court of Appeal in November 2018. James has acted for Mr King (as sole counsel at every stage) in an important case concerning working time and the entitlement to a payment in lieu on termination for accrued but untaken holiday. The case also considered whether the 10% uplift in PI damages mandated by *Simmons v Castle* applies in the Employment Tribunal.
- *Vaughan v Ministry of Defence* [2015] EWHC 1404 (QB)
James appeared as junior to Malcolm Sheehan QC for the MoD, the successful defendant, in *Vaughan v Ministry of Defence* [2015] EWHC 1404 (QB), [2015] All ER (D) 207 (May), a decision concerning the limits of an employer's liability for personal injury in the context of off-duty service personnel.
- *T-Systems Ltd v Lewis* (2015) UKEAT/0042/15
Acted as sole counsel on behalf of the appellant employer in a case concerning the proper approach to the phrase "something arising in consequence of [her] disability" in s.15 of the Equality Act 2010 and its relationship with the duty to make reasonable adjustments.
- *Pan v Portigon AG London Branch* (2013) UKEAT/0116/12/LA, [2013] All ER (D) 53 (Sep)
Appeared (as junior to Patrick Green QC) in the EAT on behalf of the appellant in a race discrimination and constructive unfair dismissal case. The appeal was mainly concerned with the "Burns – Barke process" and related points of ET procedure.
- *Hospital Medical Group v Westwood* [2012] EWCA Civ 1005, [2013] ICR 415
Appeared (as junior to Patrick Green QC) in the Court of Appeal on behalf of the appellant. The decision was for a while the leading case on the meaning of "worker" for the purposes of s.230 of the ERA 1996 and reg 2 of the WTR 1998.
- *Bal v Parallel Realisations 1 Ltd (in admin)* (2012) UKEAT/0215/12/DM, [2013] All ER (D) 34 (Jan)
Appeared as sole counsel on behalf of the successful appellant against the ET's refusal to allow a review of its original decision on remedy (on the basis of relevant evidence of a TUPE transfer coming to light after the original hearing).

Health & Safety and Inquests

James is developing his Health and Safety practice. He has considerable experience of inquests, especially in the context of deaths in custody.

He has advised on HSE investigations and proposed fines, and appeared on behalf of defendants at several sentencing hearings.

Instructions Include

- Acting for the Ministry of Justice at the inquest into the death of a prisoner at HMP New Hall.
- Acting for Virgin Healthcare, the outsourced healthcare provider, in an inquest into the death of a

prisoner at HMP Coldingley.

- Representing the Ministry of Justice in an inquest into the suicide of a prisoner at HMP Northumberland.
 - Advising a film production company on the likely level of fine from the HSE after an injury to an actor on set.
 - Acting for Bednest Ltd (led by Geraint Webb QC) in relation to an inquest into the death of a seven-week-old baby in a bedside sleeper.
 - Advising a Community Benefit Society in relation to an HSE investigation into its installation of rooftop solar panels and alleged breaches of the Working at Height Regulations 2005.
 - Acting for a catering company defending an HSE prosecution after one of its sub-contractors exposed asbestos in a school canteen.
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Appointments

- Junior Counsel to the Crown (C panel) (2014-)
- Associate in Corporate group at Slaughter and May (2008-2010)
- Qualified as a solicitor (2008)

Memberships

- Commercial Bar Association (COMBAR)
- Employment Lawyers Association (ELA)
- Employment Law Bar Association (ELBA)
- Health & Safety Lawyers' Association (HSLA)

Education

- BPP Law School, 2003-05 (GDL 2004; LPC 2005)
- Christ's College, Cambridge 2000-03 (MA History, 1st class)