



Mark James

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Mark James has been recommended in all the major directories as a leader in his field for the best part of two decades.

Mark is recognised as an expert in the field of costs and also conducts professional negligence claims involving barristers and solicitors as well as dealing with interventions into solicitors' practices. He has extensive experience in insurance-backed litigation including personal injury (especially high-value claims and disease litigation), insurance contract disputes and claims for fire and subsidence damage to property and business (including subrogated claims). Mark also undertakes construction work and general commercial work.

James is the author of the leading textbook on experts, *Expert Evidence: Law & Practice* (5th ed., 2020) (Sweet & Maxwell).

Expertise

Costs & Litigation Funding

Mark has appeared in some of the leading cases on champerty, solicitors' retainers and other solicitor-client disputes. He frequently appears in applications for wasted and non-party costs. He is commonly asked to advise in cases that raise complicated legal and technical issues (such as the validity of DBAs and funding arrangements in group litigation) and has a reputation for providing incisive and practical advice.

As a result of this expertise he is also frequently instructed in professional negligence claims involving claims against solicitors and/or barristers and SRA interventions into solicitors' practices. Mark has been recognised as a leading junior for his costs work in both Chambers & Partners and Legal 500 for many years.

Notable Costs & Litigation Funding cases

Aidiniantz v Riley



Ten day detailed assessment involving complex arguments about whether costs incurred after the relevant costs hours could be included in the bill and whether interest should run from a date before the costs order was made.

Shulman v Kolmoisky [2020] 6 WLUK 620

High Court detailed assessment ("DA") of a £2.2M bill before Master arising out of a failed \$50M. Reduced bill by about half. Preliminary issue on the hourly rates of City solicitors. Case now widely cited on hourly rate for City firms.

Atkinson v MoD Test Case (2020)

8 days High Court DA. In 2015-19 RP's solicitors successfully brought >2,000 claims for noise induced hearing loss. Preliminary issue on hourly rates (2010) and later inflation to be ignored. Master allowed uplifted hourly rates.

Parsa v DS Smith Plc [2019] Costs LR 331

Appeal to High Court Judge. Issues were whether, in a fixed costs case under CPR Pt 45, court had power to award indemnity costs and/or that the PP's late acceptance of a Part 36 offer was an "exceptional circumstance" justifying full costs.

XX v YLS (2019)

Early neutral evaluation by High Court Judge concerning difficult construction point on whether a conditional fee agreement ("CFA") entitled a QC to payment of fees >£100K from sols after a group action failed.

Protopapas v Hatsulis (2019)

Judgment for unpaid fees due to solicitor. Issue was whether the Master was right to assess costs at zero because solicitors had assigned cause of action.

Austin v East Sussex FRS [2019] Costs LR 709

Appeal to High Court Judge. Bill @ £800K. Successfully argued that comments by the Senior Costs Judge (in court below) on the differences between 'old' and 'new' concepts of proportionality did not undermine his findings on proportionality.

Harlequin Property v ELS Law Ltd

High Court test case (2017). Issue was whether the damages based agreements (“DBA”) between RP’s lawyers and RP were enforceable. A DBA allows a lawyer to be paid a share of damages. If DBA unenforceable RP would recover no profit costs from PP. Bar Council intervened due to importance. Case settled after 2 days.

Personal Injury

Mark’s personal injury work (which includes clinical negligence) is spread evenly between claimants and defendants. He has developed a specialism in asbestos-related and other disease claims including radiation exposure during the British Atomic Bomb tests in the South Pacific in the 1950s, a case that went to the Supreme Court. He undertakes high-value injury claims (including brain injury cases).

Chouza v Martins [2021] PIQR Q4. Fatal Accidents Act 1976 claim for over £1M throwing up multiple issues including the limits of the dependency; when to depart from conventional multiplicands for financial dependency; and, pain, suffering and loss of amenities for a few seconds of agony before death.

Notable Personal Injury cases

Chouza v Martins [2021] PIQR Q4

Fatal Accidents Act 1976 claim for over £1M throwing up multiple issues including the limits of the dependency; when to depart from conventional multiplicands for financial dependency; and, pain, suffering and loss of amenities for a few seconds of agony before death.

Cable v Liverpool Victoria Insurance Co. Ltd [2020] 4 WLR 110

Claim worth £2.6M wrongly started in Protocol for claims <£25K. Issue was whether the claim should be struck out as an abuse of process.

Rae v M.I.B [2020] EWCA Civ 377

Consent order @ £6.5M approved by court; 90% of damages compensation for future losses. Issue was whether the claimant’s death 10 days after the court approved the settlement undermined that settlement.

L.O.C.O.P.G. v Sinfield [2018] PIQR P8

First High Court case on meaning of “fundamental dishonesty” in s. 57 Criminal Justice and Courts Act 2015.



Pinkus v Direct Line Group [2018] 2 JPIL C107

Issue was whether an email from an expert to a supervising expert seeking assistance on a joint statement following experts' meeting was privileged.

Professional Negligence

Mark has a claimant-orientated practice covering a wide range on professional negligence claims.

Notable Professional Negligence cases

Claim against solicitor for failing to file key evidence on crucial application and failing to advise about risks of continuing with flawed litigation. Complicated by the losses falling on a funder rather than the solicitor's client.

Claim against barrister for drafting Particulars of Claim that disclosed no reasonable cause of action or to take points that would have resulted in a lost case being won.

Claim against solicitors for failing to issue claim form within the limitation period where main issue was whether the lost claim would succeed.

Claim against accountant for failing to detect fraud within a company during an audit and/or to properly advise on the tax implications of a director's loan.

Insurance

Specialises in fire and property damage claims and policy disputes.

Notable Insurance cases

Defending claim against builder for a collapse of a roof at a dental surgery 12 years ago. Issues included limitation and the scope of the professional indemnity cover.



Defending fire claim in large commercial kitchen.

Commercial

Mark has developed a niche practice of claims against bookmakers (such as *Longley v PPB Entertainment* [2022] EWHC 977 (QB)). He also undertakes general commercial work including freezing injunctions and injunctions to restrain breach of confidence, claims against fraudulent company directors (including claims under the Insolvency Act 1986) and disputes between shareholders and/or company directors as well as breach of contract claims for sales of goods and services and building and partnership disputes.

Education

- MA (Oxon)

Memberships

- PIBA

Publications

- Author – Expert Evidence: Law & Practice (5th ed., 2020) (Sweet & Maxwell)