

Excellent results without fail, leaving me to continue instructing James, no matter where in the country.

Louisa Bolleurs, DWF LLP



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## James Rozier

Called in 2007 +44 (0)20 7583 9241

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James Rozier's practice encompasses personal injury, costs, inquests, employment, criminal (serious driving offences) and regulatory cases.

He has been appointed as personal injury panel counsel for one of the UK's largest employers and is regularly instructed by a number of local authorities.

## Personal Injury

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James is a personal injury specialist and represents both claimants and defendants in both the County Courts and High Court. He has a broad personal injury practice which has included: fatal accidents; highways claims; occupier's liability; employer's liability; product liability; psychiatric injury; and fraud.

A significant proportion of his work is paper based, including the drafting of pleadings, schedules of loss, Part 35 questions to experts and opinions on both prospects of success and quantum.

James's personal injury practice marries well with his costs practice, the combination allowing him to advise clients in respect of their bottom line commercial risk at each phase of litigation.

### Cases of Note:

#### Goulding v Hurst-Brown (2018)

Trial – Declaration of fundamental dishonesty obtained pursuant to s.57 Criminal Justice and Courts Act 2015 – Qualified One-

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Way Costs Shifting disapplied – enforceable costs order against the claimant.

(1) Lewis (2) Lewis (Estate of) v (1) Quereche (2) Metroline

High Court Trial – Fatal road traffic accident – Fatal Accidents Act 1976 – Law Reform (Misc.) Act 1934.

TEBB v SINGS (2017)

Post Traumatic Stress Disorder – complex loss of earnings – pension loss – claim totalling £600,000 – Joint Settlement Meeting.

Kelly v (1) Pigg (2) Aviva (2018)

Strike out on the basis of abuse of process – CPR 44.15(1)(c)(ii) – Qualified One-Way Costs Shifting disapplied – enforceable costs order against the claimant

Emin v Mostamand (2017)

Trial – Declaration of fundamental dishonesty obtained pursuant to CPR 44.16(1) – Qualified One-Way Costs Shifting disapplied – enforceable costs order against the claimant.

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Contested application to rely upon surveillance evidence – legal argument in respect of the timing of disclosure of surveillance evidence and its admissibility – application granted.

Alimandani v Seager (2017)

Strike out – Declaration of fundamental dishonesty obtained pursuant to CPR 44.16(1) – Qualified One-Way Costs Shifting disapplied – enforceable costs order against the claimant.

Mihalcea v (1) Patel (2) Aviva (2016)

Trial – Declaration of fundamental dishonesty obtained pursuant to CPR 44.16(1) – Qualified One-Way Costs Shifting disapplied – enforceable costs order against the claimant.

(1) Tok (2) Khatun v Rahman (2016)

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Thompson v Green Marine Limited (2016)

Personal Injury – employer’s liability – £250,000 – initial advice – drafting Particulars of Claim; and Schedules of Loss – loss of earnings and pension contribution calculations – Pre-Trial Settlement Hearing (SE Circuit) – negotiation – settlement.

Karavadra et al v Brewster et al (2016)

Personal Injury – nine Parties – interlocutory hearings and trial – credit hire – indemnity – concertina collision – successful

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defence of all claims.

#### Staite v Good (2015)

High Court – Personal Injury – complex orthopaedic and psychiatric injuries – CCMC – costs budgets totalling £319,000.

#### A v LB (2015)

Personal Injury – costs – expert evidence – complex orthopaedic – osteoporosis – fibromyalgia – reduction of claimant’s Costs Budget from £183,000 to £104,000.

#### G v LB (2015)

Personal Injury – landlord and tenant – trial – disrepair – trial – liability and Quantum – Landlord and Tenant Act – Defective Premises Act.

#### M v AE (2013)

Personal Injury – £145,000 – loss of chance – future loss of earnings – settlement.

## Costs

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James had been regularly conducting CCMCs on behalf of both claimants and defendants since 2013, in the High Court as well as County Court. He has dealt with hearings in which the combined costs value has been in excess of £300,000.

#### **Cases of Note:**

#### A v LB (2015)

Personal Injury – costs – expert evidence – complex orthopaedic – osteoporosis – fibromyalgia reduction of claimant’s Costs Budget from £183,000 to £104,000.

#### Staite v Good (2015)

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## Inquests

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James regularly represents interested parties at coroner’s inquests and has appeared in multi-day cases before both juries and coroner sitting alone. James specialises in representing employers in workplace deaths. His broad experience in civil litigation allows him to advise his clients on the potential impact an inquest can have on subsequent claims.

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## Cases of Note:

### Re: Ockwell (2015)

Inquest – Pre-Inquest Review and Final Hearing – workplace death – fall from height – balance of control between developer and contractor – risk assessment – safety measures – edge protection.

### Re: Dawson (2014)

Inquest- James represented the interests of South Central Ambulance NHS Foundation Trust in a case in which an ambulance en route to an emergency had collided with a vehicle being driven by the deceased – finding of accidental death due to a road traffic collision.

### Re: Sanderson (2015)

Inquest – James represented the interests of Metroline Travel Limited in a case in which a bus had impacted with a pedestrian resulting in death. The case required legal argument with regard to the correct application of s.5 of the Coroners and Justice Act 2009, specifically restricting evidence to that which was reasonably required to make a finding in respect of s.5(1)(b).

## Employment

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James undertakes work for both claimants and respondents. His practice includes final hearings, associated preliminary hearings and judicial mediations; predominantly relating to unfair dismissal, constructive (unfair) dismissal and discrimination. He practises across the UK and has represented clients in the Employment Appeals Tribunal, Employment Appeals Tribunal Scotland and High Court.

Due to his knowledge of the unique remedy and costs regimes which operate in the Employment Tribunals, James provides his clients with a realistic assessment of both the cost of bringing or defending a case to a final hearing, and any likely award which would result should liability be established, allowing both risks to be effectively managed at each phase of litigation.

As with James's civil practice, a significant proportion of his employment work is advisory, including opinions on merit, quantum, settlement and points of law, along with the drafting of pleadings.

## Cases of Note:

### Kaler v Tascor (2014)

Employment – advising in respect of a high profile death in custody which resulted in dismissal – unfair dismissal – settlement.

### Williams v Real Care Agency Ltd (2012) I.C.R. D27

Employment – 10 day final hearing – Unfair Dismissal (Misconduct) – Wrongful Dismissal – for employer/respondent – successfully defended a claim for unfair dismissal which included allegations of fraud made by the claimant which were held to be false – an authority with regard to the timing of strike-out applications under The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004.

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### Beckett v Gerber Juice Company (2013)

Employment – Unfair Dismissal (Health) – Disability Discrimination – Equality Act 2010 (EqA) – Acting for employer/respondent – successfully defended claims of unfair dismissal and numerous claims for: direct disability discrimination; failure to make reasonable adjustments; and disability related discrimination – ‘a proportionate means of achieving a legitimate aim’ (as per para 1 Schedule 9 of the EqA).

### Myers v Wiltshire & Somerset Colleges Partnership (2011)

Employment – For employer/respondent – applied the principles of Polkey v AE Dayton Services resulting in the claimant’s award being reduced by 90%. Subsequent submissions with regards to failure to mitigate resulted in the claim being withdrawn at the final remedy hearing.

### Ashton v Burbage & District Constitutional Club (2012) UKEAT/0496/11/DM

Employment – Unfair Dismissal (Redundancy and Restructuring SOSR) – Wrongful Dismissal – For employer/respondent – dismissal by way of restructuring (SOSR) still fair, even though termed and justified by the employer as “redundancy”.

### Sims v Strathclyde Tyres (2011)

Unfair Dismissal (Misconduct): For employer/respondent, at a four day final hearing James successfully defended a claim for unfair dismissal by reason of gross misconduct. The application of the principles of Polkey v AE Dayton Services and contributory fault assisted in ensuring that, despite procedural unfairness, the employee/claimant received no award.

## Mediation

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James has conducted Joint Settlement Meetings (JSMs), Mediations, Judicial Mediations and Pre-Trial Settlement Hearings (SE Circuit).

### E v D (2015)

Commercial Contract – commissions – advising – drafting pleadings – mediation before Sir Peter Creswell – settlement.

## Credit Hire

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James regularly appears in Multi Track credit hire cases and is repeatedly instructed by some of the UK’s largest insurers.

### **Cases of Note:**

### Karavadra et al v Brewster et al (2016)

Credit Hire – personal injury – nine parties – trial – indemnity – concertina collision – CCMC to final hearing – successful defence

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of all claims.

#### Younis v IBCO Limited (2014)

Credit Hire – trial – liability – quantum – application of Opoku v Tintas.

#### Av S (2013)

Credit Hire – bogus accident – expert engineering evidence – fraudulent hire agreements.

## Fraud

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James regularly represents defendant motor insurers, employers and local authorities in cases involving fictional, staged and exaggerated accidents. He has also acted in cases involving fraudulent credit hire claims.

### **Cases of Note:**

#### Goulding v Hurst-Brown (2018)

Trial – Declaration of fundamental dishonesty obtained pursuant to s.57 Criminal Justice and Courts Act 2015 – Qualified One-Way Costs Shifting disapplied – enforceable costs order against the claimant.

#### Emin v Mostamand (2017)

Trial – Declaration of fundamental dishonesty obtained pursuant to CPR 44.16(1) – Qualified One-Way Costs Shifting disapplied – enforceable costs order against the claimant.

#### Alimandani v Seager (2017)

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#### (1) Tok (2) Khatun v Rahman (2016)

Trial – Declaration of fundamental dishonesty obtained pursuant to CPR 44.16(1) – Qualified One-Way Costs Shifting disapplied – enforceable costs order against the claimant.

#### Arlsan v Streetcar (2013)

Personal Injury – Multi-Track – credit hire – Fraud – liability – quantum.

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## Crime

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Having previously practised at the criminal Bar, James retains a criminal practice focused on serious driving and regulatory offences, which have resulted in death or serious injury. James's criminal practice has previously included: possession of firearms; offences against the person; sexual offences; and Class A possession with intent to supply.

### Cases of Note

#### R v Tomasz Kroker (2017)

Court of Appeal – four counts of Death by Dangerous Driving, fifth count of Causing Serious Injury by Dangerous Driving – Appeal before Sir Brian Leveson (President of the Queens Bench Division) – correct application of Sentencing Guidelines Council's Definitive Guideline – finding that the sentencing Judge's approach had been '*entirely inconsistent to the proper approach to passing sentence*'.

#### R v Tomasz Kroker (2016)

On the 10<sup>th</sup> October 2016 the Defendant entered guilty pleas in respect of four counts of Death by Dangerous Driving, and a fifth count of Causing Serious Injury by Dangerous Driving. The case was listed for sentence before Mrs Justice McGowan on 31<sup>st</sup> October 2016 at Reading Crown Court.

The case related to a road traffic collision which occurred on 10<sup>th</sup> August 2016. The Defendant was the driver of an articulated lorry which had collided with a row of stationary vehicles on the A34 near East Ilsley, Berkshire. The deceased were four of six family members who had been returning from a holiday in Devon when the collision occurred. A further victim, unrelated to the deceased, had suffered life changing injuries.

The case centred on the Defendant's use of a mobile phone prior to the impact. His use of the device had been recorded on his lorry's on board CCTV system. Further, tachograph data showed that the Defendant's vehicle had been travelling at around 50mph and that any attempts to brake had only been made an instant before impact.

Sentencing in the case considered the application of the Sentencing Council's guideline 'Causing Death By Driving' in cases which involve multiple fatalities. A sentence of 10 years was handed down.

(See: <http://www.bbc.co.uk/news/uk-england-37823457>)

#### R v Mileham (2017)

A prosecution as a consequence of the defendant driver hitting a pedestrian on a bridge, as a result of which the pedestrian was thrown over a handrail and, thereafter, fell into the path of oncoming traffic below resulting in serious life changing injuries including amputation. Sentence passed – careless driving, 6 points and £250 fine.

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## HSE v (1) Quality First Building Services Limited (2) EP Abley Limited (2017)

*Prosecution brought by the Health and Safety Executive as a result of workplace fall from height resulting in death. The prosecution followed the inquest in respect of the deceased's death (Re: Ockwell) at which James also represented the Second Defendant's interests. The prosecution incorporated: the prosecution of a companies subject to insolvency proceedings; conflicting bases of plea; bad character evidence; and the Sentencing Council's updated guideline in respect of the application of s.33(1)(a) of the Health and Safety at Work Act 1974 in respect of breaches of s.2 and s.3.*

## HSE v GNB Farm Limited (2015)

A prosecution relating to a workplace accident involving the use of an all-terrain vehicle which resulted in life-changing head injuries. The case involved breaches Regulation 5(1), 9 (1) of the Provision and Use of Work Equipment Regulations 1998, Regulation 3(1)(c) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 and Section 3 and 2(1) of the Health and Safety at Work Act 1974.

## Notable Cases

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### A v LB (2015)

Personal Injury - costs - expert evidence - complex orthopaedic - osteoporosis - fibromyalgia - reduction of claimant's Costs Budget from £183,000 to £104,000.

If you would like to instruct James Rozier or would like help or advice in doing so, please call and talk to our excellent clerking team, led by senior clerk Alan Kilbey MBE. Our phone number is +44 (0)20 7583 9241. Alternatively, please email us at [chambers@farrarsbuilding.co.uk](mailto:chambers@farrarsbuilding.co.uk)

For more information about our clerking team, please [click here](#) for the clerks page.

## Appointments & Memberships

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- Employment Lawyers Association
- Personal Injuries Bar Association
- LCLCBA

## Education & Qualifications

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- PgD Bar, Bar Vocational Course
- PgD Law
- BSc Hons

## Testimonials

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“James has a no nonsense and professional approach, he is always well prepared, taking instructions from his solicitors early on so as to avoid any last minute preparations, leaving you to feel calm and confident in his ability. James has a personal yet professional and confident approach, triumphing in excellent results without fail, leaving me to continue instructing James, no matter where in the country.”

**Louisa Bolleurs – DWF LLP**

“I have instructed James in the Employment Tribunals, Employment Appeals Tribunal and County Courts in employment related matters. I also instruct James to undertake a significant amount of drafting such as merits assessments, pleadings and applications. James has covered the entire range of Employment Tribunal hearings and has always dealt with my cases excellently. I will hence doubtless continue to instruct him into the future.”

**Zahir Mohammed – Herefords Solicitors**

“James is an invaluable resource who is regularly retained in fast and multi-track matters including credit hire, personal injury claims and appeals. He is an astute Barrister who is able to quickly identify key issues and is meticulous in his case preparation. He has a robust advocacy style which is cogent and compelling, and clients are consistently reassured by the quality of his work. Any Solicitor instructing James can do so safe in the knowledge that he will ensure the best possible outcome in a given case.”

**Matthew Griffiths – AXA Insurance UK Plc**

“Very knowledgeable and approachable, with a keen eye for detail. I always have full confidence that James will deal with cases efficiently and effectively.”

**Rebecca Watt – Keoghs LLP**

## Personal Interests

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James has eclectic interests, ranging from surfing to what seems to be the perpetual restoration of a 1978 Triumph Spitfire 1500 which, we hear, now even starts.

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