

Ellena James

Year of Call: 2015
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Overview

Ellena James joined 3PB in December 2021 from another chambers in the South West and is based at 3PB's Bournemouth office. She is a civil practitioner but with a particular specialism in personal injury matters, including inquests and clinical negligence, acting for both claimants and defendants. She is regularly instructed in fast track and multi-track RTA and EL/PL claims.

Ellena accepts instructions in a variety of contractual disputes, often being instructed from drafting the pleadings through to trial. She is regularly instructed to act in possession hearings, associated rental arrears and dilapidation claims.

She has a depth of experience and her personable manner with professional and lay clients has enabled her to grow relationships and build on repeat instructions. Ellena is renowned for working to tight deadlines and accepts instructions on a CFA basis.

Prior to coming to the Bar, Ellena worked as a paralegal in a regional law firm and in-house with media and entertainment corporation Sky. She has also worked in the USA for the New York City Council.

Outside of the law, Ellena enjoys music, theatre and all things fitness-related.

Academic qualifications

- BPTC – Very Competent, BPP University London
- LLB (Hons) Law – 2:1, University of Surrey

Professional bodies

- Member of the Western Circuit
- Dorset, Hampshire and Wiltshire representative, Western Circuit
- The Honourable Society of the Inner Temple

Expertise

Personal Injury

Ellena James undertakes a wide variety of work across all areas of personal injury. She acts for both Claimants and Defendants appearing in fast track trials at all stages from drafting pleadings, applications and through to trial where both liability and quantum may be in issue.

Having a mixed practice enables her to anticipate challenges and address potential issues at an early stage. When acting for Defendants she has secured drop hands offers at court. The judiciary have described her cross-examination as "skilful" and "able and searching" in bringing out inconsistencies.

Ellena is well versed in all matters relating to credit hire litigation, such damages often being claimed in personal injury matters. A particular success involved the dismissal of a claim on the issue of need following her thorough cross-examination of the claimant's financial documents.

Ellena is renowned for working to tight deadlines and is willing to accept instructions on a CFA basis where appropriate. She accepts instructions in the following areas:

- Road traffic accident claims including trials where there have been allegations of fraud
- Employers' liability claims
- Holiday sickness claims
- Occupiers' Liability Act 1957
- Defective Premises Act 1972
- Highways Act 1980
- Consumer Protection Act 1987
- Animals Act 1971

Ellena's recent cases have involved:

- representing a child who sustained injuries in a shop as a result of a falling mannequin
- representing a lady who slipped on a concrete slab that had been used as a makeshift drain cover
- exceeding a Part 36 offer against a crane hire company which failed to properly train its employee on the operation of a particular crane, the witnesses accepting in cross-examination that the risk assessments had been back dated
- drafting pleadings in a claim against a car manufacturer for a defective car bonnet that fell down causing injury.

Inquests

Ellena James is a member of 3PB's inquests team. She understands the importance of finding answers to the crucial questions which often remain following a death and she is happy to act for any interested person.

She has appeared on behalf of:

- His Majesty's Coastguard, at a pre-inquest review hearing, who had been involved in the rescue of a military personnel who later died in hospital
- A police force, at a pre-inquest review hearing, that had been involved in the search and investigation of the deceased
- A family, at a pre-inquest review hearing, where the deceased had died by suicide. Ellena understands the importance of

ensuring that the Coroner has details of the relevant witnesses and documents ahead of the inquest

- A Local Authority in a 6-day Article 2, jury inquest into the drug overdose of a mental health patient who had been discharged into the community under section 17 leave
- The motor insurers following a fatal road traffic collision, where the court concluded that the deceased had pulled out of the junction and the insured, driving on the main road, was unable to avoid the collision
- Various care home providers, where the resident died at or was taken ill at the home. One particular inquest concerned a resident who died soon after removing their tracheostomy tube which the pathologist considered caused their death. Following further questioning and reviewing video footage the pathologist conceded that the removal of the tube was not causative.
- A mother whose premature baby had been discovered unresponsive by paramedics. The Coroner had to treat the evidence of the family's co-sleeping habits cautiously given the other risk factors involved
- A family, where the deceased had died by suicide following a declined referral to the Community Mental Health Team. Changes were subsequently made to the referral process helping the family in their bereavement
- A family in a 2-week jury inquest where the deceased had drowned when coasteering with an outdoor adventure company. The jury concluded that the deceased had died as a consequence of misadventure. A Prevention of Future Deaths Report was subsequently made
- A family where the deceased died from sepsis following a surgical procedure. The Coroner had to carry out a very difficult balancing act in ascertaining whether there were any missed opportunities by the hospital trust.

Clinical Negligence

Ellena uses experience gained in her personal injury and inquest practice to assess claims in this area.

She has advised hospital trusts at the early stages of litigation arising from alleged clinical failures, in particular a midwife allegedly failing to inspect a placenta and a GP allegedly failing to diagnose a rare form of cancer. A recent matter involved conducting a conference with a Consultant Vascular Surgeon concerning an ultrasound guided foam sclerotherapy procedure, allegedly performed negligently.

Ellena also acts on behalf of Claimants pursuing claims under the Fatal Accidents Act 1976 and the Law Reform (Miscellaneous Provisions) Act 1934. A recent matter concerned a baby who sadly passed away shortly after birth due to alleged negligence by the hospital trust.

Articles

Ellena James looks at the case of Andrew Carr v Brands Transport Limited [2022] EWHC 3167 (KB). This judgment serves as a detailed and comprehensive review of personal injury claims in an employment context, including contributory negligence and the circumstances in which a sole director will be considered an employee in such cases.

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