



Rowan Pennington- Benton

Year of Call – 2008

Areas of Law - Civil Fraud, Commercial, Insolvency, Personal Injury and Travel, Public, Administrative and Constitutional Law,

Rowan practices civil, commercial / insolvency and public law. He has a particular interest in cases involving international elements (jurisdiction, conflict of laws, international law and Privy Council work). His public law work includes cases in the commercial sphere (for example, planning and public procurement), as well as immigration and human rights work.

He is Public Access trained and available for instruction on that basis. This means that he can receive instructions, in appropriate cases, directly from members of the public or on behalf of companies, partnerships or other entities. Please speak with our clerks for further information. For guidance on Public Access please visit the [Bar Council website](#).

Commercial, insolvency and civil fraud

Rowan provides advisory and advocacy services to claimants and defendants in commercial and general contractual disputes, company matters such as claims against directors for breach of fiduciary duty and minority shareholders petitions, civil fraud, corporate insolvency and bankruptcy. Recent work includes:

- A claim against a well-known offshore bank and investment company seeking to unwind a trust on the basis of mistake as to the tax implications of the scheme, relying on the Supreme Court decision in [Pitt v Holt \[2013\] UKSC 26](#).
- Advising and preparing a claim against a bank in Cyprus disputing the bank's right to increase the rate of interest payable under various loan facility letters by reference to terms in the general conditions for facilities.
- Advising and appearing at the enforcement stages of a large MTIC fraud claim, including resisted applications for charging orders and orders for possession and sale.
- Appeared with James Guthrie QC in [Lesage v The Mauritius Commercial Bank \[2012\] JPCPC 41](#) (Privy Council), in a successful appeal against a finding of the Mauritius Supreme Court that Mr Lesage was the mastermind behind an £8m fraud perpetrated against the Bank.

Public/private divide:

- Advising an off-shore gambling company as to the cross-border enforceability of taxes levied in the EU in respect of its gambling activities (under Council Directive 2010/24EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures)
- Appearing with Howard Stevens QC for the government in [The United Policyholders Group and others v The Attorney General of Trinidad and Tobago JCPC 2015/0017](#) (Privy Council, judgment due shortly) – a group action claiming that certain statements made by the government during the

financial crisis in 2009 gave rise to legitimate expectations on the part of the claimants, who all held investment products with the CLICO insurance company, that the government had ‘guaranteed’ their funds.

Other civil work

Rowan undertakes a broad range of civil and common law work, including:

- Personal injury and travel law work (including package travel claims, Athens Convention work (ships/cruises) and Montreal claims (air carriage)).
- Jurisdictional disputes and cases involving conflicts of law – accidents abroad, cross-border disputes and enforcement of foreign judgments.

Public law and human rights

Rowan provides advisory and advocacy services in public law and human rights, regularly appearing in the High Court and Upper Tribunal (IAC). Work includes planning, housing, elections as well as immigration and asylum law (appeals and judicial review). Recent work includes:

- [R \(Khan\) v Secretary of State for the Home Department \(right of appeal – alternative remedy\) \[2015\] UKUT 353](#), concerning judicial proceedings where there exists, not a right of appeal elsewhere, but a right to argue whether such a right of appeal exists (i.e. Basnet cases).
- [R \(Singh\) v Secretary of State for the Home Department \[2015\] Imm. A.R. 16](#), with Thomas Roe QC, concerning the application of the new Rules to pre July 2012 cases.
- [United Policyholders Group and others v The Attorney General of Trinidad and Tobago JPC 2015/0017](#) (Privy Council, judgment due shortly) – see above. Appeal in judicial review proceedings, concerning substantive legitimate expectations in the economic / political field (financial bail-outs).
- [Brantley v Constituency Boundaries Commission \[2015\] UKPC 21](#); [2015] 1 WLR 2753 (Privy Council, Saint Christopher and Nevis), appearing along with Peter Knox QC and Thomas Roe QC, for the appellants in a successful appeal challenging a last-minute attempt to change the constituency boundaries prior to the upcoming election. The Board ordered that the election should take place on the pre-existing boundaries.
- Work includes applications for interim relief, including out of hours injunctions in appropriate cases. Rowan recently secured an out of hours injunction restraining the removal of an Albanian asylum seeker on the basis that the SSHD’s certification attempted to rely, without sufficient evidential basis, on an assertion that matters had moved on in Albania since the CG case of [MK \(Lesbians\) Albania CG \[2009\] UKAIT 00036](#).

Other Privy Council and overseas work (including criminal appeals)

- [R v Jogee; R v Ruddock \[2016\] UKSC 8](#) – appeared alongside Howard Stevens QC, representing the state in R v Ruddock in these joined appeals in the UK Supreme Court and in the Privy Council, concerning the law on joint enterprise and in particular revising the doctrine of what has become known as ‘parasitic accessory liability’.
- Appearing, with James Guthrie QC, in [Richard Brown v The Queen \[2016\] UKPC 6](#) (Privy Council, Jamaica) concerning an appeal against conviction and sentence primarily on the basis of the appellant’s mental health at the time of the alleged offence.
- Appearing, with John Restano QC, in [Dixon v the Kingdom of Spain \[2014\] UKPC 38](#), an appeal to the Privy Council in a European Arrest Warrant case relating to an offence allegedly committed in Spain in 1992.

- Advising on the continuing application of Crown Immunity in Gibraltar and its compatibility with the Constitutional right to personal integrity in the context of a personal injury claim: Alvarado v Secretary of State for Defence [2013] 5 LRC 410 (Supreme Court); and [2013] 35 BHRC 428 (Court of Appeal).

Positions held

Judicial Assistant, Supreme Court / Privy Council

Rowan was seconded to the United Kingdom Supreme Court / Judicial Committee of the Privy Council as Judicial Assistant to Lady Hale. He provided research assistance to Lady Hale and other Justices as required on various Supreme Court and Privy Council cases, including:

- Assange v The Swedish Prosecution Authority [2012] UKSC 22 The meaning of “judicial authority” for the purposes of the European Arrest Warrant system;
- Rabone and another v Pennine Care NHS Trust [2012] UKSC 2 Scope of the positive duty under article 2, ECHR with respect to the suicide risk of mentally ill patients in the custody of the State on a voluntary basis;
- R (on the application of Alvi) v Secretary of State for the Home Department [2012] UKSC 33 The State can only control immigration by way of published rules; policy and guidance that, in practice, leads to the determination of immigration decisions must be laid before Parliament and published openly as “rules”.

Research Assistant, the Law Commission for England and Wales

Rowan worked at the Law Commission as a research assistant in the public law team working on a project concerning the provision of local authority health services, and a project considering the award of damages in judicial review proceedings.

Teaching

Rowan has taught administrative law / public law at the Queen Mary University, London and at the University of Essex where he previously taught contract law. He also taught criminal law at the London School of Economics and guest lectured at the National Law University, Jodhpur, India.

Articles / publications

Rowan has had several articles published in the New Law Journal and is a regular contributor to the International Survey section of Public Law. He was for a time research assistant to Professor Paul Craig, QC author of the standard textbooks on EU law and administrative law.

Scholarships

Queen Mother Scholarship, Middle Temple (BVC);
Freshfields Bruckhaus Scholarship (BCL).

Qualifications

LLB (hons), (First Class), University of Essex;
BCL, (Distinction), St Edmund Hall, Oxford.