

# 12

King's Bench Walk

## Brian McCluggage

Call: 1995  
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### AREAS OF EXPERTISE

Personal Injury, Insurance, Fraud, Clinical Negligence, Property

### JUDICIAL APPOINTMENTS

Employment Judge: 2010; Bar Disciplinary Tribunal (BTAS): 2017

Brian specialises in complex and high value personal injury and insurance-related disputes. His practice is weighted towards acting for insurers though he often conducts fatal accident cases for claimants.

Brian has been on the Attorney-General's Panel for civil work since 2002 and so regularly acts for government departments

Recently reported cases in 2017 include:

*McHugh v. Okai-Koi* [2017] EWHC 1346 (QBD): ex turpi causa, contributory negligence

*Blake v. 1) Croasdale 2) Esure* [2017] EWHC 1336 (QBD): resiling from admissions, ex turpi causa

*Select Car Rentals v. Esure Services Limited* [2017] EWHC 1434 (QBD): third party costs orders against credit hire companies

*Shui v. University of Manchester* (2017) EAT, HHJ Eady QC: case management involving litigants-in-person suffering mental illness

*Hatfield v. 1) Drax & 2) SG Transport* (2017) HHJ Belcher: liability dispute arising out of truck accident leading to amputation

Brian is also a tenant at 9 St. John Street Chambers in Manchester.

### Personal Injury

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Brian has significant experience of cases involving:

- Complex liability disputes, including those involving technical evidence;

- Cases with allegations of malingering and exaggeration;
- Brain damage including subtle brain injury and disputes over organic/psychiatric causation of symptoms;
- Psychiatric injury claims including nervous shock/secondary victim claims, PTSD, Somatoform conditions, Obsessive Compulsive Disorder, Personality Disorder;
- Chronic pain cases including fibromyalgia, chronic fatigue syndrome;
- Fatal Accidents Act cases

## Insurance

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Brian is regularly instructed in policy disputes involving insurers and is familiar with the effect of the Consumer Insurance Act 2012, Consumer Rights Act 2015, Insurance Act 2015 and similar legislation. He has been involved in cases involving:

- Construction of policy terms including redrafting policies on behalf of insurers;
- Co-insurance disputes;
- Indemnity issues including late notification;
- Exaggerated claims including property claims;
- Misrepresentation and non-disclosure;
- RTA/MIB issues.

## Fraud

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RTA fraud previously comprised a major part of Brian's practice. He continues to accept instructions in 'special situation' cases and in particular:

- Claims in deceit and conspiracy, including seeking exemplary damages;
- Committal applications for contempt.

He has previously been involved in some of the biggest 'fraud ring' operations litigated on behalf of insurers including Operation Orion (*Direct Line v. Suleman & 43 ors* (2009) QBD) and Operation Koyrna (2016).

## Clinical Negligence

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Brian's recent clinical negligence experience predominantly involves defending military clinical negligence claims on behalf of the MOD.

He has particular expertise in dealing with alleged missed PTSD diagnoses.

## Property

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Brian has experience of property damage disputes including those relating to:

- Damage to prestige or collectible vehicles. The highest value car litigated was worth some £1.3 million.
- Fire damage. Cases include a £1.2 million claim on a household policy for ignis suus where a spark from a garden bonfire destroyed a neighbouring warehouse and the Lancashire Business Park fire, where his client defended claims worth £30 million.
- Bailment cases.

## Qualifications

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MA (Cantab)

LL.M. (Toronto)

Middle Temple Harold G Fox Scholar