

12

King's Bench Walk

Niall Maclean

Call: 2008

maclean@12kbw.co.uk



AREAS OF EXPERTISE

Personal Injury, Industrial Disease, Clinical Negligence, Fraud, Professional Negligence, Costs, Credit Hire, Insurance, Abuse, Product Liability, Inquests, Property

Niall is recognised as a leading junior in personal injury work in the current edition of Chambers & Partners, where he is described as “an impressive junior with a growing profile at the Personal Injury Bar” with “experience handling catastrophic and fatal injury claims on behalf of both defendants and claimants”, and in the current edition of the Legal 500 which notes that he “provides practical advice on complex problems”. He is also ranked as a leading junior (tier 1) in the current edition of the Legal 500 in Industrial Disease and in Insurance Fraud.

Niall specialises in high value and complex personal injury and clinical negligence work, acting for claimants and defendants. He frequently acts in cases valued in excess of £1m. He has a large and loyal client base, and receives instructions from leading solicitors, major insurers, the MIB, central government, and local authorities.

His practice focuses on:

- fatalities and injuries of the utmost severity;
- serious spinal damage, including tetraplegia;
- brain injury cases, including those characterised as subtle in nature;
- all forms of pain syndromes, including chronic pain syndrome, complex regional pain syndrome, fibromyalgia and somatoform disorders;
- complex orthopaedic and amputation cases;
- psychiatric conditions; and
- intentional torts including historic abuse.

Niall has an excellent track record at trials, joint settlement meetings and mediations.

He also has considerable appellate experience. He appeared in the Supreme Court (led) for the successful appellant in **Knauer v Ministry of Justice** [2016] UKSC 9, an important case on the quantification of future losses in fatal claims. He appeared in the Court of Appeal (unled) for the successful respondent in **Scott v Gavigan** [2016] All ER (D) 35 (Jun), a case concerning issues of foreseeability and legal causation in road traffic accidents.

Niall is a member of the Attorney General's C Panel of Junior Counsel to the Crown, a select group of barristers who undertake civil work on behalf of central government departments.

Niall usually acts unled, but he is also comfortable acting as part of a litigation team and is frequently led by prominent personal injury and clinical negligence silks. Whilst adopting a thorough and rigorous approach to cases, Niall prides himself on being practical and approachable.

Personal Injury

Niall has considerable experience and is highly skilled in all areas of personal injury work, including:

- road traffic (including RTA 1988 and MIB issues, and cases involving accident reconstruction evidence);
- the liabilities of employers and occupiers;
- highways claims;
- public liability;
- product liability;
- CICA claims; and
- inquests

He generally acts in high value (frequently £1m plus) and complex matters.

Niall is well-versed in the complex evidential and strategic issues that arise in claims involving traumatic brain injuries (including subtle TBI) and all forms of pain disorders.

Niall has considerable experience in cases involving allegations of exaggeration and malingering. He is knowledgeable in issues surrounding the use of surveillance evidence and in the tactical considerations that arise in these cases.

Niall's philosophy is to prepare cases with the utmost thoroughness. He prides himself on providing an objective appraisal of the strengths and weaknesses of any case at the earliest possible opportunity. Where settlement is appropriate, he is a skilful negotiator comfortable in formal mediations as well as joint settlement meetings. When matters go to trial, he is valued by instructing solicitors for his incisive cross-examinations and persuasive advocacy.

Recent examples of Niall's personal injury work include the following:

- Acted for the defendant in a subtle brain injury case with complex issues surrounding the quantification of a young academic's future loss of earnings. The claim settled at a JSM for a small fraction of its pleaded value.
- Acted for a claimant with serious psychiatric injuries and a complex loss of earnings claim based on the impact of his injuries on the performance of his large jointly owned company. The claim settled at a JSM for a high six-figure sum.
- Acted for the defendant in a complex regional pain syndrome case defended on the basis that an unrelated post-accident spinal injury was the true cause of any pain. Settled at a JSM for less than 20% of the claim's pleaded value.
- Acted for the claimant (led by Frank Burton QC) in a brain injury case giving rise to complex liability and causation disputes. The claim settled at a JSM for a seven-figure sum.
- Currently acting for the defendant in a traumatic brain injury case where causation is considerably complicated by a strong iatrogenic component to the claimant's symptoms.
- Acted for the defendant occupier in a fatal case where the deceased fell through the roof of the defendant's

warehouse. Niall drafted a detailed defence which led to the prompt discontinuance of the claim.

- Acted for a claimant with a serious shoulder injury impacting on his previously successful building business. The claim settled favourably at a JSM.
- Acted for the defendant in a chronic pain case where the claimant's complicated pre-accident psychological history suggested an exacerbation of pre-existing somatoform disorder. The claim settled favourably at a JSM for a small fraction of its pleaded value.
- Currently acting for defendants in two cases (led by Stephen Worthington QC in each) where quantum is considerably complicated by the claimants' pre-accident health conditions (tetraparesis in one case, severe learning difficulties in the other).
- Acted for the successful claimant involved in a multiple pile-up motorway collision. The trial lasted four days and was used as a test case to resolve liability for several serious injuries to passengers.
- Acted for the defendant (led by Paul Russell QC) in a very high value tetraplegia case with complicated life expectancy issues which settled favourably at a JSM for an eight-figure sum.

Qualifications & Awards

BVC (Outstanding; ranked 6th in year), BPP Law School

GDL (Commendation), City University

D.Phil. in Philosophy, Balliol College, University of Oxford

B.Phil. in Philosophy, Balliol College, University of Oxford

M.A. (First Class Honours) in Philosophy and Sociology, University of Glasgow

Lincoln's Inn: Megarry Scholarship, Buchanan Prize, Lord Denning Scholarship, Lord Bowen Scholarship, and Hardwicke Entrance Award.

Balliol College, University of Oxford: Snell Exhibition.

University of Glasgow: Faculty of Arts Prize for best overall performance in finals by a male student, plus two further subject prizes.

Appointments & Memberships

Appointed to the Attorney General's C Panel of Junior Counsel to the Crown (in 2015)

Personal Injuries Bar Association

Professional Negligence Bar Association

London Common Law and Commercial Bar Association

Background

Before coming to the Bar, Niall worked in academia and in public policy research for a leading Westminster think tank. He has published in the fields of health policy and medical ethics, and he retains an interest in the legal aspects of these areas.