

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, Property Damage

Niall is recognised as a leading junior in the current edition of Chambers & Partners where he is described as ***“a highly regarded personal injury junior”*** 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 has ***“a real eye for detail”***. He is also ranked as a leading junior in Industrial Disease in the current editions of both directories.

Niall specialises in high value and complex personal injury, industrial disease and clinical negligence work, acting for claimants and defendants. He generally acts in cases valued in excess of £1 million, usually unled, and frequently against silks. 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:

- catastrophic injuries and fatalities;
- serious spinal damage, including tetraplegia;
- brain injuries, including those characterised as subtle in nature;
- functional neurological disorders;
- all forms of pain syndromes, including chronic pain, complex regional pain syndrome, fibromyalgia and somatoform disorders (SSD);

- complex orthopaedic cases, including all forms of amputation;
- serious 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 was one of the Attorney General's Junior Counsel to the Crown from 2015 to 2020.

Niall usually acts unled, but he is also comfortable acting as part of a litigation team and is frequently led by prominent silks. While 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 cases, including those involving accident reconstruction and CCTV / dashcam evidence, and those involving insurance issues under RTA 1988 and the MIB's Articles of Association;
- the liabilities of employers and occupiers;
- highways claims;
- public liability;
- product liability; and
- historic abuse cases, acting for defendant organisations alleged to be vicariously liable.

Niall usually acts unled in high value (generally £1 million plus) and complex matters.

He is well-versed in the complex evidential and strategic issues that arise in claims involving serious spinal injuries, traumatic brain injuries (including subtle TBI), amputations, functional neurological disorders and all forms of pain disorders.

He regularly conducts conferences with multiple experts, medical and non-medical.

Niall has considerable experience in cases involving allegations of exaggeration and malingering. He is knowledgeable in issues surrounding the use of surveillance and social media evidence, and in the tactical considerations that arise in these cases. He has secured findings of fundamental dishonesty at trial.

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 joint settlement meetings and formal mediations. 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 (in all cases he acts or acted unled, unless otherwise indicated):

- Acted for the defendant in a brain injury case pleaded in excess of £7 million, which settled for a small fraction of that sum at a JSM.
- Currently acting for defendants in a number of very high value cases involving issues of seatbelt usage and knowledge of drivers' intoxication.
- Acted for the claimant (led by Paul Russell QC) in a claim involving catastrophic injuries to a talented sportswoman. The claim settled favourably for a sum that included provisional damages.
- Currently acting for defendants in a number of very high value brain injury cases where quantum is considerably complicated by aspects of the claimants' pre-accident lives (e.g. health problems, educational difficulties, criminality, etc.), and/or by iatrogenic factors.
- Acted for the defendant in a high value claim that was discontinued after service of incriminating surveillance evidence.
- 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 favourably at a JSM.
- Acted for the successful defendant in a brain injury claim which failed on liability at trial after cross-examination of road traffic reconstruction experts.
- Acted for the defendant in a catastrophic spinal injury case considerably complicated by intervening negligent medical treatment.
- 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.
- 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 the defendant main contractor in a construction site accident causing catastrophic injuries to the claimant, which settled favourably at a formal mediation.
- Acted for a claimant with serious shoulder injuries impacting on his previously successful building business. The claim settled favourably at a JSM.
- Currently acting for the defendant in a case where it is alleged a single traumatic brain injury caused the development of dementia.
- Acted for defendants in a number of cases involving functional neurological disorders, including one pleaded in excess of £6 million in which Niall was led by Steven Snowden QC.
- Acted for the defendant (led by Stephen Worthington QC) in a catastrophic brain injury case pleaded in excess of £20 million, which settled at a JSM for a lump sum considerably lower than that figure.
- Acted for the defendant (led by Stephen Worthington QC) in an amputation case pleaded in excess of £6 million.
- Acted for the defendant in a high value fatal case that gave rise to a difficult and novel legal issue about whether the claimant's dependency claim could take into account the fact the deceased was pregnant when she died. The claim settled favourably at a JSM.
- Acted for the defendant in a 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 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 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.
- 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.

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

Member of the Attorney General's C Panel of Junior Counsel to the Crown (2015 to 2020)

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.