

Niall Maclean

Call: 2008

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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.

Industrial Disease

Niall is ranked as a leading junior in Industrial Disease in the current edition of Chambers and Partners which describes him as *"a real heavyweight intellectual who is very practical"* and *"delightful to work with"*, and in the current edition of the Legal 500 where he is described as *"one of the most impressive barristers in asbestos claims, with a real eye for detail"*. He regularly acts unled against silks.

On behalf of claimants, Niall has fought and won numerous asbestos exposure cases giving rise to difficult questions of liability (including allegations of "low exposure"), causation, limitation and quantum. He is a recognised authority in the field, and is in demand as a speaker and author on these topics. He is a contributor to Sweet and Maxwell's *Asbestos: Law and Litigation*, a leading textbook.

Recent examples of Niall's asbestos work include the following (in all cases he acts or acted unled, unless otherwise indicated):

- Acted for successful claimants in a number of cases where judgment was obtained at show cause hearings, notwithstanding defendants' reliance on engineering evidence.
 - Acted for successful claimants in a number of cases where exposure was to very small amounts of asbestos in unusual circumstances, e.g. in a laboratory, a school, a silversmith's premises, a shopping centre, and a world famous private members club (in the latter case led by Simon Kilvington QC).
 - Acted for successful claimants in a number of cases involving the interpretation of important aspects of the Factories Acts of 1937 and 1961, and the Asbestos Industry Regulations 1931.
 - Acted for a successful claimant exposed to asbestos in Scotland while washing her husband's overalls. The case gave rise to interesting issues of applicable law.
 - Acted for the successful claimant (led by Steven Snowden QC) in a fatal mesothelioma case involving exposure to very small amounts of asbestos when the deceased played with her asbestos worker father as a child. The case also gave rise to complex quantum issues involving the valuation of care to a disabled relative. The claim settled for just under £1 million.
 - Acted for the successful claimant in a lung cancer case giving rise to complex causation and contributory negligence issues.

- Acted for claimants in a number of cases where the cost of immunotherapy treatment was successfully recovered, including cases that gave rise to interesting legal and ethical issues.
- Acted for the successful claimant in a fatal mesothelioma case involving an extension of the principles set out by the Supreme Court in ***McDonald v Dept. for Communities and Local Government*** [2014] UKSC 53.
- Acted for a claimant diagnosed with well-differentiated papillary mesothelioma, an extremely rare form of the disease (only around 100 cases ever recorded worldwide).
- Acted for the successful claimants in a number of cases giving rise to complex issues of *de facto* employment and the scope of duties owed by non-employers.
- Acted for the successful claimant in a case where the defendant employer argued it operated a nationwide blanket ban on the use of asbestos. The claim settled favourably at a JSM for a high six-figure sum (led by Simon Kilvington QC).
- Secured one of the highest ever settlements in a living mesothelioma case (led by Frank Burton QC).
- Acted for the claimant (led by Robert Weir QC) in a living mesothelioma case of very high value due to the claimant's extensive business interests. Niall obtained judgment at a show cause hearing where the Court rejected the defendant's threshold safety level arguments because the exposure was deemed "substantial" within the meaning of s.63 of the Factories Act 1961.
- Acted for the successful claimant in an asbestosis case where limitation issues (particularly in relation to constructive knowledge and s.33 of the Limitation Act 1980) were complicated by the claimant's learning difficulties.
- Acted for the successful claimant exposed to small amounts of asbestos (including from brake linings) at a car garage (led by Ronald Walker QC).
- Acted for the successful claimant in a fatal mesothelioma case where the exposure took place in the 1940s.

In addition to his asbestos work, Niall is also instructed in claims involving exposure to chemicals, noise and biological hazards including rare pathogens. As a former member of the Attorney General's panel, Niall is skilled in claims arising from military contexts.

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.