

12

King's Bench Walk

Niall Maclean

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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

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.

Industrial Disease

Niall is ranked as a leading junior (tier one) in Industrial Disease in the current edition of the Legal 500, which notes that "he has a formidable intellect, which he rigorously applies on behalf of mesothelioma sufferers". The current edition of Chambers and Partners additionally notes that that Niall is "recommended by sources for his exceptional experience with asbestos claims".

Niall has fought and won numerous asbestos exposure cases giving rise to difficult questions of liability (including allegations of "low exposure"), causation and quantum. He is in demand as a speaker and author on these topics, and he regularly lectures and writes articles for professional media. He has a particular interest in arguments surrounding breach of duty, and on the tactical and evidential issues surrounding claims for immunotherapy treatment.

Recent examples of Niall's asbestos work include the following:

- Currently acting for a number of living mesothelioma claimants seeking to recover the costs of immunotherapy treatment.
- 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.
- Currently acting for the claimant in a very high value fatal mesothelioma case where the deceased ran a number of successful companies in Canada and the USA.
- Currently acting for a claimant diagnosed with well-differentiated papillary mesothelioma, a highly unusual 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 Rob 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.
- Currently acting in a number of cases where exposure to asbestos dust occurred through washing overalls.
- 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 dust (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.
- Acted for the successful claimant in a fatal mesothelioma case involving difficult issues of liability, complex

limitation arguments (concerning the construction of an agreement to extend the primary limitation period, date of knowledge and section 33 of the Limitation Act 1980), and the negligent handling of the claim by previous solicitors. The claim settled for a substantial six-figure sum.

In addition to his asbestos work, Niall is experienced in the full range of issues that tend to crop up in noise-induced hearing loss cases, and in particular those concerning breach of duty, limitation and medical causation.

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.