

# 12

King's Bench Walk

## 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

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.

## Fraud

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Niall is ranked as a leading junior (tier one) in Insurance Fraud in the current edition of the Legal 500, which notes that "he goes the extra mile and demonstrates assiduous attention to detail".

Niall is sought after for his expertise in defeating all forms of fraudulent personal injury claims. He is knowledgeable and skilled in the use of surveillance and social media evidence.

He has vast experience in countering fraudulent EL, PL and RTA claims (fabricated, staged, semi-staged/induced, 'phantom passenger', LVI and dishonest credit hire and storage claims), both stand-alone cases and those forming part of large and complex fraud rings. He regularly acts on behalf of major insurers and the MIB.

Niall has defeated numerous fraudulent claims at trial and as a result of carefully timed interlocutory applications (frequently drafted by him). He regularly drafts defences, advises both on paper and in conference, and he frequently tests the evidence of defendants at the earliest stages of the litigation. He is knowledgeable in associated costs issues (including wasted costs and third party costs orders). He is valued by instructing solicitors for his thorough preparation, attention to detail and skilled cross-examinations.

Niall acted for the successful defendant in **Zlmi v London Central Bus Co. Ltd.** (Lawtel 10/4/2015), one of the first cases where QOCS was set aside and costs awarded against a claimant found to be fundamentally dishonest pursuant to CPR r.44.16.

Niall has given several lectures on the evolving jurisprudence on 'fundamental dishonesty' under the CPR and s.57 of the Criminal Justice and Courts Act 2015.

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

- Acted for the successful defendant at a two-day trial involving extensive intelligence and engineering evidence. The claim was dismissed as not genuine.
- Acted for the successful defendant at a two-day trial where the claimant sought aggravated damages, alleging he had been deliberately driven into by the defendant bus driver. The claim was dismissed as fundamentally dishonest.
- Acted for the successful defendant in an EL claim where the claimant alleged he had contracted a rare illness at work (Q fever). Extensive surveillance footage showed his claim to be fundamentally dishonest.
- Acted for the successful defendant in a two-day trial where the judge provided an early indication of his unwillingness to find fraud. After a full day of cross-examination and a further day of submissions the judge found all the claims to be fraudulent.
- Acted for the defendant in a case where the expert medical evidence suggested the claimant had faked the symptoms of her alleged complex regional pain syndrome. The claim settled for a fraction of its pleaded value.
- Acted for the successful insurer seeking to reclaim money paid out on a substantial property damage claim

suspected to have been fraudulent.

- Acted for the defendant motor insurer in a fraud case where the claimant was involved in a large fraud ring in East London and where much of the evidence only came to light shortly before trial. An application to amend the defence to plead fraud was successfully made and the claim was discontinued shortly after service of the amended defence.
- Acted for the successful defendant in an employers' liability case where the claimant employee alleged he was struck by a defective service lift door. At trial, the claimant's evidence was so discredited in cross-examination that the judge held he had in fact been meddling with a perfectly functional lift.
- Secured an award of aggravated damages for a defendant who had been injured in an RTA by the actions of a fraudulent claimant.

## **Qualifications & Awards**

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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**

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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**

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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.