

Brian McCluggage

Call: 1995
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AREAS OF EXPERTISE

Personal Injury, Insurance, Fraud, Clinical Negligence, Property, Property Damage

JUDICIAL APPOINTMENTS

Employment Judge: 2010; Bar Disciplinary Tribunal (BTAS): 2017

Brian McCluggage conducts catastrophic personal injury work, predominantly in the interest of insurers. He accepts instructions in cases where the pleaded value is likely to be in excess of £500,000 and as sole counsel in cases valued at up to £15 million. Brian adopts a rigorous approach to evidential analysis and preparation (lay, expert and documentary) and enjoys working in a team with professional clients who share this philosophy. Instructions regularly involve:

- a. Liability disputes involving technical or scientific evidence.
- b. Brain injury, from contested minor TBI to the most serious of catastrophic injury involving Minimally Conscious State.
- c. Amputation, both upper and lower limb.
- d. Complex fatal cases, particularly those involving business interests and accountancy evidence.
- e. High value cases with the taint of fraud.

Recent cases of interest include:

Monks v. Connollys Scaffolding (2022): 5 day liability & quantum trial involving allegation of fraud in context of moderate brain injury and severe shoulder injury leading to loss of scaffolding occupation. £700,000 claim reduced to £3,500.

Re F (2022): £14m brain damage/psychiatric injury claim settled after JSM at £3m

Forsyth v. Carnforth Hotel (2021): successful defence of occupational liability case after C fell out of hotel window sustaining serious lower limb injuries. Novus Actus and Volenti defences succeeded. Successfully distinguished James v. White Lion Hotel (2020) CA.

Re H (2021): serious brain injury case settled at £6m through Periodical Payment Order

Blake v. Croasdale [2019] RTR 73: successful defence of £4m brain damage claim on basis of ex turpi causa brought by Leeds drug dealer

Tuson v. Murphy [2018] EWCA Civ 461 (Court of Appeal): leading case on interaction between CPR Part 36 and exaggerated claims

Axa v. FCS [2018] EWCA Civ 1330 (Court of Appeal): leading case on exemplary damages in respect of road traffic fraud.

Shui v. University of Manchester [2018] ICR 77: Appeal Tribunal case principles setting out adjustments for litigants suffering mental illness

McHugh v. Okai-Koi [2017] EWHC 1346 (QBD): defending fatal case after road rage incident in London public house. Ex turpi causa, contributory negligence. C failed to beat Part 36 after 4 day High Court trial

Blake v. 1) Croasdale 2) Esure [2017] EWHC 1336 (QBD): a leading case on resiling from admissions

Select Car Rentals v. Esure Services Limited [2017] EWHC 1434 (QBD): leading case on third party costs orders against credit hire companies

Hatfield v. 1) Drax & 2) SG Transport (2017): successful liability defence of truck accident leading to upper limb amputation

Brian is also a tenant at 9 St. John Street Chambers in Manchester.

Insurance

Brian is regularly instructed in policy disputes involving insurers and is familiar with the effect of the Consumer Insurance Act 2012, Consumer Rights Act 2015, Insurance Act 2015 and similar legislation. He has been involved in

cases involving:

- Construction of policy terms including redrafting policies on behalf of insurers;
- Co-insurance disputes;
- Indemnity issues including late notification;
- Exaggerated claims including property claims;
- Misrepresentation and non-disclosure;
- RTA/MIB issues.

Qualifications

MA (Cantab)

LL.M. (Toronto)

Middle Temple Harold G Fox Scholar