

Brian McCluggage

Call: 1995
mccluggage@12kbw.co.uk



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.

Fraud

RTA fraud previously comprised a major part of Brian's practice. He continues to accept instructions in 'special situation' cases and in particular:

- Claims in deceit and conspiracy, including seeking exemplary damages;
- Committal applications for contempt.

He has previously been involved in some of the biggest 'fraud ring' operations litigated on behalf of insurers including Operation Orion (*Direct Line v. Suleman & 43 ors* (2009) QBD) and Operation Koyna (2016).

Qualifications

MA (Cantab)

LL.M. (Toronto)

Middle Temple Harold G Fox Scholar