



BRIAN McCLUGGAGE

YEAR OF CALL

1995, Middle Temple

EDUCATION

MA (Hons) Law, Cambridge University
LLM, University of Toronto
Middle Temple Fox Scholar

ASSOCIATIONS

Employment Lawyers' Association
Personal Injury Bar Association

APPOINTMENTS

Junior counsel to the Crown (Provincial) – “Treasury Counsel” (appointed 2002)

AREAS OF PRACTICE

Mr. McCluggage's practice spans a broad range of employment matters, insurance law and personal injury litigation and he believes strongly in the benefits to an advocate of engaging in a range of work. His instructing solicitors in employment litigation are employment specialists – Mr. McCluggage gains instructions on the basis that he adds value to the individual case through his particular expertise in advocacy, analysis and persuasion. He acts primarily but not exclusively for employers and has an acute eye for the commercial implications of litigation. He regularly carries out employment work for government departments, including the Home Office and Department of Constitutional Affairs.

Particular strengths include:

- Disability Discrimination cases. Mr. McCluggage has a particular interest and significant experience in this field.
- Cases involving 'difficult' litigants-in-person. Mr. McCluggage relishes what most lawyers understandably find a trying experience.
- Cases involving cross-over between personal injury and employment disputes.
- Constructive dismissal cases.
- Restrictive Covenant/wrongful dismissal cases in the civil courts.
- Cases involving conflicts of law (private international law).

Recent interesting instructions include:

- *S v. Credit Agricole* [2008] High court wrongful dismissal proceedings on behalf of City banker asserting £500,000 bonus
- *Sharma v. Manchester City Council* [2008] IRLR 336, [2008] ICR 623 (EAT): PTW discrimination.
- *Westwood v. Employment Tribunal Service* (2007): instructed by Employment Tribunal Service in relation to this high value disability discrimination case brought by tribunal staff.

- *Khan v. Heywood & Middleton NHS Trust* [2006] EWCA Civ 1087 (Court of Appeal) [2006] IRLR 345 (EAT): leading procedural employment case on question whether a claimant can recommence withdrawn proceedings.
- *Charan v. Pennine NHS Trust* (2006), EAT: legitimacy of a tribunal's approach to construing a contract of employment.
- *Coynash v. Nord Anglia* (2006), EAT: bias; conflict of laws concerning Wages Act claims.
- *Knipe v. Howsons Accountants* (2006), EAT: correct approach for loss in sex discrimination and PTW discrimination case.
- *Dawson v. Serco & Network Rail* (2006), Man. ET. Case on behalf of Serco in TUPE proceedings involving 'in house' contracting with significant commercial implications.
- *Mulligan v. Chief Constable of Greater Manchester Police* (2004). On behalf of the respondent in race and sex discrimination proceedings brought by Britain's highest ranking black female police officer.
- *Cavendish v. Stagecoach plc.* (2003 to 2005), Man. ET and EAT. Defending proceedings brought by a litigant-in-person in a case involving serious allegations of corruption against tribunal chairmen and legal representatives.
- *TGWU & others v. Manchester Airport plc* (2004), Man ET and EAT. On behalf of the respondent in unfair dismissal and s.188 TULRCA proceedings following a £20 million reorganisation of the security service at the airport following 9/11.
- *Rubery v. Prison Service* (2003), EAT. Victimisation case concerning the compatibility of the HL's decisions in Chief Constable of West Yorkshire v. Khan and Nagajaran v. London Regional Transport

The 2008 editions of the directories praise Mr. McCluggage for offering “very clear, very lucid” advice (Legal 500) and for being “attentive and enthusiastic” (Chambers & Partners) and he carries this approach into his employment law practice.



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