



Paul Higgins



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"An extremely sharp intellect... his cross-examination is phenomenal... what distinguishes him more than anything is his photographic memory... brilliant on his feet."

(Chambers UK & Legal 500 2017-19)



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Paul Higgins specialises in the fields of Insurance and Reinsurance, Personal Injury, Civil Fraud, Property Damage and Costs. He is recognised as an advocate possessing "an extremely sharp intellect" who is "brilliant on his feet". Paul has extensive trial and appellate experience and has appeared before the Supreme Court, and the Court of Appeal more than a dozen times. He has a meticulous eye for detail, and an ability to craft innovative legal and practical solutions in difficult cases. Paul has a firm but fair manner in negotiations and a calibrated approach to advocacy in the event that a claim is pursued beyond its reasonable limits. He has extensive experience of Joint Settlement Meetings, Mediations and other forms of ADR in appropriate cases.

## Personal Injury

Paul has developed a formidable reputation for his work in relation to personal injuries, dealing with a wide range: road traffic, public liability and industrial accidents. His practice encompasses the whole spectrum, up to and including catastrophic injuries valued in excess of £15 million.

Paul has considerable experience of severe head and spinal injury cases, and those involving allegations of chronic pain and conversion disorders. He provides a 'cradle to grave' service – advising on paper and in conference pre-and post-litigation, preparing innovative and comprehensive defences and counter schedules with meticulous attention to detail. He has a tactile but firm negotiating manner at JSMs and regularly exceeds expectations in terms of settlement. His cross-examination skills at trial are exceptional. He is regularly instructed where complicated issues of liability or causation arise, or where quantum in a catastrophic injury claim requires detailed forensic analysis.

Paul has experience of successfully handling foreign jurisdiction claims, including multi-party claims, and is often instructed in relation to limitation issues in complex cases. He maintains an interest in technological solutions to injury, and the quantitative effect of innovation upon settlement values.

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## Selected Cases

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- Cameron V Hussain & the MIB [2019] UKSC 6 – Instructed by the MIB on an important appeal concerning the operation of the Untraced Drivers’ Agreement (‘UTDA’) and whether it was possible to sue an unidentifiable tortfeasor. The appeal was successful following the intervention of the MIB on grounds that had been conceded by insurers in the Court of Appeal.
- B v EUI Limited October 2018 – Instructed alone against a prominent QC in multi-million pound damages claim based upon a so-called conversion disorder. The Claimant had no underlying organic pathology but claimed to be confined to a wheelchair. The Schedule of Loss spanned 75 pages and the Counter Schedule 60 pages with expert evidence in nine disciplines. Claim settled at JSM for £1 million inclusive of costs, a small fraction of the pleaded value.
- F v Ageas Insurance February 2017 – Instructed alone in seven-figure damages claim relating to alleged chronic pain with no organic cause involving contested psychiatric expert evidence. The claim was dismissed in its entirety at trial.
- A, B & Khan vs QBE Insurance – Advising and acting in respect of three separate seven-figure claims arising out of a single road traffic accident: two severe head injury cases and one spinal case. Combined value of settlement in excess of £10 million.
- D v Choudhry Bristol District Registry – Complicated case involving a claimant who had had suffered a head injury and lost the use of one eye before a serious collision involving a tram. The extensive expert evidence was highly divergent as to pre-accident condition, causation and prognosis. Case settled for seven-figure sum at JSM.
- ‘Alvechurch’ coach crash case – High-profile and particularly sensitive case, involving a coach that overturned in France carrying teachers and schoolchildren. There were a number of fatalities and very significant injuries. Advising and acting on behalf of the insurers of the coach in relation to a number of the most serious claims.
- DW v RSA, December 2014 – £2 million claim for damages relating to complete loss of use of an arm. Surveillance footage subsequently demonstrating that claimant had use of arm. Contested psychiatric evidence savouring of a conversion disorder basis for claim. Claim subsequently abandoned. Claimant successfully prosecuted for contempt of Court and sentence to 6M in prison.
- Topham v Ageas Insurance Limited Liverpool CC, HHJ Graham Wood QC, December 2016 – Analysis of the reporting practices of Dr. Grace Kerali over hundreds of cases, whose opinion was challenged on the grounds that her prognoses for recovery from soft tissue injuries were outside the reasonable range. An application for non-party costs was pursued against Dr. Kerali who subsequently consented to an order under which she paid Ageas’ costs of the litigation.
- Casey v Cartwright [2008] EWCA Civ 1280 – Court of Appeal – application of Kearsley v Klarfeld.
- Kearsley v Klarfeld [2006] EWCA Civ 1510 – Court of Appeal – Low velocity impact claims. Seminal case on the need for additional expert evidence in such cases so as to level the playing field and enable insurers to cross-examine appropriately in such cases.

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## Insurance Fraud

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Paul is one of the country’s leading practitioners in this area and has appeared in many of the seminal cases that have shaped the insurance fraud landscape. He provides a ‘cradle to grave’ service – advising on paper and in conference pre-and post-litigation, preparing innovative and comprehensive pleadings and

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providing first-class representation at trial. He is recognised for his “phenomenal” cross-examination skills: “what distinguishes him more than anything is his photographic memory”.

He has significant experience of:

Multi-handed fraud rings;  
Contempt of Court proceedings;  
Non-party costs applications and committal proceedings against ‘professional enablers’;  
S. 57 applications;  
Disapplication of QOCS.

## Selected Cases

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### COURT OF APPEAL

- *Liverpool Victoria v Dr. Zafar* [2019] 1 W.L.R. 3833 (CA) – Whether a suspended sentence of imprisonment was an appropriate response to a medico-legal expert’s contempt of court in recklessly amending a medical report (materially changing the examination and prognosis) following an unjustified request from a solicitor, and then making a false witness statement denying that he had any involvement in the amendment.
- *The Queen on the Application of Saleem, ex parte Serwan* [2015] EWCA Civ 123 – Guidance from the Court of Appeal in respect of appropriate reduction in sentence following a guilty plea in committal proceedings.
- *Esure v Tariq Ali* [2011] EWCA Civ 1582 – Jurisdiction of single judge sitting in the High Court to make a committal order for an alleged contempt of court in proceedings that were commenced in the county court but were subsequently transferred to the High Court.
- *Singh & others v Habib & AIG* [2011] EWCA Civ 599 – Application of *Ladd v Marshall* principles to fraudulent claims.
- *Francis & others v Well and Churchill Insurance* [2007] EWCA Civ 1350 – Burden and standard of proof in RTAs in which fraud is suspected.
- *Casey v Cartwright* [2008] EWCA Civ 1280 – Application of *Kearsley v Klarfeld*.
- *Kearsley v Klarfeld* [2006] EWCA Civ 1510 – Low velocity impact claims. Seminal case on the need for additional expert evidence in such cases so as to level the playing field and enable insurers to cross-examine appropriately in such cases.

### HIGH COURT

- *Liverpool Victoria v Haroon Karim* Nottingham District Registry, July 2019, HHJ Godsmark QC – Former director of various accident management and medico-legal businesses sentence to 6 months in prison for forging the signature of a client on a Claim Form and Particulars of Claim, and then lying about what he had done.
- *Ross v Iqbal & Javed* Manchester District Registry, July 2019, Mr. Justice Dingemans – First successful committal proceedings relating to the prosecution of the driver of a so-called ‘decoy’ vehicle.
- *RSA v Beston Mella*, May 2016, HHJ Gore QC – Sentence of imprisonment handed down to a man who fraudulently claimed to have been a passenger in a road traffic collision.
- *Liverpool Victoria v Khan & Zafar* [2018] EWHC 2581 (QB), Mr. Justice Garnham – Sentence of 15M

imprisonment handed down to a solicitor who had committed multiple contempts of court by falsifying documents to exaggerate his client's personal injury claim. The doctor who had reported on the client's medical condition was also in contempt by recklessly acceding to the lawyer's direction to amend the report to increase the seriousness of the injuries without caring if the amendments were clinically justified, or if the court was misled as a result.

- Zurich Insurance v Hooper [2016] WL 11188704, Elias LJ and Hickinbottom J – Sentence of 8M imprisonment in respect of a fraudulent claim. The Respondent denied instructing his solicitors to launch his claim. Following a successful application for disclosure of the Respondent's file this Defence was demonstrated to be false.
- Liverpool Victoria v Amy Laban & Hazledine, August 2015, HHJ Godsmark Q.C. – A model and semi-professional footballer was sentenced to a period of imprisonment in respect of fraudulent whiplash claims.
- Esure v Aziz, Liverpool Victoria v Jamil, Saleem & Kazmi [2014] EWHC 4003 (QB), Mr. Justice Lewis – 8-day trial followed by committal proceedings relating to a conspiracy to defraud Esure. Sentences of 8M, 8M and 6M were handed down.
- Surface Systems Limited v Danny Wykes [2014] EWHC 422 (QB), HHJ Robertson QC – Committal proceedings relating to a £2M exaggerated claim. 6M sentence of imprisonment imposed.

## Costs

Paul is regularly instructed in relation to costs matters and litigation funding. He has appeared in the Court of Appeal in relation to such matters and has significant experience in the assessment of costs. Paul has particular experience in obtaining costs orders against non-parties (including expert witnesses) and wasted costs orders against legal professionals.

## Selected Cases

- Qader v Esure Services Limited [2016] EWCA Civ 1109 – Whether fixed costs apply to low value RTA protocol claims that are subsequently allocated to the Multi-Track.
- Hall & others v Stone [2007] EWCA Civ 1354 – Costs consequences of exaggeration, non-part 36 compliant offers.
- Trehan v Liverpool Victoria Insurance Co. Limited [2017] 10 WLUK 21 – Successful application following a 6-day hearing for wasted costs against ASONS solicitors and for a non-party costs order against a so-called 'professional enabler'.
- Topham v Ageas Insurance Limited Liverpool CC, HHJ Graham Wood QC, December 2016 – Analysis of the reporting practices of Dr. Grace Kerali over hundreds of cases, whose opinion was challenged on the grounds that her prognoses for recovery from soft tissue injuries were outside the reasonable range. An application for non-party costs was pursued against Dr. Kerali who subsequently consented to an order under which she paid Ageas' costs of the litigation.
- Clarke v Thompson Liverpool CC, DJ Henthorn, December 2015 – Wasted costs application against Hampson Hughes solicitors, who were ordered to pay 50% of the costs of a number of unsuccessful claimants. The Judge found that a retainer letter contained misleading information that would have induced many to believe they would have no costs liability in the event of unsuccessful litigation, and there was a likelihood though not a certainty that the Claimants may not have instructed Hampson Hughes to start litigation absent those misrepresentations.



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## Insurance & Reinsurance

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Paul Higgins has significant experience of advising on issues relating to construction of insurance contracts, coverage disputes, issues of misrepresentation and material non-disclosure, issues particular to motor contracts (including the involvement of the MIB), contribution claims among insurers and issues arising under the Third Parties (Rights against Insurers) Act 1930. Paul has particular experience in obtaining disclosure from third parties including the police and fire brigade relevant to insurance disputes. He also has experience of claims against those handling data stolen from insurers.

Paul has appeared in the Supreme Court in relation to such matters.

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### Selected Cases

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- Cameron V Hussain & the MIB [2019] UKSC 6 – Instructed by the MIB on an important appeal concerning the operation of the Untraced Drivers' Agreement ('UTDA') and whether it was possible to sue an unidentifiable tortfeasor. The appeal was successful following the intervention of the MIB on grounds that had been conceded by insurers in the Court of Appeal.
- Q v Esure Services Limited Peterborough CC, May 2019 – Insured suspected to be fictional. Whether a relevant insurance policy had been effected or issued within the meaning of S. 151 of the RTA 1988 ('RTA'), whether a policy had been delivered to 'the person by whom the policy had been effected' under s.147(1) RTA 1988, whether judgment could be entered against a 'person' within the meaning of s. 151(2) of the RTA and issues of service.
- 'Alvechurch' coach crash case – Advising in respect of cover in relation to a high-profile and particularly sensitive case, involving a coach that overturned in France carrying teachers and schoolchildren. There were a number of fatalities and very significant injuries. Negotiating contributions and indemnities between various potential defendants and drafting documents relating to global settlement agreements.
- NO v PQ, Birmingham County Court – Question as to whether catastrophic injuries occasioned by driver of an HGV who lost consciousness by reason of a 'cough syncope' was actionable and covered by a policy of motor insurance. Claim settled on first day of trial for small fraction of pleaded value.
- Iver Recycling v AM Trust Europe Limited, Central London County Court, HHJ Walden-Smith – Whether a legal expenses insurer who had charged a premium of £26,923.00 was liable for the other side's costs when the claim was subsequently found to be fraudulent.
- Sinclair v Sneddon, Peterborough CC, October 2015 – Advising Provident Insurance on coverage, relating to principles in Dodson v Peter H Dodson Insurance Services Limited and policy extensions generally.

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## Property Damage

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Paul is regularly instructed in claims relating to damage to property, including by fire, water and vehicles. He has particular expertise in handling claims for damage that is suspected to have been caused deliberately.



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## Selected Cases

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- Advising and acting on behalf of an insurer in response to a claim for damages in excess of £1M by an owner of property that was damaged by fire. Issues concerning the veracity of the claim.
- Advising and acting on behalf of an insurer in response to a claim for damages in excess of £1M by an owner of property that was damaged by a vehicle. Issues concerning the veracity of the claim.

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## Recommendations

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"A go-to barrister with a wealth of experience in defending fundamental dishonesty claims."

Legal 500, 2022

"Extremely knowledgeable, strategic and commercially astute when advising upon fundamental dishonesty – a force to be reckoned with in this field of expertise."

Legal 500, 2021

"He is an excellent barrister with a fearsome reputation."; "He's an extremely strong performer. You go to him if you have a hard case that needs to be presented strongly."; "A leading barrister in this field."

Chambers & Partners, 2021

"Clearly a leading member in this field." "Absolutely fantastic. One of the leading authorities."

Chambers and Partners, 2020

'Fields a strong practice in motor insurance fraud and regularly defends insurers against claimants looking to defraud them. He has appreciable experience of handling committal proceedings and putting cases before the Court of Appeal. Higgins is often instructed in high-value and complex claims. "Very robust in his advocacy." "An excellent barrister." Recent work: Acted for Liverpool Victoria in committal proceedings against two solicitors and a doctor relating to an amendment to a medical report'.

Chambers and Partners, 2019

'Astonishing on his feet.'

Legal 500, 2018

'Fields a strong practice in motor insurance fraud and regularly defends insurers against claimants looking to defraud them. He has appreciable experience of handling committal proceedings and putting cases before the Court of Appeal. Higgins is often instructed in high-value and complex claims. "A big player in this market," who is "excellent at all aspects of counter-fraud litigation, and in particular trial advocacy and appeal hearings." "He fights valiantly."

Chambers and Partners, 2018

'He has an extremely sharp intellect.'

Legal 500, 2017

Fields a strong practice in motor insurance fraud and regularly defends insurers against claimants looking to defraud them. Has appreciable experience in handling committal proceedings and putting cases before the Court of Appeal. "He has a national reputation for this type of work and his cross-examination is phenomenal."

Chambers and Partners, 2017

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'An expert in fraud claims, who is brilliant on his feet.'

Legal 500, 2016

'Enjoys a national reputation for his work in the motor insurance fraud area. He has particular experience in committal proceedings where, sources say, "he has helped to stiffen up the law." "He's excellent. What distinguishes him more than anything is his photographic memory." "He goes beyond what's expected. He's already got an amazing reputation but he's incredibly modest given how intelligent he is and how good he is at the job."

Chambers and Partners, 2015