



Paul McGrath

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Paul McGrath's practice is generally split between the following main areas: insurance law, motor insurance fraud, and personal injury / fatal accident. He also has considerable experience of employment cases but is presently only accepting restraint of trade/injunction work, or pro bono cases through Advocate. Over the years he has been recommended as a leading barrister in three separate sections of the legal directories (employment, personal injury and motor fraud).

Expertise

Personal Injury

He is mainly instructed in high value, Multi-Track, work in the County Court or High Court and also undertakes appellate work in the High Court and Court of Appeal. He is also regularly instructed to attend JSMs and mediations.

He undertakes personal injury work of all types, including motor, employer's liability, public liability, and in relation to personal injury claims arising from incidents at sea (involving jurisdictional issues and issues under the Athens Convention and The Merchant Shipping Act 1995) or in the air.

He has also been instructed in group litigation matters, including what is potentially the largest ever group action brought in the English Courts – Municipio De Mariana and others v BHP Group and Vale.

Paul is described by Legal 500 (2024) as 'an exceptional barrister. He has exceptional advocacy skills and is clear and concise in his work'.

Motor Insurance Fraud

Paul is a leading expert in the full range of motor fraud cases. He is one of only 7 barristers in the country listed in Band 1 in Chambers & Partners.

Paul has been at the forefront of motor fraud litigation for many years whether the type of fraud being alleged is opportunistic, exaggerated, staged, or contrived. In addition, Paul is an insurance coverage specialist and is therefore able to cover all complications arising from motor fraud (e.g. ghost broking, bogus policyholders, identity fraud, etc).

Paul also has considerable experience of related proceedings: declaratory proceedings, recovery actions (including in the tort of deceit), enforcement actions, and contempt proceedings.

Paul has appeared in motor fraud cases in the County Court, High Court and Court of Appeal.

Insurance

Paul has significant and broad experience in this area. Paul is the editor of the Insurance Coverage section in Bingham's Personal Injury and Motor Claims Cases (16th ed.).

In relation to 'pure' insurance law issues, he has represented clients in relation to disputes between insurers, avoidance disputes between insured and insurer (including claims for contractual indemnity), disputes between insurers and third parties (e.g. issues arising under ss151-152 Road Traffic Act 1988), in making representations to third parties (such as the MIB, Financial Ombudsman Service, etc), and with regard to the interpretation of insurance contracts (e.g. coverage disputes) and any resulting declaratory proceedings.

His work mostly involves motor insurance, employer's liability insurance, and public liability insurance. However, he has also acted in cases involving disputes over life insurance and the scope of legal expenses policies.

Mason v TNT and Groupama Insurance saw him acting for a successful insurer on a point of great significance to the industry: whether an insurer was liable for the 'same damage' as a tortfeasor for its (potential) breach of indemnity.

Credit Hire

Leading expert on credit hire law, having practised in the area since its inception.

Paul is targeted for many of the most significant cases and has appeared in the County Court, High Court and Court of Appeal. His work involves vast experience of credit hire cases, including those of the greatest value and / or significance, including the seminal case of *Burdis v Livsey*.

Recently he was successful in *Agabalaya v London NHS Ambulance Trust* in arguing that the absence of a MoT defeated a claim for over £145,000 in hire charges. Paul argued that the claim failed on causation grounds and, independently, grounds of illegality. He was successful in both respects. The decision withstood challenge in the recent case of *Ali v HSF Logistics Polska sp zoo* [2023] EWHC 2159 (KB).

He is regularly sought out to undertake significant or complex appeals.

Automated & Electric Vehicles

Paul's experience with automated and electric vehicles is, at present, academic. However, he does have considerable related experience, such as advising as to the use of ANPR technology, hands-free devices, and automated devices within vehicles and appearing in cases arguing about the relevance and admissibility of ANPR captured results.

Costs & Litigation Funding

Paul is regularly instructed in a breadth of costs related matters, including disputes about wasted costs, third party costs, disapplication of QOCS, interpretation of fixed costs.

Paul was recently successful in arguing that a Defendant should not have to pay indemnity costs where it had failed to make out its case of fundamental dishonesty: *Thakkar v Mican and AXA Insurance UK plc* [2023] EWHC 2313 (Mr Justice Richard Smith). The case was later appealed, unsuccessfully, to the Court of Appeal (reported at [2024] EWCA Civ 552).

Employment

Before narrowing down his practice to focus on his other case areas, Paul was a leading employment law specialist, mostly appearing for corporate clients or public bodies and was instructed by a range of leading City firms. He has also acted for some senior executives. He had regular appearances in the Tribunal, Employment Appeal Tribunal and Court of Appeal. He was ranked in Legal 500 and noted for his 'robust' and 'sensible' advice.

Since focusing on his other areas of work, Paul only accepts pure employment cases on a *pro bono* basis through Advocate. Paul has recently been recognised in the Pro Bono Recognition List for his work. The regularity of his work keeps his knowledge and experience up to date.

Paul does, however, continue to accept private instructions in relation to restraint of trade, breach of contract, and injunction matters relating to employment.

Notable Employment cases

Thakkar v (1) Mican (2) AXA Insurance UK plc [2023] EWHC 2313 Mr Justice Richard Smith, later unsuccessfully appealed by the other side to the Court of Appeal (reported at [2024] EWCA Civ 552)

Fundamental dishonesty and costs. There was no presumption that a successful Claimant would receive indemnity costs where the Defendant's allegations of fundamental dishonesty failed. The default position is that standard costs are payable unless the receiving party could demonstrate why indemnity costs were appropriate in all the circumstances.

Advantage Insurance Co Ltd v Harris [2024] EWHC 626 (KB)

Contempt: basis and sentencing. In a contempt application, a Claim Notification Form could form the basis for contempt, just as with pleadings and statements. When sentencing, the Court could impose a fine if the

exceptionality of the circumstances justifies the same.

UK Insurance Ltd v Ali [2024] EWHC 30 (KB)

Contempt: procedure, permission and prison capacity. In a contempt application the Court considered when permission is required in relation to allegations of interference with the administration of justice in 'existing' proceedings and the relevance of overlapping allegations which do require permission. The Court went on to consider whether the permission threshold had been crossed, considering the public interest, proportionality, and the proper application of the overriding objective. Prison capacity, whilst a factor in sentencing (cf. *R v Ali* [2023] EWCA Crim 232), was not a factor in determining whether to grant permission to pursue a contempt application.

Fleming v Zurich Insurance plc [2023] EWCA Civ 1417

Civil procedure, pleadings, lifting the value. The Claimant brought a claim for personal injury and originally limited his claim to Fast Track levels. Standard directions were issued including permission to file and serve an updated schedule of loss. The Claimant's updated schedule of loss sought almost £500,000. The Claimant sought to argue that he already had permission for the schedule and that the Court could award him damages irrespective of the limitation on the claim form. The County Court and Court of Appeal disagreed with this contention, holding that the Claimant required permission. In the circumstances of the claim, especially with regard to the developing medical evidence, permission to lift the value and amend the claim was granted.

Amjad v UK Insurance Limited [2023] EWHC 2832 (KB); [2024] 1 WLR 2038

Personal injury, costs, disapplication of QOCS where the claim was made for the benefit of a third party. The two gateways in CPR 44.16(2)(a) and (b) depended on who benefitted from the claim: if a third party benefitted then gateway (a) applied, and if the Claimant benefitted, then gateway (b) applied. Whilst not always the case, the gateways were usually mutually exclusive.

Appointments

- Recorder (2022)
- Panellist, Teaching Regulation Agency Professional Conduct Panel
- Reviewer for Advocate

Awards

- Lord Justice Holker major scholarship award from Gray's Inn

- Lee Essay Prizewinner (judged by Lord Mustill)
- Chartered Secretaries and Administrators Award for Excellence (achieving top A Level mark in the country)

Education

- BVC, Inns of Court School of Law
- LLB Hons, University of London

Recommendations

- Band 1, Motor Insurance Fraud. Noted as demonstrating “considerable expertise in a range of motor fraud cases” and having “a tactical calmness about him whilst quietly sharpening his axe, which often catches his opponents by surprise”. He is also noted as being “extremely knowledgeable and very efficient at advocacy” and that “He is very astute and provides good commercial advice”. Finally, he is noted “for his strength in handling credit hire and personal injury matters” **Chambers & Partners 2024**
- Leading junior in Personal Injury, Industrial Disease and Insurance Fraud. “Paul is an exceptional barrister. He has exceptional advocacy skills and is clear and concise in his work.” **Legal 500 2024**
- Band 1, Motor Insurance Fraud. “Paul is calm under pressure. He is unflappable.” and “Paul is a forensic barrister”. **Chambers & Partners 2023**
- Leading junior in Personal Injury, Industrial Disease and Insurance Fraud. **Legal 500 2023**
- Band 1, Motor Insurance Fraud. “Demonstrates considerable expertise” and a “robust, well-prepared advocate” who is “careful and considered.” And is also recommended for personal injury and credit hire work. **Chambers & Partners 2022**
- Leading junior in Personal Injury, Industrial Disease & Insurance Fraud. **Legal 500 2022**
- Band 1, Motor Insurance Fraud. Recommended as having a “considerable expertise in a range of motor fraud cases, including those related to exaggerated claims, fundamental dishonesty and staged accidents” and noted for “his strength in handling fraud ring matters.” He is noted to have a “tremendously endearing court manner” and that “Judges like him and he’s persuasive.” He is also praised as being a “great advocate who is excellent on technical points.” **Chambers & Partners 2021**
- Band 1, Personal Injury, Industrial Disease & Insurance Fraud. “On top of his game – he is a leading expert in cases involving suspected fraud.” **Legal 500 2021**
- “A persuasive advocate who is effective in his interaction with judges.” “A well-respected practitioner.” Noted as demonstrating “considerable expertise in a range of motor fraud cases, including those related to exaggerated claims, fundamental dishonesty and staged accidents. He is also noted for his strength in handling fraud ring matters.” **Chambers & Partners 2020**
- Band 1, Personal Injury, Industrial Disease & Insurance Fraud. “He is a very good lawyer with a strong expertise in road traffic insurance law, personal injury and fraud work.” **Legal 500 2020**
- Recommended as demonstrating “considerable expertise” in motor fraud cases and employing “enthusiasm and drive.” He is also noted to have an ability to “slowly take the opposition apart in an almost surgical fashion rather than in a theatrical style – he’s a silent assassin” and to be “very strong both on paper and in court”, knowing “how to get the best result for the client” and good at “understanding a large amount of information.” **Chambers & Partners 2019**



- Band 1, Personal Injury, Industrial Disease & Insurance Fraud. **Legal 500 2019**