



## Bart F. Higgins

Principal/Attorney



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## Biography

Bart Higgins serves as Shields Legal's Litigation Leader. Bart has an unwavering commitment to his clients' success. With a career solving complex problems for businesses for over three decades, he implements a purposeful formula that has consistently propelled him to victory in the courtroom.

**Step One:** Knowing clients' business inside and out is the foundation of effective representation. By delving deep into the intricacies of the clients' industries, Bart gains invaluable insights that enable him to craft strategic and tailored legal solutions. This comprehensive understanding allows him to anticipate challenges, identify business solutions, and present compelling arguments that resonate with judges and juries alike.

**Step Two:** Recognized as a relentless "grinder," Bart possesses an unparalleled work ethic and an unyielding determination to leave no stone unturned. He approaches each case with meticulous attention to detail, conducting exhaustive research, thorough investigation, and rigorous preparation. His relentless pursuit of legal excellence ensures that his client is always one step ahead, ready to counter any opposition and advocate fiercely on behalf of his clients.

**Step Three:** Adaptability is a cornerstone of Bart's success. He understands that a winning strategy must be dynamic and responsive to changing circumstances. When a particular approach proves ineffective, he pivots, recalibrating tactics to secure the best possible outcome for clients. This strategic agility allows him to navigate complex legal landscapes with confidence, adapting swiftly to unforeseen challenges and maximizing the chances of success.

**Step Four:** Bart thrives under pressure, fearlessly confronting formidable opponents and fiercely protecting his clients' interests. He fears no challenge and tirelessly fights for justice, leaving no doubt that the clients' cases are in the hands of a steadfast advocate.

## Education

- J.D., George Mason University, 1990
- B.A., Economics, The University of Virginia, 1987

## Admissions

- State Bar of Texas
- United States District Court, Northern District of Texas

- United States District Court, Eastern District of Texas
- United States District Court, Southern District of Texas
- United States District Court, Western District of Texas
- United States Court of Appeals for the Fifth Circuit

## Practice Areas

### Contract Disputes

- Breach of Fiduciary Duty Litigation
- Insurance Disputes & Litigation
- Director & Officer Disputes
- Non-compete & Non-solicitation Clause Disputes
- Defamation Disputes
- Lanham Act Disputes
- TRO & Temporary Injunction Dispute Litigation to prevent Trade Secret Theft
- Force Majeure Contract Disputes
- Arbitration Related Disputes
- Commercial Real Estate Contract Disputes
- Sports Agent Contract Disputes

### Financial Institutions

- Enforcement of Borrower Contracts
- Foreclosures
- Compliance
- Lender Liability

### Energy

- Right of First Refusal Rights Disputes
- Mineral Rights Disputes
- Gatherer Disputes
- Midstream Oil & Gas Disputes
- Upstream Oil & Gas Disputes
- Texas Railroad Commission Disputes
- Oilfield Services / Drilling Disputes
- Purchase of Mineral Interests
- Organizing oil and gas related companies
- Post-Judgment Collection of Oil & Gas Assets for United States Virgin
- Islands Bureau of Internal Revenue as Special Assistant to USVI Attorney General

### Government

- Appointed Special Assistant to US Virgin Island Attorney General by two
- Governors over a 10-year period to collect \$40MM in unpaid taxes, penalties, and interest

### Hospitality

- Hotel Management Contract Disputes
- Supply Chain Contract Disputes

### Insurance Industry

- First- and Third-Party Representation
- Stowers and Bad Faith Litigation
- Insurance Agent Negligence and Gross Negligence Litigation

- Surplus Lines Insurance Coverage Disputes

## Legal Malpractice

- Negligence and Gross Negligence Litigation

## Transportation

- Shipping Disputes
- Transportation and Logistics Disputes
- Acquisitions & Joint Ventures
- Business Planning and Entity Formation
- Capital Markets
- Corporate Governance, Compliance & Investigations
- Insolvency & Restructuring
- Mergers & Acquisitions
- Private Equity

## Representative Work

- Member of team that took over representation of Defendant in defamation case past discovery deadline with Plaintiff claiming nearly \$200MM in damages. Plaintiff spent more than \$15MM in attorneys' fees pursuing suit. Case resolved with client paying no money.
- Member of team that represented seller of vehicle service contracts. Eighth Circuit Court of Appeals found that seller/client had alleged injury that was actual, concrete, and particularized; seller's alleged injury was fairly traceable to the alleged participation of part-owner buying property with loan proceeds; claim of fraudulent transfer allowed to move forward. See *Enter. Fin. Grp., Inc. v. Podhorn*, 930 F.3d 946 (8th Cir. 2019).
- Represented oil and gas company in successfully overturning adverse summary judgment with appellate court finding right of first refusal rights were covenants running with the land. See *MJR Oil & Gas 2001 LLC v. AriesOne, LP*, 558 S.W.3d 692 (Tex. App. 2018).
- Member of trial team representing large commercial real estate broker in Texas in retrial of legal malpractice suit with jury finding Defendant law firm and attorney liable for negligence and gross negligence. See Trial Report Service Week Ending 11/22/2019 at [www.trialreports.com](http://www.trialreports.com).
- Member of trial team representing minority owner of major car dealership who had first right to purchase ethnic minority auto dealership; majority owner placed dealership in bankruptcy to avoid jury trial in state court. Bankruptcy court provided client opportunity to purchase dealership.
- Member of trial team representing inland marina in bad faith insurance dispute against multiple defendants in multiple suits in which client was awarded money damages in excess of policy limits. The jury verdict was one of the top 50 verdicts in the State of Texas in 2012. See *Ins. All. v. Lake Texoma Highport, LLC*, 452 S.W.3d 57 (Tex. App. 2014); see also *CRC Ins. Servs., Inc. v. Lake Texoma Highport, LLC*, No. 05-14-00405-CV, 2014 WL 5449037, at \*1 (Tex. App. Oct. 28, 2014).
- Served three terms as a Special Assistant to Attorney General of U.S. Virgin Islands. Appointed by two Governors of the U.S. Virgin Islands to represent the Virgin Islands Bureau of Internal Revenue in major tax-related litigation. Served as lead counsel in a three-week AAA arbitration in Manhattan which resulted in turnover of oil and gas assets valued in excess of \$20MM. See e.g., *Gov't of The Virgin Islands v. Lansdale*, 307 F. App'x 688 (3d Cir. 2009) which was argued by Higgins before Third Circuit Court of Appeals.
- Member of trial team responsible for examining Defendant's experts and several witnesses in the matter of *Basic Capital, Inc. v. Dynex Commercial, Inc.* Trial lasted over

30 days. The verdict ranked as the 55th highest in the country in 2004. See *Basic Cap. Mgmt., Inc. v. Dynex Com., Inc.*, 348 S.W.3d 894 (Tex. 2011).

- Member of trial team representing Miami Cigar Company against U.S. Tobacco Company and several of its officers and directors in Dade County, Florida. Prepared plaintiff's expert and took the depositions of the opposing experts. This litigation involved allegations of antitrust violations, misappropriation of protected customer lists, and other business-related tort claims. The jury returned a verdict in favor of Miami Cigar, which was ranked as one of the top 100 verdicts in the country in 2002.
- Represented company headquartered in Virginia in diversity breach of contract action against former employee residing in Florida; successfully argued that non-resident employee's alleged contacts with Virginia were sufficient to establish personal jurisdiction under the Virginia long-arm statute with motion to transfer venue denied. *Prod. Grp. Int'l, Inc. v. Goldman*, 337 F. Supp. 2d 788 (E.D. Va. 2004).
- Member of trial team primarily responsible for examining Plaintiff's expert in a dispute involving a \$118MM transaction concerning numerous apartment complexes.
- Successfully defended NYSE publicly traded Real Estate Investment Trust against more than \$30MM in claims and successfully obtained a verdict on client's counterclaim.
- Represented American Home Mortgage in lawsuit filed by Freddie Mac.
- Represented Blockbuster franchisees in several litigation matters involving allegations of mismanagement, misappropriation of funds and internet selling practices detrimental to franchisees.
- Represented the national hospitality company – Hyatt Corporation (“Hyatt”) –against National Association of Postmasters of the United States (“NAPUS”) where NAPUS unsuccessfully sought to cancel a multi-million-dollar convention contract under force majeure clause due to inclement weather. See *Nat'l Assoc. of Postmasters of U.S. v. Hyatt Regency Washington*, 894 A.2d 471 (D.C. 2006).
- Represented Hyatt in several disputes where groups unsuccessfully sought to cancel booking contracts valued in excess of \$1MM under force majeure clause due to the events of 9/11.
- Represented Hyatt as Senior Associate at large law firm in Hawaii and St. John, USVI, involving termination of 30-year hotel management agreement and practices of rebates and chain allocations in hotel industry.
- Represented Hyatt in matters involving the negotiation and preparation of multi-year group contracts.
- Represented several purchasing companies for up-scale hotels in matters involving the negotiation and preparation of contracts with vendors and customers.
- Represented former Certified Contract Advisor in major litigation pending in civil litigation against the National Football League Players Association (the “NFLPA”) and several NFLPA officers in matter involving allegations of unfair labor practices, state-based tort claims and state anti-trust claims. See *Weinberg v. Nat'l Football League Players Ass'n*, 286 F. App'x 215, 216 (5th Cir. 2008).
- Represented major golf course developer/owner in a \$100 million finance litigation matter in Hawaii against Japan's largest bank. Case involved allegations of diversion by lender of \$50 million funding for golf course construction to pay for cost-overruns incurred in the construction of a luxury hotel on Maui.
- Represented multi-national real estate company in specific performance action over nationally designated landmark property in Houston, Texas. Buyer's claims against seller alleged malfeasance surrounding environmental disclosures, due diligence materials, and non-compliance with closing practices, policies, and requirements of the buyer's lender.
- Represented real estate investment trusts against major commercial financing companies involving allegations of breach of lending commitments.

- Represented multiple plaintiffs against Nutri-System who were allowed to assert bodily injury claims under false advertising statute without a finding of criminal liability. See *Maldonado v. Nutri/Sys., Inc.*, 776 F. Supp. 278 (E.D. Va. 1991).

## Media Mentions

- Plaintiff Verdict Summary reached by jury in *Henry S. Miller Commercial Co. v. Newsom, Terry & Newsom, et al.*, Trial Reporter Service, 11.22.2019
- "Texas Court Upholds Marina's \$8.7MM Jury Verdict in Coverage," Law 360, 11.21.2014
- "Attorney Presented a Defense in Less Than Four Minutes: Plaintiff's Jury Verdict: \$4,636,088 – Verdict Search, Texas, Vol. 14. Issue 22, 05.26.2014
- "Dynex Must Pay \$27MM for Breaching Development Loan Deal," Law 360, 02.14.2013
- "Texas Court Backs 3rd-Party Property Contracts" – Law 360, 04.01.2011
- 08-1674 Document: Government of Virgin Islands v. William Lansdale. www. Govinfo.gov, 01.28.2009
- *National Association of Postmasters of the United States v. Hyatt Regency Washington*, caselawfindlaw.com, 03.16.2006
- "False Advertising Claim Exists Even Without Successful Criminal Prosecution," Case Text, 10.24.1991

## Publications

- "Documentation is the Best Defense" by James D. Shields and Bart F. Higgins (Shields Legal Website)
- "Lessons Learned from Insurance Broker Litigation: Delivery of Insurance Quotes" by Bart F. Higgins (Shields Legal Website)
- "Business Loan Covenants and the Pandemic – What to Do to Avoid Default" by Bart F. Higgins and Tandy V. Jouret (Shields Legal Website), 04-21-2020
- "Coronavirus Meets Force Majeure" by Bart F. Higgins (Shields Legal Website), 04-16-2020
- "Know Your Insurance Coverage Before a Pandemic Destroys Your Business" by Bart F. Higgins (Shields Legal Website), 04-07-2020
- "How Visuals Communications Won our Client \$21MM in Court" by Bart F. Higgins (Shields Legal Website), 02-27-2020
- "How to Protect Your Business from Insurance Fine Print" by Bart F. Higgins (Shields Legal Website), 11-07-2019

## Affiliations

- Conscious Capitalism, Dallas Chapter, Member
- January 2020 to present - Pro Bono Legal Services to Members of the Community who either Lost Family Member to Covid or Could Not Afford to Pay Legal Fees – more than 20 hrs. per year
- September 2017 to present - Volunteering During Freedom Day
  - North Texas Food Bank
  - Bonton Farms
  - Minnie's Food Pantry
  - Heart House Dallas
  - Trinity River Clean-Up