Richard Leiper KC

Silk: 2017 Call: 1996

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Richard is a litigator and advocate, both in the High Court and Employment Tribunals, as well as in appeals and arbitrations.

He has a wide-ranging practice, acting for individuals and for businesses. Recent cases encompass the duties of senior employees, directors, and shareholders; confidential information and restraint of trade; complex discrimination and whistleblowing claims; penalty clauses; and professional negligence by solicitors.

He is regularly involved in all stages of a claim, from initial advice and pleading, interim applications, mediations to speedy trials and appeals.

In the Who's Who Legal UK Bar Report 2019, Richard was identified as one of the 7 most highly regarded silks in employment law, adding that he "gains extensive praise as 'a real star of the Bar', and an 'absolutely outstanding, confident, commercial and diligent advocate'."

> ***He is widely identified by peers as an impressive advocate v is formidable in cross-examination. He has a very broad employment practice, with particular expertise in difficult restrictive covenant issues and high-profile discrimination claims.***
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> LEGAL 500

Expertise

Employment

Richard has substantial experience in all aspects of employment law, both statutory and common law, appearing at every level. From 2005 onwards he has advised in very long-running equal pay disputes. He continues to appear in long employment tribunal claims, predominantly those involving discrimination and whistleblowing claims, acting both for employer and employee, as well as in employment appeals.

> ***Richard Leiper is excellent and a great advocate who knows exactly what the judges want to hear.***
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> CHAMBERS & PARTNERS

Financial Services Regulation

Richard is a co-editor and substantial contributor to "Conduct and Pay in the Financial Services Industry", published in the Lloyd's Commercial Law Library in 2017. The book reflects his expertise in this field, advising in particular on all aspects of the Senior Managers Regime, the Certification Regime and remuneration issues (arising both under the remuneration codes, including malus and clawback, and the common law). He has been involved in some of the leading cases on City bonuses.

Commercial Litigation

Richard has an extensive High Court commercial practice, appearing in the Commercial Court, Circuit Commercial Court, Queen's Bench Division, Chancery Division and the Technology and Construction Court, as well as in arbitrations. His core practice centres on the relationship between the individual and the corporate body: directors' duties, boardroom and shareholders' disputes, the economic torts, conspiracy, protection of confidential information and restraint of trade, including team moves. Nevertheless, the subject matter is diffuse, from solicitors' negligence to the heat treatment of torsion bars. He has considerable experience in dealing with injunction applications, both with and without notice.

Recent cases

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Matovu v 2 Temple Gardens

[2023] EAT 58 [2023] IRLR 533

Richard was instructed by a set of barristers' chambers successfully resisting an appeal brought on the grounds of alleged bias and procedural unfairness by the original employment tribunal.

Gagliardi v Evolution Capital Management

[2023] EWHC 1608 (COMM) [2023] IRLR 920

Richard (leading Judy Stone) acted for the former employer in this case which was the first to look at the new rules introduced post-Brexit governing jurisdiction over claims against employees.

Tinkler v Esken Ltd

[2023] EWCA CIV 655 & [2023] CH 451 [2023] 3 WLR 457 [2022] EWHC 1375 & 1802 (CH) [2022] COSTS LR 1265

The claimant sought to set aside an earlier judgment ([2019] EWHC 258 (Comm)) on the grounds that it had been obtained by the fraud of the defendant and its officers. Richard (leading Daniel Isenberg) acted for the company. Leech J dismissed the claim and awarded costs on an indemnity basis. The claimant appealed that judgment and the appeal was refused. The Master of the Rolls gave guidance to trial judges on the proper approach in considering claims of this type.

Richards v Speechly Bircham LLP

[2022] EWHC 935 (COMM) AND [2022] EWHC 1512 (COMM) [2022] COSTS LR 971

Richard acted for the claimants in their claim for professional negligence in the context of a private equity transaction, in which they demonstrated that the defendant had failed to advise that there was a significant risk that the value of their residual interest in the business they had built up would not be protected under the proposed leaver provisions.

Stobart Capital Ltd v Esken Ltd

[2022] EWHC 1036 (CH)

Richard acted for the defendant, which successfully established that it had had lawful grounds on which to terminate a management services agreement.

Burnell v Trans-Tag Ltd

[2021] EWHC 1457 (CH)

Richard acted for the claimant in a claim which established that the statutory fiduciary duty to avoid conflicts of interest was a continuing duty.

Alesco Risk Management Services Ltd v Bishopgate Insurance Brokers Ltd

[2019] EWHC 2839 (QB)

Richard led Michael Lee in this 3 week trial concerning an alleged team move within the insurance broking sector.

Rashid v Oil Companies International Marine Forum

[2019] EWHC 2239 (QB)

Richard led Natalie Connor in this trial on whether a private body had complied with the principles of natural justice in withdrawing its authorisation for an individual to act as a ship inspector.

Hallett v Derby Hospitals NHS Foundation Trust

[2019] EWCA CIV 1394 [2020] 2 ALL ER 201 [2019] MED LR 486 (2019) 169 BMLR 1 [2018] EWHC 796 (QB) [2018] 3 ALL ER 895 [2018] MED LR 451

This was recognised by Simler J as a test case raising a question of some importance, of significance across the whole NHS, concerning the monitoring and pay of junior doctors' breaks. The Court of Appeal ruled that the system for monitoring breaks was a breach of the claimant's contract.

Pease v Henderson Administration Limited

[2019] EWCA CIV 158; [2018] EWHC 661 (CH)

Richard, leading Zac Sammour, acted for the claimant, an investment fund manager who brought claims for breach of contract against his former employer arising out of its failure to pay him around £4 million in management fees (which it had purported to defer and forfeit on termination), and its failure to allow him to replace the manager of a £1 billion investment fund on termination of his employment. The company's counterclaim for unpaid management fees failed. The claim for management fees was successful. Allowing the defendant's appeal in part, the Court of Appeal decided that there had been no further breach as (on the proper construction of the contract) the claimant had been able to replace the manager of the fund.

Stobart Group Ltd v Tinkler

[2019] EWHC 258 (COMM)

Richard acted for the Claimant, leading Daniel Isenberg, in a case that was described by the Daily Mail as "One of the most vicious High Court battles ever to grip the City". The court found that the Defendant had been lawfully dismissed and removed as a director, in a judgment which considered the responsibilities of directors in their interactions with the board and with shareholders.

DHL Supply Chain Ltd v Secretary of State for Health and Social Care

[2018] EWHC 2213 (TCC)

Application for summary judgment and a cross-application for the lifting of the automatic stay under the Public Contracts Regulations 2015, concerning a procurement exercise for the provision of logistics services to the NHS with a value of £730m.

Reading Borough Council v James

[2018] IRLR 790, [2018] ICR 1839

Richard acted for the Council in its appeal challenging the proper extent of an equal pay comparison between a female claimant and a male comparator doing work of equal value who is promoted out of the job, leaving other viable comparators in place (ie the scope of the *Sorbie* principle). The judgment was given by the President, Simler J.

Gascoigne v Addison Lee Limited

UKEAT/0289/17, 11 MAY 2018, [2018] ICR 1826

Richard acted for the appellant/respondent company in this significant 'gig economy' case on the worker status of cycle couriers.

Faieta v ICAP Management Services

[2017] EWHC 2995 (QB), [2018] IRLR 227, QBD, DECEMBER 6 2017

Employer had not breached an implied duty of rationality in deciding to place the claimant on garden leave.

Capita v Darch

[2017] IRLR 719, [2017] EWHC 1248 (CH)

Richard acted for the new employer, resisting an interim application for springboard and other relief made by the former employer of a group of transferring employees.

Richards v IP Solutions Group Limited

[2016] EWHC 1835 (QB)

Wrongful dismissal of founders of a business who, following sale, had become shareholders, directors and employees of the company acquiring that business.

Paturel v DB Services (UK) Ltd

[2016] IRLR 286 , [2015] EWHC 3659 (QB), QB, NOVEMBER 13 2015

Employer not in breach of contract when it exercised its discretion to award a financial trader a smaller annual bonus than was awarded to others.

Cavendish Square Holdings BV v El Makdessi

[2016] AC 1172, [2015] UKSC 67 [2013] EWCA CIV 1539 & 1540 [2012] EWHC 3582 (COMM), [2013] 1 ALL ER (COMM) 787

Richard acts for the claimants in this claim against a shareholder and former director, alleging that he was a defaulting shareholder and seeking the transfer of his shares.
The trial concerned the enforceability of covenants in a share purchase agreement which were alleged to have been in unenforceable restraint of trade or a penalty.
In a subsequent hearing, the court granted permission for the claimants to bring an application under the new rules relating to contempt of court.
Both issues were the subject of appeals to the Court of Appeal. This was the first case in the Court of Appeal considering the new CPR Part 81.
The Supreme Court's judgment is confined to the penalty rule and is now the leading case on the subject, defining "the true test" for the application of the rule.

Clements v Lloyds Banking plc

[2014] ICR D22, EAT, APRIL 30 2014

An employment tribunal had been entitled to find that a manager's remark had constituted age discrimination and that the employee had been constructively dismissed, but that the discriminatory act had not caused the constructive dismissal.

Farnon v Devonshires

[2011] EWHC 3167 (QB)

Richard acted for the claimant in her claim against a firm of solicitors for advice she received in relation to her membership of a limited liability partnership.

Rabobank v Docker

[2011] EQLR 580

The EAT rejected a challenge to the Judgment of the Employment Tribunal in which it found that the Bank had discriminated against the Claimant on grounds of his race. Richard acted for the claimant before both the Tribunal and the EAT.

Redcar & Cleveland Borough Council v Bainbridge

[2009] ICR 133

This appeal addressed a number of issues central to equal pay, including the lawfulness of pay protection and the application of the doctrine of res judicata. When handing down judgment, Mummery LJ said that in his experience, this case involved "the most complex employment issues ever to have been considered by this court."

Igen Ltd v Wong

[2005] ICR 931

The leading case on the correct approach to the burden of proof in discrimination cases. This was subsequently applied in Laing v Manchester City Council [2006] ICR 1519, often cited with Igen, in which Richard appeared for the claimant.

Achievements

News, Articles & Publications

Co-Editor (with Tom Ogg) and contributor, *Conduct and Pay in the Financial Services Industry: The Regulation of Individuals, Informa Law from Routledge* (2017).

Contributor to *Tolley's Employment Handbook* (2015).

Memberships

Employment Law Bar Association (and its Chair from 2013-2015)

Employment Lawyers Association

COMBAR

Financial Services Lawyers Association

Other

Recorder, Crown Court, 2018

Former Chair of the Advisory Council of the Litigant in Person Support Strategy

The complete package

LEGAL 500

He is widely identified by peers as an impressive advocate who is formidable in cross-examination. He has a very broad employment practice, with particular expertise in difficult restrictive covenant issues and high-profile discrimination claims.

LEGAL 500

An excellent mind, an accomplished cross-examiner and a master of equal pay issues.

LEGAL 500

The leading junior at the Employment Bar without doubt – he is a KC in a junior's clothing.

LEGAL 500

For the second consecutive year, Richard was the only "starred junior" in Employment Law.

CHAMBERS & PARTNERS

Brilliantly articulate, incredibly responsive, really, really clever, and very versatile.

CHAMBERS & PARTNERS

A 'class act' and admired by his clients for his 'creative' approach

LEGAL 500

The all-round package and you can be confident when you use him that you'll get the desired result

CHAMBERS & PARTNERS

Very impressive, very robust and also client-friendly

LEGAL 500