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RICHARD FOWLER

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OVERVIEW

Richard is a highly experienced and well-regarded practitioner who frequently appears in large-scale and technically demanding litigation. He has successfully taken cases (both led and unled) as far as the UK Supreme Court.

Most of his work is in the fields of commercial litigation, real estate disputes, civil fraud, and company / partnership claims. He also has experience in insolvency disputes, trusts and probate cases, and property-related professional negligence claims.

Directories describe him as "***a compelling advocate who always gives silk-quality advice" and "very user-friendly and brilliant with clients***", as well as having "***a superb grasp of all things property***".

Recent cases include:

- ***Sara & Hossein v Blacks***: acting for the successful respondent in Supreme Court appeal on service charge provisions in commercial leases;
- Acting for a property investment company in a multi-million-pound civil fraud claim against a joint venture backed by a major bank and a sovereign wealth fund;
- Representing a fintech company in claims arising from a substantial alleged fraud by a payment processor;
- Acting for a financial services company in a claim against a delinquent director for diverting a high-value commercial opportunity arising from a bond issue backed by European real property assets.

EXPERTISE

COMMERCIAL LITIGATION & ARBITRATION

Richard has acted in a wide range of commercial cases, including heavy and high-value claims. He is particularly valued for his ability to take on cases which cross multiple fields of expertise, and many of his commercial cases involve disputes over property rights, property development or property-backed assets. He also has experience of litigation in the growth areas of fintech and crypto-currencies, in relation to financial products generally, and in the music and entertainment industries. He has broad expertise in seeking (and resisting) interim remedies in these fields (see Civil Fraud for details).

Sample cases:

- Advised large insurer / funder in contractual dispute over c. £50m funding agreement in relation to high-end hotel / residential development.
- Advised / represented English electric vehicle infrastructure company in contractual dispute with American financial intermediary.
- Advised / represented a large crypto-currency exchange in claims relating to a substantial alleged fraud by its payment processor.
- Represented a group of pharmaceutical companies in contractual claims arising from the collapse of a joint venture.
- Acted for an asset management company in a claim against a director for allegedly diverting a substantial business opportunity for his own benefit. The opportunity arose from the issue of exchange-traded notes (ETNs) backed by European real property assets.
- ***Holyoake v Candy*** [2017] EWHC 3397 (Ch): nine-week trial in the Chancery Division concerning an alleged tortious conspiracy in relation to a prestigious central-London property development; damages were pleaded at £132 million. The trial was described by ***The Lawyer*** as one of its Top 20 cases of 2017. The interim stages yielded significant judgments on freezing and notification injunctions, abuse of process, ATE insurance policies and loss of w.p. privilege (led by Anthony Trace KC and Roger Stewart KC).
- Acted for a Canadian investment company in claims against its lead lender following defaults on syndicated loans made to London property developers.
- ***Achom v Lalic*** [2014] EWHC 1888 (Ch): eight-day trial in the Chancery Division of claims relating to the ownership of a high-profile Mayfair nightclub, also involving partnership and property law issues.
- ***Tilga v Doolan***: acted for an American businesswoman in multi-million pound proceedings against her English financial adviser, involving claims in deceit, alleged misappropriation of assets, constructive trusts, freezing injunction and jurisdictional issues (led by).
- Advised a Dubai company in a large contractual dispute over the supply of aviation fuel.
- Acted in litigation between a property investor and a large construction company arising from a sale and leaseback agreement involving the builder's show-homes (led by Edwin Johnson KC).
- ***Progress Property Co Ltd v Moore et al*** [2008] EWHC 2577 (Ch): 14-day trial arising from the restructuring of the property subsidiaries of a substantial retail group, involving allegations of breach of director's duties, a claim that the sale of a subsidiary was ***ultra vires*** a company, and disputed commercial property valuations, together with contractual claims arising from a share purchase agreement (led by

John McGhee KC).
- ***KPMG LLP v Network Rail Infrastructure Ltd*** [2006] EWHC 67: trial of claims relating to the construction / rectification of the break clause in the lease of a large office building at Puddle Dock, Blackfriars, London (led by Hazel Williamson KC).

REAL ESTATE

Richard advises and litigates on a wide range of real estate matters, primarily high-value disputes between developers and commercial landlord and tenant claims, as well as mortgage actions and other lender claims. He has extensive experience of commercial service charge disputes, dilapidations, disputed lease forfeitures, break notice disputes and 1954 Act claims, as well as cases concerning easements and covenants. He has also worked on nuisance and property damage disputes and the associated insurance law issues, and on the Electronic Communications Code and its implications for property litigators.

Sample cases:

- ***Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd*** [2023] UKSC 2: acted unled for the successful respondent property company in a Supreme Court appeal by its tenant, a large sports / outdoor retail chain, over disputed service charges.
- Acting for large property company in claim to recover premises from its tenant, a well-known restaurant chain, following the entry of the latter into administration.
- Acted for the owners of a vehicle breakers' / metal recycling business in Essex in a claim alleging nuisance arising from the conduct of their business.
- ***Macey v Pizza Express (Restaurants) Ltd*** [2021] EWHC 2847 (Ch): appeal by landlord who wished to recover restaurant premises under s. 30(1)(g) of the 1954 Act in order to run a bistro of his own. First High Court judgment to consider Supreme Court decision in ***Franses v Cavendish***.
- Advised property developers in complex dispute with the administrators of the vendor over sale of a high-value mixed-use development site adjacent to a proposed HS2 station.
- Advised on meaning / effects of "keep open" covenants in food court leases at NHS hospital during Covid-19 pandemic.
- Represented a multinational supermarket chain in contractual disputes with a property developer over a major proposed development in the Midlands (led by Timothy Dutton KC).
- ***Holyoake v Candy*** [2017] EWHC 3397 (Ch): nine-week trial in the Chancery Division concerning an alleged tortious conspiracy in relation to a prestigious central-London property development, described by ***EGi*** as "the property trial of the century (so far)" (led by Anthony Trace KC and Roger Stewart KC).
- Advised a large national brewing / pub / restaurant chain in a rent review arbitration against its landlord in relation to substantial premises in Leeds, and in a connected professional negligence claim against its former solicitors.
- Instructed in an arbitration over the dissolution of a valuable farming partnership in Yorkshire.
- ***Eastbury Developments Ltd v Tudor Property Agents*** (2012), (2013): acted for the (successful) defendants / respondents at trial and in the Court of Appeal in a contractual dispute over the redevelopment of a former US Air Force base in Norfolk.
- Acted in litigation between developers relating to a large property development in Guildford, involving

breach of contract and rectification claims (led by John McGhee KC).

- ***Rigsby Asset Management Ltd v Rigsby (New Homes) Ltd*** (2012): instructed by the successful defendant (acting by LPA receivers) in a three-day trial involving claims for damages for wrongful forfeiture and relief from forfeiture of a lease of commercial premises in Windsor.
- ***Tradegro (UK) Ltd*** v ***Progress Property Company Ltd***: rectification claims in respect of repairing indemnities given in the context of a sale of the freehold reversions to a portfolio of retail properties (led by John McGhee KC).
- ***Stanbridge v AITC Ltd*** [2012] EWHC 1009 (Ch): acted for the wife in a four-day trial in the Chancery Division against a finance company, in circumstances where her husband had forged her signature on a mortgage deed and other documents. The wife succeeded on an unusual defence to an unjust enrichment claim, where money had been "siphoned" through a joint account by her husband without her knowledge.
- Appeared for the landlord in Companies Court proceedings against the administrators of the Oddbins chain of wine merchants to recover premises let to Oddbins.
- Acted for the administrators of a well-known sports / outdoor retail chain in applications brought by various landlords in the Companies Court to recover premises let to the chain.

CIVIL FRAUD

Richard has acted in a wide variety of civil fraud cases, both led and unled, including actions for deceit and claims involving conspiracy and other economic torts. His experience of interim remedies includes: the first reported cases on "notification injunctions", a variant of the freezing injunction; "ordinary" and proprietary freezing injunctions; ***Norwich Pharmacal*** and ***Bankers' Trust*** orders; and injunctions restraining presentation of winding up petitions.

Sample cases:

- Acted for property investment company in a multi-million-pound civil fraud claim against a joint venture backed by a major bank and a sovereign wealth fund, involving alleged diversion of valuable investment opportunities in UK property.
- Acted for local authority in conspiracy claim against property developers alleging manipulation of viability reassessment in a residential development.
- Represented fintech company in claims arising from a substantial alleged fraud in Canada by a payment processor.
- Successfully defended the UK directors of a boutique international financial consultancy against a fraudulent misrepresentation claim by a Mauritanian company, which arose from the rejection of a claim under a standby letter of credit.
- ***Holyoake v Candy*** [2017] EWHC 3397 (Ch): nine-week trial in the Chancery Division concerning an alleged tortious conspiracy in relation to a prestigious central-London property development (led by Roger Stewart KC).
- ***Holyoake v Candy*** [2018] Ch 297: Court of Appeal guidance as to the circumstances in which the court will grant a "notification injunction", a variant of the freezing injunction. (led by Anthony Trace KC, Roger Stewart KC).

- ***Holyoake v Candy*** [2016] EWHC 2119 (Ch): court guidance on the circumstances where a threat made in without prejudice communications will result in a loss of privilege (led by Roger Stewart KC).
- Proprietary freezing injunction on behalf of an asset management company in a claim against its director for allegedly diverting a substantial business opportunity arising out of a property-backed ETN issue.
- Obtained ***Norwich Pharmacal*** and ***Bankers' Trust*** relief on behalf of a major international crypto-currency exchange seeking to bring claims against its payment processor.
- ***Re Fella, Gallone v Piggford***: freezing injunction against financial adviser who had misappropriated the savings of a wealthy lady prior to her death and dishonestly procured a substantial gift to himself in her will.
- Acted for successful intervener in resisting the making of a final charging order sought by a firm of solicitors in the Queen's Bench Division against their own client, on the ground that its effect would be to stultify a freezing injunction granted in the Chancery Division.

COMPANY & PARTNERSHIP

Richard is experienced in a range of company and partnership litigation, including s. 994 petitions and claims against defaulting directors.

Sample cases:

- Acted for defendant internet service provider in claim by liquidators of a group company alleging that an asset transfer between the companies was either a transaction defrauding creditors under Insolvency Act 1986 s. 423 or a sham.
- ***Add2 Research & Development Ltd v dSpace Ltd*** [2021] EWHC 1630 (Pat): appeared for claimant (on company-law issues) in six-day trial in Patents Court of claim for damages for infringement of patent in automotive electronics; defendants alleged that assignment of patent to claimant was ***ultra vires*** the transferor and void as an unlawful distribution of company capital at common law (led by Guy Burkill KC).
- Advising the co-founder and minority shareholder in a successful software start-up on s. 994 and contractual claims against subsequent investors who were excluding him from the business.
- Representing an (innocent) GP defendant in a claim for catastrophic clinical negligence against the principal of a medical practice, to which the innocent GP had been joined as an alleged partner of the principal because the claim was expected to overtop the principal's professional indemnity insurance (led by Caroline Harrison KC).
- Acting for the continuing members of a well-known British rock band in partnership litigation between them and the other band members, in the context of the break-up of the original band.
- Acted for the claimant in a complex dispute over ownership of a property company, where executors of a major shareholder's estate had appropriated shares into a will trust, but the date when they had done so, the value of the shares, and the rights of other shareholders as beneficiaries of the trust were all hotly contested (led by Tom Croxford KC).
- Instructed in an arbitration over the dissolution of a valuable farming partnership in Yorkshire.
- ***Achom v Lalic*** [2014] EWHC 1888 (Ch): eight-day trial in the Chancery Division of claims relating to the ownership of a high-profile Mayfair nightclub.

- ***Progress Property Co Ltd*** v ***Moorgarth Group Ltd*** [2011] 1 WLR 1 (Supreme Court); [2009] EWCA Civ 629 (Court of Appeal): appeared for the successful respondent in the Supreme Court and the Court of Appeal on the question of whether the sale of a subsidiary was ***ultra vires*** a company as an unlawful distribution (led by John McGhee KC).
- Acted for former directors and auditors of a company, facing claims brought by liquidators, in a three-day strike-out application which relied on ***Nomura International v Granada***, contending that the liquidators had lacked knowledge of any basis for their claim when they issued proceedings (led by Anthony Trace KC).
- ***Ahmed & Ahmed v Islam*** (2009): six-day trial of claims relating to Tyneside restaurant and property businesses, raising issues of partnership law and trusts of land.

MEDIA & ENTERTAINMENT

Richard continues to build a practice in the music, publishing, culture and entertainment fields. Cases include:

- Acting for the continuing members of a well-known British rock band in partnership litigation between them and the other band members, in the context of the break-up of the original band.
- Representing a prominent writer in a property / family dispute.
- Advising a famous dancer on a property dispute.
- Advising a well-known fashion designer following the insolvency of a joint venture in which he was involved.
- Advising a prominent American singer on a contractual dispute with an English production company.

INSOLVENCY & ASSET RECOVERY

Richard is well versed in disputes arising in insolvency, including claims by and against liquidators, administrators and trustees in bankruptcy, as well as disputed winding up and bankruptcy petitions. He has acted both for landlords in cases involving insolvent tenants, and for the administrators of insolvent tenants in claims brought by their landlords.

Sample cases:

- Acting for large property company in claim to recover premises from its tenant, a well-known restaurant chain, following the entry of the latter into administration.
- Acted for defendant internet service provider in claim by liquidators of a group company alleging that an asset transfer between the companies was either a transaction defrauding creditors under Insolvency Act 1986 s. 423 or a sham.
- Advised property developers in complex dispute with the administrators of the vendor over sale of a high-value mixed-use development site adjacent to a proposed HS2 station.
- Obtained urgent without-notice injunction restraining presentation of winding-up petition in dispute between English electric vehicle infrastructure company and American financial intermediary.
- ***Popely v Mysave Residential Property Ltd*** (2019): highly contentious bankruptcy proceedings set against the

background of a s. 994 petition and other litigation involving a group of family businesses.
- Injunction restraining presentation of a winding up petition against a well-known boutique firm of solicitors on a disputed trade debt.
- Represented the landlord in Companies Court proceedings against the administrators of the Oddbins chain of wine merchants to recover premises let to Oddbins.
- Acted for the administrators of a well-known sports / outdoor retail chain in applications brought by various landlords in the Companies Court to recover premises let to the chain.
- ***Tradegro (UK) Ltd v Wigmore Street Investments Ltd*** [2011] EWCA Civ 268 and [2010] EWHC 1693 (Ch): applications in the administration of a Bermuda company, involving the construction of a solicitors' undertaking and of an indemnity given in the context of a corporate restructuring (led by John McGhee KC).

PRIVATE CLIENT

Richard maintains a busy practice on the litigation side of private client work. He has acted in claims against trustees, will and probate actions, and other disputes involving executors and attorneys. Some of his most interesting and challenging work in this area relates to Inheritance Act / family provision claims.

Sample cases (general):

- ***Davey v Bailey*** [2021] EWHC 445 (Ch): trial of "deathbed gifts" claim. A wealthy married couple without children had died in quick succession, meaning both estates went to the husband's family; the wife's relatives claimed that she and her husband had made ***donationes mortis causa*** to them.
- Acted for beneficiaries in a claim to obtain control from delinquent trustees of the will trusts of a deceased person who had been given inappropriate (and allegedly fraudulent) financial and estate planning advice.
- Instructed by the claimant in a dispute over ownership of a property company where executors of a major shareholder's estate had appropriated shares into a will trust, but the date when they had done so, the value of the shares, and the rights of other shareholders as beneficiaries of the trust were all hotly contested (led by Tom Croxford KC).
- ***Re Fella, Gallone v Piggford***: the financial adviser of an elderly lady had procured a substantial gift to himself in her will by fraud, in circumstances where he had also stolen money from her during her lifetime; Richard acted for her relatives in a claim against the adviser.
- Acted for an English executor in proceedings against attorneys under an EPA. The deceased had retired to Thailand and then remarried in Laos, and the case raised potentially difficult jurisdictional issues.
- Acted for the claimant in a complex probate case where the validity of two wills was challenged and an alleged third will had been lost.
- Acted for the claimant in a case which raised overlapping issues in the law of probate and of proprietary estoppel / constructive trusts. An elderly couple had left him a life interest in a house, from which the executors subsequently sought to evict him.

Sample Inheritance Act claims:

- Advising the second wife of a wealthy businessman in a claim against a high-value estate, where the wife was also a beneficiary of a discretionary trust set up by her husband.
- Acting for the wife and child of a deceased British resident born in Ghana in a claim against the deceased's estate; the case raised a number of technical issues, including whether the English court would recognise the validity of the marriage ceremony in Ghana, and how it would take account of the wife's real property assets in Ghana.
- Acting in a case involving the estate of a British academic, where the claimant, the academic's partner, was simultaneously seeking asylum in the UK as he feared persecution in his country of origin on account of his sexual orientation.

OFFSHORE & TRUSTS

Richard maintains a busy practice on the litigation side of private client work. He has acted in claims against trustees, will and probate actions, and other disputes involving executors and attorneys. Some of his most interesting and challenging work in this area relates to Inheritance Act / family provision claims.

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- Acting in a case involving the estate of a British academic, where the claimant, the academic's partner, was simultaneously seeking asylum in the UK as he feared persecution in his country of origin on account of his sexual orientation.

PROFESSIONAL NEGLIGENCE

Richard has an extensive practice in the field of professional negligence (mainly in property contexts), representing both claimants and defendants. He has acted in claims against lawyers, surveyors and valuers, accountants and financial advisers, and receivers. He has also advised on professional indemnity insurance matters. He has particular expertise in lender claims, including the issues that can arise from the securitisation or syndication of loans.

Sample cases:

- ***Arrassey v Nelsons*** (2022), (2023): acted for claimant property investment company in negligence claim against its conveyancer in relation to purchases of buy-to-let flats subject to "escalator" ground rent provisions
- Acted for solicitors and insurers in a complex case resulting from a failed attempt to purchase a gambling business, involving allegations of breaches of duty and breaches of solicitors' undertakings, and issues of partnership law (led by).
- Acted for a large brewery chain in a claim against its former solicitors alleging negligent drafting of rent review provisions in a restaurant lease.
- ***International Leisure Ltd v First National Trustee*** [2013] Ch 346: acted for the successful appellant in a ground-breaking appeal which established that the rule against reflective loss (in ***Johnson v Gore Wood***) would not prevent a secured creditor from bringing breach of duty claims against a receiver it had itself appointed.
- Acted for the claimant in a very high-value solicitors' negligence claim in the Commercial Court relating to the development of The Shard (led by John McGhee KC).
- Acted for the claimants in a solicitors' negligence claim relating to the drafting of a sale and purchase agreement following a dispute between developers over a large mixed-use development in Guildford (led by John McGhee KC).
- Instructed (by both claimants and defendants) in numerous negligence and/or fraud claims brought by lenders against their solicitors and/or valuers in relation to losses suffered on mortgage transactions.

DIRECTORY QUOTES

"Richard is a brilliant barrister; my go-to for many years, particularly on high value and complex matters. He's sophisticated, well prepared and constantly considers and plans ahead to get cases into the best possible position. He's accessible, responsive and very commercial."

Chambers UK Real Estate Litigation (2027)

"Richard is extremely sharp with a keen eye for detail and a thorough understanding of our clients' business needs."

Chambers UK Real Estate Litigation (2027)

"Richard is a seasoned advocate: measured, balanced, and scrupulously fair. Judges listen to him. His written advocacy and submissions are always sublime."

Legal 500 UK Property Litigation (2027)

"Richard Fowler is a superstar; an untapped genius in his advice."

Chambers UK Real Estate Litigation (2027)

"Richard Fowler is a fantastic barrister. He is an all-round excellent barrister for my cases, and I would not hesitate to recommend him."

Chambers UK Real Estate Litigation (2027)

"Richard has proven time and time again to be one of the most helpful, commercially astute and logical barristers we have used."

Chambers UK Real Estate Litigation (2026)

"Richard is almost without peer when it comes to being an excellent senior junior with both a meticulous eye for detail and a calm and reassuring advocacy style."

Chambers UK Real Estate Litigation (2026)

"He is disarmingly intelligent."

Legal 500 Property Litigation (2026)

"Richard is quite simply brilliant. He is forensic, gets to the heart of the issue, and is commercial, responsive and accessible."

Chambers UK Real Estate Litigation (2025)

"Richard is a very effective, go-to barrister for property-related insolvency advice and advocacy."

Chambers UK Real Estate Litigation (2025)

"Richard has excellent technical knowledge and is a fantastic advocate both orally and in writing. He is very commercial and is aware of the client's main aims, reflecting that in his advice."

Chambers UK Real Estate Litigation (2025)

'Richard is highly approachable, very good at handling clients and clear in his advice. His advocacy is highly articulate and persuasive both on applications and trials. He avoids much of the pomposity which can come with some counsel without losing his authority.'

Legal 500 Property Litigation (2024)

"A superb legal brain with a seemingly encyclopaedic knowledge of the law, Richard is a compelling advocate who always gives silk-quality advice."

Legal 500 Property Litigation (2023)

"I trust Richard implicitly with complex, high-value matters. He gets to grips with a number of complex issues and can marshal large bodies of evidence."

Chambers & Partners UK Bar (2023)

"Richard is very user-friendly and brilliant with clients."

Chambers & Partners UK Bar (2023)

"Richard is thorough and displays an empathy with clients seldom seen."

Legal 500 UK Property Litigation (2022)

"Technically very bright, good on the detail and adaptable"

Legal 500 Property Litigation (2019)

"He has great powers of persuasion and enormous intelligence."

Legal 500 Property Litigation (2017)

MEMBERSHIPS

- COMBAR
- Chancery Bar Association
- Professional Negligence Bar Association
- Property Bar Association

QUALIFICATIONS

- MA (Hons) First Class (Oxon)
- DPhil (Oxon)

NOTABLE CASES

- *Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd [2023] UKSC 2*
- *Add2 Research & Development Ltd v dSpace Ltd and another*
- *Davey v Bailey*
- *Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd (2020)*
- *Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd (2019)*
- *(1) Mark Alan Holyoake (2) Hotblack Holdings Ltd v Nicholas Anthony Christopher Candy & 5 Ors (2017)*
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- *(1) Mark Alan Holyoake (2) Hotblack Holdings Ltd v Nicholas Anthony Christopher Candy & 5 Ors (2017)*
- *Holyoake v Candy & 5 Ors (2016)*
- *Holyoake v Candy & 5 Ors (2016)*
- *Holyoake v Candy & 5 ors (2016)*
- *Mark Holyoake & Hotblack Holdings Ltd v Nicholas Candy (2016)*
- *Frederic Achom & Ors v Thomir Lalic & Ors (2014)*
- *Webb Resolutions Ltd v JV Ltd (T/A Shepherd Chartered Surveyors) (2013)*
- *Webb Resolutions Ltd v JV Ltd (T/A Shepherd Chartered Surveyors) (2013)*
- *International Leisure Ltd & Citibid Securities Ltd v First National Trustee Co UK Ltd & Ors (2012)*
- *Tradegro (UK) Ltd & Wigmore Street Investments Ltd v Charles Price (2011)*
- *Progress Property Co Ltd v Moorgrath Group Ltd (2010)*
- *Tradegro (UK) Ltd v Wigmore Street Investments Ltd (2010)*
- *Tradegro UK v Wigmore St Investments (2009)*
- *Progress Property Co Ltd v Moorgarth Group Ltd (2009)*
- *Progress Property Co Ltd v Cornus Moore (2008)*