



Richard Power

Call 2007

"Walks into court and knocks it out of the park in terms of the arguments he is giving. He is approachable, straight-talking and always charming. Clients love him."

Chambers & Partners

 rjp@fountaincourt.co.uk  +44 (0)20 7583 3335

Richard Power is a leading junior with a broad commercial practice.

Comments within *Chambers & Partners' 2022 UK Bar Guide* include "[he] walks into court and knocks it out of the park in terms of the arguments he is giving. He is approachable, straight-talking and always charming. Clients love him", while *The Legal 500 (2022)* describes him as "brilliant...[he] can find the key point with laser-like precision and then deploy it before the court, where he knows exactly how to get the judge's ear". He is often instructed as sole counsel against a silk.

In 2020, Mr Justice Foxton described his submissions in *A v B (No 2)* as "skilful and steadfast" and his performance in front of Mrs Justice Moulder in *A v B (No 1)* as a "triumph of advocacy".

Recent Highlights

Kea Investments v Ivory Castle

Acting as lead counsel against a silk and junior team in a c. £20 million Chancery Division action concerning the true ownership of assets held by Ivory Castle. [2020] EWHC 472 (Ch) is now the leading case on the question of whether a defendant is entitled to use monies subject to a freezing injunction to fund the costs of its defence in circumstances where the claimant asserts a "quasi-proprietary" claim to the monies.

Andoro v Dolfin UK & Others

Acting as lead counsel against a silk and junior team in a \$9 million cryptocurrency fraud claim against an FCA regulated entity: [2021] EWHC 1963 (Comm), [2021] EWHC 1578 (Comm).

A v B (No 1) & (No 2) [2020] 1 Lloyd's Rep. 55, [2021] 1 Lloyd's Rep. 281

Successfully setting aside order enforcing a \$39 million arbitration award. Richard acted as sole counsel against a silk and junior team.

Mountain Ash v Vasilyev [2021] EWHC 1853 (Comm)

Acting against a silk and junior team in successfully setting aside a £100 million default judgment on a guarantee.

Expertise

Aviation & Travel

Notable Aviation & Travel cases

Dubai Financial Group LLC v National Private Air Transport Services Company (National Air Services) Ltd [2016] EWCA Civ 71

Acting (with Michael McLaren KC) for National Air Services in defence of a claim concerning the repurchase of an ownership interest in a Gulfstream aircraft.

Air Namibia v BCI

Acting (with Akhil Shah KC) for Air Namibia in this Commercial Court dispute (worth c. US\$90 million) concerning the redelivery of two Airbus aircraft.

PB Leasing v Iptel Global

Acting as sole counsel for PB Leasing in its claim for the delivery up of an ATR 72-212 aircraft.

Instructed for a major airline in defence of a number of separate claims concerning the interpretation of the “extraordinary circumstances” exception within Regulation 261/2004.

Virgin Atlantic Airways Limited v KI Holdings Limited & Mitsubishi (UK)

Acting (with Michael Crane KC and James Cutress KC) for Virgin Atlantic in its claim for damages of approximately £40 million against Koito and Mitsubishi concerning the supply of aircraft seats manufactured by Koito which were the subject of a 2011 EASA Airworthiness Directive.

Acting (with Michael McLaren KC) for a major aircraft lessor in substantial arbitration proceedings relating to the redelivery of two Airbus aircraft.

Banking & Finance

Richard has a broad banking and finance practice, with extensive experience of derivative related litigation.

Notable Banking & Finance cases

Federal Republic of Nigeria v JP Morgan

Acting (with Andrew Mitchell KC of 33 Chancery Lane) for the Federal Republic of Nigeria in its \$875 million High Court claim against JP Morgan concerning JP Morgan's handling of the proceeds of sale of certain oil exploitation rights.

LBI hf v Raiffeisen Bank International [2017] EWHC 522 (Comm)

Acting (with Guy Philipps QC) for Raiffeisen in a substantial dispute (over £25 million) concerning the close out of certain secured lending transactions after the collapse of the Icelandic bank, LBI.

Taylor v Deutsche Bank & Others (2016-2018)

Acting (as sole counsel) for Deutsche Bank in High Court proceedings concerning allegations of precious metals price manipulation.

UBS Limited v Depfa Bank Plc, Depfa Bank Plc v Kommunale Wasserwerke Leipzig (KWL) [2014] EWHC 3615 (Comm), [2017] EWCA Civ 1567, [2017] 2 Lloyd's Rep. 621

Acting (with David Railton KC and Edward Levey KC) for Depfa in defence of a \$80 million claim brought against it by UBS for payment under two credit default swaps, and in Depfa's claim against KWL, a state owned German water company, for payment of approximately \$130 million under two swaps (on back to back terms with the Depfa/ UBS swaps). The three-month trial, one of *The Lawyer's* 'Top 20 Cases' of 2014, took place between April 2014 and July 2014. The 10-day Court of Appeal hearing took place in May 2017.

Dexia Crediop SpA v Provincia di Pisa/ Comune di Firenze

Acting (with Richard Handyside KC) for Dexia in Commercial Court proceedings against the authorities of Pisa and Florence concerning the enforceability of interest rate swap agreements. The trial of the Florence case was one of *The Lawyer's* 'Top 20 Cases' of 2013 and settled shortly before trial.

Haugesund Kommune v Depfa [2012] 2 W.L.R. 199 (Court of Appeal)

Acting (with David Railton KC) for Depfa Bank in the Norwegian "swaps" case. The case raised important issues in the law of restitution (the change of position defence), conflict of laws (the application of Rule 162 of Dicey &

Morris: capacity of a foreign corporation) and contractual damages, all of which went to the Court of Appeal.

Commercial Disputes

Notable Commercial Disputes cases

Kea v Ivory Castle [2020] EWHC 472 (Ch)

Acting as lead advocate against a team comprising a KC and two juniors in a Chancery Division action which turned on whether the assets held by Ivory Castle (worth c.£20 million) were in truth held by them for another individual, Mr Watson, such that they were amenable to the execution of the Claimant's judgment debt against Mr Watson. In February 2020, Richard appeared before Mr Justice Nugee for four days on the difficult legal question of whether (and to what extent) his clients could have resort to assets that were the subject of a "quasi-proprietary" injunction in order to fund their legal costs. The resulting judgment is now the leading case in this area. Both sides were given permission to appeal to the Court of Appeal on the issues addressed.

A v B (1) & A v B (2) [2020] 1 Lloyd's Rep. 55, [2021] 1 Lloyd's Rep. 281

Acting as sole counsel for a Ukrainian businessman in the trial of an action to enforce a \$39 million arbitration award against him. The set aside application was heard in March 2020 by Mrs Justice Moulder. That led to a two-day trial before Mr Justice Foxton to determine the factual issues that had been raised in the application.

Robert Tchenguiz v Grant Thornton LLP & Others

Acting (with Stephen Rubin KC and Charles Béar KC) for the businessman, Robert Tchenguiz, in his claim of around £200 million against the accountancy firm Grant Thornton LLP and others for unlawful means conspiracy and malicious prosecution relating to his arrest by the SFO in 2011. The case was widely reported in the press (see, for example, here, and was one of *The Lawyer's* 'Top 20 Cases' of 2018). A settlement was reached with a related party after the parties' openings in a trial listed for three months.

McAfee v Dixons

Acting (with Alan Maclean KC) for the high street retail group, Dixons, in defence of a £20 million claim for breach of contract brought by the software company, McAfee, in connection with Dixons' decision to promote Norton (rather than McAfee) antivirus. The case had considerable publicity in the national press and settled on the opening day of trial.

Caledonian v Clivedale [2020] EWHC 2297 (Comm)

Acting as sole counsel for a property development company in its successful claim for the return of a substantial deposit (c.£2 million) it had paid for a luxury flat on Marylebone Lane, off Oxford Street. The claim turned on whether the flat was 'Finished' (within the meaning of the purchase agreement) as of 29 January 2019. Appeared

unled in the three-day trial in the High Court.

Confidential Arbitration

Acting (with Tim Howe KC) for an energy company in its US \$400 million claim against a national government for damages for breach of a joint venture agreement (2017-2018).

Confidential Arbitration

Acting for an energy contractor in its US \$600 million claim against a state-owned enterprise relating to a major infrastructure project (2017).

Rainbowwave v Lisa Marie-Fernandez (2017)

Acting (as sole counsel) for the luxury swimwear designer, Lisa-Marie Fernandez, in proceedings before the High Court concerning the alleged breach of a sales agency agreement.

Ramilos Trading v Valentin Buyanovsky [2016] EWHC 3175 (Comm)

Acting (with Jeff Chapman KC) for the Russian businessman, Valentin Buyanovsky, in defence of proceedings (including an application for Norwich Pharmacal relief) concerning his shareholding in, and the trading of, a major Russian polyplastics company. The case is the leading modern authority on the availability of Norwich Pharmacal relief in support of foreign proceedings.

Play LA v NFC Data Inc & Others

Acting (with Patrick Goodall KC) for NFC Data Inc in defence of a multi-million-dollar claim relating to a share purchase agreement. The eight-day trial was heard in the BVI in November 2015.

Excalibur Ventures LLC v Texas Keystone & Gulf Keystone [2013] EWHC 2767 (Comm)

Acting (with Michael Crane KC and Tamara Oppenheimer KC) for Texas Keystone, a US oil company, in defence of Excalibur's \$1.6 billion claim for an interest in rights to exploit and develop petroleum fields in Iraqi Kurdistan granted to Texas Keystone and one of the Gulf Defendants by the Kurdistan Regional Government. The five-month trial was described by *The Lawyer* as "one of the biggest trials of the year".

Slocom Trading Limited v Sibir Energy Plc [2012] EWHC 3464 (Ch)

Acting (with Ian Mill KC and Andrew Hunter KC) for the Russian energy company Sibir in defence of a €50 million claim arising from Sibir's acquisition of the Villa Maria Irina in the South of France, owned by the Russian oligarch Chalva Tchigirinsky. The case concerned the validity and effect of a series of loan agreements and whether assignments of assets to Slocom could be set aside under s. 423 of the Insolvency Act 1986. The 12-day trial took

place in February/ March 2012 before Mr Justice Roth.

Acting (with David Railton KC) for Depfa Bank in the Norwegian “swaps” case. The case raised important issues in the law of restitution (the change of position defence), conflict of laws (the application of Rule 162 of Dicey & Morris: capacity of a foreign corporation) and contractual damages, all of which went to the Court of Appeal.

Commercial Disputes - Conflicts of law and jurisdiction

Notable Commercial Disputes - Conflicts of law and jurisdiction cases

Virgin Atlantic Airways Limited v KI Holdings Limited and Mitsubishi (UK) [2014] EWHC 1671 (Comm)

Acting (with Michael Crane KC and James Cutress KC) for Virgin Atlantic in connection with Koito’s application challenging the jurisdiction of the English Courts.

Haugesund Kommune v Depfa [2012] 2 W.L.R. 199 (Court of Appeal)

Acting (with David Railton KC) for Depfa Bank in the Norwegian “swaps” case. The case raised important issues in the law of restitution (the change of position defence), conflict of laws (the application of Rule 162 of Dicey & Morris: capacity of a foreign corporation) and contractual damages, all of which went to the Court of Appeal.

Dexia Crediop SpA v Provincia di Pisa [2012] EWHC 687 (Comm)

Acting in relation to an application for a reference to the ECJ on the proper interpretation of Article 1 of Regulation 44/2001.

Acting for a Swiss company in an application to set aside service of proceedings.

Successfully representing a major bank in an application for service to be set aside on the basis that the English courts did not have jurisdiction pursuant to Regulation 44/2001.

Competition

Notable Competition cases

Instructed (with Sir Francis Jacobs QC) to advise a national competition authority on a number of questions regarding the interpretation of Article 82.

Instructed (with Sir Francis Jacobs QC) to advise a major trade association on the meaning and likely effect of a

proposed amendment to an EC Directive.

Instructed (with Sir Francis Jacobs QC) to advise a major trade association on the meaning and likely effect of an article of the Lisbon Treaty.

Employment

Notable Employment cases

Acting for senior employees in defence of a High Court claim concerning the alleged breach of restrictive covenants.

Acting for a management consultant in a claim for unfair dismissal on grounds of redundancy in a three-day hearing in the Employment Tribunal.

Acting for a major construction company in a five-day Employment Tribunal hearing. The case involved allegations of race discrimination and whistleblowing.

Acting for a major University in defence of a substantial claim for wrongful dismissal.

Insurance

Notable Insurance cases

Acting (with Mark Simpson KC) for a local authority in its claims against its insurer and its insurance brokers.

Acting as sole counsel for a major firm of insurance brokers in defence of a claim brought against it in the Commercial Court for alleged breach of contract/ negligence in the broking of the claimant's professional indemnity insurance.

Professional Negligence & Professional Discipline

Notable Professional Negligence & Professional Discipline cases

Instructed, as sole counsel, for a firm of solicitors, in defence of a substantial claim brought against it by a mortgage lender for alleged breach of contract / negligence.

Depfa v Wikborg Rein [2011] 3 All E.R. 655 (Court of Appeal)

Acting (with David Railton KC) for Depfa Bank in the Norwegian “swaps” case. The case raised important issues in the law of restitution (the change of position defence), conflict of laws (the application of Rule 162 of Dicey & Morris: capacity of a foreign corporation) and contractual damages, all of which went to the Court of Appeal.

Masrur (A Solicitor), Re [2009] EWCA Civ 944

Acting (as sole counsel) for the SRA in an appeal to the Master of the Rolls from a decision of the SRA adjudication panel.

Directory Quotes

"Brilliant...[he] can find the key point with laser-like precision and then deploy it before the court, where he knows exactly how to get the judge's ear."

The Legal 500

"A good advocate who is confident and persuasive."

Chambers & Partners

"Very solid, handles difficult clients well."

Chambers & Partners

"The 'very able' Richard Power has 'a classic Fountain Court practice' acting as he does on a heady mix of business and financial services disputes. Sources say he is 'a complete package', and that 'when he makes points, they're inevitably good ones!'"

Chambers & Partners

"He's a wonderful combination of knowledge and commercial common sense."

Chambers & Partners

"Intellectually highly impressive and a pleasure to work with."

Chambers & Partners

"Very charming. He writes very well."

Chambers & Partners

"Very clever and commercial, with great client skills."

The Legal 500

"Richard Power is an excellent senior junior. He takes responsibility and has authority."

Chambers & Partners

Directory Rankings

Chambers & Partners – Global

- Dispute Resolution: Commercial – UK

Chambers & Partners – UK

- Commercial Dispute Resolution

The Legal 500 – UK

- Commercial Litigation

Education

- BVC (Outstanding – 2nd in the year), Inns of Court School of Law
- BCL (Distinction), Christ Church, Oxford
- BA Law (First Class), Christ Church, Oxford

International Bar / Court Appointments

- Called to the Bar of the British Virgin Islands (2015)

Publications

- Contributing author, to the 4th edition of Brindle & Cox on *The Law of Bank Payments*

Languages

- Spanish (basic)

Awards

