

Richard Greenberg

CALL: 2013

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Overview

Richard has a broad commercial practice, with a particular focus on civil fraud, international trade and finance, shipping, insolvency and company law, and private international law.

Richard has appeared in the UK Supreme Court, Court of Appeal and High Court. He has considerable experience of being led in complex, high-value litigation across Chambers' practice areas, but also regularly appears as sole counsel. Many of his cases have involved jurisdictional disputes, as well as other interim applications.

He has extensive experience of arbitral proceedings, particularly in shipping, commodities and general commercial cases. His experience covers arbitral proceedings under a variety of rules, including ad hoc, institutional (ICC, LCIA and SIAC) and trade arbitrations (LMAA and Gafta). In addition, he has considerable experience of applications to court in respect of arbitral proceedings, appeals against arbitration awards, and jurisdiction challenges.

Richard has undertaken secondments to a major city firm, where he spent three months in the litigation department, and a Norwegian Defence Club, where he spent six weeks advising on claims arising under charterparties and bills of lading.

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Publications

- 'The application of paragraph 72 of Schedule B1 to the Insolvency Act 1986: the importance of having possession... of the facts, the evidence and the relevant property' (2015) 36(6) *The Company Lawyer* 184 (co-author).

Professional memberships

- Commercial Bar Association
- London Common Law and Commercial Bar Association
- Insolvency Lawyers' Association

Lectures / talks

- 'Terminate in haste, repent at leisure: recent developments in the law of termination of contracts': with David Lewis QC at several venues (May 2018).

Education

- BPP University Law School: Bar Professional Training Course, Outstanding (2013)
- City University: Graduate Diploma in Law, Commendation (2012)
- University of Oxford, Christ Church: Master of Studies, Distinction (2010)
- University of Cambridge, Pembroke College: BA (Hons), Double First (2009)

Selected prizes / scholarships

- Lord Mansfield Scholarship, Lincoln's Inn (2012)
- Lord Haldane Scholarship, Lincoln's Inn (2011)
- Collins Prize for English, Pembroke College (2009)
- Foundation Scholarship, Pembroke College (2007-09)

Example cases

- *Marex Financial Ltd v Sevilleja* [2020] UKSC 31; [2018] EWCA Civ 1468 (CA); [2017] EWHC 918 (Comm): acting for the Respondent, Mr Sevilleja, in the landmark case on the reflective loss principle, which is widely regarded as one of the most significant commercial cases of recent times (led by David Lewis QC).
- *PJSC National Bank Trust & Anor v Boris Mints & Ors* [2020] EWHC 204 (Comm): acting for the Fourth Defendant in an application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million, which was granted in respect of underlying claims concerning alleged fraudulent transactions entered into with Russian banks (led by Duncan Matthews QC).
- LMAA Arbitration 2019: acting for the Claimant in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service (with Duncan Matthews QC and Daniel Bovensiepen).
- *A v B* [2018] EWHC 2325 (Comm): acted for the charterers of a vessel in a claim brought by the owners challenging an arbitration award under ss 68 and 69 Arbitration Act 1996 (led by Christopher Hancock QC).
- *Vincent Tchenguiz and others v Grant Thornton UK LLP and others* [2017] EWHC 2644 (Comm): acted for the claimants in applications concerning privilege, inadvertent disclosure and permission to use documents under CPR 31.22 (led by, among others, Christopher Hancock QC).
- *Vincent Tchenguiz and others v Grant Thornton UK LLP and others*: acted for the claimants in a conspiracy/malicious prosecution claim seeking in excess of US\$2 billion against Grant Thornton and others for allegedly instigating an unjustified major Serious Fraud Office investigation into Mr Tchenguiz, causing very significant business losses (led by, among others, Christopher Hancock QC).
- LMAA arbitration 2017: acted for the charterers of a VLCC tanker in a claim in the region of US\$4 million for breach of an oil major eligibility clause (led by Christopher Hancock QC).
- *Magellan Spirit ApS v Vitol SA* [2016] EWHC 545 (Comm): acted for the owners of a liquefied natural gas vessel in an application for an anti-suit injunction in respect of a US\$15 million cargo claim brought in Nigeria (led by Timothy Hill QC).
- SIAC arbitration 2016: acted (as sole counsel) for the buyers in a three-day commodities arbitration in Singapore arising out of a ban on the import of steel by the Indonesian government.

Commercial and private international law

Richard undertakes a broad range of commercial work which often involves jurisdictional and choice of law issues.

Recent instructions include:

- *Marex Financial Ltd v Sevilleja* [2020] UKSC 31; [2018] EWCA Civ 1468 (CA); [2017] EWHC 918 (Comm): acting for the Respondent, Mr Sevilleja, in the landmark case on the reflective loss principle, which is widely regarded as one of the most significant commercial cases of recent times (led by David Lewis QC).
- *PJSC National Bank Trust & another v Boris Mints & others* [2020] EWHC 204 (Comm): acting for the Fourth Defendant in an application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million, which was granted in respect of underlying claims concerning alleged fraudulent transactions entered into with Russian banks (led by Duncan Matthews QC).
- LMAA Arbitration 2019: acting for the Claimant in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service (with Duncan Matthews QC and Daniel Bovensiepen).
- *Vincent Tchenguiz & Ors v Grant Thornton UK LLP & Ors* [2017] EWHC 2644 (Comm): acting for the claimants in applications concerning privilege, inadvertent disclosure and permission to use documents under CPR 31.22 (led by, amongst others, Christopher Hancock QC).
- *Vincent Tchenguiz & Ors v Grant Thornton UK LLP & Ors*: acting for the claimants in a conspiracy/malicious prosecution claim seeking in excess of US\$2bn against Grant Thornton and others for allegedly instigating an unjustified major SFO investigation into Mr Tchenguiz, causing very significant business losses (led by, amongst others, Christopher Hancock QC).
- *Magellan Spirit ApS v Vitol SA* [2016] EWHC 454 (Comm): acting for the owners of an LNG vessel in an application for an anti-suit injunction in respect of a US\$15m cargo claim brought in Nigeria (led by Timothy Hill QC).
- Acting for a Kazakh company in a US\$18m claim for fraudulent misrepresentation in relation to the acquisition of shares in a leading commercial bank in Uzbekistan (with Blair Leahy).
- Acting for a conch farm in a US\$200m+ arbitration dispute with a Caribbean state for breach of a development agreement and various property claims.
- Advising a large international producer of chemicals in relation to its potential liabilities under a long-term manufacturing and supply agreement (with Nakul Dewan).
- Acting for the defendant director of a management consultancy firm in a claim by two former shareholders to rescind trust deeds on the grounds of misrepresentation and undue influence.
- Acting (as sole counsel) for insurance brokers in a dispute concerning the existence and terms of an oral agreement to defer payment of insurance premiums.
- Advising an asbestos removal company in a dispute with a former director concerning breaches of multiple share purchase agreements.
- Assisting (during pupillage) Thomas Raphael QC on *Actavis UK Ltd v Eli Lilly and Co* [2014] EWHC 1511 (Pat), a case in which Actavis obtained declarations of non-infringement in respect of the UK, French, Italian and Spanish designations of a European patent relating to the use of an anti-cancer drug.
- Assisting (during pupillage) Alexander Layton QC and Malcolm Jarvis on *Lehman Brothers Finance AG v Klaus Tschira Stiftung GmbH* [2014] EWHC 2782 (Ch), a case concerning Article 27 of the Lugano Convention 2007: whether the initiation of conciliation proceedings by the lodging of a written request for conciliation constitutes "proceedings" before a "court" within the meaning of Articles 27 and 30 of the Lugano Convention.

Civil fraud

- *PJSC National Bank Trust & Anor v Boris Mints & Ors* [2020] EWHC 204 (Comm): acting for the Fourth Defendant in an application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million, which was granted in respect of underlying claims concerning alleged fraudulent transactions entered into with Russian banks (led by Duncan Matthews QC).
- *Vincent Tchenguiz and others v Grant Thornton UK LLP and others*: acting for the claimants in a conspiracy/malicious prosecution claim seeking in excess of US\$2 billion against Grant Thornton and others for allegedly instigating an unjustified major Serious Fraud Office investigation into Mr Tchenguiz, causing very significant business losses (led by, among others, Christopher Hancock QC).
- *Shulman v Kolomoisky and Bogolyubov*: acting for the First Defendant in respect of his application under CPR Part 11 challenging the jurisdiction of the English Court (with Malcolm Jarvis, Paul Girolami QC and Stephen Atherton QC). The claim against the First Defendant was ultimately dismissed for want of jurisdiction.
- *XiO GP Ltd v Xie Zhikun*: acting for a Cayman fund seeking to set aside an ex parte injunction on the grounds that the underlying claims (for breach of fiduciary duty and conspiracy) were barred by the rule against reflective loss (with Blair Leahy and Stephen Atherton QC).

- Acting for a Kazakh company in a US\$18 million claim for fraudulent misrepresentation in relation to the acquisition of shares in a leading commercial bank in Uzbekistan (with Blair Leahy).

Insolvency and company law

Richard's practice covers the full spectrum of contentious insolvency disputes and company law. Recent examples of work:

- *Marex Financial Ltd v Sevilleja* [2020] UKSC 31; [2018] EWCA Civ 1468 (CA); [2017] EWHC 918 (Comm): acting for the Respondent, Mr Sevilleja, in the landmark case on the reflective loss principle, which is widely regarded as one of the most significant commercial cases of recent times (led by David Lewis QC).
- Acting (as sole counsel) for a Seychelles company defending a petition by the Secretary of State for Business, Innovation and Skills to wind up the company on public interest grounds.
- Assisting Stephen Atherton QC in *Re Business Environment Fleet Street Limited (in Administration)* [2014] EWHC 3540 (Ch), a case in which the Court refused to grant leave to the joint administrators of the company to sell assets located at premises owned by the company under paragraph 72 or, alternatively, paragraphs 67 and 68 of the Insolvency Act 1986.
- Acting for the joint administrators of several property development companies in applications to extend their terms of office.
- Acting for creditors and debtors in winding-up and bankruptcy petitions.
- Acting for the defendants in a claim for possession and sale of a residential property pursuant to an equitable charge.
- Acting for the defendant director of a management consultancy firm in a claim by two former shareholders to rescind trust deeds on the grounds of misrepresentation and undue influence.
- Acting for the claimants in a group litigation claim concerned with breach of fiduciary duties by the directors of an international timeshare exchange company.

Banking and finance

Richard has experience in a wide variety of banking and finance disputes. Recent examples of work:

- *PJSC National Bank Trust & another v Boris Mints & others* [2020] EWHC 204 (Comm): acting for the Fourth Defendant in an application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million, which was granted in respect of underlying claims concerning alleged fraudulent transactions entered into with Russian banks (led by Duncan Matthews QC).
- Acting (as sole counsel) for a foreign exchange broker in a dispute concerning the proper construction of a set-off clause and alleged misrepresentations in risk warning notices.
- Assisting a major city law firm in relation to the FCA review of the mis-selling of interest rate hedging products.
- Assisting (during pupillage) Thomas Raphael QC on the RBS Rights Issue Litigation (*Greenwood v Goodwin and others*): the claim in respect of RBS's £12bn rights issue of April 2008.

Arbitration

Richard is regularly instructed in arbitral proceedings in shipping, commodities and general commercial cases. He has experience of proceedings under a variety of institutional rules, including LMAA, LCIA, GAFTA and SIAC. Recent examples of work:

- LMAA Arbitration 2019: acting for the Claimant in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service (with Duncan Matthews QC and Daniel Bovensiepen).
- LMAA Arbitration 2018: acting for owners in a claim concerning apportionment under the Inter-Club Agreement.
- LMAA Arbitration 2017: acting for the charterers of a vessel in a dispute concerning Owners' breach of an oil major eligibility clause (led by Christopher Hancock QC).
- SIAC Arbitration 2016: acting (as sole counsel) for the buyers in a three day commodities arbitration in Singapore arising out of a ban on the import of steel by the Indonesian government.
- LMAA Arbitration 2015: acting for the charterers of a vessel in a US\$60m arbitration dispute with the owners concerning

whether the vessel that was tendered for delivery was properly the subject matter of the charterparty and whether charterers were entitled to terminate the charterparty (with Michael Ashcroft QC and Rupert Hamilton).

- Acting for a conch farm in a US\$200m+ arbitration dispute with a Caribbean state for breach of a development agreement and various property claims.
- Acting for the owners in an LMAA arbitration claim against time charterers for early redelivery.
- Acting for buyers and sellers in numerous Gafta commodities arbitrations.

Shipping

Richard has advised, drafted pleadings and appeared in court and before arbitral tribunals in a number of shipping disputes, including claims in respect of:

- Off hire
- Demurrage
- Charterparty construction
- Bills of lading
- Seaworthiness
- Cargo damage
- Underperformance
- Deviation
- Detention
- Safe ports/berths
- Arrest
- Redelivery
- Shipbuilding

Recent examples of work:

- Acting for the buyers in four shipbuilding disputes concerning the builder's failure to provide refund guarantees (led by Christopher Hancock QC)
- LMAA Arbitration 2019: acting for the Claimant in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service (with Duncan Matthews QC and Daniel Bovensiepen).
- LMAA Arbitration 2018: acting for owners in a claim concerning apportionment under the Inter-Club Agreement.
- LMAA Arbitration 2017: acting for the charterers of a vessel in a dispute concerning Owners' breach of an oil major eligibility clause (led by Christopher Hancock QC).
- *Magellan Spirit ApS v Vitol SA* [2016] EWHC 454 (Comm): acting for the owners of a LNG vessel in an application for an anti-suit injunction in respect of a US\$15m cargo claim brought in Nigeria (led by Timothy Hill QC)
- LMAA Arbitration 2015: acting for the charterers of a vessel in a US\$60m arbitration dispute with the owners concerning whether the vessel that was tendered for delivery was properly the subject matter of the charterparty and whether charterers were entitled to terminate the charterparty (led by Michael Ashcroft QC and Rupert Hamilton).
- Assisting Michael Ashcroft QC in a case arising out of the seizure of a vessel and the sale of her cargo by a West African government.
- Acting (as sole counsel) for the carrier defendants in a claim arising out of the theft of cargo at a port, which raised issues concerning the carrier's obligations under a storage contract, bills of lading and in bailment.
- Advising owners on whether a claim by receivers for demurrage paid to a third party under a sale contract is recoverable.
- Acting for the owners in an LMAA arbitration claim against time charterers for early redelivery.
- Acting for a port authority in a claim against owners for damage to one of the port's dolphins.

- Acting for the disponent owners in a claim against voyage charterers for wrongful detention of the vessel.
- Assisting (during pupillage) Henry Byam-Cook on *Caresse Navigation Ltd v Office National de L'Electricite (The Channel Ranger)* [2014] 1 Lloyd's Rep. 337, a case concerning the incorporation of a jurisdiction clause into a charterparty.

In May-June 2015 Richard spent six weeks working in-house with a Norwegian Defence Club. He advised on claims arising under charterparties and bills of lading and drafted a number of submissions for various London arbitrations.

Commodities

Richard is regularly instructed in cases concerning the international sale of goods. Recent examples of work:

- SIAC Arbitration 2016: acting (as sole counsel) for the buyers in a 3-day commodities arbitration in Singapore arising out of a ban on the import of steel by the Indonesian government.
- Arbitration concerning a failure to ship a cargo of Russian chickpeas under Gafta contract No. 88.
- Arbitration concerning the proper construction of the "Appropriation" clause in Gafta contract No. 48.
- Arbitration concerning the proper construction of the "Nomination of Vessel" clause in Gafta contract No. 49.
- Advice concerning the conformity of documents under a letter of credit.
- Arbitration concerning the construction of a clause pursuant to which a third party had been nominated to make payment to the sellers under a CIF contract.
- Arbitration concerning the construction of the buyer's payment obligations under a CFR contract for the sale of rice.
- Advice concerning short shipment under a CFR contract for the sale of wheat.
- Assisting (during pupillage) Malcolm Jarvis on *Soufflet Negoce SA v Fedcominvest Europe SARL* [2014] EWHC 2405 (Comm), a case concerning the proper construction of a "Notices" clause in GAFTA contract No. 64.