



## Richard Walford

Year of Call: 1984

*'knows professional negligence back to front, and has the ability to articulate the most complex arguments with simplicity and brevity'.*

Legal 500

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## Practice Overview

After 34 years in practice (24 of them at Serle Court), Richard Walford had the misfortune to contract a rare form of leukemia, and he retired from practice at the Bar on 30 April 2020. Richard remains an Associate Member of Chambers.

During his long and fulfilling career at the Bar, Richard practised mainly in the areas of commercial litigation, contentious trusts, professional negligence and company and insolvency law. He made a major contribution to the development of civil procedure first as a member of the Civil Procedure Rule Committee for 6 years, and latterly as a Specialist Editor of "The White Book" (Sweet & Maxwell's Civil Procedure) for 11 years.

Richard also set up the South Westminster Legal Advice Centre (now a CIO) in 1998, and continues as Chairman and a Trustee of this organisation.

Richard intends to maintain his links to Serle Court despite having retired from practice, and welcomes contact from any former instructing solicitors.

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## Areas of Expertise

### Commercial Litigation

## Commercial Disputes

*Roman Abramovich v Sibir Energy plc; Yugraneft v Roman Abramovich*: Much of Richard's time in 2008 was spent on this massive commercial fraud claim: The main allegation was that, in certain Russian corporate transactions, the shareholding ultimately held by Sibir was diluted from 50% to 1%, and then the majority shareholding was sold, with other oilfield assets to Gazprom for US \$13.6 billion. The two ongoing related sets of proceedings, one in the Companies Court of the Chancery Division, and one in the Commercial Court asserting a claim of in excess of US \$2 billion: both culminated in successful judgments in November 2008. The cases involved numerous legal issues of importance, and the other side are appealing. Richard was one of a large Counsel team led by Alan Boyle QC and Mark Howard QC, and was instructed by the well known US firm Skadden Arps

Acting for an oil trader who is alleged by his employer (a household name oil company) to have arranged for millions of pounds in fraudulent commissions to be paid to companies associated with him: *ABC v CDE*, Queen's Bench Division, 2008-10

Instructed by French lawyers to act for a charterer which had failed to provide a cargo of cars for shipment from Shanghai to Senegal, investigating alternative cargoes and their costs and profits, legal issues as to damages. (London arbitration, 2008 - 9

A hugely wealthy Greek shipowner had died, apparently having given all his assets to one granddaughter. Richard was acting for the rest of the family in investigating the gifts and whether they could be set aside under the laws of Greece, Monaco, England, and Panama. (2009)

Acting for the world's second largest international money transfer organisation in relation to a dispute with an agent in Cyprus. (2010)

Acting for a company which is alleged to have purchased a substantial industrial estate in Liverpool in a transaction at an undervalue: *Hampton Trust plc v DLA and others*; Chancery Division 2009

Acting for a purchaser of a 32 million euro yacht, who was seeking to recover the deposit paid to a Monaco ship-builder: (LCIA Arbitration, 2009)

Advising a company which wished to preserve the value of certain valuable licences to prospect for minerals in Greenland in the light of the threatened rescission of agreements governed by the laws of Western Australia: 2008;

Acting for African Banking Corporation of Botswana which was Defendant to a Commercial Court claim, and successfully taking jurisdiction and authority arguments causing the withdrawal of the claim (2008);

An arbitration where an Iranian company was alleged to have committed multiple breaches of a commercial agreement for making pesticides for an English plc's subsidiary. Issues of licensing and Iranian taxation (LCIA, 2007)

Acting for a Turkish telecoms company which had contracted with a software supplier for the software design and development of a new mobile telephone handset: *RAKS Holding AS -v- TTPCom Ltd.*)

Acting for a quoted computer company in dispute with suppliers over their computer hardware delivery obligations: *ICM Computer Group plc -v- Micro-Peripherals Ltd & others* (Court of Appeal 2004)

A dispute arising out of a failed joint venture property development on a 70 acre site comprising contaminated land: *North East Lincolnshire Borough Council and Kestonbond Ltd v P&O Developments Ltd*

A dispute concerning the enforceability of a put option in respect of the shares in the Pilsener Urquell Brewery in the Czech Republic, the key question being whether the pre-conditions enabling exercise of the option had been satisfied; (UNCITRAL Arbitration Rules)

Claim and counterclaim arising out of a failed joint venture involving supply of tractor engines and other equipment to Tajikistan: ongoing ICC arbitration: *Advance International v Nissho Iwai*

A commercial arbitration arising out of a disputed obligation to continue operating a sunflower seed processing

factory in Central India; (Forum: LCIA): *ITC Ltd v Agro Tech Foods Ltd*

Acting for Mothercare in a dispute with a supplier about whether clip-on parasols for pushchairs were of the contractually specified quality: *Lawtex Nursery Products Ltd –v- Mothercare Ltd* (Leeds Mercantile Court, 2003)

An action to enforce a share sale agreement involving allegations of illegal ramping of share prices on an overseas stock exchange. *Oxnard Financing SA v Rahn & Others* 2001 Ch D (Anthony Boswood QC)

A dispute between the owners and managers of a chain of 5-star hotels in Estonia and Latvia, as to whether the owners were entitled to determine the management contracts early for alleged defective performance of the managers' contractual duties. (Forum: ICC): *Consul Hotels International –v- Ober Haus Schlossler*.

A breach of fiduciary duty claim against the Directors and Managers of a collapsed Bahamas investment fund, the investment manager of which had gone outside the permitted investment objectives and which had lost about US \$250 million. (Forum: Supreme Court of the Bahamas)

Acting for the Chief Executive of a failed FT-SE 250 company, in minimising the claims against him for breaches of his duty as a Director, one small part of which is *Sinclair Investment Holdings SA –v- Cushnie* [2004] EWHC 218 (Ch) Mann J.

An action involving allegations of a fraudulently prepared bill of lading and packing list in relation to goods exported to Pakistan.

Assisting a company which had unknowingly purchased counterfeit computer software: *Microsoft –v- ICM Computer Group plc* (2004).

A banking law dispute concerning the construction of a mandate: *Aroso v Coutts & Co* [2001] WLTR 797

Commercial fraud in relation to corporate transactions involving a substantial site in North London

An action in the British Virgin Islands related to the collapse of Versailles Group plc. The case concerned the rights of various claimants to a substantial fund held in BVI, following the insolvency of the English plc. (Forum: High Court of the BVI)

A substantial dispute involving supplies of steel to Ireland, including allegations of commercial conspiracy: *Butlers Engineering Ltd –v- British Steel plc*.

Acting for a computer supplier which was alleged to have supplied non-performing software: *ICM Computer Group plc –v- Jayhard Ltd*.

A dispute in relation to an aircraft lease and the terms of sale and lease back documentation including registration issues.

Acting for an overseas bank which faced claims it had assisted in money-laundering

An action involving the supply of Scorpion tanks to a West African state.

Acting for financial intermediaries accused of various regulatory breaches, plus misapplication of funds

A substantial sale of goods dispute, involving supplies of steel to Ireland, including allegations of commercial conspiracy.

Enforcement of a judgment against an individual whose assets were concealed worldwide through various corporate entities, requiring an extra territorial freezing injunction, plus associated action in a number of other countries.

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## Company

Acting for Roman Abramovich and his company in relation to the appointment of a Provisional Liquidator in

England over a Russian company, in order to investigate allegations that the Russian company had a cause of action against Mr Abramovich. The case raised important issues in relation to the duties of disclosure on applications for Provisional Liquidators. *Roman Abramovich v Sibir Energy plc* (Companies Court of the Chancery Division, Christopher Clarke J, 2008)

Acting for a corporate financier and substantial shareholder which had concerns about the conduct of its finance director; 2010.

Acting for a company which is alleged knowingly to have purchased a substantial industrial estate in Liverpool in a transaction at an undervalue. 2008 - 9:

Acting for creditors of a company which by means of a debenture, had purported to switch its assets to its parent company, whilst leaving the debts behind. The creditors argued that the company had deployed a false invoicing system to enable fraudulent claims for finance to be made under invoice discounting facilities, repayment of which was secured by the debenture, which was therefore a fraudulent device. When this argument was pleaded, the case settled: *Pims Estates v Costello*, Chancery Division, 2007

A large (potentially £100 m) unfair prejudice Petition, one part of which is reported as *Re December Commercial Properties (No 1) Ltd* [1996] BCC 577 Rattee J

Action to enforce share option agreement: *Gloyne v Richardson* [2001] 2 BCLC 669.

A case concerning Zambian Receivers' authority: *Gwembe Valley Development Co Ltd (In Receivership) v Koshy & Others (No 2)* [2000] 2 BCLC 705

Acting for Liquidators as to the appropriateness of a request by the DTI that they make enquires under s 236 Insolvency Act 1986 for the purpose of assisting in forthcoming disqualification proceedings.

Advising a major Bank about a proposed scheme of arrangement of Re Maxwell Group.

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## Professional Negligence

Acting for a shareholder who invested in a Management Buyout of a scaffolding hire business and alleged that the major firm of accountants who prepared a due diligence report failed in their duties to draw attention to problem areas. Required considerable understanding of accountancy concepts and the duties when undertaking due diligence. The case was settled on confidential terms: 2009.

Acting for a well known chain of Nail bars and its Director, who were involved in a dispute with its former solicitors concerning corporate advice given prior to transactions, the effect of which had been to saddle either the Director or the Company with a substantial contingent liability: 2008:

Acting for 46 claimants who paid pre-contract deposits for purchase of flats "off plan" in Leeds: the developer failed and the claimants seek to recover their deposits from the solicitors through whom the sums were paid over to the developer. Chancery Division, 2009

A High Court claim acting for professional indemnity insurers to recover from a fraudulent solicitor who, having stolen sums from client account, was years later discovered to have built up a large property portfolio under numerous aliases. Issues of fraud, limitation, and accounting. *Owen White v Farmer* (Chancery Division)

Acting for solicitors who were alleged to have deliberately concealed their own negligence having become aware of the same, and to have been in breach of fiduciary duty. Summary judgment was awarded in favour of the solicitors: *Morshead Mansions Ltd –v- Langford & others* [2003] EWHC 2023 (Crane J)

A claim against solicitors arising out of corporate transactions involving aspects of Liberian company formation, and related litigation in Liberia, Jersey and Italy; *Ramatrielle –v- Kiers & Co.* (High Court Ch.D (HH Judge Behrens, sitting as a Deputy High Court Judge ) 8/3/2002

A claim against solicitors where the client was (but should not have been) locked into inflation linked payments for

the next 20 years - what is the quantum?

After a declaration was made that the appointment of Receivers of a company was invalid, an attack was then made on proceedings previously begun by the Receivers in the belief that they had been validly appointed, and on their solicitors for starting the proceedings without authority: *Gwembe Valley Development Co. Ltd. (in receivership) v Koshy & others* (No. 2) [2000] 2 BCLC 705

Acting for an Independent Financial Adviser who is alleged to have mis-sold pensions and similar products.

A claim against solicitors alleged to have been responsible for the failure of Spanish lawyers they instructed on the client's behalf to conduct proper searches in a conveyancing transaction: *Gregory –v- Shepherds* (a firm) [1999] Lloyds Rep PN 720 [2000] Lloyds Rep PN 724 CA.

A claim against solicitors arising out of a share sale agreement where the vendor hoped to retain the intellectual property rights to an invention in the event of insolvency, and the quantum of that claim.

A claim against a bank for mishandling trust money;

A claim against solicitors who were alleged to have advised negligently as to what should be inserted in the offer documentation in relation to an issue of shares.

A substantial claim against accountants involving advice tendered in relation to a corporate transaction.

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## **Private Client Trusts and Probate**

Acting for the beneficiaries of a very substantial Guernsey trust in a dispute with the Protectors of the trust who were acting with motives other than for the benefit of the trust. The case involves issues of Guernsey, Luxembourg, and Italian law. (2010 and ongoing).

Acting for an aristocrat whose husband owned assets of national importance, and there were concerns that the disposals effected by his will was not tax efficient. Interested parties applied to the Court of Protection for a statutory will, and the case was settled on confidential terms. (2008 - 9)

Acting for a Jersey trust which held the assets for a wealthy couple who had divorced. 6 years after the rearrangement of their financial affairs had been determined, one party alleged that the court's decision had been made by a mistake and sought to set the original judgment aside. (2008)

Following the death of a very wealthy Greek individual, questions were raised concerning a BVI trust which contained a "no contest" clause, and in particular, whether issues of Greek forced heirship rules would amount to a contest causing the interests of the contesting beneficiary to be forfeited. (2009) (ongoing)

A breach of fiduciary duty claim against the Directors and Managers of a collapsed Bahamas investment fund, the investment manager of which had gone outside the permitted investment objectives and which had lost about US \$250 million. (Forum: Supreme Court of the Bahamas)

Acting in a dispute where the freehold landowner sought to remove a charge registered against the freehold land asserting, among other things, forgery: *Pearl v Hakmi*, 2008

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## **Property**

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## Civil Fraud

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## Insolvency

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## Chancery

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## ADR: Alternative Dispute Resolution

Arbitration involving a French charterer which chartered a vessel for the purpose of taking a cargo of cars from Shanghai to Senegal.

Arbitration involving new varieties of eating grapes originating in California (where the plant breeder became insolvent) licenced to a Spanish company and sub-licensed to a South African company. Raised issues of Californian, insolvency law, English law, and the Plant Breeders' Rights Act.

Arbitration involving supply of satellite equipment to the Government of Serbia & Montenegro spanning the period when they split into two different countries.

Arbitration involving 3 frigates constructed for a Gulf state which then rejected them as not in accordance with contractual specification.

Arbitration involving transportation of a turbine and a generator across Iran and into Azerbaijan.

Arbitration involving supply of pesticides by an Iranian manufacturer for sale on the Iranian market.

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## Recommendations

Commercial Litigation, Fraud: Civil, Professional Negligence (*Legal 500*)

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## Quotes

*"Really excels at cases which require the need for creative thinking and a flexible approach."* (Legal 500, 2020)

*"He is extremely knowledgeable."* (Legal 500, 2020)

*"A popular choice for professional negligence, fraud, and broader commercial disputes."* (Legal 500, 2019)

*"A thorough and precise draftsman."* (Legal 500, 2019)

*"A safe pair of hands."* (Legal 500, 2019)

*"A thorough and concise draftsman with an effective and concise style of advocacy."* (Legal 500, 2017)

*"His written advocacy is always of an exceptionally high standard."* (Legal 500, 2017)

*"Vast experience."* (Legal 500, 2017)

*"A consummate legal strategist and a most eloquent and engaging advocate"* (Legal 500)

*"Knows professional negligence back to front, and has the ability to articulate the most complex arguments with simplicity and brevity"* (Legal 500)

*"A very experienced pair of hands"* (Legal 500)

*"Hugely knowledgeable on injunction-related matters"* (Legal 500)

The *"commercial and knowledgeable"* (Legal 500)

## Publications

As Good as New (Trusts and Estates Law Journal No. 13, page 9) An article on the Contributor Presumptions of Advancement and of Resulting Trusts

The Evolution of Liability of Professionals to non-clients) professional Negligence Vol. Contributor 18 No. 3, pp 115-128)

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## Education & Qualifications

LLB (Exeter)

## Appointments

Appointed by the Lord Chancellor as a member of the Civil Procedure Rules Committee (the body which formulates the CPR), and was a member for 6 years

## Memberships

Commercial Bar Association

Professional Negligence Bar Association

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Franco-British Lawyers' Society

Clarity

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