



## Richard Wilson QC

Year of Silk: 2016 Year of Call: 1996

*“He is a brilliant mind; he is very engaging and the epitome of a modern barrister... an exceptional advocate”*

Chambers & Partners HNW 2017

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### Practice Overview

Richard Wilson QC has a practice encompassing litigation, drafting and advisory work across a wide range of traditional and commercial chancery, with a strong emphasis on trusts and probate (both contentious and non-contentious), related company and partnership law, claims under the Inheritance (Provision for Family and Dependents) Act 1975, tax, professional negligence and civil fraud.

Richard has been involved in many of the most significant and high-value cases in those areas in recent years, including: *Futter v. Futter* [2013] UKSC 26 (the leading case on the Rule in *Re Hastings-Bass*); *Gany v Khan* [2018] UKPC 21 (claim to establish ownership of companies by BVI trust and setting aside appointment by trustees); *Grand View Private Trust Company v. Wong* [2020] Bermuda Court of Appeal (challenge to exercise of trustees' powers on the basis that it destroyed the 'substratum' of the trust) and the *Dawson-Damer litigation* (high value breach of trust claim in The Bahamas with related litigation in England and Bermuda). He is also currently acting in a number of disputes concerning the estates of UHNWIs in England.

His work frequently involves offshore matters and issues of private international law. He has appeared in the Privy Council, the Supreme Court and Court of Appeal of Gibraltar, the Supreme Court and Court of Appeal of Bermuda, the Supreme Court of The Bahamas, the Grand Court of the Cayman Islands and the Eastern Caribbean Supreme Court and Court of Appeal. He has also given expert evidence of English Law in the Royal Courts of Jersey and Guernsey. He frequently acts in cases in all of the principal offshore jurisdictions including those mentioned above and in an increasing number of cases in Hong Kong.

Before commencing practice at the Bar, Richard worked as a tax consultant with Price Waterhouse.

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## Areas of Expertise

### Private Client Trusts and Probate

Richard has extensive experience in trust and probate matters, ranging from contentious matters to applications under the Variation of Trusts Act 1958 and *Public Trustee v. Cooper* applications. Whilst Richard acts in the full range of trust and estate litigation, he has developed particular specialisms in assisting trustees and their advisers to deal with the consequences of mistakes in the creation and administration of trusts (appearing in most of the leading cases in this field in numerous jurisdictions) and also in claims involving allegations of fraud, where he is frequently called upon to assist trustees holding assets that may be the subject of criminal proceedings and/or proprietary claims.

Recent cases include:

*Grand View Private Trust Company v. Wong* [2020] Bermuda Court of Appeal: Richard acts for one of the beneficiaries of a Bermuda Trust challenging the exercise of the trustee's discretionary powers on the basis of the substratum doctrine. Instructed by MJM.

*Dawson-Damer v Taylor Wessing* [2020] EWCA Civ 352: Richard appeared (with Antony White QC of Matrix Chambers) in this appeal under the Data Protection Act 1998 for the successful applicant seeking to obtain her personal data from solicitors acting for the trustees of a settlement under which she is a beneficiary. The case decides the extent to which trustees may assert legal advice privilege against beneficiaries. Instructed by McDermott Will & Emery.

*Sofer v Swissindependent Trustees SA* [2019] EWHC 2071 (Ch): Richard appeared (with James Weale) appeared for a trustee who succeeded in striking out a high-value claim for breach of trust at an early stage in proceedings. Instructed by Radcliffes Le Brasseur.

*Hartogs v Rothschild Trust (Schweiz) AG* [2019] EWHC 1915 (Ch): Richard appeared for the applicant who successfully set aside transfers into trust worth millions of pounds, on the grounds of mistake. Instructed by Linklaters.

*Cowan v Foreman* [2019] EWCA Civ 1336: Richard appeared for the executors of the estate in this leading decision on the jurisdiction to extend time for bringing claims under the Inheritance (Provision for Family and Dependents) Act 1975. Instructed by Farrer & Co.

*Gany Holdings v Khan* [2018] UKPC 21: Richard appeared (together with Alan Boyle QC and Zahler Bryan) for the successful Respondents in this case involving allegations that a trustee had wrongfully failed to account for trust assets worth \$100m and that an appointment by trustees should be set aside. Instructed by Stephenson Harwood and Ogier.

*Dawes v. Dawes* [2017]: Richard acted for winners of the 'Euromillions' lottery who in this high-profile case were sued for proprietary estoppel by a son to whom they had provided significant financial support. The claim was dismissed. Instructed by Boodle Hatfield LLP.

*Henchley v. Thompson* [2017] EWHC 225 (Ch): Richard appeared (leading James Weale) for the successful claimants who obtained an order against a trustee who had failed to provide information over a number of decades and who contested the right to an account. Instructed by Withers LLP.

*RBC v. Stubbs* [2017] EWHC 180 (Ch): Richard appeared for the successful Claimants who obtained rectification of two deeds of revocation and reappointment that had inadvertently given rise to a significant charge to tax. Instructed by Farrer & Co. LLP.

*Inchbald v. Inchbald* [2016]: Richard appeared (leading Oliver Jones) for the first defendant in this high profile

probate dispute involving a want of knowledge and approval challenge to the last wills of the famous designer, Michael Inghald. Instructed by Farrer & Co. LLP.

*Van der Merwe v. Goldman* [2016] EWHC 926 (Ch): Richard appeared for the claimant who successfully applied to set aside transfers of property and a settlement on the grounds that he had been mistaken as to the tax consequences of doing so. Instructed by Berwin Leighton Paisner LLP.

*Royal Society v. Robinson* [2015] ChD (Nugee J): Richard appeared for the Royal Society in this application to construe a will which referred to assets in the UK as meaning that it extended to Jersey and the Isle of Man. The Court held that in the context of the will, the term 'UK' did extend beyond its ordinary meaning. Instructed by Withers LLP.

*RNID & Others v. Turner* [2015] EWHC 3301 (Ch): Richard acted for the charities in their successful claim to challenge a will on the basis that it was not duly executed as the deceased was not present when the witnesses signed. Instructed by Royds LLP.

*Fielden v. Christie-Miller* [2015] EWHC 2940 (Ch): Richard appeared for the trustees who successfully resisted an application to amend the claim to bring a claim to rectify a will out of time and to seek removal of the trustees, having previously obtained an order striking out their original statement of case. Instructed by Boodle Hatfield LLP.

*Dawson-Damer v. Taylor Wessing* [2015] EWHC 2366 (Ch): Richard (led by Jonathan Swift QC) appeared for the claimants who sought disclosure of documents from solicitors under the Data Protection Act 1998. Instructed by McDermott Will & Emery UK LLP.

*Futter v Futter* [2013] UKSC 26: Richard acted in the High Court, Court of Appeal and Supreme Court for the trustees who applied to set aside the exercise of their discretion under the principle in *Re Hastings-Bass*. The case is the leading authority on the circumstances in which the exercise of a trustee's power can be set aside. Instructed by Withers LLP.

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## Commercial Litigation

Richard's practice includes acting in a range of commercial disputes, often involving applications for freezing injunctions and other interim relief. Recent cases include:

*Chaggar v. Chaggar* [2018] EWHC 1203 (QB): Richard appeared (leading James Weale) for the successful claimant in this dispute over an agreement for the sale of shares in a private company. The case involved issues of contractual construction, financial assistance, estoppel and economic duress. Instructed by Shakespeare Martineau.

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## Professional Negligence

Richard is frequently instructed by Claimants, Defendants and insurers in matters relating to professional negligence, in particular relating to solicitors and accountants. Most of these claims settle on confidential terms. Richard has developed a particular specialism in assisting defendants and their insurers to mitigate loss by rectifying or setting aside transactions.

*Birdseye v. Roythornes* [2015] EWHC 1003 (Ch): Richard appeared for the First and Second Defendants in this professional negligence case arising out of the drafting of a codicil by solicitors.

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## Civil Fraud

Richard has acted in numerous civil fraud cases, particularly in the context of trusts, companies, accessory liability and MTIC fraud. He has extensive experience of making (and defending) applications for injunctions and

disclosure orders, including freezing injunctions and search orders.

Richard has recently assisted Guernsey advocates in relation to claims to recover assets for liquidators of a hedge fund that had been the subject of a major fraud. He has also developed a particular specialism in assisting trustees and other fiduciaries in situations where trust funds are the subject of criminal investigations. Recent cases have involved him appearing in the BVI for trustees seeking to distribute assets in circumstances where the family who set up the trust are being investigated by the authorities in the UK; advising Jersey trustees having to deal with issues arising out of criminal proceedings brought against beneficiaries in Italy; and assisting Jersey advocates in a claim to secure the release of company funds which the defendant bank refuses to release because of orders made by the US Courts in the context of criminal proceedings in that jurisdiction. Richard also has considerable experience in relation to proceeds of crime matters, having acted in the past for the Crown in a number of criminal confiscation matters.

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## International and Offshore

A substantial part of Richard's practice involves matters in offshore courts. Current cases include matters in the Channel Islands, Gibraltar, Cayman, the Bahamas and the BVI, as well as an appeal from the BVI to the Privy Council. Recent cases include:

*Grand View Private Trust Company v. Wong* [2020] Bermuda Court of Appeal: Richard acts for one of the beneficiaries of a Bermuda Trust challenging the exercise of the trustee's discretionary powers on the basis of the substratum doctrine. Instructed by MJM.

*Dawson-Damer v. Lyndhurst* [2019] SC (Bda) 8 Civ: Richard appeared for the applicant who successfully obtained an injunction to preserve assets pending the determination of proceedings in The Bahamas. The case involved the question of whether the Bermuda courts would grant such an injunction in the absence of proceedings in that jurisdiction. Instructed by McDermott Will & Emery and Conyers.

*Gany Holdings v. Khan* [2018] UKPC 21: Richard appeared (together with Alan Boyle QC and Zahler Bryan) for the successful Respondents in this case involving allegations that a trustee had wrongfully failed to account for trust assets worth \$100m and that an appointment by trustees should be set aside. Instructed by Stephenson Harwood and Ogier.

*Tchenguz v. R&H Trustees SA* [2018] BVI Commercial Court and Court of Appeal: Richard represented the trustees both before the Commercial Court and Court of Appeal in these applications for disclosure by a beneficiary under the *Schmidt v. Rosewood* jurisdiction and from the Court files under the BVI Civil Procedure rules.

*M v. St Anne's Trustees* [2018] Guernsey Court of Appeal: Richard assisted Guernsey advocates in this successful appeal against the refusal of the Lieutenant Bailiff to set aside an exercise of discretion by trustees under the rule in *Re Hastings-Bass*.

*Re: Poon* [2015] JCA 109: Richard assisted Jersey advocates in this appeal against the Royal Court's decision to approve the exclusion of a beneficiary following divorce proceedings in Hong Kong. Instructed by Carey Olsen.

*Schroder Cayman Bank & Trust v. Schroder AG* [2015] Cayman Grand Court: Richard appeared for the successful Plaintiff who established that purported appointments were void for excessive execution. The case involved the resolution of an apparent conflict between Cayman and Jersey 'firewall' legislation and the mistake jurisdiction in Cayman. Richard also assisted Jersey advocates in the application to the Royal Court for recognition and enforcement of the Cayman order. Instructed by Farrer & Co LLP and Mourant Ozannes.

*J.F. & M.F. v Hexagon Investments Ltd* [2014] Cayman Grand Court: Richard appeared for the applicants who successfully established that assets transferred by them to a company were not held on the trusts of a settlement created by them, thereby saving substantial amounts of UK tax. Instructed by Withers LLP and Turners.

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## Company

Richard has acted in numerous cases in this field, particularly those involving allegations of breach of duty by office holders or unfair prejudice. Notable cases include:

*TIPP v Chagala* [2018] BVI Commercial Court: Richard appeared for Defendants applying to strike out an unfair prejudice petition against it in relation to a BVI company. Instructed by Ogier.

*Hurd v. TPL Holdings* [2014] All ER (D) 266: Richard appeared for the petitioner in this application to strike out a petition under s.994 of the Companies Act 2006. The application to strike out was successfully resisted and the case involved consideration of the important question of the extent to which a petition may be based on past conduct. Instructed by Stewart-Moore Solicitors.

*Goldfarb v Poppleton* [2007]: Richard appeared for the liquidator in this case concerning the applicable limitation period for claims brought under s.212 of the Insolvency Act 1986. Instructed by Moon Beaver.

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## Private International Law

Richard's cases frequently involve issues of private international law and he has appeared in a number of leading cases in this field, including:

*Dawson-Damer v. Lyndhurst* [2019] SC (Bda) 8 Civ: Richard appeared for the applicant who successfully obtained an injunction to preserve assets pending the determination of proceedings in The Bahamas. The case involved the question of whether the Bermuda courts would grant such an injunction in the absence of proceedings in that jurisdiction. Instructed by McDermott Will & Emery and Conyers.

*W v. Line Trustees* [2017] Gibraltar Supreme Court and Court of Appeal: Richard appeared for a husband involved in English divorce proceedings who was a defendant to a claim brought by trustees of a family trust in Gibraltar to determine the validity of previous actions taken by them. The wife sought to challenge jurisdiction under the Brussels Regulation but withdrew her applications, then sought to appeal the Judge's decision to determine jurisdiction and hear the substantive claim.

*Schroder Cayman Bank & Trust v. Schroder AG* [2015] Cayman Grand Court: Richard appeared for the successful Plaintiff who established that purported appointments were void for excessive execution. The case involved the resolution of an apparent conflict between Cayman and Jersey 'firewall' legislation and the mistake jurisdiction in Cayman. Richard also assisted Jersey advocates in the application to the Royal Court for recognition and enforcement of the Cayman order. Instructed by Farrer & Co LLP and Mourant Ozannes.

*Tadros v. Barratt* [2014] EWHC 2860 (Ch): Richard appeared for a Dutch Foundation, successfully opposing an application for anti-suit and freezing injunctions where probate proceedings had been brought in both England and the Netherlands. Instructed by Boodle Hatfield LLP.

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## Property

Richard has extensive experience in real property matters, in particular matters relating to trusts of land and proprietary estoppel. Recent notable cases include:

*Habberfield v. Habberfield* [2018] EWHC 317 (Ch) and [2019] EWCA Civ 890: Richard appeared for the Defendants in this claim for proprietary estoppel relating to a farm in Somerset. Instructed by Wilsons.

*Gaspar v. Zaleski* [2017] EWHC 1770 (Ch): Richard acted for the Defendant to this claim relating to a London property, involving arguments on constructive trusts, construction of express trusts and proprietary estoppel. Instructed by Macfarlanes.

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## Chancery

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## Tax

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### Recommendations

Traditional Chancery (*Chambers & Partners HNW*)

Private Client (*Who's Who Legal: UK Bar, 2020*)

Offshore, Private Wealth: Trusts UK (*Chambers Global*)

Private Client (*Who's Who Legal: UK Bar, 2019*)

Private Client Global Elite 2018 by Legal Week

Traditional Chancery (*Chambers & Partners*)

Offshore (*Chambers & Partners*)

Trusts (*Chambers & Partners*)

Private client: trusts and probate (*Legal 500*)

Richard is also listed in the Citywealth Leaders' List as a prominent barrister in the field of trusts.

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### Quotes

*"very commercial, practical and responsive"* Chambers High Net Worth, 2020

*"He's just fantastically user-friendly - always at the end of the phone if you need him. He's also so good strategically."* Chambers High Net Worth, 2020

*"very thorough and very meticulous. He has a very good knowledge of the law and applies it in a forceful way. He is a fairly formidable opponent, because he's strategically and tactically very good - he'll fight his corner for the client very persuasively,"* Chambers High Net Worth, 2019

*"Richard has a phenomenal memory and is very popular with clients. He is very practical, pragmatic and strategic."* Chambers High Net Worth, 2019

*"He's practical and someone who remains calm in the midst of a firefight."* Chambers Global, 2019

*"Really solid on the law and has a good understanding of how litigation will unfold."* Chambers Global, 2019

*"A serious player and a fearless litigator whose strategic thinking is very advanced." "He's a really intelligent man, who is very good at analysing cases."* Chambers & Partners, 2019

*"Very creative in contentious trust scenarios." "Nothing fazes him and he is really good in court."* Chambers Global, 2019

*"He is highly intelligent, has good judgement and is good on the law."* Chambers Global, 2019

*"He handles Hong Kong and Gibraltar cases."* Legal 500, 2019

*"He is one of the top performers at the Bar for contentious trusts and probate work."* Legal 500, 2019

*"A fearless litigator whose strategic thinking is very advanced."* Chambers & Partners HNW 2018

*"He is just an excellent all-round barrister"*

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" Chambers & Partners HNW 2018

*"He is very rapidly making a name for himself as a serious player. He is one of the leading people in this area and a big name in the offshore world."* Chambers & Partners HNW 2018

*"A very good advocate who is excellent at legal analysis, and whose written work is always of a high standard." " He is very engaging and the epitome of a modern barrister as he is not stuffy, is au fait with social media and really knows the marketplace."* Chambers & Partners UK 2018

*"He is reliable, makes himself available and engages with clients"* Legal 500 2017

*"Clever, hands-on and astute"* Legal 500 2017

*"A demolition ball in court. He's one of the true trial barristers, who is always game for the fight."* Chambers & Partners 2017

*"Well-known trusts specialist who continues to impress with his service delivery and skill set."* Chambers & Partners 2017

*"He is a very good advocate who is very considered and measured."* Chambers & Partners 2017

*"At the top of his game."* Legal 500 2016

*"An outstanding advocate, very good at thinking on his feet."* Legal 500 2015

*"He applies his thorough understanding of the law in a client friendly manner, often coming up with imaginative solutions to the underlying issues. He is hard-working and very responsive."* Chambers 100 UK Bar

*"He is extremely able, extremely likeable and very easy to get on with. His written work and advocacy are very good."* Chambers & Partners 2016

*"He is very commercial, switched on and astute."* Chambers & Partners 2016

*"He's both highly forensic and yet imaginative in his approach to the problem-solving process and he really throws himself into cases."* Chambers & Partners 2016

## **Publications**

[What to consider when looking at assisted suicide](#), FT Advisor, April 2019.

[Relief from flawed decisions](#), Trusts and Estates Law & Tax Journal, November 2018, together with [Alan Boyle QC](#) and [Zahler Bryan](#).

Richard writes extensively on subjects within his fields of expertise. He has had numerous articles published in journals such as Private Client Business, The Trusts and Estates Law and Tax Journal and Elderly Client Adviser. He is the co-author of 'The Trustee Act 2000: a Practical Guide' (Jordans, 2001) and is currently co-writing the 'Trust Litigation Handbook' which is due to be published by Jordans. Richard is a former editor of the Trusts Quarterly Review, and is currently a member of the editorial boards of the Wills and Trusts Law Reports. He is also currently contributing to the latest edition of 'Contentious Probate Claims' (Thompson Reuters) and is the Consultant Editor of the 'Trusts and Settlements' volume of Halsbury's Laws of England.

## **Seminars and Lectures**

Richard lectures on a wide range of subjects. He has spoken at the Legal Week Trusts and Estates Litigation Forum on numerous occasions. He has lectured to a number of STEP branches in the UK and around the World, including the Cayman Islands, Guernsey, New York, Gibraltar and Bermuda.

## **In the Press**

['Judge blames 82-year-old for costly Habberfield farm inheritance row'](#) The Times, 24 May 2019

['What to consider when looking at assisted suicide'](#) Financial Times Adviser, 17 April 2019

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## **Education & Qualifications**

Richard read Law at the Universities of Sheffield (LLB) and London (LLM).

## **Memberships**

Chancery Bar Association

ACTAPS

STEP

Professional Negligence Bar Association

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