



Richard Owen-Thomas

Year of Call: 2000

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Overview

Richard is an experienced commercial lawyer, specialising in commercial disputes involving the workplace, contracts for supply of goods and services, professional liability, consultancy agreements and all areas of commercial law, including defamation, malicious falsehood and economic torts.

He is a Member of the Chartered Institute of Arbitrators, and has extensive experience of all forms of alternative dispute resolution. However, when court proceedings are necessary, Richard has over 16 years' experience of trial advocacy, in Courts and Tribunals throughout the UK, including several notable successes in the Court of Appeal.

He has particular experience of both contentious and non-contentious commercial matters including TUPE transfers, Directors' duties, corporate governance issues, share capital and shareholder rights, and directors' indemnification and directors' and officers' liability insurance policies.

Richard has also practised in the Employment Tribunal since 2000, having appeared in many hundreds of Employment Tribunal cases, and several successes in the Employment Appeal Tribunal. In addition to contentious work, Richard has extensive experience drafting policies and procedures, compromise agreements and COT3 settlements and he regularly advises on the employment issues surrounding the sale or purchase of businesses.

Professional bodies

- Employment Law Bar Association (ELBA)
- Employment Lawyers Association

Expertise

Employment and discrimination

Richard has practised employment law since qualifying in 2000 and covers all aspects of employment law in the Tribunal, the High Court and County Court. He has represented employers, including multi-national companies, Government agencies and small businesses, in cases of alleged unfair and constructive dismissal, discrimination, TUPE and all other areas of employment law. Richard also undertakes a significant amount of work for claimants, often under the Direct Public Access scheme. Direct Public Access Scheme work is also undertaken for employers, and Richard has seen many cases from start to finish, including successfully defending the dismissal of a claim in the Employment Appeal Tribunal.

In addition to contentious work, Richard has extensive experience drafting policies and procedures, compromise agreements and COT3 settlements and he regularly advises on the employment issues surrounding the sale or purchase of businesses.

Richard has a particular interest and experience in discrimination cases, having represented both employers and employees extensively in matters of sex, race, religious, age and disability discrimination.

Richard also appears in regulatory proceedings in front of professional organisations such the Health Professions Council.

Richard is a member of the Chartered Institute of Arbitrators, and is happy to be appointed as an arbitrator in employment, and commercial disputes.

Richard has been appointed the barrister panel of ELAAS (the Employment Lawyers Appeals Advice Scheme). ELAAS is a service offering pro bono employment law advice to appellant and respondents where there is a preliminary hearing in the EAT with no previous legal representation on record.

Reported cases include

- Metroline Travel Ltd V (1) Sean D’auvergne (2) Tariq Khan (3) Kinglsey Chime (4) Kerwyn Dyte (5) Peter Coward (2020): [2020] 1 WLUK 300 - Role of the Tribunal in interpreting the incorporation of collective terms in employment tribunal
- Anthony E Madu v General Medical Council [2017] EWHC 1000 (Admin) - Appeal against erasure from the list of Doctors
- In Amenas Inquest [2015] - Representing the family of a man killed by Al Qaeda terrorists in Algeria. Richard acted in this lengthy, complex and difficult inquest before the now Recorder of London. Acted as leading counsel, and had conduct of the litigation, having been instructed directly by the family
- Begum v Hafiz & Hai [2015] [2015] WLR (D) 329 - Ground breaking authority for the powers of the Court under TOLATA
- Riley v Ministry of Justice EAT [2016] ICR 172 - Authority for the appropriate constitution of an Employment Tribunal considering ordering costs otherwise than immediately after the hearing
- Ottimo Property Services LTD v G Duncan & Warwick Estate Properties Limited [2015] ICR 859 - Important clarification of the meaning of ‘client’ for the purposes of the TUPE regulations
- Blackburn v ALDI Stores LTD [2103] IRLR 864 [2013] ICR D37 - EAT guidance on the scope of the implied term of trust and confidence and how it applies to the resolution of employee’s grievances
- Zarkasi v Anindita [2012] ICR 788 - Guidance as to illegality in employment contracts, particular in relation to illegal immigrant workers
- McKinson v Hackney Community College [2011] Eq. L.R. 1114 - Guidance on the power of the Tribunal to require a litigant to narrow the scope of his case
- Dawes v Lidl [2006] All ER (D) 112 Mar - Appeal against finding of unfair dismissal and the interconnection between wrongful and unfair dismissal.

Training

Richard has conducted employment law training and seminars, including for the [White Paper Company](#).

Commercial

Richard is an experienced commercial litigator, specialising in disputes involving contractual and shareholder disputes, as well as company, partnership and LLP law and claims against professionals.

A significant proportion of Richard's practice encompasses business protection disputes covering defamation, privacy, restrictive covenants and confidential information. He regularly advises in relation to all aspects of defamation cases, including territorial jurisdiction, serious harm, and the appropriate 'Chase' levels. In addition, Richard advised potential defendants in relation to the various defences open to them, and the level of likely damages.

Richard has particular experience of both contentious and non-contentious commercial matters including share capital and shareholder rights, Directors' duties, TUPE transfers, corporate governance issues, and directors' indemnification and directors' and officers' liability insurance policies.

Contentious

Richard's broad litigation practice covers most areas of the Law normally litigated in the Queen's Bench and Chancery Division, including:

- Company litigation
- Partnership
- Insolvency
- Fraud, Misrepresentation and Breach of Trust.

Defamation

Richard regularly acts for both claimants and defendants offering specialist advice and representation in the field of reputation Management. In the last year, he has acted in over 150 potential defamation actions, including:

- For an individual against a newspaper in relation to a prominent sportsperson
- For a food business against a newspaper in relation to its reporting of Food Hygiene awards
- For numerous people in respect of social media posts
- For an individual accused of making a false allegations of sexual assault
- For a politician in relation to election campaign materials
- Against an international sportsman in respect of false allegations of infidelity
- Against an ex-spouse in relation to false allegations posted on a hacked website
- Against a lawyer who accused an individual of criminality
- Against a broadcasting company in respect of a documentary about a Peer
- In respect of false reviews posted on consumer sites
- In respect of allegations arising from the 'Occupy' protest at St Paul's
- In respect of allegations arising from an international body building competition
- In respect of allegations made during the course of a council meeting.

Non Contentious

Richard advises companies, directors, shareholders, the buyers and sellers of business in all commercial transactions in respect of:

- Directors' duties
- Annual general meetings including reviewing annual report and accounts, business reviews, directors' remuneration

reports and notices of meetings

- Corporate governance issues including changes as a result of the UK Corporate Governance Code
- Share capital and shareholder rights including, redemption and transfer of shares or other securities, class rights, and conversion rights
- Directors' indemnification and directors' and officers' liability insurance policies
- The Bribery Act 2010
- Company formation and administration including:
 - Shareholders' agreements
 - Partnership Agreements
- Commercial contracts including:
 - Business sale and purchase
 - Those with public sector sensitivities
- Athletes, musicians and other 'talent' contracts

Recent work has included

- Advising suppliers in respect of public and private sector procurement: Richard has experience of advising large and small organisations in respect of domestic and European regulations. He has particular experience of dealing with the provision of information, compliance with the appropriate procedures and time frames, and the judicial review of public bodies who fail to comply with legislation or otherwise act unfairly in the tender process.
- Advising a start-up online jewellery business in relation to share issue, and shareholders agreements
- Advising a property management company

Richard is a Member of the Chartered Institute of Arbitrators, and has extensive experience of all forms of alternative dispute resolution. However, when court proceedings are necessary, Richard has over 16 years' experience of trial advocacy, in Courts and Tribunals throughout the UK, including several notable successes in the Court of Appeal.

Cases

- *Emil Kirkegaard v Oliver Smith* [2019] EWHC 3393 (QB) – Trial of whether words contained in internet posts carried defamatory imputations and whether they were fact or comment
- *Baker v Hemming* [2019] EWHC 2950 (QB) – Significant success in striking out and obtaining summary judgment in respect of a counterclaim in libel for former MP
- *Suresh v Samad & a others* [2017] EWHC 76 (QB) – Defamation: hearing of an application to strike out and or summary judgment of a defence
- *Anthony E Madu v General Medical Council* [2017] EWHC 1000 (Admin) – Appeal against erasure from the list of Doctors
- *AB v CD* [2016] ORD 93, Supreme Court of Gibraltar – Claim for an injunction to restrain breach of confidentiality and legal professional privilege
- *Raja v Aviram* [2016] UKUT 102 (LC) – Successful appeal against finding of no breach of covenant in circumstances where the leaseholder had installed a new boiler without permission of the freeholder
- *Ocean Healthcare LTD v Sigma Pharmaceuticals PLC* [2104] All ER (D) 250 (Nov) – Richard acted for a large pharmaceutical company, successfully at first instance and in the Court of Appeal. The Court of Appeal gave further guidance as to the scope for admitting new evidence on appeal
- *Anglian Windows Limited v Balachandra* – Richard acted for the successful appellant in gaining permission to appeal, in relation to the availability of damages for 'disappointment, disturbance, loss of employment and upset' in commercial contracts

Sports

Richard acts both for and against a variety of professionals and sports people in disciplinary and regulatory tribunals.

He offers expertise in relation to sports law including to specialist contractual advice for sports people & bodies, representation of sports people at disciplinary tribunals, the resolution of sporting disputes and expertise in early stage advice in all potential proceedings.

Richard has acted and advised in proceedings before the General Medical Council, the General Dental Council, The Royal College of Veterinary Surgeons, the Health and Care Professions Council, and appeals both to the High Court and the Privy Council. In addition, Richard has acted as Disciplinary Officer for the British Amateur Gymnastics Association. Richard also has experience in advising in relation to proceedings investigated by the Financial Conduct Authority.

Cases include

- X v GMC (2015) – allegations of unprofessional (non-clinical) conduct by a GP
- X v RCVS (2014) – advising on proceedings before the Privy Council on appeal from RCVS
- X v HCPC (2013) – advising a sonography in relation to allegations of clinical competence
- BAGA v Louis Smith (no 1) (2016) – advising and representing British Gymnastics in relation to Twitter posts
- BAGA v Louis Smith (no 2) (2016) – advising and representing British Gymnastics in relation to actions of Louis Smith.