

## Richard Hanke

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Year Of Call: **2006**



Richard specialises in commercial litigation, in particular banking, commercial fraud, general contractual disputes, financial services regulation and professional negligence. He has significant experience of acting both as a sole advocate and as part of a larger counsel team on substantial matters.

He is recommended as leading junior for commercial litigation, banking and finance and professional negligence. He has been described in the directories as *'very approachable, user-friendly and a pleasure to work with, as well as extremely knowledgeable'*, *"a very engaged junior who adds lots of value," "a capable and consistent performer"*, *"A very good advocate who is very client-friendly"*, *"very capable, punches above his weight and has the ear of the court"* and *"brilliant"*, *"Possesses a good combination of being highly intelligent and very approachable which makes him good to work with."*, *"A very strong advocate. He's incredibly well organised and inspires confidence in all those who use him."*

Richard's experience covers large and complex commercial cases. He has particular experience acting in retail and investment banking disputes relating to derivatives and complex financial products and arrangements.

### Directory Quotes

*"Extremely responsive, committed and user friendly. He is very persuasive and has an excellent manner in court."*

Legal 500 2022

*"He is brilliantly client-friendly and trusted by client contacts. You can have confidence in him in every situation you throw at him."*

Chambers and Partners 2022

## Expertise

### Banking & Finance

Richard has expertise in wholesale and retail banking law, as well as complex financial products. He has particular experience in the defence of retail banking mis-selling claims. He is ranked in Band 2 in Chambers and Partners and Tier 4 in Legal 500 in banking and finance. Chambers and Partners (2021) state that "*He provides clear, focused and pragmatic advice with fantastic forensic skills*" and Legal 500 (2021) refers to him as able to "*Absorb huge volumes of detail extremely quickly and apply it in support of his client's position. His written and oral advocacy and cross-examination is well judged, precise and extremely effective.*"

His experience includes:

- *Farol & Ors v Clydesdale Bank & National Australia Bank* (2019 - ongoing). Acting for Clydesdale Bank in claims presented by the Claimants as a test case (for potentially thousands of other claims) to determine whether the bank was entitled to charge break costs upon the early termination of its fixed rate tailored business loan product. Led by Bankim Thanki QC and Ian Wilson QC, instructed by DLA Piper.
- *Garrick Surface Coatings Limited v National Westminster Bank plc* (2021) Acting for the Defendant Bank in a claim relating to the transfer of the Claimant to its GRG department, and the appointment of an interim manager. Instructed by Addleshaw Goddard.
- *Euro Property Construction v National Westminster Bank plc* [2021] EWHC 190 (QB). Acting for the Defendant Bank in claims relating to a decision not to fund a large property development. Instructed by Addleshaw Goddard.
- Interest rate risk protection product disputes (2012 - ongoing). Acting for a number of major banks and building societies (including Barclays, Clydesdale, HSBC, Nationwide and RBS), advising and defending claims arising from the sale of interest rate protection risk hedging and analogous products, typically as sole counsel but also as part of a larger team. These cases have included:
  - *Clydesdale Bank plc v Wardle* (2019-2021) Acted for the bank in defending a claim alleging mis-selling of a tailored business loan within a s.140A unfair relationship claim. Instructed by Gateley Legal.
  - *Southwell v National Westminster Bank plc* (2019-2020) Acted for the defendant bank in a claim relating to the sale of interest rate hedging products and the appointment of LPA Receivers. Instructed by DLA Piper.
  - *Grice v Royal Bank of Scotland* (2017 - 2018) Acted for the defendant bank in a claim relating to the sale of interest rate collars, with a claim for consequential losses of £16.5m. Led by Andrew Ayres QC, instructed by Dentons.
  - *Mann Group v Svenska Handelsbanken AB* (2016 - 2019) Acting for the defendant bank in a claim relating to the sale and novation of seven callable interest rate swaps. Led by Matthew Hardwick QC, instructed by Simmons & Simmons.
  - *Fahem v HSBC Bank plc* (2016 - 2019) Acting for the defendant bank in a claim by investors in a company that entered into an extendable interest rate swap. Instructed by Freshfields Bruckhaus Deringer.
  - *Summerpark Ltd v Clydesdale Bank plc* (2015 - 2017) Acting for the defendant bank in a claim relating to the alleged mis-selling of a participating fixed rate range loan, with a

damages claim of over £10million. Led by Ian Wilson, instructed by DLA Piper. Case settled shortly before trial.

- *Hobson v Clydesdale Bank plc* (2014 - 2016) Acted for the defendant bank in a claim relating to the alleged mis-selling of a discounted fixed rate range loan, with a damages claim of around £20million. Led by Ian Wilson, instructed by Addleshaw Goddard.
- *Paterson v Svenska Handelsbanken AB* (2016) Acted for the defendant bank in a claim relating to the sale of a callable interest rate swap, with a damages claim of over £5million. Led by Matthew Hardwick QC, instructed by Simmons & Simmons. Case settled shortly before trial.
- *Bailey v Barclays Bank Plc* [2014] EWHC 2882 (QB) (2014 - 2016) Richard acted as sole counsel in the defendant bank's successful application to strike out the whole claim. He was to be led by Adrian Beltrami QC on the appeal and was instructed by Simmons & Simmons. Case settled shortly before appeal hearing.
- *Carney & Fox v NM Rothschild & Sons Ltd* [2018] EWHC 958 (Comm) (2016 - 2018). Acting for the defendant bank in a s.140A unfair relationship claim arising from loans advanced to the Spanish resident borrowers and secured over properties in Spain and investment portfolios. Instructed by Freshfields Bruckhaus Deringer.
- *Deutsche Bank v CIMB Bank* [2017] EWHC 1264 (Comm) (2017) Acted for the defendant bank in a claim for reimbursement under 10 letters of credit. Led by Andrew Fletcher QC, instructed by HFW.
- *Barclays v de By* [2017] EWHC 3079 (QB) (2016 - 2017) Acted for the claimant bank in its claim against a former partner of a major US law firm, who had failed to repay his partnership capital subscription loan following the insolvency of that firm. Instructed by Addleshaw Goddard.
- *Kotak v RBS* (2016 - 2017) [2017] EWHC 1821 (Ch) Acting for the defendant bank in a claim arising from a partnership dispute, and the alleged fraudulent misuse of an £11million partnership loan facility giving rise to issues relating to the Bank's partnership mandate and s.5 Partnership Act 1890. Instructed by Addleshaw Goddard.
- *Jamtoff v Century Bancorp* (2015) Acted as sole counsel for the claimant Russian plastics manufacturer in a claim arising out of fraudulent letters of credit. Instructed by DWF.
- *Greengarth v RBS* (2015 - 2016) Acting for the defendant bank in a claim arising from the alleged fraudulent misuse of a bank account over a four year period. Instructed by DLA.
- *Clydesdale v Farrimond* (2014 - 2016) Acting for the claimant bank seeking payment under a number of guarantees, which was defended on the basis of alleged negligent misrepresentations and advice given to the guarantor and the principal debtor. Instructed by Gateley.
- *SNCB Holding v UBS AG* [2012] EWHC 2044 (Comm). Acted for the defendant bank in a claim relating to a secured credit linked deposit agreement. Led by Adrian Beltrami QC, instructed by Linklaters.
- Payment protection insurance mis-selling claims (2009 - ongoing). Acted for various major retail banks in trials, applications and case management conferences in claims covering all issues arising out of payment protection insurance mis-selling (including ICOB/ICOBS breaches).

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## Civil Fraud

Richard's experience includes:

- *A v B* (2021-ongoing) Acting for the claimant in an LCIA arbitration in a fraud claim arising out of the sale of £10million of shares in a commodities company. Instructed by DWF.
- *IOEC v Dean* (2018 - 2020) [2019] EWHC 472 (Comm) [2020] EWHC 2497 (Comm) Acted for the Claimant Iranian company in a claim for damages of US\$87m in respect of a contract to buy an oil rig as part of a conspiracy led by its former managing director, his adviser and their associates in the UAE. Also acted in the enforcement of the judgment against a property held in the name of the wife of one of the Defendants. Led by Andrew Onslow QC, instructed by Eversheds Sutherland.
- *Nazar v Belco Trading Ltd* (2020). Acted for the claimant in a fraud claim against 8 Defendants arising out of an £8m investment in a Ukrainian farm machinery company. Instructed by DWF
- *Parallel Routs Ltd v Fedotov* (2019) [2019] EWHC 2656 (Ch). Richard acted for the Defendant in a claim brought to recover GBP26million allegedly due under 17 loan agreements, which were in fact part of a corporate raid by a Russian former business rival. Instructed by DWF.
- *Bhambra v Saini* (2018 - 2020). Richard acts for the claimants in a £1million fraud claim, arising out of sham currency transfers and investments. Leading Ryan Ferro. Instructed by DWF.
- *Kotak v RBS* (2016 - 2017) [2017] EWHC 1821 (Ch). Acted for the defendant bank in a claim arising from the alleged fraudulent misuse of an £11million partnership loan facility. Instructed by Addleshaw Goddard.
- *Jamtoff v Century Bancorp* (2015) Acted as sole counsel for the claimant Russian plastics manufacturer in a claim arising out of fraudulent letters of credit issued by a New Zealand based company controlled from England. Instructed by DWF.
- *Greengarth v RBS* (2015 - 2016) Acting for the defendant bank in a claim arising from the alleged fraudulent misuse of a bank account over a four year period. Instructed by DLA.
- *Fortress Value Recovery Fund v Blue Skye Special Opportunities Fund* (2012 - 2014) [2013] 2 BCLC 351. Acted for the Claimants against 22 defendants in a substantial claim arising from the complex reorganisation of the €200m Blue Skye investment fund in Italy. The claim gave rise to a number of important decisions, including a judgment which made notable observations on issues of reflective loss and actions in fraud of creditors [2013] 1 All ER (Comm) 973 and as to the application of the doctrine of collateral waiver of privilege [2014] EWHC 551 (Comm) Part of a four counsel team with Ewan McQuater QC, David Quest QC and Miriam Schmelzer, instructed by Slaughter and May.
- *Altecnic Ltd v Gizzi* (2011 - 2012). Acted for the claimant company in claims against its former directors involving breach of director's and fiduciary duties, soliciting employees and soliciting customers. Junior to Matthew Parker, instructed by Field Fisher Waterhouse.
- Mortgage Express mortgage fraud claims (2011 - 2012). Acting for the claimant lender in various proceedings arising from serial mortgage fraud.
- *National Grid Electricity Transmission plc v McKenzie* [2009] EWHC 1817 (Ch). Acting for National Grid in a seven week Chancery Division trial of a fraud claim involving bribery, breach of fiduciary duty, dishonest assistance and unlawful means conspiracy. Part of a three counsel team with Stephen Phillips QC and Laura John, instructed by Dorsey & Whitney.
- Acted for lending banks in delivery up and pre-action disclosure and other interim applications

associated with mortgage fraud.

- Advised a bank in relation to the recovery of assets extracted through mortgage fraud.
- Assisted with a potential claim to recover assets from an errant director in Belize and Nevis.

## Commercial Dispute Resolution

Richard has expertise in all fields of Commercial Dispute Resolution and is ranked as a leading junior in the field by Legal 500, which describes him as '*An impressive advocate. He is very quick to think on his feet, and highly persuasive in his arguments*'.

Richard's experience includes:

- *A v B* (2021-ongoing) Acting for the claimant in an LCIA arbitration in a fraud claim arising out of the sale of £10million of shares in a commodities company.
- *IOEC v Dean* (2018 - 2020) [2019] EWHC 472 (Comm) [2020] EWHC 2497 (Comm) Acted for the Claimant Iranian company in a claim for damages of US\$87m in respect of a contract to buy an oil rig as part of a conspiracy led by its former managing director, his adviser and their associates in the UAE. Also acted in the enforcement of the judgment against a property held in the name of the wife of one of the Defendants. Led by Andrew Onslow QC, instructed by Eversheds Sutherland.
- *Siplas Limited v Hills Numberplates Limited* (2020 - ongoing). Richard acts for the Defendant number plate manufacturer in a claim relating to a supply agreement for component parts. Instructed by Irwin Mitchell.
- *Parallel Routs Ltd v Fedotov* (2019) [2019] EWHC 2656 (Ch). Richard acted for the Defendant in a claim brought to recover GBP26million allegedly due under 17 loan agreements, which were in fact part of a corporate raid by a Russian former business rival. Instructed by DWF
- *Montreux Capital Management (UK) Limited v Godden & Morley* [2018] EWHC 495 (Ch) (2017 - 2018). Acting for the Defendant former directors of an investment fund manager in claims relating to breach of confidentiality provisions. Instructed by Irwin Mitchell.
- *Jamtoff v Century Bancorp* (2015). Acted as sole counsel for the claimant Russian plastics manufacturer in a claim arising out of fraudulent letters of credit issued by a New Zealand based company controlled from England. Instructed by DWF.
- *Holland & Barrett v Freeworld* (2014 - 2015). Acted for the claimant health foods retailer in a claim against a commodity trader for supplying defective goods. Instructed by Hill Hofstetter.
- *Fortress Value Recovery Fund v Blue Skye Special Opportunities Fund* (2012 - 2014) [2013] 2 BCLC 351. Acted for the Claimants against 22 defendants in a substantial claim arising from the complex reorganisation of the €200m Blue Skye investment fund in Italy. The claim gave rise to a number of important decisions, including a judgment which made notable observations on issues of reflective loss and actions in fraud of creditors [2013] 1 All ER (Comm) 973 and as to the application of the doctrine of collateral waiver of privilege [2014] EWHC 551 (Comm). Part of a four counsel team with Ewan McQuater QC, David Quest QC and Miriam Schmelzer, instructed by Slaughter and May.
- *Globe Motors Inc v TRW Lucasvarity* (2011 - 2013). Acted for the claimant US company in a substantial claim arising out of the termination of an exclusive agreement for the supply of power steering unit components. Led by Paul Lowenstein QC, instructed by Baker & McKenzie.
- Advised on freezing injunctions in support of overseas proceedings for in excess of US\$80m.

Led by Andrew Onslow QC and Jonathan Mark Phillips, instructed by Stephenson Harwood.

- *ANC Harlow & ors v FedEx UK Ltd and anor* (2011). Acted for FedEx in its defence of claims by 23 of its franchisees for further payments under a franchise bonus scheme. Trial in March and April 2011 before Proudman J. Led by Paul Lowenstein QC, instructed by Baker & McKenzie.
- *Project Pay (UK) Ltd v Way Systems Inc* (2011). Acted for the defendant US company disputing jurisdiction in a misrepresentation claim for in excess of £9 million, brought by German and English companies, relating to the sale of hand-held bank card devices. Instructed by DLA Piper.
- *GB Gas Holdings Ltd v Accenture (UK) Ltd* (2009 - 2010). Acted for GB Gas Holdings in a claim for over £100m against Accenture for the defective design and implementation of a customer billing system. Part of a three counsel team with Jeffery Onions QC and Sonia Tolaney, instructed by Linklaters.
- Acted for an English company in proceedings to recover unpaid invoices from Norwegian and Dutch companies.
- Assisted in an ICSID arbitration under a bilateral investment treaty.
- Acted for the claimant in an LCIA arbitration relating to a share purchase agreement. Junior to James Evans.

## Company & Insolvency

Richard's experience includes:

- Advising as to the effect of the recognition of Japanese restructuring proceedings in England.
- Advising an insolvent overseas Bank as to remedies available in England to reverse transactions entered into before its insolvency.
- *Kohli v Lit (Re Sunrise Radio)* [2012] EWHC 1338 (Ch), [2012] EWHC 1337 (Ch), [2011] EWHC 3821 (Ch). Acted for the petitioner minority shareholder in a trial to assess the value of a company following a finding of unfair prejudice and consequential hearings. Instructed by EMW.
- *McGuinness v Norwich and Peterborough Building Society* [2011] EWCA Civ 1286, [2010] EWHC 2989 (Ch). Acted for Norwich and Peterborough Building Society in first and second appeals by the debtor against a bankruptcy order founded on a guarantee, which turned on the nature of the debtor's liability under that guarantee. Led by Angharad Start, instructed by Rosling King.
- Regularly instructed in corporate and personal insolvency applications, including annulment applications, setting aside statutory demands and claims contesting the admission of proofs of debt.
- Advised an English bank on competing claims made on a fund by foreign liquidators.
- Advised in relation to a bankruptcy order that had been obtained against a deceased creditor who had lived overseas.
- Assisted with an action in the High Court and the Court of Appeal relating to the enforcement and recognition of foreign insolvency proceedings in England.
- Assisted in proceedings where a company resisted an application for an administration order on the basis of a disputed debt.

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## Financial Services

Richard has significant experience acting in cases with a financial services regulatory element.

In 2008, Richard was seconded to the (then) Financial Services Authority in the Markets and Wholesale Firms department of the General Counsel Division. He gained experience of a wide range of regulatory issues, and specifically worked on banking reform, including the Banking Act 2009 and has an enduring interest in the regulatory regime applicable to banks. Richard now regularly advises banks, financial services firms and their clients on issues arising out of FSMA and its predecessor regimes, as well as in relation to FOS proceedings.

Richard's experience includes:

- *Townsend v St James's Place* (2018 - 2020). Acting for the defendant financial advice firm in relation to the conduct of, and scope of responsibility for, a former appointed representative. Led by Matthew Hardwick QC, instructed by DAC Beachcroft.
- Acting for and advising banks, investors and investment advisers in relation to claims arising out of COBS rules.
- Advising an overseas bank as to the scope to which it could carry on business in the UK under Directive 2013/36 - CRD IV.
- Advising an overseas bank as to the impact of Regulation 1024/2013 - the Single Supervisory Regime Regulation.
- Advised a private investor on a potential claim against a financial spread betting firm for breaches of ICOBS.
- Acted for the claimant in a professional negligence claim against a firm of financial advisors for negligent advice and breach of COBS.
- Advised a firm of financial advisors in relation to the enforcement of a Financial Ombudsman award.
- Advised on a potential professional negligence claim against a financial services compliance advisory firm relating to advice on collective investment schemes.
- Experience of pensions regulation, including acting for the Pensions Regulator.

## Professional Negligence

Richard has particular expertise in professional negligence claims in the financial services sector, as well as more general experience, particularly against property valuers and solicitors. He is ranked as a leading junior in the field by Legal 500.

Richard's experience includes:

- *Townsend v St James's Place* (2018 - 2020). Acting for the defendant financial advice firm in relation to the conduct of a former appointed representative. Led by Matthew Hardwick QC, instructed by DAC Beachcroft.
- Acted for a property investor in a claim against solicitors relating to the negligent drafting of a lease.
- Acted for and advising various banks facing claims that they provided negligent advice in relation to investments and other financial products.

- *Warne v SEB* (2015 - 2016) Acting for the defendant in a claim relating to the alleged mis-selling of an investment bond in Spain. Instructed by RPC.
- *Mohun-Smith v TBO* (2013 - 2014) Acted for the claimants in a claim against an investment adviser for negligent advice and breach of the Financial Services Authority's COBS rules in relation to a £1.5million investment in various offshore funds.
- *Anglo Irish Bank Resolution Corporation Ltd v DTZ Debenham Tie Leung Ltd* (2012 - 2013). Acted for the Claimant former bank in a £20million claim against a property valuer. Led by Christopher Symons QC, instructed by Rosling King.
- Acting for and advising various banks in claims against property valuers.
- Acting for claimants in professional negligence claims against independent financial advisors for negligent advice and breach of the applicable FSA / FCA rules.
- Advised on a potential professional negligence claim against a financial services compliance advisory firm relating to advice on collective investment schemes.

## **Publications**

Co-Editor of EU Law division of The Encyclopaedia of Banking Law

Co-Editor of Butterworths Banking Bulletin - European Banking Update

How fair are bank charges?' with John Jarvis QC [2008] JIBFL 282

Contributor to the 17th edition of Bullen, Leake and Jacob's Precedents of Pleadings