

RICHARD ASCROFT

CALL: 1995

"Very competent and someone who always performs well, he's energetic and a lively presence."

Chambers UK 2019

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Richard is a barrister who specialises in insolvency law, company law and commercial litigation. He has over 20 years advisory and advocacy experience and has appeared in courts at all levels including the House of Lords. Richard is identified in the major legal directories as a leading junior in his chosen fields and has been on the Attorney General's Regional Panel of Junior Counsel to the Crown for over 10 years. He is also a contributor to the leading work on directors' disqualification.

PRACTICE AREAS

- Insolvency
 - Commercial
 - Company Law
 - Company Directors Disqualification
 - Banking & Financial Services
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INSOLVENCY

Richard has a comprehensive knowledge of the Insolvency Act 1986 and related legislation and acts on behalf of debtors (individuals and companies), office holders, bankrupts and directors. His practice involves all aspects of personal and corporate insolvency including:

- Company director disqualification proceedings
- Bankruptcy Restriction Orders and Debt Relief Restriction Orders
- Misfeasance claims (breaches of trust and breaches of duty)
- Bankruptcy
- Transaction avoidance claims (voidable preferences, transactions at an undervalue; transactions defrauding creditors)
- Administrations
- Voluntary liquidations
- Voluntary arrangements
- Unlawful returns of capital
- Prohibited names (s 216 of the Insolvency Act 1986)

Recent work includes:

- Acting for Asil Nadir's trustee in bankruptcy
- Advising a major electronics retailer on the enforceability of a reservation of title clause against administrators
- Securing permission for an undischarged bankrupt to act as a company director
- Obtaining the release from disqualification undertakings of two former Farepark directors
- Advising in relation to alleged breach of duty by the former partners of an LLP

SIGNIFICANT CASES

- **Stonham v Ramrattan and anr** [2011] EWCA Civ 119; [2011] 1 WLR 1617; [2011] 4 All ER 392; [2011] BPIR 518 (Rix, Longmore and Lloyd LJ) - Transaction at an undervalue – ‘use it or lose it’ provisions – interaction between ss 283A and 339 of Insolvency Act 1986
- **Secretary of State for Trade & Industry v Frid** [2004] UKHL 24; [2004] 2 AC 506 (HL(E)) - Crown set-off.
- **In re Snelling House Ltd** [2012] EWHC 440 (Ch) (G Moss QC sitting as a Dep HC Judge) - Misfeasance, de facto director, unlawful dividends.
- **Stonham v Ramrattan and anr** [2010] EWHC 1059 (Ch); [2010] BPIR 1210 (Mann J) - Transfer at an undervalue discretion to refuse relief.
- **Re Walker Wingsail Systems Ltd** [2005] EWCA Civ 247; [2006] 1 WLR 2194; [2006] 1 All ER 272; [2005] BPIR 454 - Costs on discontinuance of misfeasance proceedings.
- **Quickson (South and West) Ltd v Katz and arr** [2004] EWHC 2443 (Ch); [2005] BCC 138 - Removal of liquidators.

COMMERCIAL

Commercial work represents approximately half of Richard's practice and he has particular expertise in claims involving:

- Securing or resisting urgent pre-emptive relief (especially freezing and other injunctions)
- Breaches of warranty and misrepresentation (typically in the context of share sale or franchise agreements)
- Enforcement of post sale/employment restrictive covenants
- Professional negligence (solicitors, accountants)
- Interference with goods (bailment, conversion)

Recent work includes:

- Advising in connection with a substantial breach of warranty arbitration pending in Dubai
- Acting for the claimant in professional negligence proceedings against his former solicitors in the conduct of litigation
- Advising a motor dealer in connection with an interest rate collar instrument
- Acting for the purchaser of an accountancy practice alleging misrepresentation and breach of warranty
- Acting for the claimant in the enforcement of restrictive covenants contained in a written consultancy agreement
- Securing restitutionary relief on behalf of a property management service provider in respect of mistaken rent payments exceeding £1.7m

SIGNIFICANT CASES

- **Holland Watts Ltd v Fiander Tovell LLP [2015] EWHC 2427 (QB)** - alleged professional negligence by accountants. Failure to advise client of risk of breach of financial assistance provisions in Companies Act 1985. Availability of 'whitewash' procedure.
- **University of Wales v London College of Buiness Ltd [2015] EWHC 1280 (QB)** - breach and termination of degree validation agreement. Defence of £25m counterclaim. Validity of contractual set-off provisions.
- **Bond v Dunster Properties Ltd and ors [2011] EWCA Civ 455 (Lord Neuberger MR, Arden and Longmore LJJ)** - Effect of delay in delivery of judgment following trial of preliminary issues
- **Jones v (1) Churcher and (2) Abbey National plc [2009] EWHC 722 (QB); [2009] 2 Lloyds Rep 94** - Recovery of mistaken payment; ministerial receipt by bank, defence of change of position.

COMPANY LAW

Richard has a long standing interest in company law with a particular emphasis on shareholder disputes. He is frequently instructed in relation to the following areas of company law:

- Unfair prejudice petitions
- Internal management conflicts including breaches of shareholders' agreements and articles of association
- Removal of directors
- Breaches of directors' duties
- Misuse of company monies
- Restoration of companies to register
- Application of pre-emption provisions

Recent work includes:

- Advising in connection with failure by plc share registrar to notify a shareholder of a takeover-offer
- Acting for the respondents in an unfair prejudice petition presented in respect of a healthcare provider
- Acting for the petitioner in an unfair prejudice petition presented in respect of a property investment company
- Advising in relation to numerous breaches of directors' duty claims

SIGNIFICANT CASES

- **Rubin v Parsons [2016] EWHC 237 (Ch)** - LLP - unfair prejudice - appeal against summary determination of petitioners' claims by registrar
- **Davies v Watkins [2012] EWCA Civ 1570 (Thorpe, Lloyd and Black LJ)** - Costs of compromised Beddoe application - proposed unfair prejudice proceedings by executor of deceased estate.
- **Re Neath Rugby Ltd [2007] BCC 671** - Unfair prejudice - summary judgment/striking out.
- **Kranidiotes v Paschali [2001] EWCA Civ 357; [2003] BCC 353** - Unfair prejudice - valuation of minority shareholding.

COMPANY DIRECTORS DISQUALIFICATION

Richard has substantial experience of CDDA and BRO work, acting both for the Secretary of State/Official Receiver and directors/bankrupts. He has been on the Attorney General's Provincial Panel of Junior Counsel to the Crown since 2002 and is a contributor to Mithani: Directors' Disqualification, the leading text in the field.

As well as appearing at trials and other contested hearings, Richard is frequently instructed to advise on evidence, the scope of allegations of unfitness, likely periods of disqualification or restriction and in relation to securing permission to act as a director following disqualification orders/undertakings.

BANKING & FINANCIAL SERVICES

Richard's banking & financial services expertise includes:

- Contested mortgagee possession proceedings (including where undue influence alleged)
 - Enforcement of guarantees and other securities for both lenders and borrowers and banks' liabilities for conversion/mistaken payments
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RECOMMENDATIONS

- [Who's Who Legal - UK Bar 2015](#)
 - [Chambers UK 2014](#)
 - [Chambers UK 2013](#)
 - [Chambers UK 2012](#)
 - [Legal 500 2012](#)
 - [Chambers UK 2011](#)
 - [Chambers UK 2010](#)
 - [Legal 500 2010](#)
 - [Chambers UK 2009](#)
 - [Legal 500 2009](#)
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APPOINTMENTS:

- Attorney General's Regional Panel, Junior Counsel To The Crown 2002 - 2018
 - Trustee *Talking Money* (charity providing financial advice) November 2015
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MEMBERSHIPS:

- Chancery Bar Association
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EDUCATION:

- LLB Hons, Otago, NZ
 - BCL Oxon
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RECENT NEWS

- Guildhall Chambers shares best practice alongside Prime Minister Theresa May in The Parliamentary Review
- Richard Ascroft speaking at the BLS's Dispute Resolution Conference - 23rd June 2016
- Guildhall Chambers quiz night goes down a "sturm" - September 2015

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