

## Richard Greenberg

CALL: 2013

✉ enquiries@twentyessex.com

☎ +44 (0)20 7842 1200



### Overview

Richard has a broad commercial practice, with a particular focus on civil fraud, shipping and commodities, banking and finance, and private international law. He was ranked as a “Rising Star” in Shipping by *The Legal 500 UK Bar 2022*.

Richard has appeared in the Supreme Court, Court of Appeal and High Court. He has considerable experience of being led in complex, high-value litigation across Chambers’ practice areas, but also regularly appears as sole counsel. Many of his cases have involved jurisdictional disputes as well as other interim applications, including freezing injunctions.

He has extensive experience of arbitral proceedings, particularly in civil fraud, shipping, commodities, banking and general commercial cases. His experience covers arbitral proceedings under a variety of rules, including ad hoc, institutional (ICC, LCIA and SIAC) and trade arbitrations (LMAA and Gafta). In addition, he has considerable experience of applications to court in respect of arbitral proceedings, appeals against arbitration awards, and jurisdiction challenges.

Richard has undertaken secondments to a major city firm, where he spent three months in the litigation department, and a Norwegian Defence Club, where he spent six weeks advising on claims arising under charterparties and bills of lading.

### Publications

- ‘The application of paragraph 72 of Schedule B1 to the Insolvency Act 1986: the importance of having possession... of the facts, the evidence and the relevant property’ (2015) 36(6) *The Company Lawyer* 184 (co-author).

### Professional memberships

- Commercial Bar Association
- London Common Law and Commercial Bar Association
- Insolvency Lawyers’ Association

### Lectures / talks

- ‘Mirror, mirror: reflections on reflective loss’: with David Lewis QC (May 2021)
- ‘Marex v Sevilleja in the Supreme Court: new problems and new solutions’: with Philip Jones and David Lewis QC (July 2020)
- ‘Terminate in haste, repent at leisure: recent developments in the law of termination of contracts’: with David Lewis QC at several venues (May 2018)

## Education

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- BPP University Law School: Bar Professional Training Course, Outstanding (2013)
- City University: Graduate Diploma in Law, Commendation (2012)
- University of Oxford, Christ Church: Master of Studies, Distinction (2010)
- University of Cambridge, Pembroke College: BA (Hons), Double First (2009)

## Selected prizes / scholarships

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- Lord Mansfield Scholarship, Lincoln's Inn (2012)
- Lord Haldane Scholarship, Lincoln's Inn (2011)
- Collins Prize for English, Pembroke College (2009)
- Foundation Scholarship, Pembroke College (2007-09)

## Example cases

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- *Marex Financial Ltd v Sevilleja* [2020] UKSC 31; [2018] EWCA Civ 1468 (CA); [2017] EWHC 918 (Comm): acted for the respondent, Mr Sevilleja, in the High Court (which acknowledged a new tort of interference with a judgment debt), Court of Appeal and Supreme Court in the landmark case on the reflective loss principle. *Marex* is widely regarded as one of the most significant commercial cases of recent times (led by David Lewis QC).
- *PJSC National Bank Trust & another v Boris Mints & others*: acting for the Fourth Defendant across the litigation, which concerns alleged fraudulent transactions entered into with Russian banks (led by Duncan Matthews QC). Judgments include: [2020] EWHC 204 (Comm) (application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million); [2021] EWHC 1089 (Comm) (application for the Russian banks to provide additional fortification of their cross-undertakings); [2022] EWHC 871 (Comm) (appearing unled in application by the Russian Banks for summary judgment against the First to Third Defendants – a significant case on attempts to rely on findings in arbitration proceedings against non-parties to arbitration).
- ICC Arbitration 2019: acted for a bank in a dispute with beneficiaries under US\$55 million demand bonds issued in relation to a major construction project in the Middle East, which involved issues concerning whether the demands on the bonds were fraudulent (in a counsel team led by Michael Ashcroft QC).
- LMAA Arbitration 2019: acted for the Claimant in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service (in a counsel team led by Duncan Matthews QC).
- *A v B* [2018] EWHC 2325 (Comm): acted for the charterers of a vessel in a claim brought by the owners challenging an arbitration award under ss 68 and 69 Arbitration Act 1996 (led by Christopher Hancock QC).
- *Vincent Tchenguiz and others v Grant Thornton UK LLP and others*: acted for the claimants in a conspiracy/malicious prosecution claim seeking in excess of US\$2 billion against Grant Thornton and others for allegedly instigating an unjustified major Serious Fraud Office investigation into Mr Tchenguiz, causing very significant business losses. This included applications concerning privilege, inadvertent disclosure and permission to use documents under CPR 31.22 [2017] EWHC 2644 (Comm) (in a counsel team led by Christopher Hancock QC).
- *Shulman v Kolomoisky and Bogolyubov*: acted for the First Defendant in respect of his application under CPR Part 11 challenging the jurisdiction of the English Court (in a counsel team led by Paul Girolami QC and Stephen Atherton QC).
- *XiO GP Ltd v Xie Zhikun*: acted for a Cayman fund seeking to set aside an ex parte injunction on the grounds that the underlying claims (for breach of fiduciary duty and conspiracy) were barred by the rule against reflective loss (in a counsel team led by Stephen Atherton QC).
- *Magellan Spirit ApS v Vitol SA* [2016] EWHC 545 (Comm): acted for the owners of a liquefied natural gas vessel in an application for an anti-suit injunction in respect of a US\$15 million cargo claim brought in Nigeria (led by Timothy Hill QC).
- SIAC arbitration 2016: acted (as sole counsel) for the buyers in a three-day commodities arbitration in Singapore arising out of a ban on the import of steel by the Indonesian government.

## Commercial and private international law

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Richard undertakes a broad range of commercial work which often involves jurisdictional and choice of law issues.

Recent examples of work:

- *Marex Financial Ltd v Sevilleja* [2020] UKSC 31; [2018] EWCA Civ 1468 (CA); [2017] EWHC 918 (Comm): acted for the Respondent, Mr Sevilleja, from the High Court (which acknowledged a new tort of interference with a judgment debt) to the Supreme Court in the landmark case on the reflective loss principle, which is widely regarded as one of the most significant commercial cases of recent times (led by David Lewis QC).
- *PJSC National Bank Trust & another v Boris Mints & others*: acting for the Fourth Defendant across the litigation, which concerns alleged fraudulent transactions entered into with Russian banks. Judgments include: [2020] EWHC 204 (Comm) (application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million); and [2021] EWHC 1089 (Comm) (application for the Russian banks to provide additional fortification of their cross-undertakings) (led by Duncan Matthews QC).
- *Vincent Tchenguiz and others v Grant Thornton UK LLP and others*: acted for the claimants in a conspiracy/malicious prosecution claim seeking in excess of US\$2 billion against Grant Thornton and others for allegedly instigating an unjustified major Serious Fraud Office investigation into Mr Tchenguiz, causing very significant business losses. This included applications concerning privilege, inadvertent disclosure and permission to use documents under CPR 31.22 [2017] EWHC 2644 (Comm) (in a counsel team led by Christopher Hancock QC).
- *Shulman v Kolomoisky and Bogolyubov*: acted for the First Defendant in respect of his application under CPR Part 11 challenging the jurisdiction of the English Court (in a counsel team led by Paul Girolami QC and Stephen Atherton QC).
- *XiO GP Ltd v Xie Zhikun*: acted for a Cayman fund seeking to set aside an ex parte injunction on the grounds that the underlying claims (for breach of fiduciary duty and conspiracy) were barred by the rule against reflective loss (in a counsel team led by Stephen Atherton QC).
- *Magellan Spirit ApS v Vitol SA* [2016] EWHC 454 (Comm): acted for the owners of an LNG vessel in an application for an anti-suit injunction in respect of a US\$15 million cargo claim brought in Nigeria (led by Timothy Hill QC).
- Acted for a Kazakh company in a US\$18m claim for fraudulent misrepresentation in relation to the acquisition of shares in a leading commercial bank in Uzbekistan (led by Blair Leahy QC).
- Acted for a conch farm in a US\$200 million+ arbitration dispute with a Caribbean state for breach of a development agreement and various property claims.

## Civil fraud

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- *PJSC National Bank Trust & another v Boris Mints & others*: acting for the Fourth Defendant across the litigation, which concerns alleged fraudulent transactions entered into with Russian banks. Judgments include: [2020] EWHC 204 (Comm) (application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million); and [2021] EWHC 1089 (Comm) (application for the Russian banks to provide additional fortification of their cross-undertakings) (led by Duncan Matthews QC).
- ICC Arbitration 2019: acted for a bank in a dispute with beneficiaries under US\$55 million demand bonds issued in relation to a major construction project in the Middle East, which involved issues concerning whether the demands on the bonds were fraudulent (in a counsel team led by Michael Ashcroft QC).
- LCIA Arbitration: acted for the respondents in disputes concerning a large residential and commercial property development in Moscow, with claims and counterclaims for fraudulent misrepresentation, unlawful interference and unlawful means conspiracy, unlawful procurement of breach of contract, breach of equitable and contractual duties of confidence, dishonest assistance, breach of settlement agreement, and breach of arbitration agreement (with Daniel Bovensiepen).
- *Vincent Tchenguiz and others v Grant Thornton UK LLP and others*: acted for the claimants in a conspiracy/malicious prosecution claim seeking in excess of US\$2 billion against Grant Thornton and others for allegedly instigating an unjustified major Serious Fraud Office investigation into Mr Tchenguiz, causing very significant business losses. This included applications concerning privilege, inadvertent disclosure and permission to use documents under CPR 31.22 [2017] EWHC 2644 (Comm) (in a counsel team led by Christopher Hancock QC).
- *Shulman v Kolomoisky and Bogolyubov*: acted for the First Defendant in respect of his application under CPR Part 11 challenging the jurisdiction of the English Court (in a counsel team led by Paul Girolami QC and Stephen Atherton QC).
- *XiO GP Ltd v Xie Zhikun*: acted for a Cayman fund seeking to set aside an ex parte injunction on the grounds that the underlying claims (for breach of fiduciary duty and conspiracy) were barred by the rule against reflective loss (in a counsel team led by Stephen Atherton QC).

- Acted for a Kazakh company in a US\$18 million claim for fraudulent misrepresentation in relation to the acquisition of shares in a leading commercial bank in Uzbekistan (led by Blair Leahy QC).

## Insolvency and company law

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Richard's practice covers the full spectrum of contentious insolvency disputes and company law. Recent examples of work:

- *Marex Financial Ltd v Sevilleja* [2020] UKSC 31; [2018] EWCA Civ 1468 (CA); [2017] EWHC 918 (Comm): acted for the Respondent, Mr Sevilleja, from the High Court (which acknowledged a new tort of interference with a judgment debt) to the Supreme Court in the landmark case on the reflective loss principle, which is widely regarded as one of the most significant commercial cases of recent times (led by David Lewis QC).
- Acted (as sole counsel) for a Seychelles company defending a petition by the Secretary of State for Business, Innovation and Skills to wind up the company on public interest grounds.
- Assisted Stephen Atherton QC in *Re Business Environment Fleet Street Limited (in Administration)* [2014] EWHC 3540 (Ch), a case in which the Court refused to grant leave to the joint administrators of the company to sell assets located at premises owned by the company under paragraph 72 or, alternatively, paragraphs 67 and 68 of the Insolvency Act 1986.
- Acted for the joint administrators of several property development companies in applications to extend their terms of office.
- Acted for creditors and debtors in winding-up and bankruptcy petitions.
- Acted for the defendants in a claim for possession and sale of a residential property pursuant to an equitable charge.
- Acted for the defendant director of a management consultancy firm in a claim by two former shareholders to rescind trust deeds on the grounds of misrepresentation and undue influence.
- Acted for the claimants in a group litigation claim concerned with breach of fiduciary duties by the directors of an international timeshare exchange company.

## Banking and finance

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Richard has experience in a wide variety of banking and finance disputes. Recent examples of work:

- LCIA Arbitration: acting for a steel trader in a dispute with a bank concerning (amongst other things) negligent misstatement (led by Philip Edey QC).
- *PJSC National Bank Trust & another v Boris Mints & others*: acting for the Fourth Defendant across the litigation, which concerns alleged fraudulent transactions entered into with Russian banks. Judgments include: [2020] EWHC 204 (Comm) (application to be released from undertakings given in substitution for a worldwide freezing order to the value of US\$572 million); and [2021] EWHC 1089 (Comm) (application for the Russian banks to provide additional fortification of their cross-undertakings) (led by Duncan Matthews QC).
- ICC Arbitration 2019: acted for a bank in a fraud dispute with beneficiaries under US\$55 million demand bonds issued in relation to a major construction project in the Middle East, which involved issues concerning whether the demands on the bonds were fraudulent (in a counsel team led by Michael Ashcroft QC).
- Acted for a Kazakh company in a US\$18m claim for fraudulent misrepresentation in relation to the acquisition of shares in a leading commercial bank in Uzbekistan (led by Blair Leahy QC).
- Acted (as sole counsel) for a foreign exchange broker in a dispute concerning the proper construction of a set-off clause and alleged misrepresentations in risk warning notices.
- Assisting a major city law firm in relation to the FCA review of the misselling of interest rate hedging products.

## Arbitration

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Richard is regularly instructed in arbitral proceedings. He has experience of proceedings under a variety of institutional rules, including ICC, LCIA, LMAA, GAFTA and SIAC. Recent examples of work:

- LCIA Arbitration: acting for a steel trader in a dispute with a bank concerning (amongst other things) negligent misstatement, which involves numerous jurisdictional issues including an application for an anti-suit injunction from the arbitral tribunal (led by Philip Edey QC).
- Ad hoc arbitration (2021): acted for the respondent charterers in an application under section 41(3) of the Arbitration Act

1996 to dismiss the proceedings for want of prosecution.

- LCIA Arbitration: acted for the respondents in disputes concerning a large residential and commercial property development in Moscow, with claims and counterclaims for fraudulent misrepresentation, unlawful interference and unlawful means conspiracy, unlawful procurement of breach of contract, breach of equitable and contractual duties of confidence, dishonest assistance, breach of settlement agreement, and breach of arbitration agreement (with Daniel Bovensiepen).
- ICC Arbitration 2019: acted for a bank in a fraud dispute with beneficiaries under US\$55 million demand bonds issued in relation to a major construction project in the Middle East, which involved issues concerning whether the demands on the bonds were fraudulent (in a counsel team led by Michael Ashcroft QC).
- LMAA Arbitration 2019: acted for the Claimant in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service (in a counsel team led by Duncan Matthews QC).
- LMAA Arbitration 2017: acted for the charterers of a vessel in a dispute concerning Owners' breach of an oil major eligibility clause (led by Christopher Hancock QC).
- SIAC Arbitration 2016: acted (as sole counsel) for the buyers in a three day commodities arbitration in Singapore arising out of a ban on the import of steel by the Indonesian government.
- LMAA Arbitration 2015: acted for the charterers of a vessel in a US\$60 million arbitration dispute with the owners concerning whether the vessel that was tendered for delivery was properly the subject matter of the charterparty and whether charterers were entitled to terminate the charterparty (in a counsel team led by Michael Ashcroft QC).
- Acted for a conch farm in a US\$200m+ arbitration dispute with a Caribbean state for breach of a development agreement and various property claims.

## Shipping

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Richard has undertaken a wide variety of work in shipping matters, including claims in respect of:

- Off hire
- Demurrage
- Charterparty construction
- Bills of lading
- Seaworthiness
- Cargo damage
- Underperformance
- Deviation
- Detention
- Safe ports/berths
- Arrest
- Redelivery
- Shipbuilding

Recent examples of work:

- Acting for the First Defendant in complex claims, including Part 20 proceedings, concerning obligations under bills of lading and Thai customs/import requirements (led by David Lewis QC).
- Acting for charterers in respect of various claims against owners, including off hire, failure to maintain Class/Rightship approval, failure to ensure the Vessel had the required certificates, and breach of the employment clause.
- Acting for charterers in a dispute concerning the implied indemnity under a time charter (led by Michael Ashcroft QC).
- Ad hoc arbitration (2021): acted for the respondent charterers in an application under section 41(3) of the Arbitration Act 1996 to dismiss the proceedings for want of prosecution.

- Acting for the buyers in four shipbuilding disputes concerning the builder's failure to provide refund guarantees, and whether the shipbuilding contracts were tainted by illegality (led by Christopher Hancock QC).
- LMAA Arbitration 2019: acted for the Claimant in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service (in a counsel team led by Duncan Matthews QC).
- LMAA Arbitration 2018: acted for owners in a claim concerning apportionment under the Inter-Club Agreement.
- LMAA Arbitration 2017: acted for the charterers of a vessel in a dispute concerning Owners' breach of an oil major eligibility clause (led by Christopher Hancock QC).
- *Magellan Spirit ApS v Vitol SA* [2016] EWHC 454 (Comm): acted for the owners of a LNG vessel in an application for an anti-suit injunction in respect of a US\$15 million cargo claim brought in Nigeria (led by Timothy Hill QC).
- LMAA Arbitration 2015: acted for the charterers of a vessel in a US\$60 million arbitration dispute with the owners concerning whether the vessel that was tendered for delivery was properly the subject matter of the charterparty and whether charterers were entitled to terminate the charterparty (in a counsel team led by Michael Ashcroft QC).
- Acted (as sole counsel) for the carrier defendants in a claim arising out of the theft of cargo at a port, which raised issues concerning the carrier's obligations under a storage contract, bills of lading and in bailment.
- Acted for the disponent owners in a claim against voyage charterers for wrongful detention of the vessel.

In May-June 2015 Richard spent six weeks working in-house with a Norwegian Defence Club. He advised on claims arising under charterparties and bills of lading and drafted a number of submissions for various London arbitrations.

## Commodities

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Richard is regularly instructed in cases concerning the international sale of goods. Recent examples of work:

- LCIA Arbitration: acting for a steel trader in a dispute with a bank arising out of a supplier's failure to supply steel (led by Philip Edey QC).
- Arbitration concerning a failure to ship a cargo of Russian chickpeas under Gafta contract No. 88.
- Arbitration concerning the proper construction of the "Appropriation" clause in Gafta contract No. 48.
- Arbitration concerning the proper construction of the "Nomination of Vessel" clause in Gafta contract No. 49.
- Advice concerning the conformity of documents under a letter of credit.
- Arbitration concerning the construction of a clause pursuant to which a third party had been nominated to make payment to the sellers under a CIF contract.
- Arbitration concerning the construction of the buyer's payment obligations under a CFR contract for the sale of rice.
- Advice concerning short shipment under a CFR contract for the sale of wheat.
- SIAC Arbitration 2016: acting (as sole counsel) for the buyers in a three-day commodities arbitration in Singapore arising out of a ban on the import of steel by the Indonesian government.

## Recommendations

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Very responsive, attentive and is quickly able to digest issues and identify a path forward which is both legally and commercially sound. The advice given is also practical and Richard has helped us to navigate a number of difficult procedural issues in addition to legal issues. [The Legal 500 UK Bar 2022](#)