

# Richard Livingston

Year of call 2006

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Richard specialises in all aspects of Personal Injury and Clinical Negligence work. His practice encompasses injuries of the utmost severity, and he regularly acts without a leader in cases where the value is pleaded well in excess £15,000,000. His cases regularly involve orders for periodical payments, accommodation claims and lifelong provision for care and assistance.

He has secured millions of pounds of compensation for seriously injured Claimants and their Dependents. He also defends cases of similar value at Trial and at Joint Settlement Meetings for numerous Insurers, Medical and Dental Defence Organisations, Defendant Health Trusts, and the Motor Insurers Bureau. He has secured substantial awards before the Criminal Injuries Compensation Authority where the damages initially awarded were inadequate.

Richard has developed a substantial reputation in the field of Occupational Disease. He is regularly instructed by Claimants and Defendants alike in claims involving benign and malignant asbestos-related conditions (pleural thickening, asbestosis, asbestos-related lung cancer, mesothelioma), asthma, chemical exposure (COSHH claims), and occupational stress/harassment. He is on several Insurers' panels.

He frequently advises on claims for contribution between insurers and medical defence organisations.

Richard also has a substantial professional negligence practice in the context of negligently mishandled personal injury and clinical negligence actions.

He regularly appears without a leader in cases against KCs. He is regarded as having a practice well beyond his call.

## Expertise

### Serious Injury

Richard has recently been involved in the litigation and conclusion of the following cases which are notable either due to their value or nature of the issues involved (the names of the parties have been anonymised):

#### Notable Serious Injury cases

A claim valued at £25 million (capitalised) where an 18-month old child was rendered paraplegic and brain damaged following a road traffic collision (led by Satinder Hunjan KC).

A claim valued at £13 million (capitalised) where a high earning sales executive suffered a traumatic brain injury in a road traffic accident led by Satinder Hunjan KC).

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A claim pleaded in excess of £4 million where it was alleged that the Claimant suffered Post-Traumatic Stress Disorder and Somatoform Disorder when his petrol-soaked trousers ignited (led by Michael Rawlinson KC). The claim involved a complete destruction of earning capacity, a claim for 24-hour care and loss of capacity. The claim settled prior to the commencement of a 10-day High Court Trial.

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A claim where the Claimant was rendered paraplegic when a balcony in her holiday villa collapsed (led by Michael Rawlinson KC). The claim settled prior to the commencement of an 8-day High Court Trial.

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Acted for the Motor Insurers Bureau in an important appeal involving the interpretation of Clause 6 of the Uninsured Drivers Agreement 1999 *Whyatt v Powell and Motor Insurers Bureau* [2017] EWHC 484 (QB).

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Acting for a road traffic insurer in defence of a head injury claim by an 18-year old student. The case settled for 10% of the pleaded value at a Joint Settlement Meeting (led by Michael Rawlinson KC).

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Acting for a 21-year old music artist who suffered serious brain and multiple orthopaedic injuries following a road traffic accident (led by Nicholas Braslavsky KC). The claim settled prior to the commencement of a 10-day High Court Trial.

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Acting for numerous Claimants and Defendants at Trial, CICA Appeals, JSMs and at interlocutory stage, in cases involving acquired brain injury. Many of these cases involve the loss of capacity.

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## Occupational Disease

Richard has recently been involved in the litigation and conclusion of the following cases which are notable either due to their value or nature of the issues involved (the names of the parties have been anonymised):

### Notable Occupational Disease cases

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Richard is instructed as Junior Counsel in the Aerotoxicity Litigation. The Claimants comprise pilots and cabin crew who have been allegedly exposed to partially pyrolysed engine oil/hydraulic fluid containing mixtures of Organophosphates (led by Michael Rawlinson KC). Richard also secured substantial pre-action disclosure at a contested hearing before a Deputy Judge of the High Court *Hinton v Thomas Cook Airlines Ltd* (Reported on *Lawtel* 2018 and contains a full review of the relevant authorities).

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Representing a living Claimant diagnosed with mesothelioma. Liability and diagnosis disputed. The Defendant sought to extend *Williams v University of Birmingham* to 1982. The case settled shortly at its full value shortly before an expedited High Court Trial (led by Michael Rawlinson KC).

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Acting for the Dependents of lung cancer victim. A claim for pleural plaques was compromised for notional damages against one employer during the Deceased's lifetime. This compromise did not allow for provisional damages. The Deceased's Estate subsequently issued a claim against another employer following his death. The Defendant argues: Accord and Satisfaction; Abuse of Process/Issue Estoppel in line with *Jameson v CEGB* [2000] and seeks to challenge *Dowdell v William Kenyon* [2014] and *Lloyd v Humphreys & Glasgow Ltd* [2015]. The case settled shortly before a 5-day High Court Trial (led by Harry Steinberg KC).

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Acting for a Claimant who suffered mesothelioma as a consequence of exposure to asbestos dust in Sicily. Involved issues of jurisdiction and conflict of laws (led by Michael Rawlinson KC).

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Richard is instructed by the Defendant in a claim for asbestos-related lung cancer in a claim pleaded in excess of £2.4 million, where a 40-year-old living Claimant alleged exposure to asbestos as a labourer from 1994 – 2005 *Taylor v Fascia Futures Ltd* [2018] EWHC 3049 (QB). Richard acted alone against a KC and junior.

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Acted for the Dependents of an engineer who succumbed to mesothelioma. The case settled shortly before a 5-day trial. The case involved issues of the correct approach to *Williams v University of Birmingham* and whether the (then) traditional approach to a dependency claim under *Cookson v Knowles* should continue to apply (led by Michael Rawlinson KC).

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Acting without a leader in numerous cases where the Claimant has succumbed to mesothelioma or asbestos-related lung cancer. Many of these cases exceed £1 million.

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Secured substantial settlement for the family of a mesothelioma victim who successfully sued the demolition firm of whom the victim was director and the local authority who regularly engaged that company.

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Secured settlement in numerous claims for living mesothelioma victims where the funding of immunotherapy treatment is contested.

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Acting for several Claimants who have developed nasal cancer as a consequence of exposure to wood dust.

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Acting for a Defendant in an important appeal relating to the approach that should be taken at a show cause hearing in a mesothelioma case - Austin v Plumb Furniture Systems Ltd (Reported on Lawtel).

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Acting for a Defendant in a living mesothelioma claim where the Claimant's exposure took place pre-1975. The case was successfully defended on the basis that the Claimant's exposure to asbestos was so light as to not give rise to a foreseeable risk of injury.

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Acting for Defendants in a large number mesothelioma claim where issues arise as to the date of knowledge of exposure to low levels of asbestos in the motor repair industry.

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Acting for a Defendant in a silicosis trial where the allegation was raised that the Claimant had suffered no actionable injury on the basis that his condition was asymptomatic - Mills v J P Barnes & Sons Ltd (Reported on Lawtel).

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## Clinical Negligence and Healthcare

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In the field of clinical negligence, Richard has represented Claimants, Defendant Trusts, Medical Defence Organisations and Dental Defence Organisations in a wide range of complex and high value claims, many of which have been pleaded in excess of £15 million. He frequently advises these organisations in claims where contributions are sought or resisted.

Richard has recently been involved in the litigation and conclusion of the following cases which are notable either due to their value or nature of the issues involved (the names of the parties have been anonymised):

### Notable Clinical Negligence and Healthcare cases

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Acting for a Defendant, the owners of a secure mental health facility. The Claimant left the facility and attempted suicide. Issues concerning contributory negligence. Claim was pleaded in excess of £15 million (led by Sarah Pritchard KC).

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Acting for a Defendant trust in a case against a silk and a junior where the Claimant alleges delayed diagnosis of cauda equina syndrome and subsequently attempted an overdose suffering a stroke. Complex issues concerning breaks in the chain of causation, quantum and contributory negligence. The claim is pleaded at more than £15 million.

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Acting for a Claimant who suffers 4 limb cerebral palsy on account of the negligent mismanagement of her birth (led by Nicholas Braslavsky KC).

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Acting for a Claimant who was rendered blind due to a negligently performed optic nerve sheath fenestration. The claim was pleaded in excess of £5 million (led by Satinder Hunjan KC).

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Acting for Defendant Trusts and Defence Organisations in numerous cases involving cauda equina syndrome, cerebral palsy, shoulder dystocia and other birth defects, mismanaged diabetes requiring amputation, high-value obstetric injuries and mismanaged ophthalmic injuries leading to blindness.

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Acting without a leader for a Defendant Trust in a case against a silk involving failure to diagnose and treat thiamine (vitamin B1) deficiency following a sleeve gastrectomy procedure leading to Wernicke's encephalopathy and nutritional amblyopia. The claim was pleaded at a capitalised value of £6 million.

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Acting without a leader for a Defendant trust in case involving a delayed diagnosis of an optic pathway glioma. The case settled for close to a tenth of its pleaded value which was in the region of £3 million.

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Acting without a leader for a Defendant in a case involving a negligently performed osteotomy. The claim was pleaded at £3 million and settled for a fifth of its pleaded value.

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Acting for a Defendant Trust in a case against a silk where the Claimant's 6-year-old daughter suffered profound neurological insult following a procedure to repair a ventricular septal defect. The claim is pleaded at £7 million.

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Acting for a Defendant Trust in a case of alleged negligent delay in the diagnosis of autoimmune myelitis with non-Hodgkin's lymphoma. The claim was pleaded at £4 million.

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Acting for a GP in case involving a delayed diagnosis of cervical cancer. The claim was pleaded at £5 million and was subsequently discontinued mid-way through trial.

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## Professional Negligence

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## Memberships

- PIBA
- Northern Circuit
- North Eastern Circuit

## Qualifications

- University: University of Manchester
- Degree: BA (First Class Honours) English Language and Literature
- Year of Call: 2006 (Middle Temple)
- Awards: Middle Temple Benefactors' Scholar

## Appointments

Director of Pupillage Training 2022 –

## Recommendations

Chambers UK 2023:

“Richard has a diverse disease practice.”

Chambers UK 2022:

“Very experienced junior who is highly thought of, good with clients and has a lot of experience.” “A well-prepared opponent who is personable and easy to get along with.”

Legal 500 2022:

“Richard is responsive and personable, easy to work with and his written advice is digestible by clients and instructing solicitors alike.”

“Thoroughness and attention to detail, and intellectual rigour, combined with a practical approach, and ability to get a point across, whether persuasively to a Judge, or to the lay client. Can be relied on to express a careful and considered view, in an understated yet most effective way.”

Chambers UK 2021:

“A very versatile barrister, he knows what he’s doing and doesn’t make mistakes.”

Legal 500 2021:

“Puts clients at ease, explaining the most difficult issues to lay clients in a clear and friendly way. Excellent at getting to the bottom of what a claim is really about and how to win it. Prepares extremely well. Has produced excellent results at Show Cause hearings. Extremely capable in the fields of asbestos and Occupational disease generally.”

Chambers UK 2020:

“He is calm, intellectual, superbly organised and very user-friendly.”

Legal 500 2019:

‘A barrister who is a safe pair of hands.’

Legal 500 2018:

‘Undaunted by any task.’

Legal 500 2017:

‘He commands respect by virtue of his knowledge, diligent preparation and always being prepared to listen.’

Legal 500 2015:

“He has a practice beyond his call”

## Accreditations

