

Richard Power



Richard was elected Head of Chambers in May 2016.

Richard is an experienced advocate with a broad commercial and property based practice of over 35 years at the Bar. He is a specialist in all aspects of disputes concerning ownership of property, acting for or against individuals, partnerships, companies, LLPs, trustees in bankruptcy, executors and in connection with estates of the deceased.

Richard also advises on questions of professional negligence in the conduct of such claims.

He has appeared at all levels including the Supreme Court. He represented the successful Appellant, Patricia Jones, in *Jones -v- Kernott* [2011] UKSC 53 in the Supreme Court, which remains one of the leading authorities concerning beneficial interests in property. He had also represented the Appellant in the county court, the High Court and the Court of Appeal.

Richard also has practised for many years in connection with the law of costs and has appeared in the Senior Courts Costs Office many times.



Year of Call: 1983

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Further information

Interests

Richard enjoys sailing, tennis, playing folk music on fiddle and uilleann pipes, & rugby.

Property

Richard represented the successful Appellant, Patricia Jones, in the leading Supreme Court decision on the determination of the extent of beneficial interests of cohabiting unmarried couples in the family home. After three appeals Patricia Jones recovered 90% of the beneficial interest in her home.

- *Jones -v- Kernott* [2011] UKSC 53 – the report of the Supreme Court decision ([click here for the Judgment](#))
- *Kernott -v- Jones* [2010] 1 WLR 2419 – the Court of Appeal decision
- *Kernott -v- Jones* [2010] 1 WLR 2401 – the High Court decision

Since that decision, Richard has advised and represented



a very large number of clients in connection with disputes concerning trusts of land and beneficial interests in property, whether instructed by solicitors, under the Direct Public Access scheme or for 'Advocate', the Bar *pro bono* unit.

Richard advises on:

- Trusts of land
- Constructive trusts
- Estoppel
- Restrictive covenants
- Easements
- Landlord and tenant
- Commercial leases
- Residential leases
- Forfeiture

Contentious Trusts and Probate

Richard regularly advises in connection with contentious probate work, including:

- the interpretation and effect of wills, both in the UK and with a foreign element
- invalidity and testamentary capacity
- claims under the *Inheritance (Provision for Family and Dependents) Act 1975*

Recent cases include:

- advising executors in the UK of their duties concerning assets in Poland where there was also a Polish will
- advising executors in the UK on the evidence to be obtained concerning a claim by an orphan from South America to be a 'long lost' child
- the interpretation of a residue clause
- the testamentary capacity of a testator suffering from paranoid schizophrenia

Costs

Richard has advised for many years in relation to the law of costs, appearing in the Senior Courts Costs Office on many occasions.

Related cases include:

Langstone Leisure Ltd -v- Willers & Gubay, 2014, detailed assessment of a Bill of Costs of £3.4m, involving various preliminary issues

Chattin -v- Swaffield and others, 2013, an action to recover monies paid by way of interim payments to a solicitor who subsequently went bankrupt, involving a 'successor practice' dispute between insurers, and whether there were breaches of the Solicitors Accounts Rules.



Confidential settlement with the solicitor's insurers.

Gregson -v- Hussein [2010] EWCA Civ 165, a case concerning costs in exaggerated or fraudulent claims.

Findley v Barrington Jones & MIB (2009) EWHC 90130 (Costs), a case concerning the enforceability of a second CFA entered into because the first was thought to be defective, and because the original claimant was discovered to lack capacity and required a litigation friend.

Wood v West Midlands Police, 2005, a case in which approximately £1 million in legal costs was incurred to recover damages in a libel case of approximately £46,000, raising the question of CFAs in libel cases.

Lynch v Paul Davidson Taylor (a firm) [2004] 1 WLR 1753, the proper construction of section 74(3) of the Solicitors Act 1974, before Hughes J.

Alpacas Ltd v Sir John Wilsey LTL 8/9/2003, the meaning of 'costs of the action'.

