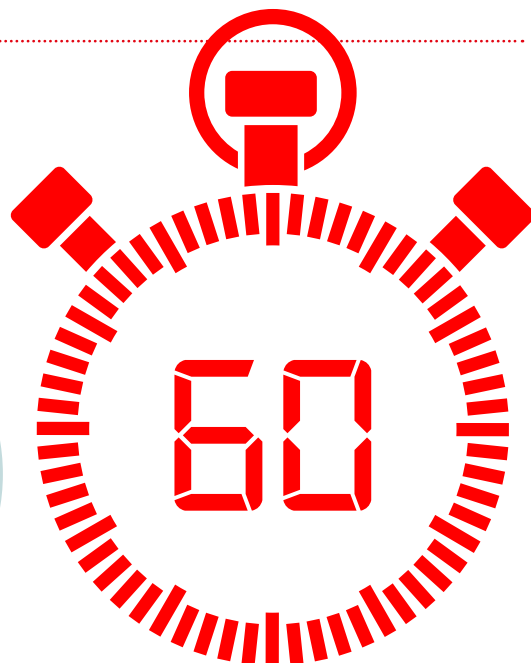


60-SECONDS WITH:

RICHARD FOSS
PARTNER
KINGSLEY
NAPLEY


Q What would you be doing if you weren't in this profession?

A My answer to this question has shifted each decade I have spent in the profession. My boyhood dream was to be a Formula 1 motor racing driver. Sadly I had neither the talent nor the funding to be able to achieve that. Nowadays, I could picture myself in the Italian mountains. I'd be in the Sella Ronda, running a small family cycle/ski hotel. In the summer, I would spend my days on a bike guiding guests through spectacular mountain passes and climbs, and during the winter, I would do the same, but on skis.

Q What's the strangest, most exciting thing you have done in your career?

A I started my career as a shipping litigator at Norton Rose. I was newly qualified, and a colleague and I were asked to meet a client's directors on board one of their vessels moored at Tilbury Docks. The ship was a bulk carrier and was probably about 40,000 gross tonnage, so a fairly large vessel for the Thames. It was already docked when we arrived. As we got ready to board, the vessel started to move despite the huge steel cables connecting it to the dock. It soon became clear that the force of the Thames was slowly but surely pushing it away from the dock. The cables started to creak and stretch until they, one by one, snapped with a huge bang. Luckily no one was hurt, as anyone standing near them when they snapped would surely have been killed. Eventually, the vessel broke free and was at the mercy of the Thames as there had not been enough time for the vessel to start its engines. Thankfully at least five tugs soon appeared and managed to secure the ship, preventing what could have been a very serious accident. It was amazing to witness the whole incident from the dock and to watch a real life salvage operation in process. Sadly we didn't get to meet the client or have a tour of the ship, but it was a day neither of us will ever forget.

Q What is the easiest/hardest aspect of working on FIRE cases?

A The easiest element of working on a FIRE case is being able to rely on my fantastic colleagues at Kingsley Napley, knowing that we will all work together to try and achieve the best possible result for our client. I know this sounds trite, but it is true. The hardest aspect is always managing the client's expectations, especially when acting for an individual or SME who, as a victim of fraud, really are at risk of losing it all.

Q If you could give one piece of advice to aspiring practitioners, what would it be?

A If I have to choose one piece of advice, then it would be to realize that they will never be perfect. As such, they should understand that mistakes happen. If they make a mistake then that is fine so long as they learn from it and they ensure they report it, so it can be dealt with as necessary. I know I'm only supposed to pick one piece of advice, but I would also encourage them to choose to practice in an area of law that gets them out of bed in the morning.

Q What has been the most interesting case you have seen in 2021?

A There have been two Supreme Court cases over the past month which Kingsley Napley won. Both are really interesting and potentially impactful. The first was Lady Brownlie's success in her jurisdictional challenge securing the right to take action in the UK over the tragic death of her husband Sir Ian Brownlie QC in Egypt. The second was the victory of Aquila over the Crown Prosecution Service, who were attempting to take control of monies owed to Aquila. The Supreme Court confirmed that the illegality of a director cannot be attributed to the company as that would offer the director a defence to the company's potential claim against them for breach of their director's duties. The Supreme Court also rejected the CPS's argument that a constructive trust in favour of the company is inconsistent with the regime established under POCA. Whilst the cases were significantly different, in both, we were successful in protecting the rights of our client.

Q What do you think will be the most significant trend in your practice over the next 12 months?

A I think that most fraud litigators would say that we will see a surge in insolvency related cases over the next 12 months following the phasing out of COVID related government financial assistance and temporary restrictions on creditor action, expected interest rate rises, and as the impact of Brexit continues. I think this is a strong possibility but only time will tell.

What is clear is that the UK economy will be left with a painfully large number of companies, both Zombie and otherwise, with problems to solve. Insolvencies will undoubtedly increase and directors who have breached their duties will be brought to task.

Q If you could learn to do anything, what would it be?

A I am a truly awful linguist, so learning to speak another language would be great. I am also tone deaf, so being able to sing would likewise be amazing. More realistically, I would like to

learn how to descend a mountain on a road bike, a mountain bike, and skis without being worried about crashing.

Q What is the one thing you could not live without?

A One thing? That's an impossible question. Outside of family, friends and my stable of road bikes, it would have to be my season ticket at QPR, where I go with my 17 year old son.

Q If you could meet anyone, living or dead, who would you meet?

A My uncle Frank who died aged 24 in January 1946 having survived the Second World War. He was in the RAF and was a Mosquito pilot in the Far East. He volunteered to test fly an aircraft that had been repaired, but it crashed. He is buried in a military cemetery on the island of Labuan. I would have liked to have asked him about his life and to have thanked him for everything he had done to protect us.

Q What songs are included on the soundtrack to your life?

A Ok so I will limit this to the following 10 tracks (in no particular order):

Racing in the Street – Bruce Springsteen
 Afterglow – Genesis
 Stargazer – Rainbow
 Your Feet's Too Big – Fats Waller
 Teenage Kicks – The Undertones
 Fake Plastic Trees – Radiohead
 Fly Me to the Moon – Frank Sinatra
 Zombie – The Cranberries
 Adagio for Strings – Samuel Barber
 Hells Bells - ACDC

Q What does the perfect weekend look like?

A I live in Kent and assuming I am home then it would be an early round of golf with my younger brother (also a litigator), followed by going to QPR with my son, then dinner in London with family and friends. There would also be an early cycle with my older brother (also a litigator, can you see the trend?) and friends, followed by isotonic recovery drinks in my local pub and a lazy afternoon in the garden, then a family curry and a film.

Q Reflecting on 2021, what have you been most grateful for?

A At work, it's been the support of my partners, management, and team over what has been a very difficult year. I am also grateful for the opportunity to spend time at home and to finally understand the benefits of a work/life balance!

