



Thomas Roe QC

Call Date: 1995

Silk Date: 2015

Thomas Roe QC's main areas of practice are commercial and chancery litigation and arbitration, and constitutional and administrative law. He undertakes a great deal of appellate work, including before both the Court of Appeal and the Privy Council.

Until taking silk he was a member of the Attorney General's panel of junior counsel to the Crown.

He is a Fellow of the Chartered Institute of Arbitrators.

Commercial and Chancery

Thomas has a broad practice covering litigation and arbitration, as well as advisory work, in all areas of commercial and business law and commercial chancery, including civil fraud, contractual disputes and insolvency, as well as related areas such as consumer protection. Much of his work has an international element, with clients from jurisdictions including Germany, France, Russia/CIS, the United States, East Africa, Gibraltar and the Commonwealth Caribbean. He is familiar with Russian business disputes.

Some recent examples of cases to which reference may be made:

- [Arawak Homes Ltd v Prime Minister](#) [2016] UKPC 34: dispute with the government of the Bahamas concerning compulsory acquisition of development land.
- [Re Sherlock Holmes International Society Ltd](#) [2016] EWHC 1076 (Ch), concerning whether a contract to alter a company's articles of association could be implied from the parties' conduct.
- Re Georgy Trefilov (Ch D): acting for a Russian businessman in dispute about alleged entitlement under multi-million dollar settlement concerning realisation of interests in Russian commercial property.
- [Hniazdzilau v Vaigel](#) [2016] EWHC 15 (Ch): litigation about the beneficial ownership of Belarusian assets held through an English corporate structure, and the effects of illegality under Russian law of transactions later relied upon to establish an estoppel.
- Advising banks and private equity funds as to enforceability of security documentation.



- *Seattle Sport Science Inc v Wright* (Ch D): securing injunctive relief in connection with alleged theft of confidential information concerning soccer training equipment.
- *Macron SpA v Leeds United Football Club Ltd* (QBD): representing Leeds United in a dispute with their kit supplier.
- *X v Y* (QBD): Defending and negotiating settlement of a claim alleging theft of confidential information and breach of fiduciary duty in connection with ‘assurance dommages-ouvrage’ brokerage.
- Advising an insurance company on a coverage dispute concerning political risk insurance in the African mining sector.
- [Hall v Maritek Bahamas Ltd](#) [2015] UKPC 23, [2015] All ER (D) 217: successfully resisting a claim concerning the interpretation of agreements relating to 25,000 acres of land in The Bahamas.
- [D & K Drost Consult GmbH v Foremost Leisure \(Holdings\) Ltd](#) [2015] EWCA Civ 73, (2015) 159
- Con LR 1: acting for Hamburg architects and project managers in successfully enforcing contractual rights and defending allegations of impropriety.
- *C v D* (2015): advising on an ICC arbitration concerning liabilities related to a project in Iraq.
- [Re HLC Environmental Projects Ltd](#) [2014] B.C.C. 337: a leading case on the extent of directors’ duties to have regard to the interests of creditors.
- [Sharma v Sharma](#) [2014] B.C.C. 73, CA: a leading case on informal pre-authorisation of breaches of directors’ duties.
- *X-FAB Semi-Conductor Foundries AG v Plessey Semiconductors Ltd* [2014] EWHC 1574 (QB): overcoming arguments concerning applicable law and jurisdiction and obtaining delivery-up of multi-million-euro semiconductor manufacturing equipment lines.
- [Dean v Arawak Homes Ltd](#) [2014] UKPC 24: successfully acting for a leading Caribbean developer in defending a disputed title claim.
- [NHS Luton Clinical Commissioning Group v Amanah Health Ltd](#) [2014] EWHC 2943 (QB): securing the discharge of search and freezing orders obtained by an NHS Clinical Commissioning Group on the basis of alleged fraud.



- Advising Bahamian directors as to threatened litigation by US investors concerning the construction of a share purchase agreement.
- Acting for developers in drafting, advising on and successfully settling a claim challenging a restrictive covenant on competition law grounds.
- [T v T \(anti-arbitration injunction\)](#) [2014] 1 F.L.R 96: a leading case about the effect of an arbitration clause in a foreign law pre-nuptial agreement; Thomas was brought in by leading family law counsel to provide advice and submissions concerning the principles in commercial law.
- [Ross v Bank of Commerce \(Saint Kitts and Nevis\) Trust and Savings Association Ltd](#) [2012] UKPC 3, [2012] All ER (D) 156: litigation before the Privy Council concerning whether title to certificates of deposit issued by a St Kitts bank in liquidation had vested in the appellant.
- [Barber v Rasco International Ltd](#) [2012] EWHC 269 (QB), [2012] All ER (D) 22: a claim in the High Court concerning the proceeds of a contract to maintain oil pipelines in Azerbaijan and Georgia.

Constitutional and Administrative Law

Thomas has a broad public law practice encompassing both human rights and commercial judicial review and a particular specialism in constitutional law. Recent examples include:

- R (Miller and anor) v Secretary of State for Exiting the European Union: instructed by an intervener in the Supreme Court in the ‘article 50’ case.
- Advising a foreign government as to the true construction of a multi-million dollar tax concession scheme.
- [R \(Bashir\) v Secretary of State for the Home Department](#) [2016] EWHC 954 (Admin): leading for the Secretary of State in this judicial review concerning (inter alia) whether under public international law the Refugee Convention and Protocol apply to the UK Sovereign Base Areas in Cyprus.
- [R \(Idira\) v Secretary of State for the Home Department](#) [2016] 1 W.L.R 1694: leading for the Secretary of State, successfully resisting a Human Rights Act challenge to the government’s policy of using prisons for the detention of time-served foreign national prisoners pending deportation.



- [Hunte v Trinidad and Tobago](#) [2015] UKPC 33, Times, 23 July 2015: persuading a special seven-Justice panel of the Judicial Committee to overrule its own decision in *Matthew v Trinidad and Tobago* [2005] 1 A.C. 433 as to certain powers under the Constitution of Trinidad and Tobago.
- [Brantley v Constituency Boundaries Commission](#) [2015] 1 W.L.R. 2753: ultimately successful emergency applications before the High Court and Court of Appeal of the Eastern Caribbean and the Privy Council to prevent a Commonwealth government from denying the Opposition access to court for a judicial review of an alteration to electoral boundaries.
- [Mitchell v Georges](#) [2014] UKPC 43, [2015] 3 LRC 392: litigation concerning apparent bias on the part of a Commission of Inquiry.
- [R \(Singh\) v Secretary of State for the Home Department](#) [2015] Imm. A.R. 16: on the transitional provisions under the new article 8 rules.
- Advising a Commonwealth government as to whether its proposed recourse to a Henry VIII clause was in compliance with the Constitution.
- Advising an NGO as to the constitutionality of certain Commonwealth laws on sexuality.
- Advising a Commonwealth political party as to the constitutionality of a proposed legal reform.
- Advising on a constitutional challenge to recent reforms to an overseas territory's landlord and tenant law.
- Advising hackney carriage drivers' associations on judicial review challenges to decisions to delimit licensing.
- [Sarkar v Secretary of State for the Home Department](#): [2014] EWCA Civ 195, [2014] All ER (D) 270: on article 8 and the scope of the Upper Tribunal's jurisdiction.
- Negotiating a settlement of litigation against an NHS Trust concerning repayment obligations under General Dental Services contracts.
- [Calix v Attorney General of Trinidad and Tobago](#) [2013] 1 W.L.R. 3283: a leading case on damages for malicious prosecution.
- [Patel v Secretary of State for the Home Department](#) [2013] 1 W.L.R. 63: a case in the Court of Appeal about the relationship between the Home Secretary's power to grant or withhold



further immigration leave and the power to remove overstayers; and the extent to which the Court of Appeal is bound by earlier decisions.

- [RJ \(India\) v Secretary of State for the Home Department](#) [2013] Imm. A.R. 407: case in the Court of Appeal about the relationship between removal directions applicable to different family members.
- [Ross v Bank of Commerce \(St Kitts and Nevis\) Ltd](#) [2011] 1 W.L.R. 125: an appeal to the Privy Council about whether recent rule changes removed the need for appellants in the 28 countries and territories served by the Privy Council to obtain leave to appeal from the Court of Appeal.
- Judicial review proceedings under the NHS Pharmaceutical Regulations.

Publications and Lectures

Thomas writes and lectures frequently. Examples include:

'Russian insolvency proceedings and the English courts' talk at the 2016 Law Society/ Bar Council Russian Law Week.

['Illegality and Jurisdiction in Investment Arbitration', \[2016\] 2 Turkish Commercial Law Review 17.](#)

'The relevance of English law to Russian businesses' panel discussion at the 2015 English Law Week, British Embassy, Moscow.

['Retention of Title and other forms of security'](#), paper given to British- German Jurists' Association/Deutsch- Britische Juristenvereinigung conference, Berlin, 2015.

['Dissenting Judgments'](#): paper given to the Trinidad and Tobago Legal Network Conference, Port of Spain, Trinidad, 2015 (later published in the New Law Journal).

'The law relating to human trafficking': talk at the 19th Commonwealth Law Conference, in Glasgow, United Kingdom, 2015.

A talk on international arbitration in the energy sector at the International Arbitration Institute of the University of Miami, 2014.

['Precedent in international investment arbitration'](#): paper given to the 18th Commonwealth Law Conference in Cape Town, South Africa, 2013.



Thomas is the author (with [Prof Matthew Happold](#)) of [Settlement of Investment Disputes under the Energy Charter Treaty](#) (Cambridge, 2011) ('this trail-blazing work....an enterprising, scholarly and useful volume' - Lord Mustill; 'a well-articulated and thorough analysis....convincingly succeeds in the task of providing a coherent overview of access to arbitration and the arbitration process under the ECT' - Cambridge Law Journal); and (again with Matthew Happold) of 'The Energy Charter Treaty' in [International Investment Law, The Sources of Rights and Obligations](#) (Martinus Nijhoff, 2012)) ('...a seminal work...' containing 'a reasoned and analytical study ...that enables the reader to grasp the essence of the ECT without losing track of both its values and limits': Transnational Dispute Management).

He has also written for the New Law Journal, the Modern Law Review and the Cambridge Law Journal.

Memberships

Commonwealth in England Bar Association (Vice-Chair)

British-German Jurists' Association

Commonwealth Lawyers' Association

Register of Advocates of the Sovereign Base Areas of Akrotiri and Dhekelia

COMBAR

London Common Law and Commercial Bar Association

Qualifications

MA (English Literature and Law, Downing College, Cambridge)

Fellow of the Chartered Institute of Arbitrators (International Arbitration)

Languages

French and German