

Thomas Roe KC

Call Date: 1995 | Silk Date: 2014



Thomas Roe KC has a vigorous and wide-ranging practice encompassing commercial and chancery commercial litigation, arbitration, civil fraud, insolvency, property law, constitutional and administrative law, and public international law.

The Legal 500 calls him *'incredibly astute, quick thinking and impressively calm under fire'*, while Chambers & Partners calls him *'clever and reliable', 'tenacious' and 'delightful to work with'*.

Tom appears regularly in the High Court—where he is a highly experienced trial lawyer—and in the Court of Appeal. He has appeared several times before the Supreme Court of the United Kingdom and dozens of times before the Judicial Committee of the Privy Council. He has also appeared often before courts overseas, including the Supreme Court and the Court of Appeal of The Bahamas, and the Supreme Court and the Court of Appeal of the Eastern Caribbean. Cases he has argued have been reported in (among others) the Law Reports, the Weekly Law Reports, Lloyd's Law Reports, Butterworths Company Law Cases, the Wills and Trusts Law Reports, the International Trusts and Estates Law Reports, the Immigration and Nationality Law Reports, the Industrial Relations Law Reports, the Environmental Law Reports, and the Law Reports of the Commonwealth.

Much of Tom's work is international. Regular clients have included, in addition to many businesses and individuals in England & Wales and overseas, the British Government and several overseas governments.

Tom is a Fellow of the Chartered Institute of Arbitrators.

He is ranked in Chambers & Partners for Chancery Commercial and for Civil Liberties & Human Rights, and in Legal 500 for Administrative & Public Law and for Offshore.

Legal Services

Commercial and Chancery Commercial Litigation

Tom has huge experience across a wide range of contentious and advisory work in the field of commercial and chancery commercial litigation, including many corporate disputes. Some notable recent matters

include:

Notable Commercial and Chancery Commercial Litigation cases

[Innovate Pharmaceuticals Limited v University of Portsmouth Higher Education Corporation \[2022\] EWHC 1681 \(TCC\)](#)

Acted for a pharmaceutical developer, successfully resisting an application for security for costs—on the unusual ground of the merits of the claim as demonstrable on a summary basis—in this ongoing dispute arising from a contract to evaluate the efficacy of a new drug against brain cancers.

Acting for a state in a pending appeal to the Judicial Committee of the Privy Council concerning the legal issue of the extent to which a party that performs work under an apparent contract that is void for lack of authority on the part of the counterparty's agent should nevertheless be entitled to recover in unjust enrichment.

[Apollo Ventures Co Ltd v Manchanda \[2021\] EWHC 3210 \(Comm\)](#)

Acted for defendants to claims alleging breach of duties as directors of a Thai company, and successfully obtained a stay of proceedings on forum non conveniens grounds in the light of change of circumstances, notwithstanding submission to the jurisdiction several years earlier.

[Pakistan International Airline Corp v Times Travel \(UK\) Ltd \[2021\] UKSC 40, \[2021\] 3 W.L.R. 727](#)

Represented the All-Party Parliamentary Group on Fair Business Banking, intervening in this leading case before the Supreme Court concerning the scope of the defence of duress in contract law.

[Lux Locations Ltd v Zhang \[2021\] 2 Law Reports of the Commonwealth 620 \(Court of Appeal of the Eastern Caribbean\)](#)

Acting in this long-running commercial dispute arising from a huge land purchase transaction in Antigua. The case is reported in the LRC on the issue of the approach to a default judgment in a non-monetary claim. The Court of Appeal of the Eastern Caribbean later gave leave to appeal to the Privy Council on the ground that the case raises issues of great public or general importance. The appeal to the Privy Council is pending.

Advised a Cypriot coal trading company as to its rights and remedies in a dispute under a 10 million MT coal contract.

Stubbins Marketing Ltd v Stubbins Food Partnerships Ltd [2020] EWHC 1266 (Ch)

Successfully represented the claimant company in this long and complex trial against its former directors arising from a management buyout, in which the issues included whether informed consent had been secured from the shareholders or a relevant group of shareholders.

Advised the directors of a Cypriot holding company of a Ukrainian retail conglomerate as to their obligations in the light of a worldwide freezing order served on a contractual counterparty

Advised the state water company of an overseas territory as to the lawfulness of its proposed work-arounds in relation to public procurement rules.

Advised construction risk insurance brokers on a substantial dispute with managing agents concerning entitlements to write insurance in the French market.

Lederer v Allsop LLP and others [2018] EWHC 1425 (Ch)

Acted for the successful applicant in this application—believed to be the first of its kind—for disclosure of the names of the underlying lenders of a loan arranged by an online peer-to-peer lending company, on the basis that on the proper construction of the contractual documents they, not the peer-to-peer company, were the applicant’s true contractual counterparties.

Ramsook v Crossley [2018] UKPC 9, [2018] Lloyd’s Rep. I.R. 471

Acted as amicus curiae before the Judicial Committee of the Privy Council in this appeal concerning the extent of motor insurers’ authority.

Legends Live Ltd v Harrison [2016] EWHC 1938 (QB), [2017] I.R.L.R. 59

Acted in this dispute concerning a restraint of trade clause in the entertainment industry.

International Arbitration

Tom has experience of domestic and international arbitration under many regimes. He has been a Fellow of the Chartered Institute of Arbitrators for over a decade. Some arbitral cases on which he has recently worked as counsel and which may be mentioned include the following:

Notable International Arbitration cases

Represented a state-owned oil company in a multi-million-dollar ICC arbitration about expropriation of shares.

Advised as to a potential US \$2bn LCIA arbitral claim arising from a sale of assets in the Russian energy sector.

Defended an overseas government in a multi-million-dollar LCIA arbitration arising from alleged breaches of duty in connection with its citizenship-by-investment programme.

Acting for the claimant in a US \$9m ICC arbitration arising from coal trading contracts in the CIS.

Acting for a claimant in a US \$23m international commercial arbitration under the rules of the London Maritime Arbitrators' Association.

Insolvency

Tom is an experienced litigator and adviser in personal and corporate insolvency, and has appeared in many reported cases in the field.

Notable Insolvency cases

[Jones v Sky Wheels Group Ltd \[2020\] EWHC 1112 \(Ch\), \[2020\] B.P.I.R. 851](#)

Acted for the successful director in this corporate dispute concerning an alleged bankruptcy debt arising from the operation of the directors' loan accounts, where the underlying issue was an allegation of unfairly prejudicial conduct.

[Re Paramount Powders \(UK\) Ltd \[2019\] EWCA Civ 1644, \[2020\] 2 B.C.L.C. 1](#)

Acted in this leading case in the Court of Appeal on the scope and limits of the court's powers to wind a company up on the 'just and equitable' ground.

[Badyal v Badyal \[2019\] EWHC 467 \(Ch\)](#)

Acted in this dispute concerning the winding up of a partnership with substantial assets in India, and the impact of orders of the High Court in Delhi on the English proceedings.

[Aidiniantz v SHIS Ltd \[2017\] EWCA Civ 1875, \[2018\] 1 B.C.L.C. 188](#)

Acted in this appeal to the Court of Appeal concerning the proper approach to an allegation that a director apparently causing a company to bring a claim had in fact ceased to hold office.

[Sharma v Sharma \[2013\] EWCA Civ 1287, \[2014\] B.C.C. 73](#)

Acted in this leading case in the Court of Appeal on the circumstances in which the court may infer assent by the shareholders of a company to conduct that would otherwise constitute a breach of a director's duties.

[Re HLC Environmental Projects Ltd \[2013\] EWHC 2876 \(Ch\), \[2014\] B.C.C. 337](#)

Acted in this case in the Companies Court about the extent of directors' duties to have regard to the interests of creditors when solvency becomes doubtful.

Civil Fraud

Tom has experience across a wide range of contentious and advisory work in the field of civil fraud litigation. Some notable recent matters include:

Notable Civil Fraud cases

[X v Persons Unknown \(High Court, 2022\)](#)

Established England & Wales jurisdiction and obtained proprietary freezing orders and Bankers Trust disclosure orders against several European banks used as depositaries for the fruits of a sophisticated and extraordinarily successful advance fee fraud against a wealthy individual.

[Dass v Marchand \[2021\] UKPC 2, \[2021\] 1 W.L.R. 1788](#)

Appeal to the Judicial Committee of the Privy Council in this case concerning fraudulent misrepresentations in connection with the procuring of valuable property transfers in Trinidad and Tobago.

[X v Y Ltd \(2021\)](#)

Acted in this High Court trial arising from allegations of undue influence and forgery to procure dividend waivers and other allegedly disadvantageous dispositions.

Advised the government of an overseas jurisdiction as to its civil claims against former government ministers for their involvement in allegedly corrupt transactions.

[Blockchain Optimization SA v LFE Market Ltd \[2020\] EWHC 2027 \(Comm\)](#)

Acted in these proceedings seeking the setting aside on non-disclosure grounds of a freezing injunction granted in context of an alleged cryptocurrency fraud.

[Estate of Ibru v Brown \(Chief Master Marsh, Chancery Division, 2020\)](#)

Acted for the estate of a UHNW individual, successfully recovering judgment at trial for the recovery of what were claimed to have been substantial gifts made shortly before his untimely death.

[Cassell v The Queen \[2016\] UKPC 19, \[2017\] 1 W.L.R. 2738](#)

Acted for the appellant in this successful appeal to the Privy Council against conviction for a complex property fraud in Montserrat.

Property Litigation

Tom has experience across a wide range of contentious and advisory work in the field of property litigation. Some notable recent matters include:

Notable Property Litigation cases

[Estate of Dame Bernice Lake QC v Attorney General of Anguilla \[2022\] UKPC 33](#)

Acted for property developers against the government in this appeal concerning the valuation methodology for compulsory acquisition of land for a runway extension in Anguilla

Acting in an ongoing claim in the High Court to recover disputed profit share arising from investment in German commercial property.

[Rowland v Blades \[2021\] EWHC 2928, \[2022\] W.T.L.R. 269](#)

Acted in this appeal concerning the proper approach to accounting under ss 12-15 of the Trusts of Land and Appointment of Trusts Act 1995.

[Shah v Shah \[2020\] EWHC 1840 \(Ch\)](#)

Successfully acted in this long-running dispute between former business associates as to the ownership of property assets in India.

[Bannerman Town, Millars and John Millars Eleuthera Association v Eleuthera Properties Ltd \[2018\] UKPC 27](#)

Acted for a developer in this appeal to the Privy Council in this dispute concerning ownership of 2,000 acres of prime development land in the Bahamas.

[Shah v Shah \[2018\] EWHC 2075 \(Ch\)](#)

Acted for the successful appellant in this appeal based on evidence not deployed in the court below, concerning true ownership of property in India.

[Arawak Homes Ltd v Attorney General of the Bahamas \[2016\] UKPC 34, \[2016\] 1 W.L.R. 5214](#)

Acted against the government in this challenge to its assessment of compensation for the compulsory purchase of land from a leading Bahamas housebuilder.

[Hall v Maritek Bahamas Ltd \[2015\] UKPC 23](#)

Acted in this dispute before the Privy Council concerning whether or not a binding contract for the sale of land had been concluded.

Constitutional and Administrative Law

Tom has long experience of most aspects of administrative law and human rights, and particular experience of advising on and arguing issues concerning constitutional law (and the interaction of constitutional and public international law), both in England & Wales and overseas. His practice covers both human rights and commercial and regulatory issues.

Until his appointment as Queen's Counsel he was a member of the Attorney General of England & Wales's panel of Junior Counsel to the Crown, in which capacity he argued many public law cases for the UK government. He continues to be instructed for the government. Examples of his work in these fields include:

Notable Constitutional and Administrative Law cases

[Suraj v Attorney General of Trinidad and Tobago \[2022\] UKPC 26, \[2022\] 3 W.L.R. 309](#)

Acted for the government of Trinidad and Tobago in this important appeal, successfully defending the constitutionality of its legislative responses to the Covid-19 pandemic. This appeal settles a controversy in the Court of Appeal of Trinidad and Tobago as to the nature and role of proportionality analysis in considering alleged interferences with the human rights protected under the Constitution.

[R \(All-Party Parliamentary Group on Fair Business Banking\) v Financial Conduct Authority](#)

Acting for a group of MPs and peers in this High Court judicial review challenging the FCA's response to the Swift review into its approach to swaps mis-selling.

[R \(SPM\) v Secretary of State for the Home Department \[2022\] EWHC 2007 \(Admin\)](#)

Acted for the Home Secretary in this successful defence of the arrangements for the detention of women under immigration powers against allegations that they were discriminatory and infringed the common law right of access to justice.

[Smith v Attorney General of Trinidad and Tobago \[2022\] UKPC 28](#)

Acted for the Attorney General in this appeal to the Judicial Committee of the Privy Council concerning apparent bias. The case is notable for the Judicial Committee's rejection of the High Court of Australia's test for apparent bias in *Ebner v Official Trustee in Bankruptcy* [2000] HCA 63, 205 C.L.R. 337.

Advised and drafted proceedings for a group mounting a constitutional challenge to the mandatory Covid-19 vaccination laws of a Commonwealth country.

Public Service Commission v Richards [2022] UKPC 1

Acted for the government of Trinidad and Tobago, successfully defending a claim of unfairness contrary to the common law in the operation of disciplinary procedures in the prison service.

Advised and drafted pleadings in an overseas jurisdiction's largest claim for malicious prosecution, the case arising from allegedly politicised decisions to bring and continue with baseless corruption charges.

R. (Soltany) v Secretary of State for the Home Department [2020] EWHC 2291 (Admin), [2020] A.C.D. 126

Successfully defended the Home Secretary against a claim that the arrangements for overnight lock-ins at an immigration removal centre contravened religious rights under ECHR article 9 or were discriminatory.

Minister of Energy and Energy Affairs v Maharaj [2020] UKPC 13

Acted for the government of Trinidad and Tobago in this appeal in judicial review proceedings concerning the extent of the Minister's power to suspend or revoke licences granted under the Petroleum Act.

Patel v Secretary of State for the Home Department [2019] UKSC 59, [2020] 1 W.L.R. 228

Acted for the claimant before the Supreme Court in this case concerning the nature and limits of the 'Zambrano' principle in immigration law.

R. (Keighley) v BBC [2019] EWHC 3331 (Admin)

Acted for the claimant in this judicial review challenge to the BBC's arrangements for monitoring its compliance with its duty of due impartiality.

Maharaj v Petroleum Co of Trinidad and Tobago Ltd [2019] UKPC 21

Acted for the state petroleum company in this appeal concerning the relationship between freedom of information and the confidentiality of arbitral proceedings.

R (Scunthorpe United Football Club Ltd v Greater Lincolnshire LEP Ltd [2018] EWHC 3351 (Admin)

3 HARE COURT

Represented Scunthorpe United FC in this judicial review challenge to allocation of funding for public works.

[R. \(Miller\) v Secretary of State for Exiting the European Union \[2017\] UKSC 5, \[2018\] A.C. 61](#)

Acted for an intervener in this well-known case in the Supreme Court concerning whether the government needed legislative authority before triggering the UK's exit from the EU.

[Attorney General of Trinidad and Tobago v Dumas \[2017\] UKPC 12, \[2017\] 1 W.L.R. 1978](#)

Acted for the government of Trinidad and Tobago in this case concerning the circumstances in which a person has standing to make a complaint of a breach of a non-human-rights provision of the Constitution.

[Dawson-Damer v Grampian Trust Company Ltd \(2017\) 20 I.T.E.L.R. 722](#)

Acted for the government of the Bahamas in this dispute in the Supreme Court of the Bahamas about the compatibility of the Bahamas' very strict rules on confidentiality in discretionary trusts with fair trial rights.

[Fishermen and Friends of the Sea v Minister of Planning, Housing and the Environment \[2017\] UKPC 37.](#)

Acted for the government of Trinidad and Tobago in this appeal about the nature and extent of the 'polluter pays' principle in environmental law.

[R \(Idira\) v Secretary of State for the Home Department \[2015\] EWCA Civ 1187, \[2016\] 1 W.L.R. 1694](#)

Successfully defended the Home Secretary's policy of using prisons for the immigration detention of time-served foreign national offenders against challenge for alleged inconsistency with ECHR rights.

[Hunte v Trinidad and Tobago \[2015\] UKPC 33, 40 B.H.R.C. 633](#)

Persuaded an expanded panel of the Judicial Committee of the Privy Council to depart (by a majority) from its own earlier decision as to its powers in death penalty cases where it was not seised of a claim for constitutional relief.

Public International Law

Tom has many years' experience in public international law. In 2011 he wrote, with Professor Matthew Happold, *Settlement of Investment Disputes under the Energy Charter Treaty* (Cambridge University Press), which remains a leading work on that subject. He has often been called upon to advise governments as to

their obligations in international law. Recent examples of work in this field include:

Notable Public International Law cases

Advising the UK government about the compatibility of several provisions of intended legislation with UK treaty commitments (2020-21)

Advising a department in the Northern Ireland Executive about the proper construction of the Protocol on Ireland/Northern Ireland.

Advising an overseas government about the compatibility of a major reform of drugs policy with international treaty commitments, and about its practical options (2020-22).

Advising an overseas government as to its obligations under the Convention on Mutual Administrative Assistance in Tax Matters in connection with certain financial products being marketed in its territory (2020).

[R \(Bashir\) v Secretary of State for the Home Department \[2018\] UKSC 45, \[2019\] A.C. 484](#)

Acted for the Home Secretary (led by Sir James Eadie QC in the Supreme Court, but as leading counsel in the Court of Appeal and the High Court) in this case concerning whether the Refugee Convention applies to the UK's Sovereign Base Areas in Cyprus and, if so, with what implications for the rights of persons claiming asylum there.

Advising an African NGO as to its prospects of successfully challenging laws criminalising homosexual acts in the light of the state's constitutional law and international treaty commitments.

Direct Access

Thomas is able to accept instructions directly from members of the public, companies and other entities through the public access scheme (also known as direct access). Thomas has acted, advised and drafted pleadings and documents for a number of individuals and small and medium sized businesses on a direct access basis. He is happy to accept instructions on a direct basis in appropriate cases. If you wish to instruct Thomas on a direct basis, please speak to the clerks.

3 HARE COURT

For more information on public access, please see the Bar Council [website](#).

Publications

- Tom spoke at the 2021 Commonwealth Law Conference in the Bahamas on the topic of **Public Interest Litigation**. [Find his speech here](#).
- Miller: Lessons in Constitutionalism': lecture at the 21st Commonwealth Law Conference, Livingstone, Zambia, 2019.
- 'Security for costs': lecture at Bar Council English Law Day, Nicosia, 2018.
- 'Establishing jurisdiction in the English Courts': discussion at English Law Week, Moscow, 2017.
- 'Bias': lecture at Bar Council English Law Day, Limassol, 2017.
- 'Illegality and Jurisdiction in Investment Arbitration': [2016] 2 Turkish Commercial Law Review 17.
- '[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).
- '[Precedent in international investment arbitration](#)': paper given to the 18th Commonwealth Law Conference in Cape Town, South Africa, 2013.
- Co-author 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).
- Co-author 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 (Chairman)
- British-German Jurists' Association
- Register of Advocates of the Sovereign Base Areas of Akrotiri and Dhekelia
- London Common Law and Commercial Bar Association

Qualifications

- MA (Cantab) (English Literature and Law, Downing College, Cambridge)
- Fellow of the Chartered Institute of Arbitrators (International Arbitration)

Languages

- Reasonable French and German, some Italian and Spanish