

Thomas Saunders

Call: 2019



Practice Areas

- Adjudication
- Professional Negligence
- Property
- Construction & Engineering
- Energy & Natural Resources
- Infrastructure & Utilities
- International Arbitration
- Offshore Construction & Marine Engineering
- PFI & PPP
- Litigation
- Advisory
- Arbitration
- Dispute Boards
- Mediation
- Independent Appointments

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Practice Overview

Thomas has a busy junior practice spanning Chambers' main practice areas, including construction and engineering, energy, procurement, and professional negligence. He regularly appears as sole counsel in the High Court and County Court, both within and outside Chambers' main specialisms, and undertakes led work as a member of larger counsel teams drawn from both inside and outside Chambers. Thomas also has a busy drafting and advisory practice.

Recent highlights include:

- Acting for the claimant in *Shepherd Construction Ltd v Kingspan & Ors*, a multi-party cladding dispute which was named as one of *The Lawyer's* Top 20 Cases for 2024. Thomas was led by Sean Brannigan KC along with two other juniors including Sarah Williams.
- Acting for the defendant in *Energy Works (Hull) Ltd v MW High Tech Projects UK Ltd* [2022] EWHC 3275 (TCC) and [2023] EWHC 1142 (TCC), a five-week TCC trial before Pepperall J concerning the termination of a contract to build an energy-from-waste plant in Hull. Thomas was led by Jonathan Acton Davis KC and William Webb KC along with another junior. Thomas was also involved (as part of a different counsel team) in a related dispute arising out of the same project.

Thomas provides advice, drafting and representation at all stages of the litigation process. He has worked with a number of major standard forms, including JCT, NEC, FIDIC, IChemE and RIBA forms, as well as bespoke contracts and PFI agreements. In addition to his work as counsel, Thomas is an editor of *Keating on JCT Contracts*, and a contributor to *Keating on Construction Contracts*, *Keating on Offshore Construction and Marine Engineering Contracts*, and the Construction Law Reports.

Practice Areas

Construction & Engineering

- Third junior for the claimant in a substantial multi-party cladding dispute concerning a mixed commercial and residential development in London: *Shepherd Construction Ltd v Kingspan & Ors*. The case was named one of *The Lawyer's* Top 20 Cases for 2024.
- Representing a building contractor in a two-day County Court trial concerning payment for extension and renovation works on a family home.
- Representing a homeowner in a County Court trial concerning the defective installation of a conservatory.
- Drafting defence & counterclaim on behalf of a housebuilder in a claim brought by a painting and decorating contractor in respect of retention across five separate developments.

- Advising and drafting letter of claim in a claim by a residential landlord against a contractor for unlawful suspension, delay, and defective and incomplete works.
- Advising, drafting and providing representation in a number of disputes concerning works carried out to domestic property, including drafting and representation in the pre-action protocol period, acting for both contractors and homeowners.
- Representing a homeowner in a claim against project managers for defective works and receipt of a bribe or secret commission, including obtaining an 'unless' order requiring the defendants to replead the defence.
- Representing a defendant contractor in making a security for costs application in a claim by a subcontractor for payment of retention.
- Representing a homeowner in an application by a contractor to set aside default judgment.
- Drafting defence & counterclaim, and particulars of an additional claim, on behalf of a contractor in respect of a claim for repayment of overpaid VAT following the conversion of business premises into residential premises.
- Advising and drafting pre-action correspondence in a claim against a builder's merchant and nominated sub-contractor, and attending a successful mediation.
- Advising on whether a consultant's prior knowledge could be imputed to a contractor following a novation of the consultant's appointment from the employer to the contractor.
- Advising and drafting particulars of claim in a claim by a subcontractor for release of retention in relation to works on an offshore wind substation.
- Advising a contractor on its rights and liabilities arising out of refurbishment works on a high-end residential property in London, including its prospects of obtaining a freezing order.
- Advising a building contractor on the nature and interpretation of an NEC3 contract for the refurbishment of a housing estate owned by a local authority, including in relation to the effects of partial termination on the time for completion under the contract.
- Representing a building contractor in an application for pre-action disclosure arising out of works at a dairy farm.
- Representing a building contractor in a complex dispute arising out of renovation works at a luxury London property, including advising on the enforcement of an adjudicator's decision and drafting reply and defence to counterclaim.
- Drafting defence in a claim by a homeowner for subsidence said to result from defectively designed and / or constructed foundation works.
- Drafting statement of defence and counterclaim, and related pleadings, in an ICC arbitration concerning the construction of an LPG extraction and fractionation facility in the Middle East.
- Advising on the availability of a claim for defective roofing works in circumstances where the employer had sold the property in question to related entities after the work was completed.
- Advising on the lawfulness of termination under an amended JCT DB 2016 form, including validity and timing of notices, and whether the termination was invalid for being unreasonable or vexatious.

Professional Negligence And Payment Claims

Professional negligence and conduct

- Third junior for the claimant in a substantial multi-party cladding dispute concerning a mixed commercial and residential development in London: *Shepherd Construction Ltd v Kingspan & Ors*. The case was named one of *The Lawyer's* Top 20 Cases for 2024.
- Acting for a homeowner in a claim against an architect for negligent design and supervision of renovation works, including representation at CCMC and advice on disclosure.
- Representing a homeowner in a claim against project managers for defective works and receipt of a secret commission, including obtaining an unless order requiring the defendants to replead the defence.
- Acting for a homeowner in a claim against an interior designer for failure to carry out a proper design process, and for overpaid fees.
- Drafting defence in a claim by a homeowner for subsidence said to result from defectively designed and / or constructed foundation works.
- Advising on a claim against an approved inspector in relation to the siting of fire doors in a hotel.

Payment claims by professionals

- Advising on and drafting particulars of claim in a claim by an adjudicator for unpaid fees.
- Acting in an arbitration under the ICC Rules on behalf of an architect against a former client seeking payment of unpaid fees, including issues of arbitral jurisdiction and proper law.
- Advising on a professional designer's entitlement to recover fees under an earlier appointment where a further contract had been entered into.
- Acting for a developer in claims for payment for professional services.

Energy

- Acting in a delay claim against a subcontractor concerning the construction of an energy-from-waste plant under the IChemE Yellow Book.
- Third junior in a substantial post-termination dispute between an employer, a main contractor and a subcontractor on a power plant: *Energy Works (Hull) Ltd v MW High Tech Projects UK Ltd* [2022] EWHC 3275 (TCC) and [2023] EWHC 1142 (TCC).
- Acting in an ICC arbitration concerning the termination of an EPC contract for a 60MW solar power plant in Africa.
- Drafting statement of defence and counterclaim, and related pleadings, in an ICC arbitration concerning the construction of an LPG extraction and fractionation facility in the Middle East.

Public Procurement

- Second junior in a dispute concerning the application of the urgent procurement provisions in regulation 32(2)(c) of the Public Contracts Regulations 2015 during the Covid-19 pandemic.

PFI

- Acting for the contractor in a contractual adjudication under a PFI contract concerning the collection and disposal of waste, and subsequent TCC proceedings.

Adjudication

Thomas has a wide range of experience arising out of adjudications, including:

- Acting in contractual and statutory adjudications.
- Adjudication enforcement proceedings (including related Part 8 challenges).
- Claims by adjudicators for their fees.

Adjudications.

- Acting for the contractor in a contractual adjudication under a PFI contract concerning the collection and disposal of waste.
- Acting for a main contractor in a statutory adjudication concerning the nature of the sub-contract and the lawfulness of its termination.
- Acting for an employer in a 'smash and grab' / notified sum adjudication raising issues of the applicable Scheme for Construction Contracts.
- Acting for an employer in a statutory adjudication concerning practical completion on a block of affordable housing units.
- Representing a developer in a statutory adjudication concerning the true value of interim payments.
- Representing the trustees of a recreation ground under the Recreation Grounds Act 1859 in an adjudication concerning the use and operation of a car park.
- Representing a local authority in a statutory 'smash and grab' / notified sum adjudication under a professional services contract.
- Representing a landowner in a statutory adjudication concerning payment under a development agreement.

Enforcement.

- Advising and making written submissions on the enforcement of an adjudicator's decision made against an individual identified by his trading name alone.
- Resisting enforcement of an adjudicator's decision on the basis that the notice of adjudication was not served or deemed served.
- Enforcing an adjudicator's decision on the basis that there was no compromise (as alleged by the responding party) and defending allied Part 8 proceedings concerning the scope of the architect's authority to agree varied due dates under a JCT form.

- Advising a contractor during an adjudication on the validity of a jurisdictional challenge by the employer based on the contractor's failure to select an adjudicator from the employer's approved list.
- Advising on the availability of statutory adjudication.

Arbitration

- Acting in an ICC arbitration on behalf of an architect against a former client seeking payment of unpaid fees, including issues of arbitral jurisdiction and proper law.
- Advising on an application for a stay under section 9 of the Arbitration Act 1996.
- Acting in an ICC arbitration concerning the termination of an EPC contract for a 60MW solar power plant in Africa.
- Drafting statement of defence and counterclaim, and related pleadings, in an ICC arbitration concerning the construction of an LPG extraction and fractionation facility in the Middle East.

Insurance

- Representing the NHBC in claims brought by homeowners under their policies or to enforce settlements reached following recommendation from the Financial Ombudsman Service.

Property

- Drafting skeleton argument in an application for interim relief to restrain a sub-contractor from returning to site and damaging property following a payment dispute.
- Representing a private individual in a claim for occupation rent and conversion against a former partner arising out of their previous cohabitation and shared ownership of a house. Thomas obtained permission at trial to amend the legal basis of the claim, following which the matter settled.
- Representing the trustees of a recreation ground under the Recreation Grounds Act 1859 in an adjudication concerning the use and operation of a car park.

Public Utilities

- Drafting defence in a claim brought by a homeowner against a telecommunications provider for delay in providing him with an Internet connection.
- Representing a utilities provider in the trial of a claim under the New Roads and Street Works Act 1991 for damage caused by an electrical fault.
- Resisting an application to amend a defence to plead limitation in a claim under the New Roads and Street Works Act 1991.

Insolvency

Thomas has experience of applications arising from insolvency proceedings, whether arising out of construction disputes or otherwise, including:

- Validation orders under section 127 of the Insolvency Act 1986.
- Applications to strike out winding up petitions, or to restrain presentation / advertisement, including petitions arising out of adjudicators' decisions.

Civil Fraud

Thomas has experience of civil fraud claims arising out of both misrepresentation and bribery, including:

- Representing a homeowner in a claim against project managers for receipt of a bribe or secret commission, in the context of renovation works. The case settled following an 'unless' order requiring the project managers to replead their defence.
- Acting for the contractor under a PFI contract in an £80 million fraud claim against a local authority.

General Commercial

- Advising a national retailer on the applicability of restrictions under the Health Protection (Coronavirus, Restrictions) (England) (No 4) Regulations 2020 (the November 2020 Covid-19 lockdown), and the enforcement options available to local authorities.
- Drafting defence & counterclaim in a sale of goods dispute concerning the supply of structural insulated panels and associated materials for construction of student accommodation, and representing defendant at CMC.
- Representing a provider of professional training services in a claim for breach of contract, of consumer protection regulations, and of the Equality Act 2010.
- Advising and drafting RFI in a claim by a plant hire company for unpaid invoices.
- Drafting application for a Part 8 claim to be treated as a Part 7 claim, as well as for relief from sanctions in respect of the late filing of an acknowledgement of service.
- Advising on an application to add the defendant's solicitor as a party under CPR rule 19.2 on the basis that it held a deposit as stakeholder.
- Acting for a groundworks sub-contractor in a sale of goods dispute concerning the supply of lightweight aggregate for flood defences in Hull.

Advocacy

Thomas regularly appears in court as sole counsel, and has experience of a range of hearings, including:

- Trials and final hearings.
- Adjudication enforcement hearings and related Part 8 challenges.
- Injunction applications.

- Interim hearings including applications for pre-action disclosure, relief from sanctions, permission to amend pleadings, security for costs, stay of enforcement, strike out and / or summary judgment, and to set aside default judgment.
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Reported Cases

- Energy Works Hull v M+W [2022] EWHC 3275 (TCC)
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Other information

Education & Professional Career

Professional Career

- Tenant, Keating Chambers, 2020
- Pupil, Keating Chambers, 2019–20
- Called to the Bar, Middle Temple, 2019

Education

- Bar Professional Training Course, City Law School (Outstanding, 5th in year), 2018–19
- Graduate Diploma in Law, City Law School (Distinction), 2017–18
- Researcher, Chambers & Partners, 2016–17
- MA (Philosophy), St John's College, University of Cambridge, 2013–16

Additional Information

Thomas is a keen rugby player, a middling skier and a poor ballroom dancer. When time permits, he reads widely and somewhat indiscriminately, in particular fiction of all descriptions.

Appointments & Awards

- Jane Lemon QC Essay Competition (third prize), 2020
- Rosamund Smith Mooting Competition, Middle Temple (winning team, Ede & Ravenscroft prize for best individual), 2019
- Everard ver Heyden Foundation Prize, City Law School, 2019
- Henderson Chambers Prize, City Law School, 2019

- Sachs Prize, Middle Temple, 2019
 - Certificate of Honour, Middle Temple, 2019
 - Nicholas Pumfrey Memorial Scholarship, Middle Temple, 2018
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