

Thomas Plewman QC

YEAR OF CALL: ENGLAND AND WALES: 2009; SOUTH AFRICA: 1993 **YEAR OF SILK:** 2016

"He is an absolute pleasure to work with. He gives crystal-clear advice and in a crisis is the epitome of calmness ...someone for the shortlist in really tough and strategically complex litigation."

Chambers & Partners 2021

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Practice Overview

Silk in both England and South Africa, practising full-time in London since 2010. Heavy commercial trial practice with extensive experience across a wide front including commercial fraud, financial services, professional negligence and insurance. Selected for *The Lawyer's* Hot 100 in 2019. Chambers & Partners 2021 notes that *"He has flair and is very bright," "exceptionally astute and is a really good strategic thinker who adds another dimension to a legal team," "an absolute pleasure to work with," "crystal-clear advice and in a crisis he is the epitome of calmness. He is definitely someone for the shortlist in really tough and strategically complex litigation"*.

In 2021 he is acting in amongst others the ongoing \$1.9bn fraud proceedings in *PJSC Bank v Kolomoisky* ([2019] EWCA Civ 1708); a \$30m civil fraud case in Dubai, *SBM Bank Mauritius Ltd v Prime Energy FZE*; the \$80m conspiracy claims in *Crane Bank Limited v DFCU Bank Ltd and others*, the conspiracy to hack claims in *Azima v Ras Al Khaimah Investment Authority* [2021] EWCA Civ 349, for Santam Limited in regard to insurance claims for Covid-19 business interruption and their reinsurance, and for a big four accountancy firm in regard to claims arising from a very large corporate collapse

His largest cases in 2018 to 2020 included the appeal against the jurisdiction challenges and discharge of the world-wide freezing injunction in *PJSC Bank v Kolomoisky* [2019] EWCA Civ 1708; the Accountancy Scheme proceedings in *The Executive Counsel of the FRC v Deloitte* (arising from the audit of Autonomy plc in 2009 and 2010); Santam Limited's Covid-19 business interruption claim litigation in South Africa; the Supreme Court jurisdiction appeal the claims arising from a failed Portuguese Bank in *Goldman Sachs International v Novo Banco* [2018] UKSC 34; and E20's defence of West Ham United's claims relating to the rights to use the London Stadium (main proceedings settled on first day of trial).

He appeared in cases listed in *The Lawyer's* top 20 for each of 2017, 2015, 2013 and 2011 - *Holyoake v*

(2017, Ch), *Cattles Group v PriceWaterhouseCoopers LLP* (2015, settled after opening submissions filed), *Deutsche Bank AG v Sebastian Holdings Inc* [2013] EWHC 3463, *British Sky Broadcasting Limited and Others v Office of Communications* [2012] CAT 20. He has a breadth of experience across wide ranging commercial fields, from banking and company law to competition, and auditors' and solicitors' professional negligence to breach of copyright and confidential information.

He has also been called in the British Virgin Islands and the DIFC.

Recent cases include:

- *Autostore Technology AS v Ocado Group Plc* [2021] EWCA Civ 1003 and [2021] EWHC 1614 (Pat)
- *Samsung Electronics Co Ltd v LG Display Co Ltd* [201] EWHC] 1429
- *Azima v Ras Al Khaimah Investment Authority* [2021] EWCA Civ 349
- *Executive Counsel of the FRC v Deloitte* (In the Disciplinary Tribunal under the Accountancy Scheme)
- *PJSC Bank v Kolomoisky* [2019] EWCA Civ 1708, [2018] EWHC 3308 (Ch) and [2018] EWHC 482 (Ch)
- *Wilton Trustees (IoM) Limited v AFS Trustee Limited and others* BVIHC (COM) 2018/154
- *Flowgroup Plc v Co-operative Energy Ltd* [2019] EWHC 2344 (Comm)
- *West Ham Holdings v E20 LLP* [2018] EWHC 2367 (Ch); [2018] EWHC 2578 (Ch) and [2018] EWCA Civ 2652
- *Goldman Sachs International v Novo Banco* [2018] UKSC 34 and [2016] EWCA Civ 1092
- *Contact (Print and Packaging) Ltd v Travelers Insurance Co Ltd* [2018] Lloyd's Rep. I.R. 295
- *Signia Wealth v Dauriac* [2018] EWHC 1040 (Ch)
- *Holyoake v Candy* [2016] EWHC 3065 (Ch) and [2017] EWHC 3397 (Ch)
- *Exsus Travel Ltd v Baker Tilly* [2016] EWHC 2818 (Ch)
- *CH Trustees v Omega Services Group Ltd* (BVI HC 0037/2015)

In South Africa he acted for 16 years in many fields including auditors' professional negligence (regularly acting for the big 4 firms), insurance, company law, banking, general commercial law and mining law.

He has acted as an expert on English law in South Africa in arbitration proceedings relating to the Qingdao aluminium frauds and in Russia in *Tsargrad Media NJSC v Google Inc*.

He continues to advise English clients on South African law; and has acted as an expert on South African law in the Netherlands in claims brought by shareholders in *Steinhoff BV* against *Deloitte* and in Jersey in *Investec Trust (Switzerland) S.A. v the Philip Gutman Family Trust*.

Commercial

Thomas acts in substantial commercial trials across a wide compass.

In 2021 he acted in proceedings to prevent the disclosure of without prejudice communications in US proceedings in *Autostore Technology AS v Ocado Group Plc* [2021] EWCA Civ 1003 and [2021] EWHC 1614 (Pat); the jurisdiction challenge to cartel follow-on damages contribution claims in *Samsung Electronics Co Ltd v LG Display Co Ltd* [2021] EWHC] 1429; and the appeal in the conspiracy to proceedings in *Azima v Ras Al Khaimah Investment Authority* [2021] EWCA Civ 349. He continues to act in amongst others the ongoing \$1.9bn fraud proceedings in *PJSC Bank v Kolomoisky* ([2019] EWCA Civ 1708); a \$30m civil fraud case in Dubai, *SBM Bank Mauritius Ltd v Prime Energy FZE*; and \$80m conspiracy claims in *Crane Bank Limited v DFCU Bank Ltd and others*.

In 2019-20 he acted in the appeal in *PJSC Bank v Kolomoisky* [2019] EWCA Civ 1708; the seven-week trial in the Accountancy Scheme Disciplinary Tribunal of *The Executive Counsel of the FRC v Deloitte* (arising from the audit of Autonomy plc in 2009 and 2010); as well as *Flowgroup Plc v Co-operative Energy Ltd* [2019] EWHC 2344 (Comm); and the BVI jurisdiction proceedings in *Wilton Trustees (IoM) Limited v AFS Trustee Limited and others* BVIHC (COM) 2018/154.

In 2018 he acted in the jurisdiction challenges and applications to discharge the world-wide freezing injunction in *PJSC Bank v Kolomoisky* [2018] EWHC 3308 (Ch) (and the related application [2018] EWHC 482 (Ch)); the Supreme Court jurisdiction appeal the claims arising from a failed Portuguese Bank in *Goldman Sachs International v Novo Banco* [2018] UKSC 34; and E20's defence of West Ham United's claims relating to the rights to use the London Stadium, [2018] EWHC 2367 (Ch), specific disclosure and redaction - [2018] EWHC 2578 (Ch); and privilege [2018] EWHC 2784 (Ch); with an expedited appeal on the last shortly before the trial,

He is heavily engaged in financial services disputes. In addition to *Goldman Sachs v Novo Banco SA* and *PSJC Commercial Bank Privatbank v Kolomoisky*, *Crane Bank Limited v DFCU Bank Ltd and others* concerns allegations of conspiracy in the resolution of a Ugandan Bank, and he has recently acted in claims by a Turkish Group of Companies against UBS for foreign exchange trading losses, mis-selling claims brought by an individual against Barclays Bank and acting for an Australian foreign exchange dealer against Citibank in claims for losses suffered on the 2015 Swiss Franc revaluation; spent most of 2013 and 2014 acting in the \$8 billion dispute in *Deutsche Bank AG v Sebastian Holdings Inc* [2013] EWHC 3463, and its aftermath including the application in the Court of Appeal for security for the judgment [2014] EWCA Civ 1100; and before that in *Fortress Value Recovery Fund I LLC v Blue Skye Special Opportunities Fund* [2013] 1 All E.R. (Comm) 973 and [2012] EWHC 1486 (Comm).

Thomas has wide-ranging experience of valuation matters and is able to accept S.238 valuation matters in the Cayman Islands. He has a first degree in commerce and accountancy, and has for 20 years acted in audit negligence cases with frequent exposure to valuation issues in that context. Recent cases in point are *Holyoake v Candy* [2017] EWHC 3397 in which the net asset warranty hinged on the value of the Claimant's interest in an Icelandic shipping business, ISI, which was valued in the alternative on a DCF and

on a EDITDA multiple basis; *Signia Wealth v Vector Trustees Ltd* [2018] EWHC 1040 (Ch) in which the exit value of the shares was valued in the alternative on a multiple of assets under management, an EBITDA multiple and a DCF analysis. When at the South African Bar he was instructed in a Companies Act inquiry into Corpcap Limited (unreported), involving the valuation of an internet gambling business on a DCF basis.

Arbitration

Thomas has recently acted in a number South African and UK arbitration claims, including a 2019 dispute over liability for the loss of valuable cargo consigned from South Africa to Europe; and is acting in 2021 in anticipated arbitration proceedings relating to the reinsurance of Covid-19 business interruption losses.

He regularly acted in arbitration matters in South Africa, including as the junior silk for Sishen Iron Ore Company in a well-publicised arbitration over long term ore supplies to ArcelorMittal South Africa, in which Sishen defeated ArcelorMittal's claims to be contractually entitled to a substantial portion of the new Kolomela iron ore mine.

Professional negligence

Thomas acts widely in accountancy cases, having a first degree in accountancy and economics. In 2021 he is acting for a big four firm in regard to claims arising from a very substantial corporate collapse; for KPMG in claims brought for alleged breaches of duty in providing corporation tax services to Mount Anvil Group Limited; and in a claim on behalf of a company against a tax law barrister and specialist advice firm. In 2019/20 he defended Deloitte in the seven- week trial in the Accountancy Scheme Disciplinary Tribunal of *The Executive Counsel of the FRC v Deloitte* (arising from the audits of Autonomy plc in 2009 and 2010). He has acted as an expert witness on South African law in the Netherlands in claims brought by Steinhoff investors against Deloitte..

In 2018 he acted in *The Executive Counsel of the FRC v McBurnie*; in *Cayton's Law v RSM Tenon* (previously Baker Tilly) in the claim brought against it for breach of duty in giving expert accounting evidence); and in *Aramid Investments Limited v Grant Thornton* in the claims in regard to the values of investments in film productions (all of which were ultimately settled). In recent years he has advised on FRC claims against Grant Thornton and RSM Tenon; and acted in *Exsus Travel Ltd v Baker Tilly* [2016] EWHC 2818 (Ch); in the £1.6bn claim in *Cattles Limited v PriceWaterhouseCoopers LLP* which settled after opening submissions were filed in October 2015; in *American Leisure Group v Grant Thornton* (dismissed for failure to comply with interlocutory orders in April 2015) and in *Festive Products v KPMG* (settled in 2014). Earlier cases include *Bethell Construction Ltd v Deloitte and Touche* [2011] EWCA Civ 1321.

In South Africa Thomas acted regularly for the big four auditing firms in South Africa as both a junior and a silk. Significant South African cases included *Axiam Holdings Ltd v Deloitte & Touche* 2006 (1) SA 237

(SCA)(concerning auditors duties to third parties) and the leading case on auditor's contractual liability, *Thoroughbred Breeders Association v Pricewaterhouse* 2001(4) SA 551 (SCA). In addition, he acted regularly in South Africa for the Independent Regulatory Board for Auditors and SA Institute of Chartered Accountants.

Insurance and reinsurance

Recent insurance cases include the multi-case litigation of Covid 19 business interruption insurance claims in South Africa against both Santam Limited and Old Mutual Limited, which includes the appeal to the Supreme Court of Appeal on the interpretation of indemnity periods in *Santam Limited v Ma-Afrika Hotels (Pty) Ltd*, listed for hearing later this year. In 2020 and 2021 he has been advising a range of South African and English insurers on exposures to South African insurance and reinsurance claims. Other recent cases include *Contact Print and Packaging Ltd v Travelers Insurance Company Limited* [2018] EWHC 83 (TCC); and *Brit Inns Ltd (In Liquidation) v BDW Trading Ltd* 145 Con LR 181.

Thomas regularly acted in insurance matters in South Africa. Reported judgments of insurance cases in which he acted include *Van Zyl NO v Kiln Non-marine Syndicate No 510* 2003 (2) SA 440 (SCA) and *David Trust v Aegis Insurance Co Ltd* 2000 (3) SA 289 (SCA).

Civil fraud

Thomas is currently acting for the corporate defendants in the billion-dollar fraud claims *PSJC Commercial Bank Privatbank v Kolomoisky and others*; a \$30m civil fraud case in Dubai, *SBM Bank Mauritius Ltd v Prime Energy FZE*; the \$80m conspiracy claims in *Crane Bank Limited v DFCU Bank Ltd and others*; and in the conspiracy to hack claims in *Azima v Ras Al Khaimah Investment Authority* [2021] EWCA Civ 349.

Previous fraud cases include the £130 million claim for damages for deceit, duress and intimidation in *Holyoake v Candy* [2017] EWHC 3397 (Ch); claims under forward ticket sale agreements subject to fraud defences in *Ticketus LLP v Rangers Football Club (in liquidation)*; and claims for deceit and breach of contract on large scale solar power generation schemes in *WHEB Solar v Sustain*. His expertise in accounting matters (see Professional Negligence) is of particular value in fraud claims.

Reported cases

- *Autostore Technology AS v Ocado Group Plc* [2021] EWCA Civ 1003 and [2021] EWHC 1614 (Pat)
- *Samsung Electronics Co Ltd v LG Display Co Ltd* [2021] EWHC] 1429
- *Azima v Ras Al Khaimah Investment Authority* [2021] EWCA Civ 349
- *Executive Counsel of the FRC v Deloitte* (In the Disciplinary Tribunal under the Accountancy Scheme)

- *PSJC Commercial Bank Privatbank v Kolomoisky* [2019] EWCA Civ 1708; [2018] EWHC 3308 (Ch) and [2018] EWHC 482 (Ch)
- *Flowgroup Plc v Co-operative Energy Ltd* [2019] EWHC 2344 (Comm)
- *Wilton Trustees (IoM) Limited v AFS Trustee Limited and others* BVIHC (COM) 2018/154
- *Goldman Sachs International v Novo Banco SA* [2016] EWCA Civ 1092 and [2018] UKSC 34
- *West Ham Holdings v E20 Stadium LLP* EWHC 2367 (Ch), [2018] EWHC 2578 (Ch), [2018] EWCA Civ 2652 and [2019] EWHC 999 (Ch)
- *Signia Wealth v Vector Trustees Ltd* [2018] EWHC 1040 (Ch) and [2018] EWHC 1774 (Ch)
- *Contact Print and Packaging Ltd v Travelers Insurance Company Limited* [2018] EWHC 83 (TCC)
- *Holyoake v Candy* [2016] EWHC 3065 (Ch); [2017] EWHC 3397 and [2018] EWHC 502 (Ch)
- *Exsus Travel Ltd v Baker Tilly* [2016] EWHC 2818 (Ch)
- *CH Trustees v Omega Services Group Ltd* (BVI HC 0037/2015)
- *GB Minerals Holdings Ltd v Short* [2015] EWHC 1387 (TCC)
- *Sarclad Ltd v APT Technology* [2014] EWHC 2640 (Ch)
- *QOGT Inc v IOGT Ltd* [2014] EWHC 1628 (Comm)
- *Cavendish CF LLP v KIMS Propco Ltd* [2013] EWHC 722 (Ch) and [2014] EWHC 1282 (Ch)
- *Deutsche Bank AG v Sebastian Holdings Inc* [2014] EWCA Civ 1100 and [2013] EWHC 3463 (Comm)
- *Fortress Value Recovery Fund I LLC v Blue Skye Special Opportunities Fund* [2012] EWHC 1486 (Comm) and [2013] 1 All E.R. (Comm) 973
- *British Sky Broadcasting Limited and Others v Office of Communications* [2012] CAT 20
- *Brit Inns Ltd (In Liquidation) v BDW Trading Ltd* 145 Con LR 181
- *Bethell Construction Limited v Deloitte and Touche* [2011] EWCA Civ 1321
- *Erlson Precision Holdings Ltd v Hampson Industries Plc* [2011] EWHC 1137 (Comm)
- *Everton Football Club Company Limited v Sail Group Limited* [2011] EWHC 126 (QB)
- *Gibbon v Manchester City Council* [2010] 1 W.L.R. 208 (CA)
- *L G Blower Specialist Bricklayer Ltd v Reeves and another* [2010] 1 W.L.R. 2081 (CA)
- *Prebble v Costa* [2010] EWCA Civ 717

Qualifications

B Com (UCT, cum laude); LLB (Wits, cum laude); BCL (Oxon).

Graduated as top LLB student in his year; Awarded a Rhodes Scholarship for South Africa in 1990.

Directory Quotes

- "He's properly clever. A thorough, precise and effective advocate - he's really excellent." "He is user-friendly and good at focusing on important points of detail. You really feel you are being guided by an expert." (Chambers & Partners 2022)

- "Highly astute and provides an impressive service." "He's down to earth, pragmatic, and something of an iron fist in a velvet glove." (Chambers & Partners 2022)
- "Incisive and unflappable under pressure – a cool head." (Legal 500 2022)
- "He has flair and is very bright." "Thomas is exceptionally astute and is a really good strategic thinker who adds another dimension to a legal team." (Chambers & Partners 2021)
- "He is an absolute pleasure to work with. He gives crystal-clear advice and in a crisis he is the epitome of calmness. He is definitely someone for the shortlist in really tough and strategically complex litigation. His drafting and advice have been faultless." "Bright as a button and he is really good at strategy." (Chambers & Partners 2021)
- "Extremely conscientious and hardworking: A barrister of detail and determination, always striving to do the best for his clients." (Legal 500 2021)
- "He is noted for auditors' negligence claims." (Legal 500 2021)
- "He is very considered, doesn't make silly points and makes the judge feel like they can trust him. He's very bright." (Chambers & Partners 2020)
- "Very measured and thoughtful in his approach, and has a really good, unruffled style in court." "He's very approachable, he's so on top of everything that's going on, and he's so well prepared." (Chambers & Partners UK & Global 2020)
- "He is noted for auditors' negligence claims." (The Legal 500 2020)
- "His particular skills lie in giving forthright advice and being good on his feet in court." "He brings real rigour to his technical analysis of regulations." (Chambers & Partners 2019)
- "He is exceptionally bright and exceptionally good. A go-to person for accountancy work - he knows his numbers." (Chambers & Partners 2019)
- "A very hard-working, tenacious barrister who is incisive and clear-thinking in his advice." "His brain is working many steps ahead of everyone else in the courtroom." (Chambers & Partners 2018)
- "He is fantastic value and has a great track record on accountancy cases." "Very easy to work with and has a very clear style in court." (Chambers & Partners 2018)
- "Incisive and clear-thinking in his advice, both orally and on paper." (The Legal 500 2017)
- "A very experienced barrister, who is measured, clear and pragmatic." (The Legal 500 2017)
- "He is fantastic value, with a great track record on accountancy cases." (Chambers & Partners 2017)
- "Highly commercial and very authoritative in court." "Thomas is a very hard-working, tenacious barrister who is incisive and clear-thinking in his advice, both orally and on paper. He is a robust cross-examiner who offers clear and pragmatic advice to clients." (Chambers & Partners 2017)
- "A very hardworking, tenacious barrister, who is incisive and clear-thinking." (The Legal 500 2016)
- "Very knowledgeable." (The Legal 500 2016)
- "A well-regarded advocate with particular experience in financial services, banking, professional negligence, intellectual property and mining law. His heavyweight presence in the London market follows on from his success as a commercial silk in South Africa." (Chambers & Partners 2015)
- "Extraordinarily good." "Pugnacious, straightforward and straight-talking." (Chambers & Partners 2015)

- "Handles a heavy commercial litigation caseload. His strength lies in acting for financial services companies in high-value negligence claims." (Chambers & Partners 2015)
- "His knowledge is excellent, as is his advocacy. He shows good judgement as to how to engage with judges and he is good tactically." "He is fantastically good value because he's really experienced and happy to get involved with the clients." (Chambers & Partners 2015)
- "A persuasive and subtly dominant advocate who picks apart the other side's case with precision." Legal 500 2015)
- "A pugnacious yet charming man, with very persuasive qualities and a very client-friendly approach." (The Legal 500 2014)
- "Senior counsel at the South African Bar and now a junior at Brick Court, Thomas Plewman SC has a great track record as a litigator. Sources who have seen him in action in the UK say Plewman is 'highly analytical, very clever' and possessed of 'very good judgement.'" (Chambers & Partners 2013)

Languages

Afrikaans (spoken); Dutch and Flemish (read)