

## Thomas Plewman QC

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

*"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

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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. Chambers & Partners 2019 record amongst other things that "He is exceptionally bright and exceptionally good. A go-to person for accountancy work - he knows his numbers" and "His particular skills lie in giving forthright advice and being good on his feet in court." In 2018 he was described as 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."

In 2018 he acted in amongst others the jurisdiction challenges and applications to discharge the world-wide freezing injunction in *PJSC Bank v Kolomoisky* [2018] EWHC 3308 (Ch); the Supreme Court jurisdiction appeal the claims arising from a failed Portuguese Bank in *Goldman Sachs International v Novo Banco* [2018] UKSC 34; 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) and defended the erstwhile Financial Director of RSM Tenon Inc in proceedings brought by the FRC under the Accountancy Scheme. 2017 cases included the comprehensive defeat of the £130 million damages claims in *Holyoake v Candy* [2017] EWHC 3397 (Ch); and the exiting shareholder's fair value claim *Signia v Dauriac* [2018] EWHC 1040 (Ch). He appeared in cases listed in The Lawyers' top 20 for each of 2017, 2015, 2013 and 2011 - *Holyoake v Candy* (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.

Recent cases include:

- *PJSC Bank v Kolomoisky* [2018] EWHC 3308 (Ch) and [2018] EWHC 482 (Ch)
- *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
- *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)
- *Goldman Sachs International v Novo Banco SA* [2016] EWCA Civ 1092
- *Exsus Travel Ltd v Baker Tilly* [2016] EWHC 2818 (Ch)
- *CH Trustees v Omega Services Group Ltd* (BVI HC 0037/2015)

- *Cattles Group v PriceWaterhouseCoopers LLP* – claims brought by Cattles and its subsidiary Welcome Financial Services attempting to recover damages of £1.6 billion from PriceWaterhouse for failing to detect its failing business model two years earlier than they did;
- *GB Minerals Holdings Ltd v Short* [2015] EWHC 1387 (TCC), obtaining permission to bring contempt proceedings for making false statements under statement of truth;
- *ALG v Grant Thornton and others* – acting for Grant Thornton in defeating ALG’s attempt to hold it responsible for \$200m of losses following its failed AIM listing, alleging breach of its duties as reporting accountant;
- *Sarclad Ltd v APT Technology* [2014] EWHC 2640 (Ch), involving claims for breach of copyright and appropriation of confidential information following an underlying dispute over agency commissions and alleged corrupt payments in China;
- *Astra Finance Inc v Reed Smith LLP*, a claim for solicitors professional negligence in the running of a ship-building dispute;
- *QOGT Inc v IOGT Ltd* [2014] EWHC 1628 (Comm) – relating to the termination of a fund’s investment management agreement after the joint managers fell into dispute with each other;
- *Deutsche Bank AG v Sebastian Holdings Inc* [2013] EWHC 3463, and [2014] EWCA Civ 1100 - the £8bn dispute over foreign exchange trading losses suffered by a company owned by Norwegian billionaire, Alexander Vik;
- *Cavendish CF LLP v KIMS Propco Ltd* [2014] EWHC 1282 (Ch), defeating claims for a corporate finance success fee on a private hospital development;
- *Fortress Value Recovery Fund I LLC v Blue Skye Special Opportunities Fund* [2013] 1 All E.R. (Comm) 973 and [2012] EWHC 1486 (Comm) – claims in conspiracy relating to the restructuring of the \$200m Blue Skye investment fund;
- *British Sky Broadcasting Limited and Others v Office of Communications* [2012] CAT 20;
- *Goldentree Finance Ltd v Collis and Whitehead* 2012 (Unreported); claims for breach of directors’ fiduciary duty and mismanagement;
- *Bethell Construction Limited v Deloitte and Touche* [2011] EWCA Civ 1321, establishing limitation defences against auditors negligence claims;
- *Erlson Precision Holdings Ltd v Hampson Industries Plc* [2011] EWHC 1137 (Comm) involving claims for fraudulent misrepresentation on sale of a company;
- *Everton Football Club Company Limited v Sail Group Limited* [2011] EWHC 126 (QB) defeating claims for breach of an alleged contract for a pre-season football tournament.

In South Africa he acted in many fields including:

- auditors’ professional negligence, regularly acting for the big 4 firms including *Thoroughbred Breeders’ Association v Price Waterhouse* 2001 (4) SA 551 (SCA) and *Axiam Holdings Ltd v Deloitte & Touche* 2006 (1) SA 237 (SCA), and both for and against the Independent Regulatory Board for Auditors
- insurance, including *Van Zyl NO v Kiln Non-Marine Syndicate No. 510 of Lloyds of London* 2003 (2) SA 440 (SCA), *Coetzee v Attorney’s Insurance Indemnity Fund* 2003 (1) SA 1 (SCA) and *David Trust v Aegis Insurance Co. Ltd* 2000 (3) SA 289 (SCA)
- company law, in a number of shareholders disputes in private arbitration, in scheme of arrangement proceedings including the De Beers / Anglo American restructuring in 2001 and in the derivative action proceedings in *Joseph Forman Holdings (Pty) Ltd and another v Forim Holdings* [1999] 3 All SA 204 (W)
- in confidential information and corporate espionage disputes including the damages claims brought in *Frangos v Corpcapital* which were resolved three weeks into the trial and the underlying Anton Piller proceedings 2004 (2) SA 643 (T) .
- banking disputes, acting for Standard Bank, FirstRand and Investec, including in the Commission of Inquiry into the fall of the value of the Rand; and in *NBS Boland Bank Ltd v One Berg River Drive CC* 1999 (4) SA 928 (SCA)
- in large mining disputes, including the 2009 arbitration *Kumba Iron Ore Ltd v Mittal Steel* over the rights to the Kolomela mine and the platinum rights dispute *Bafokeng Tribe v Impala Platinum Ltd* 1999 (3) SA 517 (BH) as well as acting for Anglo American in the silicosis claims brought against it by employees of its subsidiaries mining;

- software development disputes including the claims bought by Old Mutual against Accenture and by Neil Harvey and Associates against Medscheme Holdings Ltd;
- telecommunications, representing Vodacom against the Independent Communications Authority;
- intellectual property, including obtaining injunctions against patent infringement in *Pfizer Ltd v Cipla-Medpro* 2005 BIP 1 (CP) and acting for Pfizer in the subsequent damages claims, patent amendment proceedings to avoid revocation in *Smithkline Beecham Biologicals (SA) v Chiron Corporation* (2009, unreported), trademark proceedings in *Levi Strauss & Co v Coconut Trouser Manufacturers (Pty) Ltd* 2001 (3) SA 1285 (SCA) and copyright claims in *Morris v Benson and Hedges* 2000 (3) SA 1092 (W).

He continues to advise English clients on South African law and acted as an expert witness in proceedings in Jersey in *Investec Trust (Switzerland) S.A. v the Philip Gutman Family Trust* and in South Africa as an expert witness on English law in arbitration proceedings relating the Qingdao aluminium frauds.

## Commercial

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He acts in substantial commercial trials across a wide compass.

In 2018 he acted in amongst others in the jurisdiction challenges and applications to discharge the world-wide freezing injunction in *PJSC Bank v Kolomoisky* [2018] EWHC 3308 (Ch) and [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, [2018] EWCA Civ 2652 (main proceedings settled on first day of trial)

In 2017 he acted in *Holyoake v Candy* [2017] EWHC 3397 successfully defending claims for conspiracy and duress of £130 million, in the investment management company dispute *Signia Wealth v Vector Trustees Ltd* [2018] EWHC 1040 (Ch) and in the successful claim for an indemnity arising out of the catastrophic failure of an industrial printing press in *Contact Print and Packaging Ltd v Travelers Insurance Company Limited* [2018] EWHC 83 (TCC).

He is heavily engaged in financial services disputes. In addition to *Goldman Sachs v Novo Banco SA* and *PSJC Commercial Bank Privatbank v Kolomoisky* he has recently acted in misselling 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).

Judgments in other recent commercial cases include: *CH Trustees v Omega Services Group Ltd* (BVI HC 0037/2015); *GB Minerals Holdings Ltd v Short* [2015] EWHC 1387 (TCC); *QOGT Inc v IOGT Ltd* [2014] EWHC 1628 (Comm), and resisting a corporate finance success fee in *Cavendish CF LLP v KIMS Propco Ltd* [2014] EWHC 1282 (Ch).

## Arbitration

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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.

Since moving to the UK he has continued to act in both South African and UK arbitration claims, including a

current dispute over liability for the loss of valuable cargo consigned from South Africa to Europe.

## Professional negligence

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In South Africa Thomas acted regularly for the big four auditing firms in South Africa as both a junior and a silk. Having a first degree in accountancy and economics, he is very well-versed in underlying accounting issues. He has carried that specialisation into London practice. He acted in 2018 in the FRC Accountancy Scheme proceedings *Executive Counsel of the FRC v McBurnie*; for RSM Tenon (previously Baker Tilly) in the claim brought against it for breach of duty in giving expert accounting evidence by Cayton's law; and for Grant Thornton in the claims brought by the Aramid Distribution Trust 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 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.

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

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Recent insurance 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

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Acting for the corporate defendants in the billion dollar fraud claims *PSJC Commercial Bank Privatbank v Kolomoisky and others*. Fraud cases in 2017 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)*, claims associated with bankruptcy proceedings arising from a venture to exploit currency trading software in *Carbone v Castelli*; 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

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*PSJC Commercial Bank Privatbank v Kolomoisky* [2018] EWHC 3308 (Ch) and [2018] EWHC 482 (Ch)

*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) and [2018] EWCA Civ 2652

*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

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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

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- "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

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Afrikaans (spoken); Dutch and Flemish (read)