



## Thomas Evans

*"His commitment is superb and his intellect is deeply impressive. Irrespective of his workload, Thomas makes himself available quickly and is across the detail instantly."*

- Chambers UK 2024

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Thomas has a broad commercial practice and is ranked in Tier I for Group Litigation (Legal 500) and in Band 3 for Product Liability (Chambers UK).

Thomas' recent cases include *Novitas Loans v AmTrust Europe* (instructed by the insurer in a £55m claim arising out of a failed litigation funding scheme), *The VW NOx Emissions Group Litigation* and *The VW NOx Emissions Group Litigation (No. 2)* (instructed by Volkswagen) and *Qatar Airways v Airbus* (the high-profile commercial dispute concerning the A350 aircraft in which he was instructed on behalf of Qatar Airways).

Thomas has also recently acted in a long running case arising out of fires in a range of agricultural machinery, and has recently advised in multi-million-pound factory fire cases, and vehicle fire cases. He is co-authoring the latest edition of *Hodges on Multi-party Actions*.

Allied to this, Thomas has a particular depth of experience in consumer matters arising out of the Consumer Credit Act 1974, the Financial Services and Markets Act 2000, and the Consumer Protection from Unfair Trading Regulations 2008 (both regulatory and contentious). He regularly advises and acts for lenders in secret commission claims (in particular in motor finance). He has contributed to the *Journal of International banking and Finance Law* and is the lead author for the present edition of the *Encyclopaedia of Forms and Precedents*, *Consumer Credit* as well as being an author of *Goode, The Law and Practice of Consumer Credit*.

Chambers UK describes Thomas as "*Bright and meticulous, with an impressive attention to detail. An all-round formidable advocate*", "*a delight to work with and has a great ability to think outside of the box*" and "*always on top of the detail and has a great sense of strategy*." Legal 500 says that he provides "*Prompt and supportive service*" and has "*Excellent client handling skills*."

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## Product Liability & Group Actions

Thomas' practice is focused on product liability, and group litigation. He was recently instructed in *Qatar Airways v Airbus* in the high-profile dispute concerning the A350 lightning strike protection system. He is also instructed by Volkswagen in *The VW NOx Emissions Group Litigation (No. 2)* (and the previous *VW NOx Emissions Group Litigation*), and advised in the PIP Breast Implant Litigation. He is currently acting for the manufacturer in multiple claims arising allegedly out of defective agricultural equipment, and also in the context of marine construction.

Thomas is also acting for the insurer in *Novitas Loans v AmTrust Europe*, a £55m claim arising out of a failed consumer mass litigation funding scheme involving 20,000 underlying failed claims.

Other recent instructions have involved allegedly defective plant equipment, white goods and commercial vehicles, as well as negligently carried out utility servicing. Thomas has particular experience in electrical fires (including in commercial premises, factories, vehicles and plant equipment).

He regularly provides opinions for insurers, manufacturers and creditors and is experienced in dealing with complex issues of expert evidence and high value claims for loss of profit both at trial and in ADR.

Recent articles include: *Prismall v Google* – caught between a rock and hard place in representative actions

### Representative Cases

- *Novitas Loans v AmTrust Europe*  
Instructed by the insurer in a £55m claim arising out of a failed consumer mass litigation funding scheme
- *The VW NOx Emissions Group Litigation (No. 2)*  
Instructed by Volkswagen
- *A marine construction matter*
- *Qatar Airways v Airbus (KBD)*  
Instructed by Qatar. Concerned with the A350 aircraft lightning strike protection system.
- *The VW NOx Emissions Group Litigation*  
Instructed by Volkswagen.
- *PIP Breast Implant Litigation*  
Instructed by a creditor with connected lender liability in several cases.
- *Various Claimants insured by NFU*  
Instructed by the manufacturer in respect of a series of fires in combine harvesters, with it being alleged that a design defect in the braking system resulted in overheating.
- *Factory fire*  
Alleged defect in the impeller shaft of a gas fan heater resulting in part of a fan blade coming loose and impacting a gas storage unit

- *Factory fire*  
Defective wiring in a three-phase distribution board resulted in sparking.
- *Agricultural vehicle*  
Alleged failure of electronic safety systems
- *Tractor fire*  
Fire alleged to have been caused by both mechanical, electrical and hydraulic issues.
- *Car fire*  
Defective wiring.
- *Consumer vehicle*  
Metal fatigue.
- *Gel heat pack*  
Injury caused by heat pack exploding after microwave warming.

## Commercial

Thomas has considerable experience of commercial litigation, and recently acted in the high-profile commercial dispute concerning the A350 aircraft *Qatar Airways v Airbus*, in which he was instructed on behalf of Qatar Airways.

Thomas is also acting for the insurer in *Novitas Loans v AmTrust Europe*, a £55m claim arising out of a failed consumer mass litigation funding scheme involving 20,000 underlying failed claims.

Thomas' recent cases have concerned allegations of fraud and misrepresentation (in share purchase agreements), malicious falsehood (as defence to alleged repudiatory breach of commercial telecommunications agreement), undue influence (in the context of director and intra-company guarantees and performance bonds) and frustration / ultra vires (in contracts entered into with private and academy schools).

Thomas also drafts commercial agreements and terms of business, and advises on the enforceability of such contracts in the context of business acquisition due diligence.

## Representative Cases

- *Novitas Loans v AmTrust Europe*  
Instructed by the insurer in a £55m claim arising out of a failed consumer mass litigation funding scheme
- *Qatar Airways v Airbus (KBD)*  
Instructed by Qatar. Concerned with the A350 aircraft lightning strike protection system.
- *Bruce v TTAM [2015] EWHC 936 Ch*  
Alleged deceit in share purchase agreement.

- *Resort Group v MJEA (Queen's Bench Division)*  
£20m loss of profit and liquidated damages claim under property portfolio acquisition agreements and guarantees.
- *Chemistree Homecare Ltd v Roche Products Ltd (ChD)*  
Costs orders upon discontinuance following interim injunctive relief; indemnity costs; relevance of other proceedings concerning same claimant; payment on account of costs pending detailed assessment; relevance of proceedings before European Commission which may be stifled by costs order.
- *HSBC Bank PLC v Ertan*  
Guarantees given by company director and secured on property; chain of guarantees linking group collective net overdraft facility to guarantor; allegations of misrepresentation.
- *In re Smart Energy*  
Numerous claims against solar water heating company; alleged misrepresentation.
- *O v B*  
Failure of encryption software supplied for use with Blackberry mobile devices; loss of profit.
- *O v Z*  
Provision of SDSL broadband services with inadequate access line speeds for secure video conferencing; loss of profit.
- *Prowood Finance Ltd v The Blue Coat Church of England Academy Limited*  
Defence of ultra vires to a debt claim argued by a school under the Academies Act 2010.
- *Otoo v Barons Finance Ltd (in liquidation) (ChD)*  
Part of the Barons Finance litigation; enforcement of multiple charges by joint liquidators where underlying debts arose out of unenforceable consumer credit agreements executed by the creditor without authorisation.

## Consumer

Allied to his product liability expertise, a significant part of Thomas' practice is concerned with consumer protection, and in particular the provisions of The Consumer Protection from Unfair Trading Regulations 2008. He is instructed by Volkswagen in the claims brought by consumers in The VW NOx Emissions Group Litigation (No. 2).

Thomas regularly advises clients facing investigation and enforcement action from regulators including the Financial Conduct Authority and local Trading Standards departments. Most recently, Thomas has acted for a manufacturer facing allegations of unfair trading and fraud being investigated by Trading Standards, and also for a creditor facing potential enforcement action following allegations of failing to treat customers fairly and of sending out misleading communication.

Thomas has also been instructed in numerous interest rate hedging product cases, and assisted a bank in the context of the FCA's IRHP Review. He also regularly acts in cases of alleged misrepresentation arising out of

the sale of solar panel and in secret commission claims.

In addition, Thomas has recently acted for:

- Numerous retail and motor finance companies defending claims of secret- and half-secret commission
- Consumers alleging fraud by financial and pensions advisors
- Finance companies defending allegations of harassment during debt collection
- A consumer in a claim arising out of alleged unconscionable dealing and misrepresentation by salesmen on visits to his home
- A timeshare company concerning sales practices and compliance with the Consumer Protection from Unfair Trading Regulations 2008
- A major UK creditor on liability arising out of misrepresentation in the sale of timeshare agreements
- A major UK creditor on liability arising out of misrepresentation in the sale of solar energy equipment

## Representative Cases

- *The VW NOx Emissions Group Litigation (No. 2) and The VW NOx Emissions Group Litigation*  
Instructed by Volkswagen.
- *Numerous alleged secret commission claims*  
Instructed by various creditors and car finance companies.
- *PIP Breast Implant Litigation*  
Instructed by a credit card company on issues of connected lender liability.
- *Various Claimants v HBSC Bank plc*  
Interest rate hedging product matters in the context of the FCA IRHP Review.

## Banking, Asset Finance & Consumer Credit

Thomas' practice has a focus on banking, asset finance and consumer credit, often in the context of secret commission and with a particular focus on the motor industry. He receives regular instructions on behalf of banks and other large financial institutions, and his practice spans both transactional and regulatory work as well as litigation.

Thomas is the lead author for the *Encyclopaedia of Forms and Precedents, Consumer Credit*, and is one of a team of authors of *Goode, The Law and Practice of Consumer Credit*. He has published several articles in the *Butterworths Journal of International Banking and Financial Law*.

### Litigation

Thomas has recently been instructed in a number of claims arising out of the alleged mis-sale of interest rate hedging products. He has also advised a City bank on the FCA's IRHP Review.

He has recently published articles in the *Butterworths Journal of International Banking and Financial Law* concerning the existence and assignment of restitutionary rights in cases of unenforceable contracts, and

problems of drafting and interpretation in guarantees and performance bonds.

Thomas frequently acts on behalf of creditors in claims arising out of defective products where there is connected-lender-liability. He also acts in mortgage and guarantee cases in which complex allegations of misrepresentation, undue influence, unconscionable dealing and discharge by variation are raised.

Recently, he has defended cases of alleged harassment by large financial institutions arising out debt collection activities.

Thomas has recently presented talks concerning the high net worth exemption to consumer credit regulation, connected lender liability under the Consumer Credit Act 1974 and withdrawal from regulated agreements following the implementation of the Consumer Credit Directive

### Transactional & Regulatory

Thomas receives regular instructions to advise a number of City institutions on non-contentious matters which have recently included the following:

- Applications to the FCA for authorisation
- Duties under the FCA Handbook
- Issues arising out of FOS determinations
- Reviewing consumer credit agreements as part of several due diligence reviews in the context of assignment of book debts and company acquisition
- Obtaining authorisation under FSMA for a national office equipment company and applying to amend scope of authorisation for a leisure services provider
- Drafting applications for waivers from the FCA
- Advising a major City financial institution on remedying and reporting breaches to FCA
- Advising a major UK credit card provider on its debt collection procedures
- Drafting commercial secured loan agreements as well as guarantees and performance bonds
- Drafting regulated credit and hire purchase agreements as well as full suite precedents, including for a national hire company and Harley Street medical practice
- Advising on the extra-territorial effect of the CCA and FSMA
- Remedying historical errors in NOSIAs
- Advising on the MiFID, high net worth and business purposes exemptions

### Representative Cases

- *Prowood Finance Ltd v The Blue Coat Church of England Academy Limited*  
Defence of ultra vires to a debt claim argued by a school under the Academies Act 2010.
- *Various Claimants v HBSC Bank plc*  
Interest rate hedging product matters in the context of the FCA IRHP Review.
- *Otoo v Barons Finance Ltd (in liquidation) (ChD)*  
Part of the Barons Finance litigation; enforcement of multiple charges by joint liquidators where underlying debts arose out of unenforceable consumer credit agreements executed by the creditor

without authorisation.

- *HSBC Bank plc v Ertan*  
Guarantees given by company director and secured on property; chain of guarantees linking group collective net overdraft facility to guarantor; allegations of misrepresentation.
- *Megaprinter.co.uk v Baldreed Digitec Limited &or (QBD)*  
Hire of copying equipment; alleged breach of maintenance agreement; liability of finance company; application to strike out claim; quantification of damages.
- *Golbourne v Capital One (Europe) PLC*  
Broad allegations concerning alleged unfair relationships.
- *FGA Capital v Hipwood*  
Meaning of “possession” in section 90 Consumer Credit Act 1974; vehicle seized by HMRC but hiree attempting to recover; whether vehicle was in hiree’s possession.
- *Honda Finance Europe Limited v Erivona*  
Voluntary termination of hire purchase agreement; duty of hirer to return vehicle; definition of “control”; effect of injunction preventing hirer from accessing vehicle.
- *Santander Cards UK Ltd v Greaves and Momentum Networks Ltd*  
Non-party costs order against claims management company Credit Card Killer; control by claims management company of client’s defence to debt claim; attempt to profit from litigation; application to adjourn due to concurrent criminal proceedings refused.

## Insolvency

Thomas advises financial institutions on a broad range of debt and insolvency issues. He regularly appears on appeal in the High Court and in both the Companies Court and County Courts at the setting aside, petitioning and annulment stages.

### Representative Cases

- *1st Credit Finance v Anthony Adrian Carr [2013] EWHC 2318 (Ch)*  
Whether the Court was entitled to annul under s282(1)(A) IA 1986 where debtor produced disputed evidence of ability to pay only after the hearing of the petition; whether there was sufficient evidence that bankruptcy debts had been discharged for s282(1)(b) IA 1986.
- *Dias v London Borough of Havering [2011] EWHC 172 (Ch)*  
Scope of the Court in Bankruptcy’s jurisdiction to go behind liability orders for non-domestic rates; authority for the meaning on “miscarriage of justice” in bankruptcy proceedings.
- *In re William Cole (ChD)*  
Definition of “unreasonableness” in IA s271(3).

- *In re Michael Cooper (ChD)*  
Amendments to proof of debt pursuant to IR r6.116.
- *Pickard v Atta-Owusu*  
Setting aside transaction at undervalue; declaration of bankrupt's beneficial interest in property.
- *In re Henley Interiors Limited (in liquidation)*  
Application of the rule against double proof following *Re Kaupthing*.
- *In re Ali*  
Scope of IA s339 and s342, the power of the Court to set aside transactions at an undervalue and, in particular, the protection afforded to third parties acting in good faith.

## What the directories say

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"Prompt and supportive service. Excellent client handling skills."  
*Legal 500 2023*

"Tom is always on top of the detail and has a great sense of strategy."  
*Chambers UK 2023*

"Bright and meticulous, with an impressive attention to detail. An all-round formidable advocate."  
*Chambers UK 2022*

"He is a delight to work with and has a great ability to think outside of the box."  
*Chambers UK 2022*

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## Appointments

- Attorney General's Panel of Junior Counsel to the Crown, B Panel (2024, from 01/09/2024)

## Publications

- Author: Hodges, Multi-Party Actions
- Lead Author: Encyclopaedia of Forms and Precedents, Consumer Credit
- Contributor: Journal of International Banking and Finance Law:

"Conflict of laws in light of Plaza BV and the new Brussels Regulation"

"Guarantees and Performance Bonds: Problems and Drafting and Interpretation"



“As you reap so shall you sow: the existence and assignment of restitutionary rights in cases of unenforceable contracts”

“Changes to the protection of guarantors under regulated agreements: opportunities missed and problems created”

- Author: Goode, The Law and Practice of Consumer Credit
- Author: An Introduction to the Consumer Rights Act 2015
- Author: The Health and Safety (Offences) Act 2008
- Contributor: LexisNexis PSL Notes

## Memberships

- Commercial Bar Association
- South Eastern Circuit
- Health & Safety Lawyers’ Association
- Personal Injuries Bar Association
- London Common Law & Commercial Bar Association
- UK Constitutional Law Association

## Education

- Cholmeley Studentship, Lincoln’s Inn
- Hardwicke Award, Lincoln’s Inn
- John V Lovitt Prize in Jurisprudence, Christ Church, Oxford
- Scholarship, Christ Church, Oxford
- MA (Oxon) Jurisprudence, Christ Church, Oxford

## Awards & Recognitions

