



## Thomas Samuels

*"A standout candidate... very responsive and commercial, and clients love him."*

- Chambers UK 2019

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Call 2009

Tel: +44 (0)20 7583 9020

Email [tsamuels@hendersonchambers.co.uk](mailto:tsamuels@hendersonchambers.co.uk)

Thomas has a busy practice covering a range of common law, commercial and regulatory matters, with particular focus on consumer and financial services issues (both contentious and non-contentious). He is ranked in the legal directories as a leading practitioner in the areas of Financial Services Regulation, Banking & Finance and Consumer.

He was instructed as junior counsel in the Supreme Court in *Beavis v ParkingEye Ltd* [2016] AC 1172, now the leading decision on the common law penalties doctrine and unfair terms in consumer contracts. During the course of 2017-19 he was instructed as junior counsel in the landmark *Berkeley Burke* litigation, appearing both in judicial review proceedings against the Financial Ombudsman Service and related group litigation in the Circuit Commercial Court.

His clients include lenders, insurers, pensions providers, IFAs, retailers, charities, regulators and high net-worth individuals. Thomas has a pragmatic and down-to-earth approach, and is always happy to provide an early strategic view at the outset of litigation. He is often engaged in cases involving particularly sensitive commercial or personal issues.

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## Financial Services

Thomas is ranked in the Legal 500 as a leading practitioner in Financial Services Regulation and Banking & Finance. He is described in the 2022 edition as *"able to explain extremely complex legal points in straightforward language which clients are able to digest easily"* and is noted as *"a junior with a methodical eye for detail."* He is a co-author of *Mis-Selling Financial Services*.

He is regularly instructed in private and public law claims concerning the FCA authorisation regime, Financial Services and Markets Act 2000 and FCA Handbook, Regulated Activities Order, Consumer Credit Act 1974 and the GDPR. Clients include lenders, insurers, pensions providers, fintech start-ups, IFAs and charities.

Representative instructions include:

- Advising on the application of the Financial Promotions Order to AI-generated online advertising
- Advising on application of art 40 RAO ('safeguarding and administration of assets')
- Acting for a SPV in litigation concerning the exemption at para 55(2) of Schedule to the Exemptions Order
- Acting for a pensions advisory firm in judicial review claims against FOS
- Acting for a HCST lender in FCA enforcement proceedings
- Providing consumer credit due diligence for securitisation transactions
- Advising on s. 235 FSMA ('collective investment schemes')
- Acting for a policy-holder under an income protection policy in litigation alleging insurer's breach of ICOBS 8.1.1R
- Acting in private lending claims concerning breaches of the 'general prohibition' and unfair relationships
- Advising freehold company on deferral of service charges incurred in relation to cladding issues
- Acting for a litigation funder in CCA enforcement proceedings against a high net-worth borrower with capacity issues

## Representative Cases

- *R (Portal Financial Services LLP) v Financial Ombudsman Service Limited* [2022] EWHC 710 (Admin)  
Application to judicially review 27 decisions of the Financial Ombudsman Service concerning an adviser's ability to restrict scope of pension transfer advice
- *Avison v White* [2022] EWHC 361 (Comm)  
private money lending dispute raising allegations of promissory estoppel, contractual interpretation and penalties
- *R (Chadwin & Ors) v Financial Services Compensation Scheme Ltd* [2021] EWHC 2325 (Admin)  
Judicial Review against FSCS concerning meaning of COBS 10.4.1R (duty to assess 'appropriateness')
- *Jackson v Ayles & Ors* [2021] EWHC 995 (Ch)  
application by trustee-in-bankruptcy for declarations of unenforceability in respect of two legal charges considering key provisions at ss. 22, 26 and 28(5) FSMA
- *Promontoria (Henrico) Ltd v Samra* [2019] EWHC 2327 (Ch)  
enforcement claim in relation to secured commercial overdraft agreements; leading decision on burden of proof in unfair relationships
- *R (Berkeley Burke SIPP Administration Ltd) v Financial Ombudsman Service Ltd* [2018] EWHC 2878 (Admin)  
judicial review against FOS concerning scope and meaning of Principles 2 and 6

- *Arif & Ors v Berkeley Burke SIPP Administration Ltd [2017] EWHC 3108 (Comm)*  
group litigation against pension administrator alleging widespread investment mis-selling by unregulated advisors
- *Berkeley Burke SIPP Administration Ltd v Charlton & Anr [2017] EWHC 2396 (Comm)*  
leading decision considering whether an agreement with FOS to redetermine a complaint constituted an ‘arbitration agreement’ under Arbitration Act 1996
- *Swift Advances plc v Okokenu [2015] CTLC 305*  
mortgage possession claim considering the extent to which borrower’s dishonesty impacted on unfair relationship allegations

## Consumer

Thomas is regularly instructed to advise and litigate across a range of consumer law issues. Clients include national and international retailers and financial institutions, as well as individuals. He is ranked as a leading practitioner in the area. Chambers & Partners 2021 notes that he is “good at explaining complex things in a simple and understandable way” and is “great to deal with.” He is also a co-author of *Mis-Selling Financial Services*.

Thomas has been involved in all of the major ‘mis-selling’ scandals of the past decade including PPI, green energy, timeshares and SIPPs. He is also regularly instructed on disputes concerning: sale of goods; unfair relationship and technical CCA issues; complex debt and mortgage recoveries; unfair commercial practices; penalties; and unfair terms.

Representative instructions include:

- Acting for a number of lenders in PPI ‘top-up’ litigation following *Plevin*
- Acting for a lender and supplier on a large volume of claims alleging mis-selling of renewable energy products
- Acting for a retail lender on a number of claims alleging mis-selling of timeshare products
- Advising on the fairness of terms in airline and train contracts
- Acting for a consumer in a sale of goods dispute relating to the design and installation of a kitchen
- Acting for a lender in enforcement proceedings against deceased borrower’s estate under a regulated hire-purchase agreement and related contempt proceedings
- Acting for a bank in High Court injunctive proceedings against a customer following threats to branch staff
- Acting for a HCST lender in relation to enforcement proceedings threatened by the FCA

## Representative Cases

- *Avison v White [2022] EWHC 361 (Comm)*  
private money lending dispute raising allegations of promissory estoppel, contractual interpretation and penalties
- *Competition & Markets Authority v Bijou Weddings [2020]*  
widely-publicised enforcement proceedings by the CMA against a wedding services provider arising out

of Covid-19 lockdown considering issues of frustration and unfair terms

- *R (Ogunkoya) v Office of the Independent Adjudicator [2018] EWCA Civ 419*  
application to judicially review decision removing claimant from her PhD programme
- *R (Berkeley Burke SIPP Administration Ltd) v Financial Ombudsman Service Ltd [2018] EWHC 2878 (Admin)*  
judicial review against FOS concerning scope and meaning of Principles 2 and 6
- *Arif & Ors v Berkeley Burke SIPP Administration Ltd [2017] EWHC 3108 (Comm)*  
group litigation against pension administrator alleging widespread investment mis-selling by unregulated advisors
- *Beavis v ParkingEye Ltd [2016] AC 1173*  
leading Supreme Court decision on the common law of penalties and unfair terms in consumer contracts
- *Swift Advances plc v Okokenu [2015] CTL 305*  
mortgage possession claim considering the extent to which borrower's dishonesty impacted on unfair relationship allegations
- *Parker v Black Horse Ltd & Anr [2011] GCCR 11101*  
decision concerning creditor's right to recover small claims track costs from supplier under s. 75(2) CCA

## Commercial

Thomas accepts instructions across a range of commercial law issues. Relevant experience includes:

- contractual disputes (including penalties and unfair terms)
- sale of goods
- conversion
- guarantees/indemnities
- applications under Cross Border Merger Regulations 2007
- insolvency
- partnership
- IT/technology claims
- interim relief (including applications for injunctions and security for costs)
- proceedings under the Arbitration Act 1996

## Representative Cases

- *Avison v White [2022] EWHC 361 (Comm)*  
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- *Beavis v Parking Eye Ltd* [2016] AC 1173  
leading Supreme Court decision on the common law of penalties and unfair terms in consumer contracts
- *Hedley's Humpers Ltd v HMRC* [2013] UKFTT 684 (TC)  
application for HMRC to carry out a review out of time of a decision of UK Border Force following failure to obtain a valid CITES permit.

## Public Law and Judicial Review

Thomas is regularly instructed on behalf of both claimants and defendants in public law claims, often involving a financial or consumer issue.

He appreciates that for commercial clients in particular, judicial review can be an unfamiliar jurisdiction. He is therefore always happy to provide early advice on the merits of any potential challenge, as well as on matters of procedure and strategy.

### Representative Cases

- *R (Portal Financial Services LLP) v Financial Ombudsman Service Limited* [2022] EWHC 710 (Admin)  
Application to judicially review 27 decisions of the Financial Ombudsman Service concerning an adviser's ability to restrict scope of pension transfer advice
- *R (Chadwin & Ors) v Financial Services Compensation Scheme Ltd* [2021] EWHC 2325 (Admin)  
judicial review against FSCS concerning meaning of COBS 10.4.1R (duty to assess 'appropriateness') and s.31(2A) of Senior Courts Act 1981
- *R (Ogunkoya) v Office of the Independent Adjudicator* [2018] EWCA Civ 419  
application for judicial review decision removing claimant from her PhD programme
- *R (Berkeley Burke SIPP Administration Ltd) v Financial Ombudsman Service Ltd* [2018] EWHC 2878 (Admin)  
judicial review against FOS concerning scope and meaning of Principles 2 and 6

## Group Litigation

In conjunction with his financial services and consumer expertise, Thomas has experience of GLOs and large-scale litigation on ‘mis-selling’ issues across a range of products from pensions to solar panels. He is able to assist with the often complex procedural issues which arise in group litigation concerning disclosure, expert evidence and selection of test claims.

### Representative Cases

- *Arif & Ors v Berkeley Burke SIPP Administration Ltd [2017] EWHC 3108 (Comm)*  
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### Publications

- Author of “Mis-Selling Financial Services”
- Contributor to “Encyclopedia of Banking Law”
- Contributor to “Encyclopedia of Financial Services Law”
- Author of “The Financial Ombudsman Service: a matter of principle” [2020] 170 NLJ 13
- Author of “Are loans involving family members, friends or trusts caught by the consumer credit regime?” (PLC maintained practice note)

### Memberships

- Financial Services Lawyers Association
- Advocate

### Education

- M.A. (Jurisprudence), Oxon (2004-07)
- Hardwicke Entrance Award, Lincoln’s Inn (2008)
- Denning Scholarship, Lincoln’s Inn (2008)

### Awards & Recognitions

