

# THOMAS JAMES



Call 2018

Thomas has a broad chancery practice, incorporating advisory work, litigation and arbitration. He accepts instructions across the full range of Chambers' practice areas, with a focus on wills, trusts and estates, related taxation work, commercial and property litigation, and partnership and LLP disputes. He regularly appears in the High Court, including on successful applications for freezing and interim injunctions, alongside specialist experience in the First-tier Tribunal, Upper Tribunal and Court of Protection.

Thomas is equally happy acting led or unled and is often instructed against counsel considerably senior to him. He recently appeared as sole counsel in the Court of Appeal in *Gorbachev v Guriev* [2022] EWCA Civ 1270, [2023] 2 W.L.R. 1.

Before joining Chambers, Thomas worked in the Court of Appeal (Civil Division) as Judicial Assistant to the Rt. Hon. Lord Justice Patten. He has tutored extensively in trusts law and now writes for Practical Law on a range of topics.

Recent reported highlights include:

- **Del Curto v Del Curto** – Cross-border succession (ongoing); led by Professor Jonathan Harris KC and Richard Dew. See [2023] EWHC 2106 (KB).
- **Executors of the estate of Linington and another v Revenue and Customs Commissioners** [2023] UKFTT 89 (TC), [2023] WTLR 917 – Inheritance tax valuation of interests in settled property (ongoing); led by James Henderson.
- **Gorbachev v Guriev** [2022] EWCA Civ 1270, [2023] 2 W.L.R. 1 – Offshore trustee disclosure. See also [2023] EWCA Civ 327, [2023] 1 W.L.R. 2457 and [2022] EWHC 1907 (Comm); led by Richard Dew.
- **Paul v Paul** [2022] EWHC 1638 (Fam) – Acting for minor beneficiary in a claim under the Inheritance (Provision for Family and Dependants) Act 1975.

Thomas also frequently represents individuals in court pro-bono, receiving both the 'Pro Bono Champion Award' from the Chancery Bar Litigant in Person Support Scheme (CLIPS), and recognition from Advocate for committing over 25 hours to pro-bono work in 2023.

## Location

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## Inheritance, Probate & Wills

Thomas regularly acts in wills, probate and inheritance matters, including those with an offshore element. His experience includes:

- Advising on the interpretation and validity of wills and codicils, including 'no-contest' clauses, secret trusts, charitable dispositions, and the presumption against double portions.
- Probate disputes, including *Larke v Nugus* requests, and claims to have wills set aside on the grounds of lack of testamentary capacity, lack of knowledge and approval, fraudulent calumny and undue influence.
- Claims under the Inheritance (Provision for Family and Dependants) Act 1975, including claims by adult children. For reported trial experience in the High Court (acting successfully on behalf of a minor), see *Paul v Paul* [2022] EWHC 1638 (Fam).
- Cross-border succession, including questions of domicile, revocation clauses, conflicting foreign wills, and claims to register foreign succession judgments under the *Foreign Judgments Reciprocal Enforcement Act 1933* (see ongoing *Del Curto v Del Curto* litigation).
- Advising on intestate estates.
- Drafting wills and deeds of variation.

## Trusts & Estates

Thomas has significant experience acting and advising on trusts and estates matters, including those with an offshore element and related taxation issues. He has tutored extensively in trusts law and is a member of the Chancery Bar Association and Contentious Trusts Association. His experience includes:

- Applications for disclosure from trustees and their legal representatives, including significant involvement in the *Gorbachev v Guriev* litigation and experience with data subject access requests.
- Advising on the construction of trust instruments, including vesting and perpetuity periods, the class-closing rules, the scope of trust/fiduciary powers, and applications for rectification/rescission.
- Applications under the Variations of Trusts Act 1958.
- Advising on trust administration, including investment decisions, trustee appointment and retirement, the exercise of trust/fiduciary powers, and related taxation issues.
- Drafting trust deeds and instruments.
- Advising on powers of appointment, resettlement, the rule in *Saunders v Vautier*, and the dissolution of trusts.
- Advising on trusts for minors, accumulation and maintenance trusts, and trusts for disabled beneficiaries (including related applications to the Court of Protection).

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- Claims concerning trusts of land, including disputes concerning the occupation of property, powers of sale, resulting trusts, and common intention constructive trusts.
- Claims against trustees and personal representatives, including breach of trust (and related *devastavit* actions), claims for an account, and applications for removal or retirement.
- Related professional negligence claims.
- Administration applications under Part 64 CPR.
- Advising on regulatory issues such as registration under the UK Trust Register.
- Insolvent estates.

## Taxation

Thomas is regularly asked to advise on non-contentious taxation issues arising in the administration of trusts and estates. He also acts in tax litigation and has appeared in both the First-tier Tribunal (Tax Chamber) and Upper Tribunal. He is a member of the Attorney General's Junior Junior panel and has also been instructed off-panel by HMRC. His experience includes:

- Advising on interests in possession and the relevant property regime.
- Advising on the tax consequences of testamentary dispositions, including related issues such as nil rate band trusts, the residential nil rate band, and deemed capital gains tax disposals.
- Advising on gifts with reservation of benefit and the pre-owned assets tax.
- Advising on charitable dispositions and the reduced rate of inheritance tax.
- Drafting wills and deeds of variation.
- Litigation concerning the valuation of trust interests for inheritance tax purposes; see *Executors of the estate of Linington and another v Revenue and Customs Commissioners* [2023] UKFTT 89 (TC), [2023] WTLR 917.
- Litigation concerning an offshore capital gains tax avoidance scheme.
- Related professional negligence claims.

## Property

Thomas frequently acts and advises in property disputes, including Landlord & Tenant disputes and claims for the possession of land. His experience includes:

- Proprietary estoppel claims.
- Disputes concerning the occupation and co-ownership of land, including claims concerning trusts of land, powers of sale, resulting trusts, and common intention constructive trusts.
- Claims concerning the existence and extent of easements, including easements acquired by prescription.
- Claims concerning the existence of leases/licenses.
- Landlord & Tenant disputes, including disrepair, claims to recover arrears, claims against guarantors, and claims under the Commercial Rent (Coronavirus) Act 2022.
- Applications for leasehold extensions, enfranchisement, and variation, including appearing before the First-tier Tribunal Property Chamber (Residential Property).
- Possession claims of both residential and commercial premises, including against trespassers.

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## Commercial & Business Disputes

Thomas takes instructions in the full range of commercial and contractual disputes, with successful experience obtaining freezing and other injunctions in the High Court. He also has experience assisting in High Court trials concerning civil fraud and contempt of court.

## Court of Protection

Thomas has a keen interest in Court of Protection work, with expertise in property & affairs issues, including instructions from the Official Solicitor. He is a Court of Protection Bar Association member and writes for Practical Law on Court of Protection matters. His experience includes:

- Applications on behalf of disabled trust beneficiaries.
- Applications concerning the scope/extent of a deputy's power, including applications for specific authority to conduct litigation.
- Claims concerning costs in the Court of Protection.
- Assisting on a particularly complex and high-value property and affairs dispute, concerning ongoing litigation in the Chancery Division.

## Partnerships & LLPs

Thomas is developing a busy practice in both contentious and non-contentious partnership and LLP matters. He is a member of the Association of Partnership Practitioners and writes for Practical Law on partnership matters. His experience includes:

- Claims concerning the existence of partnerships, the interpretation and enforceability of members' agreements, profit distributions and partner duties.
- Partner exits, team moves, and retirement, including the enforceability of restrictive covenants.
- Incorporating partnerships, including Limited partnerships.
- Winding up and restructuring, including acting in a complex multi-billion international restructure.
- Drafting and reviewing partnership instruments such as members' agreements, deeds and resolutions.

## Professional Negligence

Thomas has experience assisting with several professional negligence claims, with particular expertise in *White v Jones* type cases, claims against trustees/executors, and tax negligence cases, including those with an offshore element.

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# Insolvency & Bankruptcy

Thomas has experience advising and acting in both corporate and personal insolvency cases. He has particular expertise in personal insolvency matters and is regularly instructed concerning the presentation of bankruptcy petitions.

## Offshore

Much of Thomas's work involves an offshore element, and he welcomes being instructed as part of a larger counsel team. His experience includes:

- Litigation concerning an offshore trust inheritance tax avoidance scheme in the Isle of Man: see *Executors of the estate of Linington and another v Revenue and Customs Commissioners* [2023] UKFTT 89 (TC), [2023] WTLR 917.
- Litigation concerning an offshore trust capital gains tax avoidance scheme in New Zealand and Mauritius.
- Cross-border succession, including questions of domicile, conflicting foreign wills and claims to register foreign succession judgments under the *Foreign Judgments Reciprocal Enforcement Act 1933* (see ongoing *Del Curto v Del Curto* litigation).
- Applications for disclosure from offshore trustees and their legal representatives, including significant involvement in the *Gorbachev v Guriev* litigation and the service out rules.
- Assisting in a claim for rescission of several Jersey law trusts on the basis of mistake, with a related professional negligence action.

## Qualifications

- BPP Law School – Excellence Award
- The Honourable Society of the Middle Temple – Diplock Scholarship
- The Honourable Society of the Middle Temple – Certificate of Honour
- BPP Law School, London – Bar Professional Training Course, Outstanding
- BPP Law School, London – Graduate Diploma in Law, Distinction
- University of Exeter – BA (Hons) History with Study Abroad, First Class

## Associations & Memberships

- Chancery Bar Association
- Contentious Trusts Association
- Court of Protection Bar Association
- Association of Partnership Practitioners

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# Publications

- Regular contributor to [Practical Law](#)

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