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King's Bench Walk

Thomas Herbert



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AREAS OF EXPERTISE

Clinical Negligence, Inquests & Inquiries, Industrial Disease, Personal Injury, Public Authority Liability, Military Claims, Product Liability, Insurance, International & Travel, Commercial, Costs & Litigation Funding

Tom is a highly regarded barrister specialising in clinical negligence, inquests & inquiries, industrial disease and personal injury litigation. Those specialisms are fortified by his significant experience in commercial dispute resolution, costs and insurance work. As such, he is regularly instructed in complex and high-value matters, often unled against silks, and is a particularly experienced appeal advocate considering his level of call. He was appointed directly to the Attorney General's Regional B Panel in 2023.

He is consistently praised in the independent legal directories, where he is described as an "*exceptional*" barrister whose "*written documents are excellent*" and who is "*helpful, thorough and really quite brilliant*". Clients particularly praise his intellectual rigour ("*very clever and thorough*", "*analytical, logical and scientific*"), advocacy ("*a shrewd advocate*", "*nothing shy of brilliant*") and practical approach ("*wise beyond his years*", "*superb commercial acumen*").

Tom has a scientific academic background in chemistry, which informs his practice, and he is noted by the directories to have a "*remarkable capacity to process and distil complex medical information into clear, understandable terms*" and to be "*fantastic at thinking outside the box and working to bring experts together in conference*".

Clinical Negligence

Tom is recognised as a leading junior (Band 1) in clinical negligence work by the Legal 500 and Chambers & Partners. He advises in writing and in conference, drafts pleadings and acts across a broad spectrum of medical work, including dental negligence. He has experience across a wide range of claims, from those worth many millions of pounds to more modest claims raising complex causation arguments. He also has experience of running records vs. recollection cases, informed consent arguments and Fatal Accident Act claims.

Tom's scientific background means that he is adept at conducting conferences with and cross-examining experts. He has also questioned numerous experts through his coronial and industrial disease practices, from GPs to consultant paediatric nephrologists and vascular surgeons.

Tom is particularly expert in dealing with claims involving the doctrine of material contribution to injury and issues as to divisible/indivisible conditions. In this regard, he appeared in the Court of Appeal in *Holmes v Poeton Holdings Ltd* [2024] KB 521.

Inquests & Inquiries

Tom has an excellent reputation in this area, as recognised by the Legal 500 (Band 1). He routinely acts for families and other interested persons at pre-inquest review hearings and at inquests, both where proceedings (civil or criminal) are likely to follow and where matters are unlikely to be taken any further. His experience includes inquests involving deaths

in or related to primary and secondary care, cases where the deceased was known to local authority social care departments, deaths of vulnerable adults in care homes, deaths of those detained under mental health legislation, accidents at work, road traffic accidents and deaths in custody.

The inquests at which Tom appears are frequently dominated by complex questions of fact and medical causation, raising issues such as neglect and the applicability of Article 2. He is accordingly experienced in making legal submissions and questioning lay and expert witnesses in such matters.

Industrial Disease

Industrial disease work forms a large part of Tom's personal injury practice, where he is ranked as a leading junior by the Legal 500. He regularly acts for claimants and defendants dealing with all issues (including medical causation, breach of duty and limitation) in claims relating to occupational asthma, asbestos-related disease, occupational stress, COSHH, noise-induced hearing loss and work-related upper limb disorders.

Claims arising from exposure to chemicals are a particular interest, given Tom's background, as are technical factual and legal arguments on causation. In this connection, he appeared in the Court of Appeal in *Holmes v Poeton Holdings Ltd* [2024] KB 521 (TCE exposure allegedly causing Parkinson's Disease; material contribution to indivisible injury).

Personal Injury

Tom deals with personal injury cases of all types, including advice on procedure and tactics, and is ranked as a leading junior by the Legal 500. He is regularly instructed by claimants and defendants across the full range of personal injury disputes, including employers' liability, public liability, occupiers' liability, defective premises, product liability and Highways Act claims. Accidents in schools are a particular interest.

He has a busy trial practice and regularly attends interim hearings. He is sought after for his concise and robust drafting, particularly of Defences.

Public Authority Liability

Much of Tom's work involves claims in tort against public authorities. Through his work on the Attorney General's B Panel, he has extensive experience of defending such claims brought against government departments, and he also regularly represents local authorities. He has dealt with novel claims in negligence as well as claims for misfeasance in public office, nuisance and malicious prosecution.

Tom also has experience in dealing with claims brought against public authorities under the Human Rights Act 1998 and the Equality Act 2010, including a series of novel claims concerning mask use during the Covid-19 pandemic.

Military Claims

Through his work on the Attorney General's B Panel, Tom has extensive experience representing the Ministry of Defence in personal injury (including claims of physical and sexual assault and bullying), industrial disease (primarily military noise-induced hearing loss) and clinical negligence (primary care) claims.

Product Liability

In relation to his personal injury practice, Tom has extensive experience of product liability cases where injury has been sustained due to an allegedly defective product.

Insurance

Tom often advises insurers in respect of coverage and indemnity issues, predominantly in a personal injury and industrial disease context, though instructions have covered areas as diverse as criminal prosecutions and employment

law.

He has also advised insurers at a more strategic level as to their approach to underwriting certain classes of work.

International & Travel

Tom has experience advising in relation to accidents abroad brought under the Package Travel Regulations and Montreal/Athens Conventions. He also advises on questions of applicable law, jurisdiction and service.

Commercial Litigation

Tom is listed as a leading junior in commercial litigation by the Legal 500 and Chambers & Partners. He has broad experience across a range of commercial matters, from simple debt collection to complex contractual disputes. He represents clients in court and in all forms of Alternative Dispute Resolution.

He has experience of disputes arising from breach of contract, claims involving wrongful interference with goods, construction disputes, misrepresentation and restitution claims. He also has experience of insolvency matters and disputes between companies and directors.

Tom has a particular interest in cases arising at the interface between civil and family law. He has represented a number of clients in such circumstances, including in relation to a novel claim for unjust enrichment in respect of overpaid child maintenance.

Costs & Litigation Funding

As a pupil, Tom assisted with legal research in a number of notable decisions such as *Jones v Spire Healthcare Ltd* [2016] 3 Costs LO 487 (assignment of conditional fee agreements) and *Essar Oilfields Services Ltd v Norscot Rig Management PVT Ltd* [2017] Bus LR 227 (costs awards in arbitration proceedings).

In his own right, he regularly attends CCMCs as well as other costs applications and hearings such as applications for non-party costs orders.

As above, Tom has a particular interest in cases arising at the interface between civil and family law. He has represented a number of clients in such circumstances in relation to costs proceedings, including defending an application for a non-party costs order in private children proceedings.

Notable Cases

- Junior counsel representing the claimant in *Holmes v Poeton Holdings Ltd* [2024] KB 521 (Underhill, Phillips and Stuart-Smith LJJ), which resolved the longstanding confusion as to whether the material contribution approach to causation applies in cases of indivisible injury (Parkinson's disease allegedly caused by occupational exposure to trichloroethylene).
- Drafting costs submissions for the interested party following the Court of Appeal's decision in *R (Koro) v County Court at Central London* [2024] EWCA Civ 94 (Baker, Phillips and Stuart-Smith LJJ) and representing the interested party as defendant to the underlying claim in the County Court at Central London (*Koro v CPS*, DJ Le Bas and on appeal to HHJ Saggerson, 2024–2025).
- Representation of the respondent at an appeal concerning a circuit judge's decision to strike out a claim due to the Claimant's behaviour in the witness box (*Cox v Ministry of Justice*, King's Bench Division, Bright J, 2024). Tom appeared unled against a silk.
- Successfully appealing a District Judge's decision to strike out a claim under the Athens Convention that was erroneously issued in the County Court (*Lax v TUI UK Ltd*, County Court at Middlesbrough, HHJ Gargan, 2024).
- Junior counsel representing the defendant in a novel claim against the Probation Service in relation to injury caused to the claimant by a third party released on licence (*CEB v Ministry of Justice*, King's Bench Division, 2023–present).

- Representation of the respondent in a costs appeal in the Family Division of the High Court: *C v S (Private Children Proceedings: Costs*) [2023] 2 FLR 128 (Arbuthnot J).
- Advice and representation at an appeal concerning CPR Part 11 and common law waiver (*Ditta v Rafiq*, County Court at Stoke-on-Trent, HHJ Salmon, 2022).
- Defending a range of proceedings arising from the breakdown of a high-profile relationship, including a breach of contract claim in the County Court (*Ezee Management Ltd v Jacob*, County Court at Wandsworth, DJ Parker, 2021), a claim in the torts of deceit & conspiracy in the High Court (*Ezee Management Ltd v Jacob*, King's Bench Division, Tipples J, 2021) and insolvency proceedings (*Safe and Sound Storage Ltd v Jacob*, County Court at Central London, DJ Hart, 2021).
- Successfully resisting an appeal against a District Judge's decision to grant the defendants' very late application for their own medical evidence in a noise-induced hearing loss case (*Briggs v Cronite Alloys Ltd*, County Court at Sheffield, HHJ Ingram, 2021).
- Junior counsel representing easyJet and Virgin Atlantic in ongoing High Court litigation concerning alleged aerotoxicity (*Westgate v British Airways plc*, King's Bench Division, 2020–present) and, as sole counsel, representing easyJet in two related claims arising from alleged fume events.
- Representing the deceased's family at a two-week Article 2 jury inquest into the death of a woman following her admission to a secure psychiatric ward and the development of acute hyponatremia caused by psychogenic polydipsia (*Inquest touching the death of MW*, Nottinghamshire Coroner's Court, HM Area Coroner Laurinda Bower, 2023).
- Advice to and representation of a local authority at a three-week Article 2 inquest arising from the murder of a young girl by her mother (*Inquest touching the death of GC*, Nottinghamshire Coroner's Court, HM Assistant Coroner Gordon Clow, 2021).
- Advice to and representation of the deceased's maternal family at a four-week Article 2 inquest into the death of a 13-year-old girl by hanging, including a recusal application made at the pre-inquest review stage (*Inquest touching the death of AP*, Nottinghamshire Coroner's Court, HM Area Coroner Laurinda Bower, 2019).

Qualifications & Awards

- MChem (Hons) Chemistry, University of York.
- GDL (Distinction), Nottingham Law School.
- BPTC (Outstanding), Nottingham Law School.

- Inner Temple GDL/CPE Exhibition Award.
- Inner Temple BPTC Exhibition Award.
- Inner Temple Award for Outstanding Performance on the BPTC.

Appointments

- Attorney General's Regional B Panel of Junior Counsel to the Crown (2023–present).
- Chair of the Civil Court Users Committee, Nottinghamshire Law Society (2020–2025).

Memberships

- Personal Injuries Bar Association (PIBA).
- Professional Negligence Bar Association (PNBA).
- Action Against Medical Accidents (AvMA).

Directories

"Thomas thrives in complex and/or high-value clinical negligence claims, where his input is always thoughtful and well reasoned. He has a good understanding of the commercial influences that can also add layers of complexity to claims. His advocacy skills are excellent, and he presents a persuasive and compelling case for his client." Chambers UK 2027

"Thomas is really good on his feet and he really has an eye for the detail." Chambers UK 2027

"Thomas is very competent and his knowledge of the law is superb." Chambers UK 2027

"He is an excellent advocate. He gets to grips with issues quickly and has a nice manner with clients." Chambers UK 2027

"Tom is an excellent all-rounder and a particularly skilled advocate. He has an eye for detail, has a great way with clients, and loves the challenge of the courtroom. I have no hesitation whatsoever in recommending him." The Legal 500 2027

"Tom is very personable and thorough, and it is always a pleasure to work with him on matters. His advice is well articulated, and his written advocacy is comprehensive. It is clear that Tom knows his stuff, and he is also able to communicate complex legal arguments in a client-friendly manner." The Legal 500 2027

"Thomas is an excellent advocate, with a talent for assimilating large volumes of data, especially deeply medical and scientific, and delivering detailed, well-executed submissions. His advocacy is nothing shy of brilliant, as he remains composed, prepared, and direct on all issues at hand. His scientific background provides him with exceptional knowledge and skill with medical jargon, allowing him to offer well-considered, accurate advice. He is able to perfectly balance the need for a robust, focused approach with the need to be sensitive and empathetic with a client. He is a conscientious, diligent barrister who provides an all-around excellent service to instructing solicitors and clients." The Legal 500 2027

"Excellent communication." The Legal 500 2027

"Excellent counsel. Wise beyond his years. Superb commercial acumen and a shrewd advocate." Chambers UK 2026

"Tom has been fantastic at thinking outside the box and working to bring experts together in conference with cases which are in significant dispute." Chambers UK 2026

"Thomas has been excellent. He is approachable, knowledgeable and a pleasure to work with." Chambers UK 2026

"Tom's analytical, logical and scientific approach to complex legal issues is always a benefit to any case he is instructed on. I regard him as a safe pair of hands in all matters." Chambers UK 2026

"Thomas Herbert is very clever and thorough. His written documents are excellent and I have never found fault with them. His advocacy is very good and he is more than capable of holding his own." Chambers UK 2026

"Thomas is personable and provides great advice. He performs well in court." The Legal 500 2026

"His advocacy is nothing shy of brilliant, with him remaining composed, prepared and direct to all issues in hand. He is always able to be ahead of the curve with cases, with an attentive and thorough approach." The Legal 500 2026

"Tom is tenacious, meticulous and unrivalled. His technical knowledge and advocacy combined prove incredibly powerful. He is helpful, thorough and really quite brilliant." The Legal 500 2026

"Thomas is very personable and his approach is well-received by clients." Chambers UK 2025

"An exceptional barrister. He has a remarkable capacity to process and distill complex medical information into clear, understandable terms, ensuring that everyone involved can fully grasp the issues at hand." The Legal 500 2026

"Thomas is an excellent draftsman and an unrivalled advocate. He's tenacious, gifted and approachable, and thinks outside the box." Chambers UK 2025

"Thomas cuts straight to the point and clearly outlines the strongest (and perhaps more importantly) the weakest aspects of a case. He is very adept at dealing with complex issues of causation and excels when cross-examining medical experts." The Legal 500 2025

"Tom has an exceptional intellect; he always has a thorough understanding of the legal position in any case and can advance detailed legal arguments on behalf of his clients. He is a detailed advocate and is always across the finer complex details of a case. He is an advocate that can be trusted." The Legal 500 2025

"Thomas is an excellent advocate, with a talent for assimilating large volumes of data, especially medical and scientific data, and delivering detailed, well-executed submissions. His advocacy is nothing shy of brilliant, with him remaining composed, prepared and direct to all issues in hand." The Legal 500 2025

"Thomas has an incredible ability to pick up things at pace, assimilate large volumes of information and deliver clear and concise advice." The Legal 500 2024

"Thomas is exceptionally bright and very knowledgeable about the inquest process. He has a very professional and compassionate manner with clients." The Legal 500 2024

"Thomas is excellent at advocacy and advises thoroughly in the client's best interests. He has phenomenal attention to detail with drafting particulars, and you always know you are in a safe pair of hands." The Legal 500 2024

"Thomas is very knowledgeable across a wide spectrum of disease types. He provides clear and logical advice." The Legal 500 2024

"Thomas never fails to impress at inquest with his mastery of the brief and his sensitivity to the needs and interests of his instructing solicitors and clients." The Legal 500 2023

"Thomas has a reasoned approach when dealing with complex clinical negligence claims. He is able to clearly identify key strengths and weaknesses and articulate his opinion confidently and clearly with clients." The Legal 500 2023

"Thomas pays good attention to detail and is always very responsive and thorough. He is often able to think of imaginative solutions." The Legal 500 2023

"Thomas is incredibly robust, knowledgeable, and approachable. He is always available to talk matters through and provide advice and expertise. His work is always of a very high standard and his advocacy skills are unparalleled." The Legal 500 2023

"Thomas Herbert is a junior barrister with a strong clinical negligence practice. He regularly acts for claimants in cases involving serious injury or fatality resulting from negligent diagnosis and failure to treat. Clients and instructing solicitors benefit from his scientific academic background." "*Thomas is approachable, considered, articulate and intelligent; an all-round excellent counsel."* Chambers and Partners 2023

"Very good with the client in what can only be described as tragic circumstances." The Legal 500 2022

"Thomas has always given each matter his full consideration and provided accurate, concise recommendations whilst remaining approachable to both of my clients during very difficult times for them." The Legal 500 2022

"A conscientious and diligent counsel whose work is always first-class. Eloquent and effective pleadings, and straightforward advice which always gets to the heart of the matter." The Legal 500 2022

"He offers very practical and tactical advice in addition to being a great legal technician."

"Provides very well-considered, accurate, and succinct advice." The Legal 500 2021