

# Thomas Herbert

Call: 2014  
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## AREAS OF EXPERTISE

Clinical Negligence, Inquests & Inquiries, Industrial Disease, Personal Injury, 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".

## Notable Cases

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- 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 Saggers, 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).