



Tom Roscoe

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Clerks' Details

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Talks and Publications

- 'Dealing with fixtures on a lease renewal – A trap for the unwary?': [Property Litigation Association](#)
- 'Joint Ventures: Relationship break-down': Talk presented as a part of Wilberforce's Dubai seminar series (May 2014)
- 'Dilapidations: Section 18(1) and a Landlord's Subsequent Works': [Property Litigation Association](#)
- 'The Limits of Possession Claims': Chapter contributed to Wilberforce Chambers property law book, *'Development Disputes: Current issues for property litigators'* (October 2012)
- 'Bad business acquisitions - commercial and professional liability claims': Talk and paper presented to Wilberforce Chambers September 2012 Professional Negligence Conference (with Rupert Reed QC)
- 'Practical Procedure: Legal Advice Privilege': one of a series of workshops on practical procedure offered by Wilberforce juniors to junior litigation solicitors

Memberships

- Chancery Bar Association
- Combar

Practice Overview

Tom has a busy junior practice spanning the range of Chambers' main areas of work. His practice is evenly split between led and non-led work. Tom regularly appears in county courts across the country, as well as in the High Court. He also undertakes a broad range of advisory and drafting work.

The bulk of Tom's practice comprises:

- General commercial and contractual disputes
- Residential and commercial property
- Trusts, wills and probate
- Pensions
- Professional negligence
- Corporate and personal insolvency
- Company law

In late 2013, Tom undertook a three-month secondment at the litigation department of Mourant Ozannes' Guernsey Office where, under the supervision of Jeremy Wessels, he gained experience of high-value international trust litigation, primarily concerning the Tchenguiz family trusts.

Tom also has a particular experience of and interest in 'difficult' possession claims, especially those involving high-profile or unusual properties, protestors, squatters and difficult litigants in person.

Tom was a scholar of Brasenose College, Oxford and graduated in 2008 with a first class degree in Philosophy, Politics and Economics, before converting to Law the following year at the City Law School. He completed the Bar Vocational Course in 2010, also at City, and was graded 'outstanding'. He was awarded a 'major scholarship' by Inner Temple for both his GDL and BVC years.



Pensions

Tom has a growing body of experience of pensions law.

Illustrative cases include:

- Acting (with Robert Ham QC) for the trustees of the Docklands Light Railway Pensions Scheme in an ongoing funding dispute with the scheme's current participating employer, Serco Limited. The case concerns the interpretation of a 'contribution rule', and the validity of previous demands for contributions raises the question of whether the statutory regime for the repair funding deficits should take precedence over provisions contained in a scheme's rules.
- Advising The Pensions Regulator and drafting Warning Notices in relation to suspected pensions liberation and fraud, and appearing on behalf of The Pensions Regulator on an urgent application to replace pension trustees.
- Advising a group of former employees of British Airways and members of the Airways Pensions Scheme in relation to ongoing dispute with British Airways as to whether their pensions should be increased at the RPI or CPI measure of inflation (with Paul Newman QC),
- Acting on a pension trustee's application for the court's approval of the terms of a settlement agreement with the providers of spread-betting services who had offset losses and gains between beneficiary clients' SIPP and personal trading accounts (with Rupert Reed QC).
- Advising a pensioner as to the way in which annual increases to his pension should be calculated.
- Advising a company as to whether the transfer of its pension scheme liabilities to a newco would be susceptible to challenge by The Pensions Regulator under its moral hazard powers.

Professional Liability

Tom has experience of advising and acting in professional liability claims against solicitors, conveyancers, accountants, book-keepers, tax advisors, corporate finance advisors, surveyors, valuers, directors and trustees.

He has recently been instructed to act on a series of professional negligence claims against conveyancing solicitors and valuers in connection with development finance and bridging loans (currently at the pre-action stage, with Joanna Smith QC).

Other illustrative cases include:

- Acting with John Wardell QC and Rupert Reed QC in ongoing professional negligence claims against a leading accountancy firm in respect of allegedly negligent audits and corporate finance advice.
- Working, on behalf of the former trustee (Investec Trust (Guernsey) Ltd), on the preparation of the appeal against the first instance Guernsey decision of Lieutenant Bailiff Chadwick in litigation concerning, amongst other issues, whether the former trustee was grossly negligent and therefore not entitled to an indemnity in respect of liabilities incurred in its capacity as trustee: *Investec & ors v Glenalla & ors* (unreported) (6 December 2013). Tom first became involved in this litigation whilst on secondment in the litigation department of Mourant Ozannes' Guernsey office between September and December 2013.
- Frequent instructions to appear at CMCs and other directions hearings on negligence actions arising from mortgage lending.
- Acting for a claimant seeking damages from a solicitor who failed to advise as to the location of a sewer on the purchase of land, which prevented a planned development.



Professional Liability continued

- Acting (with Terence Mowschenson QC and Sebastian Allen) on a claim by an Isle of Man company against one of its former directors, on the basis that the former director had caused the company to incur unnecessary legal fees in the pursuit of hopeless litigation.
- During pupillage, assisting John Wardell QC and Rupert Reed QC in a claim against solicitors, on the grounds that the solicitors had advised their client to settle proceedings against a negligent tax adviser at an undervalue: *Langsam v Beachcroft LLP* [2011] EWHC 1451 (Ch).

Trusts, Tax, Probate and Estates

In late 2013, Tom undertook a three month secondment at the litigation department of Mourant Ozannes' Guernsey Office where, under the supervision of Jeremy Wessels, he gained experience of high-value international trust litigation.

In particular, he worked extensively on litigation concerning the administration of a Tchenguiz family trust pending the handing down of Lieutenant Bailiff Chadwick's judgment in *Investec & ors v Glenalla & ors* (unreported) (6 December 2013), and in the preparation of Investec's appeal against the judgment thereafter.

Other recent illustrative cases include:

- Acting for a beneficiary of an estate, who also held a power of attorney for the deceased prior to his death, resisting a Beobbe application by the personal representative seeking an account of her handling of the deceased's financial affairs.
- Acting for a Nigerian company, which is the registered owner of a substantial property in London, defending a claim by the former partner of one of the company's directors, for a declaration that she was entitled to a beneficial interest in the property by way of a common intention constructive trust. She had previously sought relief under the Matrimonial Causes Act 1973, but failed as the judge found that she was never married to the director, but had assumed the identity of the director's real wife.
- Advising, in the context of divorce proceedings, whether a purported trust of shares created by the husband was a sham.
- Appearing for the defendant beneficiary in the two-day trial of a claim by an adult 'child of the family' for maintenance under the Inheritance (Provision and Family and Dependents) Act 1975.
- Acting on a pension trustee's application for the court's approval of the terms of a settlement agreement with the providers of spread-betting services who had offset losses and gains between beneficiary clients' SIPP and personal trading accounts (with Rupert Reed QC).

Property

Tom has extensive experience of advising and acting on a wide range of property disputes, as well as on professional negligence cases arising from property transactions.

Tom has a particular experience of and interest in 'difficult' possession claims, especially those involving high-profile or unusual properties, protestors, squatters and difficult litigants in person. He has twice acted for EDF seeking to evict environmental protestors from their sites (with Martin Hutchings QC and Joanne Wicks QC), and has acted to evict a large number of travellers from a car-park near Wembley Stadium. Most recently Tom appeared in the High Court in Manchester for Cuadrilla and local farmers obtaining a possession order and injunctive relief against anti-fracking protestors: *Wensley & ors v Persons Unknown* [2014] EWHC 3086 (Ch)

Such cases form the subject of Tom's chapter, 'The Limits of Possession Claims', in Wilberforce Chambers recent property book, 'Development Disputes'.



Property continued

Tom has recently been instructed to act upon a series of professional negligence claims against conveyancing solicitors and valuers in connection with development finance and bridging loans (currently at the pre-action stage, with Joanna Smith QC).

He also has a growing practice in dilapidation cases and has contributed an article to the Property Litigation Association. [Property Litigation Association Website \(Feb '12\)](#)

Other illustrative cases include:

- Acting for a defendant in a claim brought against her by the users of a local allotment, who allege the benefit of an express or prescriptive right of way over the defendant's driveway. They allege that her erection of a gate amounts to unlawful interference with that right.
- Acting for a Nigerian company, which is the registered owner of a substantial property in London, defending a claim by the former partner of one of the company's directors, for a declaration that she was entitled to a beneficial interest in the property by way of a common intention constructive trust. She had previously sought relief under the Matrimonial Causes Act 1973, but failed as the judge found that she was never married to the director, but had assumed the identity of the director's real wife.
- Acting for the claimant landlord on a possession claim based on forfeiture. The landlord alleged that the defendant's dry-cleaning equipment was causing the building to vibrate.
- Acting (with James Ayliffe QC) for the administrators of HMV in a dispute with the landlords of HMV's flagship Oxford Street store upon the company's entry into administration.
- Acting (with Jonathan Seitler QC) for the claimants in a substantial dilapidations claim. When the case settled shortly before trial, the claimants were able to secure a favourable costs award on the basis of the defendant's unreasonable failure to mediate: *PGF II SA v OMFS* [2012] EWHC 83 (TCC).
- Acting for the landlord of a Welsh cottage on a possession hearing concerning the meaning of "landlord" in the Housing Act 1988. Appeared at first instance, on appeal to the High Court and in the Court of Appeal in opposition to the tenant's application for a further appeal.

Commercial

The vast majority of Tom's cases arise in a commercial context.

Illustrative cases include:

- Acting with Michael Bloch QC in a claim to set aside a shipping arbitration award on the ground that the award had been procured by fraud: *Nestor Maritime SA v Sea Anchor Shipping Co Ltd* [2012] EWHC 83 (Comm).
- Advising in relation to and preparing the documentation for an anti-suit injunction application to restrain the pursuit of a US \$600m fraud claim in Oklahoma in breach of an exclusive jurisdiction clause in favour of the English High Court (acting with Michael Bloch QC and Charles Hollander QC).
- Acting for an online florist, defending a £250,000 claim for unpaid invoices from a supplier on the basis that the flowers supplied were of poor quality.
- Appearing before HHJ Mackie QC on the return date of a worldwide freezing injunction obtained by a bank against 29 respondents.
- Acting with John Wardell QC and Rupert Reed in ongoing professional negligence claims against a leading accountancy firm in respect of allegedly negligent audits and corporate finance advice given in connection with the purchase of a road-sweeping company.



Commercial continued

- Acting (with James Ayliffe QC) for the administrators of HMV in a dispute with the landlords of HMV's flagship Oxford Street store upon the company's entry into administration.
- Advising an inventor of a method of producing dairy-free ice-cream as to whether he could obtain relief against the funder of the company under a shareholders agreement (acting pro bono).
- Advising the majority shareholder of a stone-cutting company about the interpretation of a pre-emption right and the steps to be taken to forestall an unfair prejudice petition.
- Acting for a bank defending a claim by a former customer, of whom the bank has no record, seeking to recover £25,000 which he claims he put on deposit in the early 1980s.

International Arbitration

Tom has advised and acted upon claims to set aside or challenge arbitration awards. Most notably, he acted with Michael Bloch QC in a claim to set aside a shipping arbitration award on the ground that the award had been procured by fraud: *Nestor Maritime SA v Sea Anchor Shipping Co Ltd* [2012] EWHC 83 (Comm).

He has recently advised upon the merits of a proposed challenge to an arbitrator's decision as to the value of a property in accordance with an overage agreement.

As a pupil, Tom assisted Jonathan Seitler QC and Edward Sawyer in an ICC Arbitration concerning the liability of a parent company under a guarantee to meet the fit-out costs of a Russian office building. It claimed it was entitled to refuse to pay, on the basis that the building was unsafe. The arbitration raised issues of Russian fire safety regulations.