



## Thomas Robinson

Call: 2003

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### Clerks' Details

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### Qualifications and Appointments

- One of three nominees for Restructuring / Insolvency Junior of the Year, Chambers Bar Awards, 2013
- "Highly commended" in Legal Week's "Stars at the Bar", 2013
- MA (Hons) Corpus Christi College Oxford
- Hardwicke Scholarship, Lincoln's Inn
- Judicial Assistant to Dyson LJ, 2005

*"He's really bright, thinks outside the box and is very commercial."*

Chambers & Partners, 2021

## Memberships

- Association of Pension Lawyers
- Insolvency Lawyers Association
- Society of Computers and Law
- Chancery Bar Association

## Publications

- Co-editor of Kerr & Hunter on Receivers and Administrators, Sweet & Maxwell
- Judicial review in pensions cases—appropriate forum for pensions complaints (R (on the application of Grace Bay II Holdings SARL and others) v The Pensions Regulator) (2017) Lexis PSL
- Contributor to Cases Alerter for Corporate Rescue and Insolvency (Lexis Nexis).

## Practice Overview

Thomas has a strong commercial / chancery practice with particular emphasis on pensions, insolvency and commercial litigation and arbitration. He has been recommended as a leading junior by The Legal 500 and Chambers UK for several years.

He has been nominated as "Insolvency / Restructuring Junior of the Year" at the Chambers UK Bar Awards and was 'highly commended' in Legal Week's "Stars at the Bar".

His six month placement with the commercial litigation department of a firm in Guernsey at the outset of his practice gave him experience of off-shore litigation as well as direct exposure to a wide range of clients.

Thomas has been recommended in the legal directories for a number of years. In this year's edition of Chambers & Partners, he is described as **"a great strategist and very hard-working"**, **"has a good court manner"** and **"very able and easy to work with"** as well as being **"very thorough"** and having **"great attention to detail."** *"His advocacy is fantastic"*. In The Legal 500 2021, Thomas is highlighted for being **"very enjoyable, pleasant to work with and impressive in meetings with clients."** Another says that Thomas **"has never appeared without having complete mastery of his papers and his arguments and is always quick on his feet."**

Past entries include: **"An excellent junior with a very collegiate approach."** **"He's incredibly tenacious and a really good opponent. He's straight with his arguments and very, very impressive."** (Chancery Commercial, Chambers & Partners 2020) **"A skilled advocate and negotiator who consistently provides clear, pragmatic legal advice."** **"Super-bright."** (Pensions, Chambers & Partners 2019); **"Has a very efficient, linear mind, and structures his arguments extremely well."** **"He's extremely bright and makes everything easy to work through, even if it's complex – nothing rattles him. Very organised in his approach, he knows exactly what he's doing and when he's doing it."** (Chancery: Commercial, Chambers & Partners 2019); **"He is very thorough, concise and a great team player. He is very confident, persuasive and takes a very commercial approach."** (Restructuring / Insolvency, Chambers & Partners 2019) **"A shrewd junior who is an excellent team player"** (IT & Telecoms, Legal 500 2019). **"An outstanding team player with a really astute commercial ability"** (Insolvency, Legal 500 2019). **"He is highly intelligent and excellent on his feet"** (Pensions, Legal 500 2019).



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## Pensions

Thomas acts across a wide range of pensions matters, on behalf of scheme trustees, scheme members, employers and bodies such as the PPF and Pensions Regulator. He has advised on matters from the operation of section 67 of the Pensions Act 1995 and section 37 of the Pension Schemes Act 1993 to trustees' duties and the PPF Levy.

He has a particular interest in the interplay between pensions and insolvency law, and has written on this topic for pensions and insolvency publications. He frequently advises insolvency practitioners in relation to pensions issues. He is also instructed on rectification matters, both as sole counsel and as part of a team (for example acting in 2018 for the representative beneficiary in a claim by Honda Motor Europe Ltd to rectify scheme documentation from 1986).

Tom is recommended as "**One of the best pensions regulatory lawyers in the field**" (Legal 500 2016). He has been instructed by the Pensions Regulator in complex multi-jurisdictional commercial cases seeking Financial Support Directions (FSD) and Contribution Notices (CN) under the Pensions Act 2004, raising issues of commercial and insolvency law. These include Silentnight, MG Rover, Nortel Networks, Lehman Brothers, Michel van de Wiele NV ("Bonas"), Carrington Wire and Desmond & Sons Limited. Tom has appeared before the Regulator's Determinations Panel, the Upper Tribunal, the Court of Appeal and the Supreme Court as a result of these instructions. He has also been instructed as counsel to the Determinations Panel of the Pensions Regulator, including in cases concerning skilled persons reports under s.71 of the Pensions Act 2004, the removal of scheme trustees, and in the 'Box Clever' case.

Separately, Tom has advised other parties to "moral hazard" investigations, and acted for trustees and companies more generally in relation to pension scheme matters.

### Notable cases include:

- *Silentnight Group DB pension scheme* [2021]. Acting for TPR in this long-running investigation into the pre-pack sale of the business and assets of Silentnight in 2011 and its impact on the pension scheme. Case sought contribution notices against members and executives of US private equity house. Settled for £25m in March 2021.
- *Axminster Carpets* [2021]. Acting (with Henry Legge QC) for trustee in Part 8 proceedings concerning s.37 Pension Schemes Act 1993, limitation periods applicable to member claims for arrears, and validity and scope of forfeiture powers. Judgment at *Punter Southall Governance Services v Hazlett* [2021] EWHC 1652 (Ch).
- *Re Merchant Navy Ratings Pension Fund* [2020]. Acting for directors of a corporate trustee in opposition to an application by the Pensions Regulator to appoint an independent trustee to the Fund.
- *Re Chas A. Blatchford & Sons Pension Scheme* [2019] EWHC 2743 (Ch). First pensions rectification case to consider the Court of Appeal's guidance in FSHC on rectification for common mistake.
- *ARG Realisations 2016 Ltd v Stuart* [2019] EWHC 1265 (Ch): Part 8 Rectification claim, with consideration of use of confidential opinions by the court.
- *R (on the application of Grace Bay II Holdings SARL and others) v The Pensions Regulator* [2017] EWHC 7 (Admin), [2017] All ER (D) 29 (Jan). Application for Judicial Review of decision by the Pensions Regulator to issue a second Warning Notice in the Silentnight case. Application successfully resisted on grounds of alternative remedy.
- Ongoing instructions in regulatory investigations that remain confidential at present.
- *Re Carrington Wire DB Pension Scheme*. Successful pursuit of Contribution Notice against individual under "material detriment test" of s.38A PA 04, and settlement of £8.5m with Russian owners of UK wire company, March 2015. Acted for Pensions Regulator.
- *Re MG Rover Group Limited*. Regulatory proceedings seeking FSD. Case settled in 2014.



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## Pensions continued

- *Re Desmond & Sons Limited* [2010–2015]. First issue of CN to individuals, in sum of £1m, from use of MVL to trigger employer debt to pension scheme. Acted for Pensions Regulator at hearing before Determinations Panel, Upper Tribunal (2010 and 2014) and in the Court of Appeal (Northern Ireland, 2012). Listed for 3 week hearing in May 2015. Settled during week one.
- *Re Storm Funding (in administration)* [2014] Bus L R 454; [2014] Pens LR 73, [2013] EWHC 4019 (Ch). Considered issues including the Parliamentary intention of the FSD regime and the insolvency rule against "double dipping". Acted for the Pensions Regulator with Raquel Agnello QC and Jonathan Hilliard.
- *Re Nortel GmbH and Others* [2014] AC 209, [2013] UKSC 52 & [2011] EWCA Civ 1124 & [2010] EWHC 3010. Successful resistance of application by administrators of Nortel and Lehman Brothers in the High Court for declaration that an FSD and CN issued under Pensions Act 2004 to insolvent companies did not give rise to any right to recovery. Briggs J. held they gave rise to administration expenses which was upheld by Court of Appeal in October 2011. In July 2013 the Supreme Court decided that FSDs give rise to provable debts. Listed by the Lawyer in their 'Top 20 cases of 2012'.
- *Trustees of Lehman Brothers Pension Scheme v Pensions Regulator* [2013] 4 All ER 744; [2012] 085 PBLR (040). Court of Appeal and Upper Tribunal considered for the first time the scope of the Regulator's power to issue FSD. Led by Raquel Agnello QC.
- Box Clever. Decision of the Determinations Panel to issue FSD to members of ITV Group, see 26.1.12. Acted for Determinations Panel of the Pensions Regulator (2012).
- Michel van de Wiele ("Bonas"). First decision of the Upper Tribunal concerning the exercise of the Pensions Regulator's moral hazard powers. Acted for the Regulator on the target's unsuccessful application to strike out the Regulator's case (2011).
- Lehman Brothers. Decision of the Determinations Panel, see 17.9.10. Acted for Pensions Regulator with J. Hilliard, led by Raquel Agnello QC (2010). Also in preliminary hearings before Upper Tribunal (2012 and 2014).
- Nortel Networks. Decision of the Determinations Panel, see 25.6.10. Acted for Pensions Regulator with J. Hilliard, led by Raquel Agnello QC (2010).