



Thomas Seymour

Call: 1975

tseymour@wilberforce.co.uk

Clerks' Details

+44 (0)20 7306 0102
practicemanagers@wilberforce.co.uk

Qualifications and Appointments

- First Class degree in Law – Cambridge

“He is very proactive and has an incredible analytical mind.”

Chambers and Partners 2022

Memberships

- Chancery Bar Association
- Association of Pension Lawyers
- Society of Trust and Estate Practitioners
- Association of Contentious Trust and Probate Specialists

Publications

- Speaker on an APL webinar (November 2020) discussing *Hughes and others v Board of the Pension Protection Fund* [2020] EWHC 1598
- Address at Wilberforce Chambers Hot Topic Seminar (November 2018) – *Barnardo's v Buckinghamshire & Ors* [2018] UKSC 55
- Article on *Hampshire v PPF* on compensation for loss of benefits on employer insolvency published by Practical Law Pensions (January 2017) and Nugee Memorial Lecture (June 2017)

Practice Overview

Thomas is a highly experienced barrister with a broad chancery and commercial practice. His main practice areas are pensions, trusts/private client, wills and contentious probate, administration of estates and charity law, property and professional negligence related to those practice areas.

Thomas has a specialist pensions practice based on over 20 years' experience of acting and advising in pensions matters, including litigation in the High Court, regulatory matters and Pensions Ombudsman references.

Thomas has an extensive trusts and private client practice, specialising in contentious trust litigation both in the United Kingdom and cases with a foreign element (including recent cases in Gibraltar and the Cayman Islands). His private client practice also embraces wills, contentious probate, estates and charities.

His property work focuses on real property disputes: enforcing contracts for sale or lease, title and boundaries, restrictive covenants, easements, mortgages, commercial landlord and tenant, and conveyancing.

Thomas acts and advises on partnership and company law matters and has recently advised the Financial Reporting Review Council on International Accounting Standards and compliance issues relating to public companies.

Chambers & Partners, 2021 describes Thomas as **"very experienced"**. Chambers & Partners, 2020 says he is **"commercial and pragmatic"**, **"he's very thoughtful, with an academic approach"**.

The Legal 500 2021 notes the following about him: **"Very thorough. Really runs points to ground. Fantastic tolerance level for technical detail. A joy to work with."** The Legal 500 2020 edition describes Thomas as providing **"reliable analysis of tricky trust law issues"**.

He is also an accredited mediator.



Publications continued

- [Comments from Counsel: A leak in the statutory lifeboat? Compensation for loss of pension benefits on employer insolvency](#)
Published by Practical Law (January 2017)
- [Estoppel in pensions cases](#)
Published by Practical Law (May 2015)
- [Trustee exculpation - the law, the quirks and the business sense](#) (2014)
Trusts & Trustees 20 (9): 933-942
- Seminar address to Association of Pension Lawyers on group estoppel in occupational pension schemes.
Published in Pension Lawyer Issue 101 (November 2004)

Pensions

Thomas has a wealth of experience in pensions litigation and advisory work.

Litigation

He acts in all types of litigation, including contentious litigation and compromises and Beddoe applications, Pension Ombudsman complaints and appeals, and regulatory matters. These include:

- Disputes between employer, trustees and (commonly) a representative scheme member as to the effect or operation of scheme provisions; and the actual or proposed exercise of scheme powers.
- Disputes as to the status, validity and effect of trustee decisions and exercise of powers.
- Disputes as to the construction, mistake, estoppel and rectification of scheme documents.
- Pensions mis-selling and pensions liberation.
- Sex discrimination and equalisation.
- Disputes as to investment and breaches of trust, including trustee exoneration, limitation and relief from liability.
- Proceedings before the Pensions Regulator relating to moral hazard powers (financial support directions and contribution notices).

Advisory

He advises scheme employers, targets faced with warning notices under the moral hazard provisions, scheme members on specific issues, and also commonly represents scheme trustees or representative members on Beddoe and other court applications. Subjects on which Thomas commonly advises include those identified above; early retirement provisions; scheme funding; cessation of accrual, winding-up and S.75 debts (in single and multi-employer schemes); preservation and contracting-out and moral hazard provisions. He has also advised HMRC on VAT issues arising under occupational pension schemes. He also advises in relation to personal pension arrangements, including qualified recognised occupational pension schemes.

Notable matters include:

- Acting as part of a team representing pilots who were members of the Monarch and BMI Pension Schemes, who brought proceedings against the Pension Protection Fund (*Hughes and others v Board of the Pension Protection Fund*). This was a double victory for members of schemes in the PPF in that the PPF compensation cap was disapplied from inception and the challenge to the PPF's interim scheme for Hampshire 50% uplift was successful.
- Acting for and advising the targets in response to a recent warning notice from the Pensions Regulator proposing to issue a financial support direction in relation to a major occupational pension scheme.
- Acting for the trustees of the British Airways Pensions Scheme in defending a claim by the employer concerning RPI/CPI and the alleged invalidity of the scheme amendments and subsequent exercise of powers to grant discretionary increases and pension benefits.
- Advising an interested party in relation to *Hampshire v Pensions Protection Fund* concerning Article 8 of the IORP Directive and the meaning and effect of the CJEU decisions in *Robins and others v Secretary of State for Work and Pensions* and *Hogan and others v Minister for Social and Family Affairs* as to the support required to be put in place in the event of the employer's insolvency; whether this has direct effect in UK law; and as to its impact on the compensation cap on PPF benefits under UK pensions legislation.
- Acting for the trustees of the Hewlett Packard pension plan in a claim by the employer for construction/rectification of scheme rules concerning the application of limited price indexation to additional voluntary contributions (compromised on terms approved by the court).



Pensions continued

- Acting for the defendant to a multi-million pound claim by The Pensions Regulator in respect of alleged pensions liberation and alleged misuse of assets: this raised issues considered in *Pi Consulting (Trustee Services) Ltd v The Pensions Regulator* as to the nature and requirements of an occupational pension scheme.
- Acting for the representative beneficiary to an application for Beddoe directions by the trustee appointed by The Pensions Regulator to occupational pension schemes on grounds of alleged breach of trust and improper investment (*Dalriada Trustees Ltd v Gwilliam* (unreported) and *Dalriada Trustees Ltd v Woodward and Others*).
- Acting for the successful employer in an AGCO claim concerning the construction and effect of early retirement provisions of the Kingston Communications defined benefit scheme (*Akester & Ors v Kingston Communications plc & Others*).
- Acting for an employer successfully resisting an employee's claim for revaluation of pension benefit notwithstanding its augmentation by reference to his normal retirement age under a compromise agreement (*Davidson v Arla Foods UK Ltd and Trustees of Express Pension Scheme*).
- Advising former employers in relation to liability for contributions under the Merchant Navy Pension Scheme (*Merchant Navy Officers Pension Fund v FT Everard & Sons Ltd and Others*).
- Advising employers in a multi-employer scheme concerning a regulated apportionment arrangement and negotiations with the PPF and The Pensions Regulator.
- Acting for the representative member in an employer's claim for construction/rectification of scheme rules to pensionable remuneration: *Redrow & Others v Pedley & Ors*: a leading case on estoppel. In addition to advising trustees and employers frequently on scheme amendment and estoppel issues, Thomas has made this the subject of specialist papers to the APL and practical law papers and articles.
- Acting for the trustee in the leading case concerning preservation rights and unfunded occupational pension schemes (*Royal Masonic Hospital v Pensions Ombudsman*).
- Acting in a leading case concerning the validity and effect of scheme forfeiture provisions (*Re Scientific Investment Corporation*).
- Acting for the trustee in a case establishing that the trustee had no duty to disclose reasons for adopting a particular method of allocation surplus on a bulk transfer (*Wilson v Law Debenture Trust Corporation plc*).
- Acting for the independent trustee in a case concerning the meaning and application of regulations concerning independent trustees (*Denny v Yeldon*).
- Advising and acting for the employer in relation to a defined benefit scheme established in the 1970's, subject to a series of governing instruments, raising numerous and complex issues of formal validity; the application of equity and estoppel; and further issues of construction and rectification for mistake.

Professional Liability

Allied and directly complementary to Thomas' specialisms in pensions, trust and real property matters, he has substantial experience of acting and advising in professional negligence claims in those fields. Thomas is able to deploy his specialist knowledge of the particular practice area.

Thomas regularly acts and advises in claims arising from errors in the course of administering occupational pension schemes, and has extensive experience both in advising and acting for the trustees and/or employers as claimants and in representing the professional defendants (pensions consultants, actuaries and solicitors).

By way of example, since acting for the successful defendant in the leading case of *Shore v Sedgwick Financial Services Ltd* [2007] EWHC 2009, [2008] EWCA Civ 863, Thomas has acted and advised in a number of other professional negligence claims concerning alleged pensions mis-selling.



Property

Thomas has been frequently engaged throughout his professional life in advising and litigating in real property disputes, in particular contracts for sale or lease and their enforcement, title and boundaries, restrictive covenants and their modification or discharge, easements (including rights of light), mortgages, commercial landlord and tenant issues, leasehold enfranchisement and general conveyancing issues.

Thomas also has significant experience of more specialist topics: school sites and rights of reverter, open spaces and rights of common; property cases involving charitable or public trusts; and cases having ecclesiastical law aspects. His range and depth of experience makes him well placed to provide swift and reliable advice on points which arise in the course of a property transaction.

Notable cases include:

- Dispute concerning claim to an exclusive fishery over the foreshore and sdeabed of River Severn at Porton, Monmouthshire: issues as to alleged manorial rights, following earlier decisions in *Roberts v Swangrove Estates and Others* [2007], *Roberts v Crown Estates Commissioners* [2008] P&CR.
- Application for a restoration order requiring the demolition of a building erected in breach of statute at public expense on a public open space in Spitalfields (2015–8): involving proceedings in the Administrative Court, London Consistory Court (June 2016) and Court of Arches (First appeal in 2015, second appeal in October 2018).
- Walbrook Trustees/Fattal: property litigation concerning multimillion pound island site in the West End (2003–11).
- *Hurstanger Ltd v Wilson* [2007] EWCA Civ 299 – an important Court of Appeal decision on the relationship between mortgage brokers and borrowers: the nature and extent of the duty to disclose commission received from the lender: and whether the borrower is entitled to have the mortgage set aside.
- *Firstpost Homes Ltd v Johnson* [1995] 4 AER 355 Court of Appeal. Contract for sale of land. Void for non-compliance with s.2 Law of Property (Miscellaneous Provisions) Act 1989).
- *Kohn v Wagschal* [2006] EWHC 3356 (property dispute: leave to enforce arbitration award: High Court and Court of Appeal).
- *Official Custodian for Charities v Parway Estates Developments Ltd* [1984] 3 AER 679 CA; *OCC v Mackey (No.1)* [1984] 3 AER 689; (No.2) [1985] 2 AER 1016. Forfeiture of commercial lease on insolvency.

Trusts, Tax, Probate and Estates

Thomas acts and advises in a wide range of contentious and non-contentious trusts, charity, probate and estate matters, including;

- Breach of trust disputes.
- Construction and rectification of trust documents, contentious trust matters.
- Claims by trustees against advisors/third parties.
- Charity matters generally, including charitable trusts.
- Probate and estates, construction and rectification of wills, the Inheritance (Provision for Family and Dependants) Act 1975, probate claims, issues and claims concerning the administration of estates (both internal and third-party claims), Beddoe proceedings, statutory wills, Court of Protection and next of kin enquiries.

Representative matters include:

- *Jeffreys and others v Scruton and others*: a case which demonstrates the value of stating in clear terms the event upon which the ultimate trust is intended to take effect and also illustrates that the court will not lightly assume that there is anything in the will, or surrounding circumstances, which makes the will ambiguous so as to justify admitting extrinsic evidence under S.21 AJA 1982.



Trusts, Tax, Probate and Estates *continued*

- Acting for an infant (and representative) beneficiary under settlements in proceedings in Bermuda concerning a proposal for rearrangement of the trusts and a confidential interim application (December 2017).
- Acting for the settlor and principal beneficiary of multi-million pound settlements in proceedings in the Cayman Islands by the Trustees against the Bank of New York Trust Company Limited, to which the settlor was joined as third-party.
- Acting for the offshore trustees of settlements in an eight-year long dispute concerning property in London held through a corporate structure.
- Advising on an Inheritance Act claim by a second wife claiming against an estate largely comprising shares in a family company.
- Advising on whether school buildings erected in the 19th Century and used as a school are subject to a charitable trust.
- Acting and advising in contentious litigation concerning a building in a consecrated churchyard in central London and involving a complex web of trust, property and ecclesiastical issues, including a trust arising under the Open Spaces Act 1906.
- Acting for the trustees in litigation – and on the compromise (approved by the Court in 2015) – of a claim to set aside a settlement of a reversionary interest upon equitable grounds.
- Acting for the trustee of a family settlement, bringing proceedings in Gibraltar, joining the beneficiaries and settlor to determine whether the shares had been effectively settled or remained vested in the settlor.
- Acting for the corporate investment vehicle sued as defendant in major trust-related litigation in Gibraltar in the High Court and in the Court of Appeal (2008-9: subject-matter confidential).