



Tom Roscoe

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Clerks' Details

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Qualifications and Appointments

- BA (Hons) (1st Class) – Philosophy, Politics and Economics – Brasenose College, Oxford
- GDL – City University, London
- BVC – City University, London
- Up to date BVI practicing certificate (2016)

Memberships

- Chancery Bar Association
- Combar

Publications

- "Shammer Time": Paper presented to the Wilberforce Cayman Conference 2017 (with Jonathan Hilliard QC)
- [Wilberforce Property Newsletter \(2016\) Issue 2 \(editor\)](#)
- [Dealing with fixtures on a lease renewal – A trap for the unwary?](#) (2014) *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'](#) (2012) *Property Litigation Association*
- ['The Limits of Possession Claims'](#) (2012) *Development Disputes: Current issues for property litigators*
- 'Bad business acquisitions – commercial and professional liability claims': Talk and paper presented to Wilberforce Chambers September 2012 Professional Negligence Conference

Practice Overview

Tom has a broad commercial chancery practice, spanning business, trusts and property disputes in the UK and abroad. His practice is evenly split between led and non-led work. Tom regularly appears in range of domestic courts and tribunals and, increasingly, in courts and tribunals in other jurisdictions. He also undertakes a broad range of advisory and drafting work.

The bulk of Tom's practice comprises:

- Commercial and contractual disputes
- Trusts, wills and probate
- Residential and commercial property
- Civil fraud and asset recovery
- Corporate and personal insolvency
- Professional negligence
- Pensions

Tom's practice has an increasingly international focus and he has recent experience on substantial disputes (litigation and arbitration) in the Cayman Islands, British Virgin Islands, Guernsey, the Dubai International Financial Centre, Hong Kong and Bermuda. That experience builds upon secondments in the first three of those jurisdictions between 2013 and 2015 with Campbells (Cayman and BVI) and Mourant Ozannes (Guernsey). He maintains a practicing certificate in the BVI. He enjoys, and has considerable experience, working as a part of team of lawyers in different jurisdictions.

Tom also has a particular experience of and interest in 'difficult' possession claims and obtaining related injunctive relief, especially those involving high-profile or unusual properties, protestors, squatters and difficult litigants in person. He recently acted for the Secretary of State for Transport in obtaining relief against "direct action" protestors opposed to HS2.

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'.



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. He is a member of the Property Bar Association.

Tom has a particular experience of and interest in high profile claims involving protestors and squatters. He recently acted for the Secretary of State for Transport in obtaining relief restraining "direct action" protests at an HS2 site in Hillingdon. He has acted for many of fracking companies obtaining similar relief against anti-fracking protestors (e.g. *Wensley v Persons Unknown* [2014] EWHC 3702 (Ch) & *Jones v Persons Unknown* [2014] EWHC 4691 (Ch)). He appeared successfully for a property developer in connection with the "Sweets Way Resists" protests, which involved the comedian Russell Brand (2015). He has also twice acted for EDF seeking to evict environmental protestors from their sites. He has written about, and enjoys giving regular talks on, the issues which arise in such cases.

Other illustrative cases include:

- Acting for a local authority on a claim brought by occupiers of a neighbouring travellers site who assert that they have grazed and trained horses on the land for many years and thereby acquired title by adverse possession
- Acting on long-running proceedings concerning the ownership and control of two North London hotels, which include allegations that various leases are shams
- Acting on behalf of a charity seeking to recover land appropriated via the unlawful expansion of a neighbouring static caravan site
- Challenges to the validity of s.26 notices served by tenants under the 1954 Act
- Defending at trial a national infrastructure company in a claim brought by a farmer seeking substantial compensation for damages allegedly caused from works carried out via his field
- Advising a well-known retailer on the merits of a landlord's ground (f) opposition, where the landlord's development plans related to some but not all of the demised property
- Advising a charge holder on the merits of an application to challenge the validity of a prior charge on the basis that it was a sham
- Pursuing a committal application against the former managing agent of a residential block of flats for failing to provide accounting information in breach of a court order
- Obtaining at trial final injunctive relief restraining interference with a vehicular right of way against a neighbouring landowner whose car parking restricted access by larger vehicles
- 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 Seidler 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).

Commercial

The vast majority of Tom's cases arise in a commercial context. As well as experience of business disputes between commercial parties, he has particular experience of and interest in commercial fraud and asset tracing.

Recent illustrative cases include:

- Appearing (unled) in a two-day arbitration in Doha on behalf of a DIFC based client concerning the provision of security services in the oil and gas industry
- Acting (with [Tim Penny QC](#)) on a claim brought by Hong Kong clients against the vendors of an international armoured car manufacturer for fraudulent breach of warranty and diversion of corporate opportunities



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- Acting, on an appeal in the English High Court, for a DIFC based client seeking to strike out a claim brought by a former prospective joint venture partner under an alleged UAE-law governed agreement
 - Advising former shareholders of a Bermudian company about the validity of non-compete clauses and the construction of a clause concerning deferred payments for their share redemptions
 - Advising on Cayman law aspects of Hong Kong based litigation concerning the ownership of investment fund assets, including whether various of the underlying agreements were shams (with [Lexa Hilliard QC](#))
 - Acting on a claim brought in the BVI Commercial Court to enforce multi-million dollar promissory notes
 - Advising judgment creditors on the enforcement of a multi-million dollar Texan judgment against the assets of Bahamian companies connected with the judgment debtor (with [Tim Penny QC](#))
 - Advising a defendant bank on a £1m claim brought by a customer claiming that certain payments out of its bank account had been procured by fraud, which the bank should have detected, and were otherwise paid in breach of mandate
 - Advising in relation to 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)
 - Appearing in the Dubai World Tribunal for the multi-day trial of a \$50m claim brought by an Egyptian labour supply company against a port owner accused of conspiring to cause the labour force to breach their employment contracts with the claimant and transfer to the employment of a state owned entity: *Platinum Services Company EJSU. DP World Ltd DWT 005/2013 [2015]* (with Rupert Reed QC)
 - Appearing in the BVI Commercial Court on a contested three day application to stay insolvency proceedings brought by loan note holders in the BVI in favour of a multibillion dollar court supervised restructuring of the OAS group of companies in Brazil (with Tom Lowe QC) Advising upon and drafting proceedings in support of a claim to recover \$2m said unlawfully to have been withheld under a misapplied profit-share agreement in connection with FX trading
 - Advising on aspects of Cayman litigation concerning claims against the former custodian and administrator of a Madoff feeder-fund (in liquidation) (2015; while on secondment)

Pensions

Tom has a growing body of experience of pensions law, particularly in the regulatory context.

Recent illustrative cases include:

- Acting for the Pensions Regulator on a high profile moral hazard investigation
- 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
- Appearing on behalf of The Pensions Regulator on an urgent application to replace pension trustees



- 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.

Tom has also acted as a clerk to the Determinations Panel of the Pensions Regulator.

Professional Liability

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

Recent illustrative cases include:

- Advising on a potential professional negligence claim against solicitors arising from alleged failures in serving a claim form out of the jurisdiction
- Working, on behalf of the former trustees on the Guernsey Court of Appeal and Privy Council appeals arising from the first instance Guernsey decision of Lieutenant Bailliff Chadwick in the Tchenguiz trust litigation. The case concerned, amongst other issues, the extent of the former trustees' entitlement to an indemnity in circumstances where they were alleged to have incurred liability grossly negligently and/or unreasonably
- Working (on behalf of defendant fund administrators and custodians) on claims brought by liquidators of Madoff feeder-funds
- Acting (with [John Wardell QC](#)) in professional negligence claims against a leading accountancy firm in respect of allegedly negligent audits and corporate finance advice connected with a corporate acquisition
- Acting on a claim by an Isle of Man company against one of its former directions in connection with unnecessary legal fees incurred in the pursuit of hopeless litigation.
- Frequent instructions 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

Trusts, Tax, Probate and Estates

Tom has a broad range of experience of private client disputes, which span the range from very modest domestic trusts and estates to off-shore trusts worth hundreds of millions of dollars. His interest in work in offshore jurisdictions stems from his secondments in Guernsey, Cayman and the British Virgin islands between 2013 and 2015.

As a complement to his property practice, Tom also frequently advises and appears on disputes concerning trusts of property.

Recent illustrative cases include:

- Advising a beneficiary of a substantial Guernsey trust in connection with a contested application by the trustee for the 'blessing' of a proposal to separate the interests of various beneficiaries into new trusts (with [Jonathan Hilliard QC](#))
- Advising a former trustee of an insolvent Guernsey trust, in the context of administrative proceedings, in relation to the extent of its obligations to disclose information to incoming trustees and the extent of its right to recover legal fees incurred in earlier proceedings
- Appearing (unled) in the Cayman Islands Court of Appeal on behalf of the executor in contentious probate proceedings, concerning the nature of a beneficiary's interest in assets of a deceased's estate during its administration and issues as to whether complaints about maladministration were barred by laches: *Hinds v Hinds* CICA 6/2013
- Extensive work on the appeals to the Court of Appeal and the Privy Council on issues concerning the nature of a Trustees' personal liability and the extent of its indemnity under Guernsey and Jersey Law, arising from the first instance decision of Lieutenant Bailliff Chadwick's in *Investec & ors v Glenalla & ors* (unreported) (6 December 2013)



Trusts, Tax, Probate and Estates continued

- Acting for the litigation friend of an incapacitated defendant defending a claim brought by her daughter-in-law for declarations that the daughter-in-law was the beneficial owner of the defendant's home
- 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

International Arbitration

Tom has advised upon and acted in a range of domestic and international arbitrations, and arbitration disputes are forming an increasing part of his practice.

- Appearing (unled) on a two day arbitration in Doha (under the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce) on a multi-million dollar claim made by a security provider for unpaid invoices following the termination of their security services contract with an oil and gas company
- Acting (with [Joanne Wicks QC](#)) on an arbitration concerning the construction of an overage provision in an agreement for sale between a supermarket chain and the vendor of land.
- Advising on the commencement of arbitral proceedings concerning the disrepair of a substantial west-end property
- Acting (with Michael Bloch QC) on 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)
- Assisting on an ICC Arbitration (with [Jonathan Seidler QC](#) and [Edward Sawyer](#)) 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