



serle court

clerks@serlecourt.co.uk  
+44 (0)20 7242 6105

## Thomas Fletcher

Year of Call: 2009

[tfletcher@serlecourt.co.uk](mailto:tfletcher@serlecourt.co.uk)  
[clerks@serlecourt.co.uk](mailto:clerks@serlecourt.co.uk)



## Practice Overview

Thomas is a trusts and estates specialist. He has extensive experience in high-value, complex trusts and estates matters with a cross-border dimension and has been involved in some of the most legally significant cases in these areas across the common law world. His practice covers the full range of contentious and non-contentious private client work in England and internationally, including trust administration applications, breach of trust claims, contentious probate, family provision, professional negligence and taxation issues affecting the administration of trusts and estates. He has considerable experience in overseas jurisdictions, including Bermuda, Guernsey, Jersey, Isle of Man, the Bahamas, the Turks & Caicos Islands and the BVI.

Thomas has appeared as Counsel at every level of the court hierarchy in England and Wales from the High Court to the Supreme Court. He has also appeared twice before the Judicial Committee of the Privy Council and in courts in several offshore jurisdictions. He is called to the Bar of Bermuda (ad hoc).

Thomas is the editor of the key practitioner works in trusts and estates, namely Lewin on Trusts, Theobald on Wills and Williams, Mortimer & Sunnucks: Executors, Administrators and Probate.

Recommended as a Leading Junior in the latest Chambers UK Bar, Global and HNW directories for Chancery: Traditional, Trusts and Offshore, Thomas is described as “*literally indispensable. A complete workhorse, he is really one of the team and rolls up his sleeves. He is incredibly bright and very diplomatic.*” He is also ranked in the Legal 500 UK Bar (Private Client: Trusts and Probate) and English Bar Offshore.

Thomas’s practice also covers the whole range of commercial and chancery work. He has been instructed in several heavy commercial disputes involving trusts or estates elements. He also has a growing practice in charities work, particularly related to the administration of charitable trusts and similar structures.

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## Areas of Expertise

### Private Client Trusts and Probate

Recent work includes:

*Investec Trust (Guernsey) Ltd v Glenalla Properties Ltd* [2019] AC 271. Instructed by Macfarlanes and Mourant. Thomas acted for the successful parties in 10 appeals heard by the Privy Council from Guernsey. The judgment was hugely important in the trusts industry in articulating for the first time a new rule of private international law based on the status of a trustee.

*Equity Trust (Jersey) Ltd v Halabi / ITG Ltd v Fort Trustees Ltd* [2023] 2 WLR 133. Instructed by Macfarlanes. Thomas acted in relation to combined appeals from Jersey and Guernsey heard by the Privy Council. These appeals were the first anywhere in the common law world to consider the order of priorities for an “insolvent” trust.

*ITG Ltd v Fort Trustees Ltd* (2018 to date). Instructed by Macfarlanes. Thomas acts for former trustees in relation to one of the first Alhamrani assessments of trustee costs. Three judgments have already been given by the Royal Court of Guernsey ([2020] GRC 020, [2021] GRC 007 and [2022] GRC 003) and two judgments by the Court of Appeal of Guernsey ([2023] GCA 004; [2023] GCA 009).

*In the Matter of the XYZ Trusts* (2021 to date). Instructed by Baker McKenzie and Carey Olsen. Thomas acts for trustees in proceedings in Bermuda concerning the restructuring of multiple valuable trusts.

*Bicester Rugby Union Football Club Ltd v Payne and Malins* (2021). Instructed by Richard Buxton. Thomas acted for a sports club in proceedings in England concerning the validity of a trust established in the 1930s in respect of sports

grounds.

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## International and Offshore

Recent work includes:

*Investec Trust (Guernsey) Ltd v Glenalla Properties Ltd* [2019] AC 271. Instructed by Macfarlanes and Mourant. Thomas acted for the successful parties in 10 appeals heard by the Privy Council from Guernsey. The judgment was hugely important in the trusts industry in articulating for the first time a new rule of private international law based on the status of a trustee.

*Equity Trust (Jersey) Ltd v Halabi / ITG Ltd v Fort Trustees Ltd* [2023] 2 WLR 133. Instructed by Macfarlanes. Thomas acted in relation to combined appeals from Jersey and Guernsey heard by the Privy Council. These appeals were the first anywhere in the common law world to consider the order of priorities for an “insolvent” trust.

*ITG Ltd v Fort Trustees Ltd* (2018 to date). Instructed by Macfarlanes. Thomas acts for former trustees in relation to one of the first Alhamrani assessments of trustee costs. Three judgments have already been given by the Royal Court of Guernsey ([2020] GRC 020, [2021] GRC 007 and [2022] GRC 003) and two judgments by the Court of Appeal of Guernsey ([2023] GCA 004; [2023] GCA 009).

*In the Matter of the XYZ Trusts* (2021 to date). Instructed by Baker McKenzie and Carey Olsen. Thomas acts for trustees in proceedings in Bermuda concerning the restructuring of multiple valuable trusts.

*Campbell v Campbell* [2017] JRC 018. Instructed by Dickinson Gleeson. Proceedings in Jersey in respect of a long-running dispute arising out of a family partnership concerning the beneficial ownership of shares in a Jersey company owned by the partnership. Judgment held for the first time in Jersey that the principles of common intention constructive trusts could apply outside a real property context and also included some of the first discussion of claims in unjust enrichment in Jersey.

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## Charities

Thomas has a strong interest in charities work and his trusts and estates practice regularly involves elements of charities law. His recent work includes advising unincorporated associations (e.g. sports and social clubs) on their trust arrangements and rules of membership and advising on potential claims against charitable trustees for breach of trust.

His estates work also regularly involves advising on will disputes and administration issues involving gifts to charities. He is also one of the editors of *Theobald on Wills* including the chapter on charitable gifts.

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## Civil Fraud

Recent work includes:

*Maroil Trading Inc v Cally Shipholdings Inc* ([2020] EWHC 3062 (Comm)). Applications for security for costs in the context of proceedings in England concerning breach of a settlement agreement and separate breaches of duty of confidence. The applications produced two judgments, including an important judgment on the principles for security for the costs of an additional claim ([2020] Costs LR 1697).

Acting on an LCIA arbitration concerning a contractual interpretation dispute.

Acting in relation to a summary judgment application concerning a claim by financial advisers for success fees under various engagement agreements concerning M&A transactions and IPOs.

Advising on a potential claim for wrongful termination of contract in relation to the supply of tyres to mines in East Africa worth approximately \$30 million.

Advising a multi-national bank on potential claims against them by personal representatives arising from wrongful payments out of accounts, including potential claims under the Payment Services Regulations 2009.

Advising franchisees on potential claims against a high-profile company acting as franchisor for fraudulent and negligent misrepresentation in relation to franchise agreements.

Advising trustees and personal representatives in relation to potential and actual claims against financial advisers for breaches of the Financial Services and Markets Act 2000 and the FCA Handbook.

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## **Company**

*Re GHD Group Holdings Ltd* (2011 to 2012). Instructed by Fort & Warren. Thomas appeared in a three-month trial of an unfair prejudice petition concerning a very high-profile beauty company (GHD) between one of the founders of the company and members of a private equity firm, who were the majority shareholders.

*Skelwith (Leisure) Ltd v Armstrong* [2016] Ch 345. Instructed by Harrowells. Thomas acted in proceedings in England for one of the partners in a partnership in respect of a claim concerning the validity of contracts for the sale of a property. Two judgments were given by the High Court, including a reported decision ([2016] Ch 345) on important issues as to the interpretation of the Land Registration Act 2002 and mortgagees' remedies and a further decision on late amendments ([2015] EWHC 3487 (Ch)).

*Campbell v Campbell* [2017] JRC 018. Instructed by Dickinson Gleeson. Proceedings in Jersey in respect of a long-running dispute arising out of a family partnership concerning the beneficial ownership of shares in a Jersey company owned by the partnership. Judgment held for the first time in Jersey that the principles of common intention constructive trusts could apply outside a real property context and also included some of the first discussion of claims in unjust enrichment in Jersey.

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## **Property**

*R (on the application of Trail Riders' Fellowship) v Dorset County Council* [2015] 1 WLR 1406. Instructed by Instructed by Brain Chase Coles. Thomas acted for the successful respondents in an appeal to the Supreme Court on the requirements for an application under section 53 of the Wildlife and Countryside Act 1981 to modify the definitive map and statement.

*R (on the application of Trail Riders' Fellowship) v Devon County Council* [2013] EWHC 2104 (Admin). Instructed by Brain Chase Coles. Thomas acted for the claimants in judicial review proceedings challenging the imposition of a Traffic Regulation Order under the Road Traffic Regulation Act 1984.

*Skelwith (Leisure) Ltd v Armstrong* [2016] Ch 345. Instructed by Harrowells. Thomas acted in proceedings in England for one of the partners in a partnership in respect of a claim concerning the validity of contracts for the sale of a property. Two judgments were given by the High Court, including a reported decision ([2016] Ch 345) on important

issues as to the interpretation of the Land Registration Act 2002 and mortgagees' remedies and a further decision on late amendments ([2015] EWHC 3487 (Ch)).

Advising a local authority on its powers in connection with the organisation of a major national annual event.

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## Recommendations

Chancery: Traditional (*Chambers High Net Worth 2023*)

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## Quotes

*"Thomas is a really hard-working, clear-minded, strong draftsman and a nice guy to work with."* Chambers and Partners High Net Worth: Chancery: Traditional (2023)

*"If I ever had a case where I needed someone to give a well-balanced opinion on something, I would go to him."* Chambers and Partners High Net Worth: Chancery: Traditional (2023)

*"In terms of drafting, Thomas is very responsive and phrases his answers in a very positive and easy-to-read way."* Chambers and Partners High Net Worth: Chancery: Traditional (2023)

*"He is literally indispensable. A complete workhorse, he is really one of the team and rolls up his sleeves. He is incredibly bright and very diplomatic."* Chambers UK Chancery: Traditional (2023)

*"He is absolutely outstanding. He navigates issues extremely well, he's highly pragmatic and he's really knowledgeable about trust law."* Chambers UK Chancery: Traditional (2022)

*"Excellent to work with." "He has a really good balance of being technically excellent but also practical and commercial." "He's a real force for good."* Chambers UK Chancery: Traditional (2021)

*"Tom Fletcher is a brilliant lawyer. He is incredibly quick, incredibly clever, insightful, and able to deal with difficult clients. I have no doubt he will become one of the new great talents at the Chancery Bar." "Enormously hard-working and very easy to work with."* Chambers UK Chancery: Traditional (2020)

*"Very good at dealing with difficult clients in tough contentious estate cases, he understands the solicitor's perspective when dealing with client expectations." "Incredibly diligent and very knowledgeable, he is an excellent problem-solver who has good instincts."* Chambers UK Chancery: Traditional (2019)

*"I was reassured by his technical expertise and his practical approach to legal issues. He has a panoramic view of trust and probate law. He is very good dealing with difficult clients and always struck the right tone when giving advice." "He is extremely good at dealing with strategic issues and knows how to handle himself in court. He has a very clear and precise drafting style which is incredibly helpful."* Chambers UK Chancery: Traditional (2018)

*"He's very keen and eager, and had a great interest in the matter and gave some very good opinions. He knows how to hold his own, he's very diligent and it doesn't take you long to trust in his view on things."* Chambers UK Chancery: Traditional (2017)

*"He has a formidable intellect and is excellent at getting to the nub of tactical issues. Thomas Fletcher is great to work with and very talented indeed."* Chambers UK Offshore (2023)

*"I have been very impressed by his organisation and hard work." "He is a tremendously able junior who is very*

*technically minded and good with clients.*” Chambers UK Offshore (2022)

*“Full of common sense, he is a good barrister and very popular with clients.”* Chambers UK Offshore (2021)

*“He is able to be very commercial while being technically excellent.” “An extremely good team player and very good at working through what the best angle is.”* Chambers UK Offshore (2020)

*“He does a fantastic job in getting up to speed on all the information. His expertise and his ability to explain complicated issues are invaluable.” “He’s really impressive and does a great deal of research.”* Chambers UK Offshore (2019)

*“Extremely hard-working and able.” “He is very bright and energetic, really helpful and someone with a good strategic mind.”* Chambers UK Offshore (2018)

*“Thomas has an excellent grasp of detail and is able to get to the heart of very complex legal issues.”* Chambers UK Trusts (2023)

*“Incredibly reliable. He has incredible recall of detail and is good with the bigger picture.”* Chambers UK Trusts (2022)

*“A very intelligent trusts specialist, whose advice is often more sage than that of those with greater experience than him.”* Chambers UK Trusts (2021)

*“He applies the law in an emotionally intelligent way. He’s courageous, to the point, no-nonsense and effective.” “The reason I like him is that he’s still able to distil complicated concepts into clear and digestible advice for clients.”* Chambers UK Trusts (2020)

*“Incredibly bright and hard-working individual who shows good attention to detail.” “He demonstrates sound judgement and a clear understanding of all the issues at play in the case.”* Chambers UK Trusts (2019)

*“His legal knowledge is very impressive. He is incredibly hard-working and a master of detail.”* Chambers UK Trusts (2018)

*“Tom Fletcher is a brilliant lawyer. He is incredibly quick, incredibly clever, insightful, and able to deal with difficult clients. I have no doubt he will become one of the new great talents at the Chancery Bar.” “Enormously hard-working and very easy to work with.”* Chambers High Net Worth London (Bar) - Chancery: Traditional (2020)

*“A barrister who will genuinely go very far in our industry.”* Chambers High Net Worth London (Bar) - Chancery: Traditional (2017)

*“He has a panoramic view of trust and probate law. He is very good at dealing with difficult clients and always struck the right tone when giving advice.”* Chambers High Net Worth London (Bar) - Chancery: Traditional (2017)

*“An extremely knowledgeable, conscientious and intelligent junior whose command of his area of expertise is always apparent from the clear and focussed advice that he gives.”* Legal 500 UK Offshore (2022)

*“A standout junior who works in a collaborative manner.”* Legal 500 UK Offshore (2021)

*“Adept at navigating complicated trust issues.”* Legal 500 UK Offshore (2020)

*“Thomas is incisive and analytical. He works exceptionally hard and has an excellent eye for detail. He is able to explain concepts and views clearly and concisely, but in a way that conveys both authority and underlying substance.”* Legal 500 London Bar Private Client: Trusts and Probate (2023)

*“Really superb technically with fantastic knowledge of the area, very user-friendly and adaptable and always gives*

*great advice. Always an asset on any matter.*” Legal 500 UK Private Client: Trusts and Probate (2022)

*“A hardworking junior.”* Legal 500 UK Private Client: Trusts and Probate (2021)

*“He is exceptionally hardworking and a serious intellect.”* Legal 500 UK Private Client: Trusts and Probate (2019)

*“He is very good at clear, concise drafting.”* Legal 500 UK Private Client: Trusts and Probate (2017)

## **Publications**

Lewin on Trusts (19th Edition) (plus First to Third Supplements) (2015-2018)

Theobald on Wills (18th Edition) (2016)

Williams, Mortimer & Sunnucks (21st Edition) (2018)

Lewin on Trusts (20th Edition) (2020)

Theobald on Wills (19th Edition) (2019)

Lewin on Trusts (Supplement to 20th Edition) (2023)

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## **Education & Qualifications**

MA (Cantab) First Class

LLM (Queen Mary, University of London) Distinction

## **Appointments**

Deputy District Judge (Civil), South Eastern Circuit

## **Memberships**

Chancery Bar Association

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