

# Thomas Saunders

Call: 2019



## Clerk Details

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## Practice Overview

Thomas Saunders specialises in the resolution of construction and engineering disputes, including professional negligence and energy claims, as well as a wide range of other commercial and property disputes. Thomas's practice has a particular focus on advocacy, and he regularly appears as sole counsel in the High Court and the County Court.

Current and recent cases include:

- *URS Corporation Ltd v BDW Trading Ltd* [2025] UKSC 21, [2025] 2 WLR 1095, a wide-ranging appeal concerning liability for dangerous structural defects. The Supreme Court considered the proper approach to 'voluntariness' in the tort of negligence, the interpretation of the Building Safety Act 2022 and the Defective Premises Act 1972, and the accrual of a cause of action under the Civil Liability (Contribution) Act 1978. Thomas was instructed for the claimant (and respondent to the appeal), led by Mark Howard KC and Simon Hargreaves KC along with David Sheard and another junior.
- *Vitsø Ltd v Waugh Thistleton Architects Ltd* [2025] EWHC 850 (TCC), a professional negligence claim concerning rot in a timber-framed building. Thomas acted for the claimant, led by William Webb KC.

- *Shepherd Construction Ltd v Kingspan & Ors*, a multi-party cladding dispute which was one of *The Lawyer's* Top 20 Cases for 2024. Thomas acted for the claimant, led by Sean Brannigan KC along with two other juniors including Sarah Williams.
- Three-week ICC arbitration concerning the termination of an EPC contract for a 60MW solar power plant in Africa, led by Steven Walker KC and Tom Owen KC.
- £100 million civil fraud claim relating to a PFI contract, led by David Thomas KC.
- £150 million TCC litigation arising out of the construction of a gas turbine power plant on a brownfield site in Northern Ireland, led by Tom Owen KC.

Thomas has experience with all the major construction and engineering standard forms, as well as public procurement and PFI claims. He is a contributor to *Keating on JCT Contracts*, *Keating on Construction Contracts*, *Keating on Offshore Construction and Marine Engineering Contracts*, and the Construction Law Reports.

## Practice Areas

### Construction & Engineering

Thomas is instructed both led and unled in substantial and complex construction and engineering disputes.

- *Shepherd Construction Ltd v Kingspan & Ors*, a multi-party cladding dispute which was one of *The Lawyer's* Top 20 Cases for 2024. Thomas acted for the claimant, led by Sean Brannigan KC along with two other juniors including Sarah Williams.
- Advising three right-to-manage companies on potential claims under the Defective Premises Act 1972 in relation to water ingress and fire safety issues.
- Various claims arising out of works carried out to domestic property, representing both contractors and homeowners.
- Claim against project managers for defective works and receipt of a bribe or secret commission. (Thomas obtained an 'unless' order requiring the project managers to replead their defence, following which the claim settled.)
- Advising a contractor on its rights and liabilities arising out of refurbishment works on a high-end residential property in London, including its prospects of obtaining a freezing order.
- Advising and representing a contractor in various complex disputes arising out of the construction or renovation of luxury London residential properties.
- Claim by a homeowner for subsidence said to result from defective foundations.
- Claim by a painting and decorating contractor against a major housebuilder in respect of retention across five separate developments.
- Claim by a residential landlord against a contractor for unlawful suspension, delay, and defective and incomplete works.
- Security for costs application in a claim by a subcontractor for payment of retention.

- Claim for repayment of overpaid VAT following the conversion of business premises into residential premises.
- Claim against a builder's merchant and nominated sub-contractor relating to windows and doors.
- Advising on whether a consultant's prior knowledge could be imputed to a contractor following a novation of the consultant's appointment from the employer to the contractor.
- Advising a building contractor on the nature and interpretation of an NEC3 contract for the refurbishment of a housing estate owned by a local authority, including in relation to the effects of partial termination on the time for completion under the contract.
- Multiple claims arising out of works at a dairy farm.
- Advising on a claim for defective roofing works where the employer had sold the property in question to related entities after the work was completed.
- Advising on the lawfulness of termination under an amended JCT DB 2016 form, including validity and timing of notices, and whether the termination was invalid for being unreasonable or vexatious.

### Professional Negligence And Payment Claims

Thomas regularly advises and represents both construction professionals and their clients in relation to claims for breach of duty and non-payment.

#### Professional negligence and conduct

- *Shepherd Construction Ltd v Kingspan & Ors*, a multi-party cladding dispute which was one of *The Lawyer's* Top 20 Cases for 2024. Thomas acted for the claimant, led by Sean Brannigan KC along with two other juniors including Sarah Williams.
- *URS Corporation Ltd v BDW Trading Ltd* [2025] UKSC 21, [2025] 2 WLR 1095, a wide-ranging appeal concerning liability for dangerous structural defects. The Supreme Court considered the proper approach to 'voluntariness' in the tort of negligence, the interpretation of the Building Safety Act 2022 and the Defective Premises Act 1972, and the accrual of a cause of action under the Civil Liability (Contribution) Act 1978. Thomas acted for the claimant (and respondent to the appeal), led by Mark Howard KC and Simon Hargreaves KC along with David Sheard and another junior.
- *Vitsø Ltd v Waugh Thistleton Architects Ltd* [2025] EWHC 850 (TCC), a professional negligence claim concerning rot in a timber-framed building. Thomas acted for the claimant, led by William Webb KC.
- Claim against an architect for negligent design and supervision of renovation works, including representation at CCMC and advice on disclosure.
- Claim against project managers for defective works and receipt of a bribe or secret commission. (Thomas obtained an 'unless' order requiring the project managers to replead their defence, following which the claim settled.)
- Claim against an interior designer for failure to carry out a proper design process, and for overpaid fees.
- Claim by a homeowner for subsidence said to result from defectively designed and / or constructed foundation works.
- Claim against an approved inspector in relation to the siting of fire doors in a hotel.
- Claim by a housing developer against a site investigations and geotechnical surveying consultant.

### Payment claims by professionals

- Claim by an adjudicator for unpaid fees.
- ICC arbitration seeking payment of unpaid architect's fees, including issues of arbitral jurisdiction and proper law.
- Advising on a professional designer's entitlement to recover fees under an earlier appointment where a further contract had been entered into.
- Acting for a developer in claims for payment for professional services.

### Energy

- *Energy Works (Hull) Ltd v MW High Tech Projects UK Ltd* [2022] EWHC 3275 (TCC) and [2023] EWHC 1142 (TCC), a five-week TCC trial before Pepperall J concerning the termination of a contract to build an energy-from-waste plant in Hull. Thomas acted for the defendant, led by Jonathan Acton Davis KC and William Webb KC along with another junior.
- Delay claim against a subcontractor concerning the construction of an energy-from-waste plant under the IChemE Yellow Book.
- Three-week ICC arbitration concerning the termination of an EPC contract for a 60MW solar power plant in Africa, led by Steven Walker KC and Tom Owen KC.
- ICC arbitration concerning the construction of an LPG extraction and fractionation facility in the Middle East, led by David Thomas KC.
- Claim by a subcontractor for release of retention in relation to works on an offshore wind substation.
- Claim by a contractor arising out of the termination of a contract relating to a gas turbine plant in Northern Ireland, led by Tom Owen KC.

### Adjudication

Thomas has a wide range of experience arising out of adjudications, including:

- Acting in contractual and statutory adjudications.
- Adjudication enforcement proceedings (including related Part 8 challenges).
- Claims by adjudicators for their fees.

### Adjudications.

- Contractual adjudication under a PFI contract concerning the collection and disposal of waste.
- Statutory adjudication concerning the nature of a sub-contract and the lawfulness of its termination.
- 'Smash and grab' / notified sum adjudication where there was a dispute as to the applicable Scheme for Construction Contracts.
- Statutory adjudication concerning practical completion on a block of affordable housing units.
- Statutory adjudication concerning the true value of interim payments.

- Representing the trustees of a recreation ground under the Recreation Grounds Act 1859 in an adjudication concerning the use and operation of a car park.
- Statutory 'smash and grab' / notified sum adjudication under a professional services contract.
- Statutory adjudication concerning payment under a development agreement.

#### Enforcement.

- Advising and making written submissions on the enforcement of an adjudicator's decision made against an individual identified by his trading name alone.
- Resisting enforcement of an adjudicator's decision on the basis that the notice of adjudication was not served or deemed served.
- Enforcing an adjudicator's decision where the responding party alleged a compromise and defending allied Part 8 proceedings concerning the scope of the architect's authority to agree varied due dates under a JCT form.
- Advising a contractor during an adjudication on the validity of a jurisdictional challenge by the employer based on the contractor's failure to select an adjudicator from the employer's approved list.
- Enforcing an adjudicator's decision where the responding party alleged that the adjudicator did not have jurisdiction to award a lesser sum than that stated in the notice of adjudication, and resisting an application for a stay of enforcement.
- Enforcing an adjudicator's decision where the responding party alleged that the notice of adjudication did not comply with the Scheme and that no dispute had crystallised in respect of a notified sum.
- Resisting enforcement of an adjudicator's decision on the basis that there were multiple contracts, and advancing a Part 8 challenge to the adjudicator's substantive decision.
- Advising on the availability of statutory adjudication.

#### Property

- Drafting skeleton argument in an application for interim relief to restrain a sub-contractor from returning to site and damaging property following a payment dispute.
- Claim for occupation rent and conversion by a private individual against a former partner arising out of their previous cohabitation and shared ownership of a house. Thomas obtained permission at trial to amend the legal basis of the claim, following which the matter settled.
- Representing the trustees of a recreation ground under the Recreation Grounds Act 1859 in an adjudication concerning the use and operation of a car park.

#### Public Utilities

- Claim brought by a homeowner against a telecommunications provider for delay in providing him with an Internet connection.
- Trial under the New Roads and Street Works Act 1991 for damage caused by an electrical fault.

- Resisting an application to amend a defence to plead limitation in a claim under the New Roads and Street Works Act 1991.

## Commercial

In addition to construction, engineering and property disputes, Thomas has experience of a range of other commercial litigation.

### Insolvency

Applications arising from insolvency proceedings, whether relating to construction disputes or otherwise, including:

- Validation orders under section 127 of the Insolvency Act 1986.
- Applications to strike out winding up petitions, or to restrain presentation / advertisement, including petitions arising out of adjudicators' decisions.

### Civil fraud

Civil fraud claims arising out of both misrepresentation and bribery, including:

- Representing a homeowner in a claim against project managers for defective works and receipt of a bribe or secret commission. The case settled following an 'unless' order requiring the project managers to replead their defence.
- Acting for the contractor under a PFI contract in an £80 million fraud claim against a local authority.

### Insurance

Claims arising out of insurance policies, including:

- Claims under the National House-Building Council's Buildmark policy.
- Claims against insurers under the Third Parties (Rights against Insurers) Act 2010.

### Sale and supply of goods

Sale and supply of goods disputes, including claims concerning the supply of construction plant and materials such as:

- Structural insulated panels for construction of student accommodation.
- Lightweight aggregate for flood defences.
- Pumping equipment for use during construction works.

### General commercial

- Advising a national retailer on the applicability of restrictions under the Health Protection (Coronavirus, Restrictions) (England) (No 4) Regulations 2020 (the November 2020 Covid-19 lockdown), and the enforcement options available to local authorities.
- Representing a provider of professional training services in a claim for breach of contract, of consumer protection regulations, and of the Equality Act 2010.
- Drafting application for a Part 8 claim to be treated as a Part 7 claim, as well as for relief from sanctions in respect of the late filing of an acknowledgement of service.

- Advising on an application to add the defendant's solicitor as a party under CPR rule 19.2 on the basis that it held a deposit as stakeholder.

## Advocacy

Thomas regularly appears in court as sole or junior counsel, and has experience of a range of hearings, including:

- Trials and final hearings.
- Adjudication enforcement hearings and related Part 8 challenges.
- Injunction applications.
- Interim hearings including applications for pre-action disclosure, relief from sanctions, permission to amend pleadings, security for costs, stay of enforcement, strike out and / or summary judgment, and to set aside default judgment.

Recent advocacy experience includes:

- Cross-examining the defendant's quantum expert and making oral submissions on quantum in a led TCC case, as well as conducting the PTR and various applications during the trial.
- Several High Court adjudication enforcement hearings, representing both claimants and defendants.
- Trials of claims arising out of domestic extension and renovation works.
- Applications in the Insolvency and Companies Court to strike out winding up petitions or for injunctive relief, representing both petitioners and respondents.
- Obtaining security for costs in a claim by a subcontractor for retention.
- Obtaining an order requiring the defendants to a fraud claim to replead their defence, following which the matter settled.
- Obtaining permission at trial to amend the legal basis of his client's case, following which the matter settled.
- Defeating an application for pre-action disclosure in relation to a proposed claim arising out of construction works on a dairy farm.

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## Reported Cases

- URS Corporation Ltd (Appellant) v BDW Trading Ltd (Respondent) [2025] UKSC 21
- Energy Works Hull v M+W [2022] EWHC 3275 (TCC)

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## Other information

## Education & Professional Career

### Professional Career

- Tenant, Keating Chambers, 2020
- Pupil, Keating Chambers, 2019–20
- Called to the Bar, Middle Temple, 2019

### Education

- Bar Professional Training Course, City Law School (Outstanding), 2018–19
- Graduate Diploma in Law, City Law School (Distinction), 2017–18
- Researcher, Chambers & Partners, 2016–17
- MA (Philosophy), St John's College, University of Cambridge, 2013–16

## Additional Information

Thomas is a keen rugby player, a middling skier and a poor ballroom dancer. When time permits, he reads widely and somewhat indiscriminately, in particular fiction of all descriptions.

## Appointments & Awards

- Jane Lemon QC Essay Competition (third prize), 2020
- Rosamund Smith Mooting Competition, Middle Temple (winning team, Ede & Ravenscroft prize for best individual), 2019
- Everard ver Heyden Foundation Prize, City Law School, 2019
- Henderson Chambers Prize, City Law School, 2019
- Sachs Prize, Middle Temple, 2019
- Certificate of Honour, Middle Temple, 2019
- Nicholas Pumfrey Memorial Scholarship, Middle Temple, 2018