

Thomas O'Donohoe

Year of Call: 2007

Email Address: thomas.odonohoe@3pb.co.uk

Telephone: 020 7583 8055



Overview

Thomas O'Donohoe specialises in employment and personal injury law as an advocate and also has a busy advisory practice. He is willing to act on a conditional fee basis in appropriate cases.

For more detailed information please see his specialist profile pages.

Recommendations

"Many thanks for your help with this case and for securing an excellent result – the client was very complimentary about you and it is obviously of particular importance where we aren't attending hearings to have a personable barrister with strong client management skills." - instructing employment solicitor, 2017.

"Please extend my thanks to Mr O'Donohoe for this comprehensive submission. Your choice in him was very well placed" – whistleblowing claimant client represented successfully by Thomas at ET and EAT level.

"Tom's approach was exceptionally thorough and this gave our client great confidence in his advice in a case involving complex variables about future loss of earnings" – instructing PI solicitor.

"Thank you for your outstanding work on this case. I look forward to working with you again" – instructing solicitor in successful defence of claims of unfair dismissal and whistleblowing.

"We instructed Tom in a recent RTA case involving a father and his daughter who both suffered substantial physical and psychological injuries. Both have been impressed not only by Tom's thoroughness and attention to detail but also by the sympathetic treatment and understanding they have received from him throughout" – instructing PI solicitor.

"Thomas has been instructed on a number of occasions and has proved to be excellent...exceptional legal knowledge within his selected area... . A fantastic ability to quickly understand complex issues within a short space of time and the ability to analyse and deal with a large amount of information without prompting.... Clients find him to be an excellent orator with fantastic diction and cross examination skills... a trusted advocate and is recommended amongst fee earners in the department... determined to succeed on behalf of clients" – head of employment law at a firm of instructing solicitors.

Academic qualifications

- BA Hons (Oxon), Magdalen College, Oxford
- Tutorial Prize in Modern History, Magdalen College, Oxford (2000/1)
- Exhibitioner, Magdalen College, Oxford (2000/1)

- Graduate Diploma in Law, City University (Distinction)
- Bar Vocational Course, Inns of Court School of Law (Outstanding, 4th in year)

Scholarships

- Lord Brougham Scholarship, Lincoln's Inn (2005)
- Hardwicke Entrance Award, Lincoln's Inn (2005)
- Lord Mansfield Scholarship, Lincoln's Inn (2006, Highest award available for the BVC)
- Barstow Scholarship, Inns of Court School of Law (2007, for coming 4th in the year on the BVC)
- Buchanan Prize, Lincoln's Inn (2007, for obtaining 'Outstanding' on the BVC)
- Sunley Scholarship, Lincoln's Inn (2007)

Professional bodies

- Employment Law Bar Association (ELBA)
- Personal Injury Bar Association (PIBA)

Expertise

Employment and discrimination

Thomas's range of employment work includes acting for claimants and respondents in multi-day and multi-party cases, and encompasses all forms of discrimination as well as the operation of the TUPE regulations, unfair dismissal, whistleblowing, claims for wages and breach of contract (including bonus schemes) and protective awards regime under TULRA 1992.

Thomas recently appeared successfully for the claimant in the employment tribunal and then in the EAT by way of written submissions opposing the Notice of Appeal at a preliminary hearing under paragraph 11(8) of the EAT Practice Direction 2013 in a whistleblowing case. Permission to appeal was refused and so the client retained his substantial award of damages obtained at trial when also represented by Thomas.

Thomas also appeared in the EAT for the successful respondent employer in *Kisoka v Ratnpiyotip* [2014] ICR D17 resisting the claimant's appeal in circumstances where the employer had maintained its original decision to dismiss the claimant despite the claimant's appeal against dismissal having been referred to an external panel which had recommended reinstatement - the first appellate decision on this particular point.

Thomas also acted in the employment tribunal and the EAT for the claimant in a successful claim for enhanced redundancy pay in which the claimant recovered her statutory redundancy pay as well as £25,000 of additional contractual redundancy pay following an amendment to the claim made on Thomas's advice to claim statutory as well as contractual redundancy pay.

Recently Thomas has also acted for the successful parties in cases including:

- a multi-day claim for disability discrimination against a major public transport employer
- an award of £50,000 in favour of a claimant client unfairly constructively dismissed
- a 4-day hearing of claims for unfair dismissal and disability discrimination following a dismissal from the London Ambulance Service for ill-health
- the defence of a solicitors' firm against claims for unfair dismissal for gross misconduct and race discrimination
- the successful defence of a retirement home against claims of unfair dismissal and age discrimination.

Other unfair dismissal cases of interest have involved:

- the application of the Rehabilitation of Offenders Act 1974 in relation to an employer's policy of obtaining Enhanced Disclosures in respect of certain categories of staff
- the reasonableness of reliance by a major high-street retailer on health and safety audits in dismissing for alleged misconduct
- the circumstances in which a volunteer charity worker might be an employee within the meaning of the ERA 1996.

Other recent discrimination cases have addressed:

- whether the alleged verbal abuse of a 'nationality-specific' nature was because of the claimant's nationality / national origins for the purposes of the Equality Act 2010
- the point at which the burden of proof shifts to the employer in a claim of age discrimination
- alleged pregnancy-related discrimination in circumstances where the claimant's male colleague covering her maternity leave was said to have been offered training and promotion not notified or offered to the claimant.

Thomas also has recent experience of applying for interim relief and representing parties at judicial mediation.

Furthermore, Thomas advises employees and employers on the scope and enforceability of restrictive covenants in employment contracts. Recent clients have included a firm of solicitors regarding a new member of staff joining the firm

from a similar firm in the same geographical area.

Thomas also regularly gives talks to solicitors and employers/HR professionals on topical employment law issues. Recent topics have included when and how to bring different types of employment claims in the ET or county courts, practical approaches to preliminary hearings and judicial mediation, and recent developments in the law relating to reasonable adjustments.

Thomas is a member of the Employment Law Bar Association and the Employment Law Association.

Before coming to the Bar, Thomas was a professional guitar player and teacher and in his spare time still plays electric, steel-string and classical guitar.

Publications

Employment law barrister Thomas O'Donohoe examines the impact of the general election's result on employment cases. In the wake of the snap general election's result, employment law barrister Thomas O'Donohoe examines how employment cases may be affected.

[View Publication](#)

Personal Injury

Thomas acts for claimants and defendants on fast and multi-track claims on matters of liability, quantum, costs and procedure. His work ranges from providing pre-action advice to drafting, conducting interim applications, and appearing at trial.

Recent cases have included:

- determining whether or not a defendant would be permitted to call its own expert evidence in relation to an alleged LVI collision
- determining the claimant's 'employer' and applying the tests for the alternative bases of liability under the health and safety regulations
- a local authority's liability for a dangerous defect on the highway
- employer's liability for an unsafe system of maintenance work
- occupier's liability for spillages in a nightclub
- split liability for a motorway road traffic accident
- costs budgeting in a multi-track claim involving complex orthopaedic evidence
- the assessment of general and special damages for burn injuries and complex dental injuries sustained by two young children
- the evaluation and settlement of a potentially career-long loss of earnings claim arising from alleged reduced cognitive abilities and involving intended future work outside the UK
- the assessment of loss of earnings in respect of a claimant self-employed through a limited company structure and also as a sole trader and employee
- the analysis of covert surveillance evidence of a claimant said to have been exaggerating her injuries

Thomas has a great deal of recent experience with costs budgeting and recently presented an update on that subject on behalf of the PI group to clients and solicitors of chambers.

Recent experience on behalf of defendants in particular includes striking out credit hire and other financial claims when instructed on behalf of a major regional bus company; striking out and obtaining an 'exceptional circumstances' costs award under section IIIA of CPR Part 45 in favour of a defendant to a personal injury claim; cross-examining a claimant at a hearing

for the assessment of damages resulting in a significant reduction in general damages from the level indicated by the Judicial College guidelines; and representing multiple defendants at trial defending claims brought by multiple claimants.

Thomas is a member of the Personal Injuries Bar Association and is happy to accept instructions on a conditional fee basis where appropriate.

Credit Hire

Thomas is regularly instructed by claimants and defendants in proceedings involving claims for credit hire charges, often in addition to other heads of loss including personal injuries. Thomas has particular experience of the operation of the Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008 and the analysis of rates evidence including cross-examination of the authors of rates reports. Thomas has also recently advised on claims for credit hire charges in respect of a damaged PSV licensed vehicle in a case also potentially engaging the ex turpi causa principle on the basis of unlawful loss of use as well as requiring consideration of relevant VOSA guidelines and the adequacy of the claimant's insurance for hire and reward purposes under s.145 of the Road Traffic Act 1988.