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Theo Barclay

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Outstanding. Smart, diligent, hard-working.

- Legal 500 2021

He has been recognised by the directories:

- as a “rising star” in Commercial Litigation: “*Outstanding. Smart, diligent, hard-working. Absolutely will go as deep into the subject matter as necessary to find the answers and to be prepared – excellent on his feet and in the courtroom*”.
- as a Leading Junior in Sports Law: “*Excellent oral and written submissions and hugely confident; he has appeared against and beaten several QCs already*”.
- as a Leading Junior in Costs Law: “*Extremely hard working, he gets stuck into problems very quickly, and has well-judged insights into what points really matter.*”

Current and recent cases include:

- ***SKAT v Solo Capital Ltd & Ors*** [2021, ongoing] acting for the Danish tax authority on costs in this multi-billion pound fraud and unjust enrichment litigation (led by Nick Bacon QC).
- ***Lehtimäki v Cooper*** [2020] UKSC 33: the leading Supreme Court case on trust administration, charitable companies and fiduciary duties (led by Guy Moppuss QC and Professor Sarah Worthington QC).
- ***Glencairn v Product Specialities*** [2020] EWCA Civ 609: leading Court of Appeal authority on solicitors’ duties of confidentiality to their former opponents (sole counsel at first instance and in the Court of Appeal).
- ***GHS v Beale, Webstorm & Ors*** [2021, ongoing]: Multi-million pound conspiracy and copyright infringement claim in the IT sector, raising jurisdictional issues *and questions of alternative service (as sole counsel)*.
- ***Combe International Ltd v Dr Augustus Wolff GMBH*** [2021, ongoing]: High Court trademark infringement and passing off dispute between the owners of personal healthcare brands Vagisil and Vagisan (led by Mark Vanhegan QC)



- *Recovery Partners & Anor v Rukhadze & Ors* [2021]: instructed on privilege issues in major Commercial Court fraud litigation arising out of the death of Georgian billionaire Arkady Patarkatsishvili.
- *Beiersdorf v Aldi Stores Limited* [2021, ongoing]: High Court claim against a supermarket for trademark infringement in relation to lookalikes of the Nivea Sun range. Representing Nivea (led by Guy Hollingworth)
- *Winlink Marketing v Liverpool Football Club* [2020] EWHC 2271 (Comm): Part of successful team in this High Court trial concerning brokers' contracts and commission for a sponsorship agreement (led by Robert Anderson QC)
- *Albion Energy Ltd v Energy Investments Global BRL* [2020] EWHC 301: dispute between a Qatari oil exploration company and an energy company (led by Guy Moppuss QC for the appeal to the Court of Appeal)
- *New Balance v Liverpool Football Club* [2019] EWHC 2837: successfully acted for Liverpool Football Club in this Commercial Court trial on whether it was permitted to appoint Nike as its kit sponsor (led by Guy Moppuss QC).
- *BV Nederlandse van Eiproducten v Rembrandt* [2019] EWCA Civ 596: leading authority on the test for causation in fraud (led by Guy Moppuss QC at first instance and in the Court of Appeal).

Academic law

In addition to his practice, Theo has lectured on commercial law at City University and on international law at King's College, London. He is a regular contributor to legal journals.

Outside of Law

Theo has written about British politics for, among others, the Times, the Daily Telegraph, the Independent and the Spectator.

- His first book, *Fighters and Quitters: Great Political Resignations* was published by Biteback in January 2018 (Hardback) and February 2019 (Paperback). It is available [here](#).
- He is a contributing author to *The Prime Ministers: Three Hundred Years of Political Leadership* (Hodder & Stoughton, November 2020). It is available [here](#).

Privacy Policy

Click [here](#) for a **Privacy Policy** for Theo Barclay.

Areas of Expertise

Professional Liability

Theo has a wealth of experience in professional liability claims, having advised and acted in claims involving solicitors, auditors, accountants, surveyors, construction project managers and engineers.

In his professional liability practice, he acts for both claimants and defendants in cases in the county courts and the High Court. Current and recent cases include:

- *X v Y* (2021, ongoing): A high value proposed claim against a tax advisor (led by Justin Fenwick QC).
- *Murray & Murray v HCB Accountants* (2020, ongoing): a claim against a solicitor for negligent accounting advice on the purchase of a business.



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- ***Spanakis v Waran & Co*** (2020, ongoing): A claim against a solicitor for conspiracy, breach of undertaking and for breach of a Quistclose trust.
- ***Metis Law v Armstrong Watson*** (2020, ongoing): a claim against a firm of accountants for allegedly negligent advice on entrepreneur's relief.
- ***Fazal v Zoi Builderberg Law*** (2020, ongoing): a claim against a solicitor for over optimistic advice on an employment dispute.
- ***Stern v Seddon*** (2019), major set of claims arising out of a failed property development scheme in Egypt.
- ***Blacknell v Evans*** (2019): high value "lost litigation" claim against a solicitor accused of professional negligence in relation to a complex underlying personal injury claim concerning congenital hip dislocation.
- ***Swain v (1) Swains (2) Kirby (3) Berry*** [2015] EWHC 2585 (Ch) (led by Paul Mitchell QC)

Lawyers

Theo is very experienced in advising and acting in professional liability claims against legal professionals. He acts for both Claimants and Defendants.

He has experience in the full range of solicitor liability claims, including lost litigation, under settlement, Limitation Act claims, domestic and international conveyancing negligence and claims arising out of personal injury litigation. He has also acted in claims against solicitors relating to non-contentious transactions that have failed, such as business sales and wills claims.

Current and recent instructions include:

- ***Blacknell v Evans*** (2019): high value "lost litigation" claim against a solicitor accused of professional negligence in relation to a complex underlying personal injury claim concerning congenital hip dislocation.
- ***Spanakis v Waran & Co*** (2020, ongoing): A claim against a solicitor for conspiracy, breach of undertaking and for breach of a Quistclose trust.
- ***Fazal v Zoi Builderberg Law*** (2020, ongoing): a claim against a solicitor for over optimistic advice on an employment dispute.
- ***Stern v Seddon*** (2019): series of high-value claims arising out of a failed property development scheme in Egypt.

Accountants

Theo has extensive experience of claims involving accountants and auditors, which has included the following:

- Litigation relating to negligently prepared accounts.
- Disputes over the valuation of businesses in the context of business sales and shareholder disputes.
- Claims arising from negligent tax planning.
- Litigation by insolvency practitioners against directors and officers.
- Auditor's negligence matters.

Current cases include:

- ***Murray & Murray v HCB Accountants*** (2020, ongoing): a claim against a solicitor for negligent accounting advice on the purchase of a business.
- ***Metis Law v Armstrong Watson*** (2020, ongoing): a claim against a firm of accountants for allegedly negligent advice on entrepreneur's relief.

Financial Professionals

Theo's has experience acting in claims involving auditors, brokers, actuaries, IFAs and tax advisors.

He has a strong background in investment advice work, having worked for three years on behalf of the Financial Conduct Authority



as a 'skilled person' under s.166 FSMA, reviewing compensation claims made by SMEs that had been miss-sold Interest Rate Hedging Products.

He also has experience of claims made against mortgage brokers and financial advisors for negligently recommending Interest Only mortgages.

Insurance Brokers

Theo has experience in broker's negligence claims – an area he is well placed to advise due to his practice in Insurance Law. His experience includes acting and advising on:

- Under-insurance claims
- Failure to cover all risks
- Failure to renew insurance when instructed
- Renewing on inadequate terms
- The provision of false information re: renewal
- Failure to obtain all necessary information

Surveyors

Theo has advised on cases involving surveyors. He is able to assist on claims involving a broad range of surveys (from regular residential property surveys to damp and asbestos surveys).

His experience covers a spread of issues, from subsidence to damp, advice on value and the quantum of rectification works.

Qualifications & Memberships

Theo studied Modern History at Brasenose College, Oxford, where he was an academic exhibitioner.

He then achieved a Distinction in the Graduate Diploma in Law, placing second in his year group.

Between 2010 and 2014 he was awarded Hardwicke, Lord Haldane, Lord Denning and Lord Wolfson scholarships by Lincoln's Inn.

In 2017 the Inns of Court awarded Theo the Pegasus Scholarship to undertake a two-month fellowship in the United States to study comparative law. The placement included working in the Supreme Court, Senate and House of Representatives, as well as marshalling federal and state judges in Florida, California, Delaware and Virginia.

Theo is a member of COMBAR, the British Association of Sport & Law, the PNBA and the Financial Services Law Association.