



NEW SQUARE

Theo Barclay

Call: 2013

+442078222000 t.barclay@4newsquare.com

Clerk: Andrew Call

a.call@4newsquare.com

+442078222038 +447788443600



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 Mopuss 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 Morpuss 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 Morpuss QC).
- ***BV Nederlandse van Eiprodukten v Rembrandt*** [2019] EWCA Civ 596: leading authority on the test for causation in fraud (led by Guy Morpuss 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

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Areas of Expertise

Costs

Theo is listed as a Leading Junior for costs litigation in Legal 500 2022 and is noted to be: *“Extremely hard working, he gets stuck into problems very quickly, and has well-judged insights into what points really matter”*.

He frequently acts on costs matters in major commercial litigation:

- ***Lehtimäki v Cooper*** [2020] UKSC 33: a complex dispute in the Supreme Court about the principle of costs involving multiple parties (led by Guy Morpuss QC).
- ***Vald Nielsen & Newwatch v Collyer Bristow*** [2021, ongoing]: a high value solicitor-client dispute concerning the validity

and enforceability of a discounted-fees CFA (led by Robert Marven QC)

His expertise also includes:

- disputes about the termination of CFAs;
- disputes on the proper basis of costs;
- major solicitor/client disputes;
- disputes about the validity and enforceability of CFAs and DBAs;
- disputes with former solicitors about the ownership of client files and liens; and
- routine detailed assessment matters.

Examples of his current and recent cases include the following:

Solicitor/client costs

- ***Matyas v Rosling King***: Solicitor-client dispute on ownership of a file, delivery up of documents and the Solicitors' Act 1974 (junior to Nick Bacon QC)
- ***Vald Nielsen & Newwatch v Collyer Bristow***: Solicitor-client dispute concerning limitation under the Solicitors' Act 1974, the nature of a retainer and the validity of a CFA (junior to Robert Marven QC).
- ***Charles Russell v Beneficial***: Solicitor client dispute raising issues as to the existence of a retainer and ostensible authority (sole counsel, instructed for appeal to the High Court)
- Advising on the difference between requests for payment on account and interim statute bills under the Solicitors Act 1974.
- Acting on a high value solicitor-client claim arising out of the proper construction of a retainer.

Budgeting issues

- Advising on the correct procedure for revision of costs budgets in a High Court claim worth over £20m with budgets in the region of £1m for each party.
- Advising on the impact of *Sharp v Blank* [2017] EWHC 3390 (Ch) on amendments to costs budgets.
- Acting in dozens of Costs and Case Management hearings.

Detailed assessment

- Appeared in several detailed assessments, for paying and receiving party, including using the new electronic bill of costs and cases with hybrid bills.
- Appearing in the SCCO to recover a success fee where a pre-April 2013 CFA had been terminated.
- Successfully appearing in the SCCO to make an application that the recovering party should recover no costs, as they had missed deadlines in the costs proceedings.

Other

- Advising on how to insulate against non-party costs orders.
- Pitching to and working with major litigation funders.
- Advising on recovery of costs after a default judgment.
- Advising on how costs can be recovered from a trustee in bankruptcy.
- ***R v Dave Lee Travis***: Acting for the DJ Dave Lee Travis in the Crown Court in the early stages of costs proceedings following his conviction for one count of indecent assault.

Legal articles

Theo has written the following legal articles about costs:

- 'Conditional Fee Agreements, the price of success', Costs Lawyer, the Association of Costs Lawyers, 2018



- 'Addressing the opportunistic use of QOCS', Personal Injury Brief Update Journal (November 2015)
- 'An abuse of QOCS', Solicitors Journal Vol 159 no 26 (August 2015)

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.