

# Arbitrators

AT 24 LINCOLN'S INN FIELDS

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## Lord Thomas of Cwmgiedd

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Lord (John) Thomas, who retired in 2017 as Lord Chief Justice of England and Wales, is an international arbitrator and President of the Qatar International Court. He practiced for 24 years as a barrister at the Commercial Bar, 12 as a QC, and was a Judge of the Commercial Court from 1996-2003. He has given important appellate judgments in arbitration cases including the 2021 decision in *Betamax v State Trading Corporation* (public policy in the enforcement/setting aside of awards), *Sucafina v Rottenberg* (partial awards) and *Emmott v Wilson* (confidentiality).

Before joining the bench and during his 24 year career as a barrister his practice focused on international commercial disputes, finance, banking, insurance and reinsurance, shipping, shipbuilding, professional negligence and regulation.

### Recent appointments

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- Sole Arbitrator in an LCIA arbitration involving UAE entities who had defaulted under a contract governed by English law;
- Co-arbitrator in an LCIA arbitration involving allegations of fraud under a shareholders agreement;
- Presiding arbitrator in a complex expedited arbitration under the ICC rules involving international pharmaceutical companies;
- Providing an ENE opinion in relation to alleged negligence resulting in a claim becoming time-barred;
- Providing an ENE opinion relating to whether a “Regulatory Event” occurred under a securitisation agreement.

### Career

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- Trinity Hall, Cambridge BA (law) 1969
- University of Chicago Law School, Commonwealth Fellow, JD 1970
- Barrister (Gray's Inn, Bencher 1992), Essex Court Chambers 1972-1996; QC, 1984; Recorder 1987.
- Appointed by HM Government to inquire into Mirror Group Newspapers when owned by Mr Robert Maxwell, 1992
- High Court Judge, Commercial Court 1996-2003; Judge in charge in 2002-3.

- Lord Justice of Appeal (2003-2011). Senior Presiding Judge of England and Wales (2003 - 2006), Vice-President of the Queen's Bench Division (2008-2011)
- President of the European Network of Councils for the Judiciary (2008 - 2010)
- President of the Queen's Bench Division (2011-2013)
- Lord Chief Justice of England and Wales (2013-2017)
- Chair of the Welsh Government Commission on Justice in Wales 2008-2010; Report: Justice in Wales for the People of Wales, October 2019.
- Law Foundation of New Zealand Distinguished Fellow, 2019

## Current Positions

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- International Arbitrator under LCIA and ICC Rules and ad hoc
- President, Qatar International Court (<https://www.qicdrc.gov.qa> )
- Chair, Financial Markets Law Committee, London ( <http://fmlc.org> )
- Chair, Steering Committee of the Standing International Forum of Commercial Courts ( <https://sifocc.org> )
- First Vice President, European Law Institute (ELI), based in Vienna (<https://www.europeanlawinstitute.eu> )
- Joint Chair: Principles for a Data Economy with the American Law Institute, 2021: ( <https://principlesforadataeconomy.org> )
- Member of the House of Lords, UK Parliament;
- Chancellor of Aberystwyth University

## Associations

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- President
  - London Shipping Law Centre
  - ARIAS (UK) (the AIDA Reinsurance and Insurance Arbitration Society)
- Past President of the British Insurance Law Association, a Vice-President of the British Maritime Law Association
- Honorary Fellow of Trinity Hall, Cambridge and a Fellow of the Universities of Cardiff, Aberystwyth, Swansea and Bangor, and Honorary Doctor of Law of the Universities of Wales, South Wales, the West of England and Cardiff Metropolitan University
- Fellow of the Learned Society of Wales
- Founding Member and Patron of the International Law Book Facility

## Principal appellate judgments on Commercial law include:

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- *Betamax Ltd v State Trading Corporation* [2021] UKPC 14, appeal reversing decision of Supreme Court of Mauritius which had set aside an arbitration award on

public policy grounds under s. 39 of the Mauritian International Arbitration Act (based on Article 34 of UNCITRAL Model Law).

- *Protech Solutions LLC v Qatar Islamic Bank QPSC* [2021] QIC (A) 6; Qatar Financial Centre Regulatory Authority v Horizon Crescent Wealth LLC [2021] QIC (A) 5 appeal relating to power of the court to award enhanced interest if a judgment is not paid within the time stipulated by the court.
- *Leonardo S.p.A v Doha Bank Assurance Company LLC* [2020] QIC (A) 1, appeal in relation to interpretation and application of URDG 758 (Uniform Rules for Demand Guarantees) to advance payment guarantees and performance bonds
- *Qatar Financial Centre Regulatory Authority v First Abu Dhabi Bank* [2019] QIC (A) 3; appeal relating to jurisdiction of Regulatory authority over a Bank with a branch in Qatar.
- *R (Rawlinson and Hunter, Robert Tchenguiz) v Serious Fraud Office, Divisional Court* [2013] 1 WLR 1634, [2013] Lloyd's Rep FC 132; review of evidence on which warrants were issued after an investigation of dealings, accounting practices and the role of professional trustees in the financial and offshore markets.
- *Sucafina v Rotenberg*, Court of Appeal, [2012] 2 All ER Comm 952, [2012] EWCA Civ 637, interim and partial awards by a trading association under the Arbitration Act 1996.
- *Fortis Bank v Indian Overseas Bank*, Court of Appeal [2011] 2 All ER Comm 288, discrepancies and the duties of banks under the UCP and documentary credits.
- *Gard v Tunncliffe*, Court of Appeal, [2011] 2 All ER Comm 208, jurisdictional dispute under Lugano Convention on excess of loss reinsurance.
- *Barclays Bank v Nylon Capital*, Court of Appeal [2011] 1 All ER Comm 912, review by court of expert determination of amounts due under hedge fund agreement.
- *Deutsche Bank v Sebastian*, Court of Appeal [2011] 2 All ER (Comm) 245; jurisdiction clauses in related agreements on ISDA and other standard forms for trading in equities and foreign exchange (FX).
- *Emmott v Wilson* [2008] EWCA Civ 184, [2008] 2 All ER Comm 193 - confidentiality in international arbitrations.
- In the Commercial Court, Lord Thomas gave numerous judgments in cases relating to the entire range of commercial disputes, including international commercial arbitration, aviation, banking and financial services, civil fraud, commodities, conflicts of law, energy law, insurance and reinsurance, professional negligence and shipping.

Principal lectures on commercial law include:

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- Max-Planck-Institut Für auslaendisches und Internationales Privatrecht, Hamburg: Guest Lecture, 'The Common Law in Private Dispute Resolution's Shadow', July 2018. (Rabels Journal of Comparative and International Private Law, Vol 83, 487 July 2019).
- Beijing National Judges College Lecture: Commercial Dispute Resolution: Courts and Arbitration, April 2017.

- Bank of England, Banking Standards Board Conference: Worthy of Trust? Law Ethics and Culture in Banking, March 2017.
- Grand Court of the Cayman Islands Annual Guest Lecture: Giving Business what it wants: a well-run court for commercial and business disputes, March 2017.
- Essays in Memory of Professor Jill Poole: Essay: Keeping Commercial Law up to date (March 2017) ((Informa Law, 2019)
- Singapore Academy of Law Annual Lecture: Cutting the cloth to Fit the Dispute: Steps to better procedures across the jurisdictions, September 2016. (2017) 29 SAclJ 1.
- 4th BAILII Lecture: Developing Commercial Law through the Courts: rebalancing the relationship between the courts and arbitration, London March 2016.
- Dubai International Financial Centre Academy of Law annual lecture: Commercial Justice in the Global Village: the role of Commercial Courts, February 2016.

### **Other areas of law**

#### *Leading judgments on constitutional and public law issues*

- R (Miller) v Secretary of State for Exiting the European Union, Divisional Court, [2018] AC 61. Brexit case on powers of the executive and Parliament in relation to the giving of notice under Article 50 of EU Treaty.
- R v Blackman (Marine A case), Court of Appeal [2017] EWCA Crim 190; appeal by a marine convicted of murder during the course of a military engagement in Afghanistan.
- Bank Mellat v HM Treasury, Court of Appeal [2017] QB 67; Bank's right as a majority shareholder as "victim" under Human Rights Convention for damages for loss of business and profits by subsidiary.
- Guardian News and Media v Incedal, Court of Appeal, [2016] 1 WLR 1767; The entitlement of the media to disclosure.
- Recovery of Medical Costs for Asbestos Diseases (Wales) Bill, UK Supreme Court [2015] AC 1016; constitutional law on the legislative competence of Welsh Parliament because of the issue of compatibility of legislation for reimbursement of medical costs in treating asbestosis with Article 1 of Protocol to the Human Rights Convention. Dissenting judgment.
- Agricultural Sector (Wales) Bill, UK Supreme Court, [2104] 1 WLR 2622; constitutional law on the legislative competence of Welsh Parliament in relation to agricultural wages.
- R (Barclay) v Secretary of State for Justice (no 2), Divisional Court [2014] 1 WLR 415; implication for judicial independence of a power of the legislature to reduce judicial salaries.
- R(Omar) v Foreign Secretary, Divisional Court, [2013] 1 All ER 16; disclosure of documentation and national security issues.
- R (Woolas) v Parliamentary Election Court, Divisional Court [2012] QB 1; constitutional law on review of disqualification of an MP as a result of impermissible electoral practices in a general election.
- Assange v Swedish Prosecution Authority, Divisional Court [2011] EWHC 2849; Case on the extradition of Julian Assange to Sweden; scope of the offence of rape and classification of prosecutors as a judicial authority.

- R (Binyam Mohamed) v Secretary of State, Divisional Court, [2009] 1WLR 2579 and 2652; constitutional law in relation to disclosure of documentation and national security issues.

#### *Lectures on Constitutional law*

- Oxford Centre for Islamic Studies, Sultan Azlan Shah Lecture: The Rule of Law in a Post Pandemic Society (October 2021)
- UK Statute Law Society, Renton Lecture. Thinking Policy through before legislating – Aspirational Legislation. (November 2019).
- Hay Literary Festival 2019; The West, The East and the Rule of Law.
- National University of Malaysia (UKM): 3rd Chancellor Tank Muhriz Lecture, December 2018, Whither the Rule of Law?
- Queen Mary University of London, June 2018; Reflections on the Changing Position of the Judiciary; published in Challenged Justice - In pursuit of judicial independence, 2021.
- British Academy: Challenges to Judicial Independence in a time of Crisis: Judicial Impedence, the need for constant vigilance, March 2018.
- 31st Sultan Azlan Shah Lecture, November 2017, Kuala Lumpur: The Rule of Law, the Executive and the Judiciary.
- Palace of Westminster, Michael Ryle Memorial Lecture: The judiciary within the State- (II) the relationship between the branches of the state, June 2017.
- Hebrew University of Jerusalem, Lionel Cohen Lecture: The Judiciary within the State- (I) governance and cohesion of the judiciary, May 2017; 51 Israel Law Review 127.
- University College, London: Constitution Unit: Judicial Leadership: overhauling the machinery of justice, June 2015.
- Institute for Government, London: The Judiciary, the Executive and Parliament: Relationships and the Rule of Law, December 2014.

#### Other subjects:

- Australasian Institute of Judicial Administration: Brisbane, May 2018 The use of technology in dispute resolution.
- Slynne Foundation Lecture, March 2018: The approach to the complex issues that arise in the context of Brexit and of the importance of legal services and dispute resolution to the UK economy.
- European Law Academy, Trier. The authority of European Law: Do we still believe in it? Essay: The Viewpoint from the UK (Springer, 2019).
- Sixth Scarman Lecture: Law Reform Now in 21st Century Britain: Brexit and Beyond, June 2017.
- New Zealand Legal Research Foundation, The Legacy of Magna Carta: Justice in 21st Century, September 2015.
- University of Munster: An aspect of the Common Law: Judicial law-making in the development of the Law, January 2015.
- UK Society for Computers and the Law: IT for the Courts: Creating a Digital Future, May 2014.