

# Landmark Chambers

## Barrister CV

Tom Morris



### Contact us

[clerks@landmarkchambers.co.uk](mailto:clerks@landmarkchambers.co.uk)

+44 (0) 20 7430 1221



# Tom Morris

Call: 2016

tmorris@landmarkchambers.co.uk

Tom is a sought-after junior for trials and appeals, with a wide-ranging property, commercial and costs litigation practice.



## Expertise

Property

## Contact Practice Managers

### Mark Ball

020 7421 1308

mball@landmarkchambers.co.uk

### Harry Feldman

020 7421 2485

hfeldman@landmarkchambers.co.uk

### Connor McGilly

020 7421 1304

cmcgilly@landmarkchambers.co.uk

### Ruby Sims

020 7421 1337

rsims@landmarkchambers.co.uk

## Practice Summary

In January 2023 he was sole counsel for the successful respondent in the landmark Supreme Court appeal in *Jepsen v Rakusen*, having appeared unled for the successful appellant in the Court of Appeal. In recognition of the success of his practice, he is the most junior of the six barristers shortlisted to be 'Junior of the Year' across the whole of the Bar of England and Wales in the 2023 Legal 500 UK Bar Awards.

Tom is instructed as sole counsel for the respondents to two upcoming appeals to the Court of Appeal: one on the scope of the freezing order jurisdiction, the other on the applicability of the Limitation Act to interest on judgment debts. He is instructed as junior counsel to Timothy Morshead KC by the appellants to the Supreme Court in ***Darwall v Dartmoor National Parks Authority***, a landmark appeal concerning public rights to camp in the national park. Since the start of the year, he has appeared as sole counsel for the successful respondents in two High Court appeals, has been instructed as sole counsel by the appellants in three further High Court appeals, and has appeared as sole counsel in three appeals in the property chamber of the Upper Tribunal. In the last twelve months, he has been instructed in a fraud trial in the High Court and in numerous multitrack trials and

interim applications in the county court involving complex disputes of fact and law – particularly injunction and freezing order applications, boundary disputes, landlord consent disputes and other landlord and tenant disputes.

Although Tom is a specialist in property litigation, his practice ranges widely and encompasses costs, development and highway disputes, commercial disputes and insolvency. He has appeared in test cases on a range of issues which, on several occasions, have changed or clarified the law. For example, as sole counsel, Tom has:

- persuaded the Court of Appeal and then the Supreme Court that the practice in the First-tier Tribunal (affirmed by two Upper Tribunal decisions) of making Rent Repayment Orders against superior landlords was based on an incorrect interpretation of the Housing and Planning Act 2016.
- persuaded a High Court Judge in the commercial court that section 24(2) of the Limitation Act 1980 limits the recovery of Judgments Act interest to six years' worth (a point apparently thought 'hopeless' by the Senior Costs Judge and now on appeal to the Court of Appeal).
- successfully obtained a freezing order in the Chancery Division in support of a potential costs order, involving a departure from the previous law (now on appeal to the Court of Appeal).
- appeared in the first appeal to the Upper Tribunal on the meaning of "house" within Part 3 of the Housing Act 2004 (an appeal to the Court of Appeal settled shortly before it was due to be heard).
- resisted a High Court appeal against a successful application to set aside a bankruptcy petition based on the (novel) argument that an arguably unreasonable refusal by a landlord to consent to the assignment of a commercial lease gave rise to a cross-claim in damages capable of being set off against the relevant arrears of rent.
- successfully resisted an appeal against a Deputy Master's decision to order security for costs.

Led by Justin Bates, Tom also appeared for the successful landlord in the appeal and cross appeal to the Court of Appeal concerning execution of documents by corporate landlords, which clarified the law relating to the signing of section 8 notices and deposit protection certificates. Tom (also led by Justin Bates) is also appearing in an upcoming appeal to the Court of Appeal to reconsider whether courts can order parties to participate in alternative dispute resolution.

As a costs litigator, Tom has acted for many years on behalf of the paying party in the 100-day detailed assessment of a bill of costs in the sum of over £60 million (partly led by Ben Williams KC) before the Senior Costs Judge. Tom's client's considerable success (on an indemnity basis assessment in which, for example, profit costs were reduced by almost 40%) was recognised in the court making a 'different order' on the costs of the detailed assessment. A dispute over interest culminated in a hearing before Mrs Justice Dias in the Commercial Court in which Tom's interpretation of section 24(2) of the Limitation Act 1980 prevailed. Tom is also regularly instructed by HM Government, on behalf of the Lord Chancellor, in appeals relating to the law of litigation funding. He has been appointed to the C panel as a result.

## Property

Tom's property practice is wide-ranging. He is regularly instructed in matters ranging from multitrack and fast track trials and complex service charge and s.168 hearings in the First Tier Tribunal, through to possession hearings, strikeout and summary

judgment hearings, and relief from sanction hearings. Notable appearances have included the following:

- Obtaining orders for possession of properties let under tenancies protected by the Rent Act 1977 and Housing Act 1988.
- Obtaining possession orders against trespassers, and injunctive relief against trespassers
- Obtaining an urgent possession order in the High Court in a trespass case affecting infrastructure of national importance, on the same day as obtaining an order abridging time for service to a few hours.
- Obtaining possession orders against mortgagors
- Obtaining orders for possession of commercial premises on grounds of forfeiture; successfully resisting applications for relief from forfeiture; successfully obtaining relief from forfeiture (in one case ten minutes after being instructed).
- Successfully obtaining an ex parte interim injunction in favour of a business owner who had been unlawfully evicted, having been instructed only the evening before.
- Securing the discharge of multiple charging orders from multiple properties against the background of a complex trust dispute
- Obtaining third party debt orders in the High Court
- Obtaining non-party disclosure orders
- Appearing on behalf of an appellant against Westminster Council's determination that she was voluntarily homeless, involving multiple successful applications before HHJ Luba in Central London County Court over the course of a whole day.
- Appearing in hearings relating to disputes under the old and new telecommunications codes, and in contested lease renewal hearings under the 1954 Act

Tom's drafting and advisory work encompasses all areas of property law. Notable advisory work has included:

- The construction of a wide range of contractual terms, leasehold covenants, easements, and restrictive covenants
- Conveyancing disputes
- The law of forfeiture and relief against forfeiture
- The law of mortgages and receivership
- The law of trespass and nuisance, including in relation to invasive weeds
- Professional negligence in the conveyancing context
- Boundary disputes, the Party Wall Act, adverse possession and highways disputes
- Issues relating to rights of way and restrictive covenants
- Issues of co-ownership and the law of trusts in the property context, including the Trusts of Land and Appointment of Trustees Act
- Telecommunications matters
- Cases involving rent review disputes, and disrepair
- Cases involving unlawful penalty clauses

As junior to David Elvin KC, Tom advised a developer on a complicated highways dispute with the local authority.

## Costs Litigation

Tom has a busy costs practice. He is currently instructed on behalf of the paying party in the long-running detailed assessment of a £60 million bill of costs before the Senior Costs Judge in the SCCO following a three-month trial in the Commercial Court in 2013. Partly led by Ben Williams KC and partly unled, Tom has been responsible for drafting large parts of the Points of Dispute, and for making submissions over the course of five weeks of assessment. The matter returns to court for another month later this year. The issues in the assessment include the burden of proof on the indemnity basis, the law of evidence in detailed assessment hearings, the approach to assessing multimillion pound disbursements and, in particular, the fees of experts, the reasonableness of counsels' brief fees in the Commercial Court, the reasonableness of extensive printing and photocopying costs, and the recoverability of fees paid to non-solicitors for providing litigation support.

Tom is also presently instructed by a company in an upcoming hearing in the SCCO to determine its dispute with HMRC about its entitlement to interest on an award of costs, and on behalf of a private prosecutor in an appeal to the SCCO against a determination of his prosecution costs.

His recent work includes appearing (unled) for the successful appellant in a widely-reported appeal before His Honour Judge Lethem (*Ivanov v Lubbe*), which concerned two points of general importance: the proper approach to determining a dispute over disbursements in a case which commences in the portal and to which fixed costs apply, and the reasonableness of incurring court fees when a receiving party may be eligible for fee remission.

Earlier this year, Tom twice appeared before Mr Justice Fraser in the Technology and Construction Court, successfully resisting an application for costs to be assessed on the indemnity basis following the settlement of a construction dispute. Tom also appeared in the High Court on behalf of a developer in a costs hearing following the settlement of a party wall dispute, and on behalf of the Legal Aid Agency, successfully defending a series of applications for relief under the Crown Proceedings Act and for a writ of control against the Lord Chancellor.

In the county court, Tom has recently appeared on behalf of an impecunious company, successfully opposing an application for security for costs and obtaining a costs order against the applicant, and on behalf of an individual successfully to resist an application for her defence to be struck out unless she paid the costs of an interim application. He also has particular experience in fixed costs and RTA portal cases, and frequently advises and appears on behalf of insurers in related applications.

Tom has appeared in the SCCO in assessments of solicitor client costs under the Solicitors Act 1974, as well as providing advice and drafting in relation to the status of solicitors' bills.

Separately, Tom has advised on:

- The assignment of CFAs
- The cost consequences of Part 36 offers
- The law of interest on costs
- The basis for departing from Part 36 cost consequences on the basis of injustice
- The applicability of fixed costs in RTA protocol disputes.

Tom has also worked with David Holland KC on solicitors' liens.

## Qualifications

- Cambridge University (Corpus Christi College), BA History (First Class)
- Cambridge University (Corpus Christi College), MSci History and Philosophy of Science
- GDL, BPP University
- BPTC, University of Law (Outstanding, top of year in Opinion Writing)

## Recommendations

"Tom Morris is an up-and-coming star who is commercially minded."

**Research for Chambers UK Bar, 2022**

"Tom is a great junior and has proved valuable in an appeal scenario."

**Research for Chambers UK Bar, 2022**

## Cases and inquiries

09 02 24      Trials are not inquisitorial! High Court allows appeal from landlord consent trial

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29 11 23      Court of Appeal hands down judgment in Churchill v Merthyr Tydfil County Borough Council

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