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Tom Carter

Year of Call: 2012
Telephone: 0115 947 2581

Overview

Tom specialises in property and construction cases. He has been consistently ranked as a leading junior in this area and has appeared in a number of appeals before the Court of Appeal and Supreme Court as well as regularly acting and advising in complex and high value claims.

Tom has a specialism in Japanese knotweed claims (nuisance and misrepresentation) but also has a wide knowledge of fire damage claims, flooding and water-undertaker claims, other nuisance claims (including group litigation claims) together with a wide range construction claims, boundary disputes, TOLATA and landlord and tenant disputes.

Tom acted as sole counsel in the Supreme Court in the case of *Davies v Bridgend County Borough Council* [2024] UKSC 14 on the question of causation in nuisance claims which was described in the judgment of Lord Burrows as something which "has rarely been the focus of attention in cases of the tort of private nuisance".

Tom also acted in the Court of Appeal in *Davies* [2023] EWCA Civ 80 where he successfully argued that diminution in value of a property without actual physical damage was not pure economic loss. That point was then conceded and not in issue in the Supreme Court.

Tom acted in the Court of Appeal *Churchill v Merthyr Tydfil Borough Council* [2023] EWCA Civ 1416 in which it was held that the longstanding view from the famous case of Halsey that parties could not be compelled to mediate no longer applied.

Tom acted in the Court of Appeal for the successful claimant, Mr Williams, in the case of *Williams v Network Rail Infrastructure Ltd* [2019] QB 601, [2018] EWCA Civ 1514. That case established that encroachment of knotweed rhizomes without physical damage is sufficient to establish a nuisance.

Tom combines legal knowledge with strategic thinking and prides himself on being sensible, friendly and approachable.

Tom is registered with the Bar Council to undertake Public Access work and is able to receive instructions directly from lay clients, as well as those on the traditional professional client basis.

Outside of work, Tom plays music and enjoys walking, golf, clay pigeon and rifle shooting.

Expertise

Property & Real Estate

Tom has consistently been listed for a number of years as a tier 1 leading junior barrister in the field of property and construction.

He has a particular specialism in Japanese knotweed claims, being described as having been involved in "all of the agenda-setting cases".

Tom has appeared in the Supreme Court in *Davies v Bridgend County Borough Council* [2024] UKSC 14 on the question of causation and in the Court of Appeal in *Davies* [2023] EWCA Civ 80 on the question of diminution in value and pure economic loss, in *Churchill v Merthyr Tydfil Borough Council* [2023] Civ 1416 on the question of compulsory ADR and in *Williams v Network Rail Infrastructure Ltd* [2018] EWCA Civ 80 on the question of liability in nuisance for encroachment of rhizomes without actual physical damage.

Tom has acted in hundreds of knotweed claims for claimants and defendants, in nuisance, misrepresentation and professional negligence. In addition, he has advised multiple ATE insurers on setting up their funding criteria for knotweed claims.

Tom regularly acts in property cases of all kinds including high value fire damage claims, water damage claims and all other forms of nuisance and property damage cases including subsidence as well as construction disputes (including high value complex TCC litigation).

Tom also acts in landlord and tenant disputes as well as a multitude of TOLATA claims.

Many of Tom's cases have received widespread media attention, for example:

Millionaire cycling tycoon sues neighbours over Japanese knotweed which he claims is infesting his £1.6million London home

Daily Mail – 13 June 2024

(Nuisance claim, Tom acted for the successful defendants at trial)

Furniture designer, 30, who found Japanese knotweed behind his shed when he moved into his £700k dream home successfully sues seller and leaves him facing £200,000 court bill after he denied plant was growing in garden

Daily Mail – 25 January 2023

(Misrepresentation claim, Tom acted for the successful claimant at trial)

Neighbour who sued retired NHS consultant claiming Japanese knotweed was infesting her £1.1m home faces a £100,000 legal bill after losing court battle

Daily Mail – 15 November 2024

(Misrepresentation claim, Tom acted for the claimant at trial)

Strimmergate: Government worker caught on camera flouting all the rules by dumping remains of Japanese Knotweed in a stream putting residents at risk of weed invasion

Daily Mail – 20 August 2017

(Nuisance claim, Tom acted for the claimant, with the claim settling shortly before trial)

Aristocrats sue their Airbnb landlord for £25,000 after he cut off electricity at their deluxe £3,435 per month Maida Vale apartment leaving them 'living in total darkness' when 'they fell behind on rent'

Daily Mail – 20 December 2022

(Unlawful eviction and harassment claim, Tom acted for the defendant landlord)

Examples of other cases in which Tom has acted include:

- Acting for the landlord in a claim worth £2.2m against a tenant alleging arson which destroyed a building in order to escape from a lease. The claim settled at a mediation shortly before trial.
- Acting for a subcontractor in a construction dispute, defending an indemnity claim worth £700k and bringing part 20 proceedings against another subcontractor
- Acting for a fire service defending a claim worth £850k for damage caused by a second fire following their attendance
- Acting in a claim involving a fire from a grain dryer used to dry sunflower seeds which led to substantial damage to the entire farm complex
- Acting for a subcontractor in a construction dispute arising from defective sprinklers which caused substantial water damage to a new build London block of flats.
- Acting for the defendant builders in a claim where it is alleged that power was turned off to the freezers in a scientific laboratory, destroying perishable items.
- Acting for the defendant in a claim alleging defective building works which settled shortly before a 6 day trial.
- Acting successfully for a large group of claimants in a group action against a landfill site for nuisance caused by smells.
- Acting for a landlord in a relief from forfeiture claim where the landlord took back possession of the whole property following a police raid of a cannabis factory in a flat upstairs.
- Acting for the defendant in a claim for diminution in value where the defendant admitted to having unlawfully demolished the claimant's house but then discovered a cannabis factory hidden underground. Following arguments about the value of the property, the claimant ultimately accepted the defendant's part 36 offer during the trial at the conclusion of the evidence.

Costs & Litigation Funding

Tom appeared for the claimant in the Court of Appeal decision in *Richard Williams v Secretary of State for Business, Energy and Industrial Strategy* [2018] 4 WLR 147 where the Court of Appeal accepted that CPR 45.24 required proceedings to have been issued and judgment to have been entered before that rule could apply.

Tom is due to appear again in the Court of Appeal in June 2023 in the case of *Churchill v Merthyr Tydfil County Borough Council* where the court is considering whether to revisit the famous case of *Halsey v Milton Keynes General NHS Trust* [2004] 1 WLR 3002 on the question of whether compelling parties to enter into ADR is a breach of their Article 6 rights. The case has attracted widespread attention, with various interventions from third parties and is likely to redefine the landscape of civil litigation.

Tom regularly advises and acts in a wide variety of costs disputes.

Public Sector & Not for Profit

Tom has appeared in a number of judicial reviews and public law claims, including the case of *Miyanji v Secretary of State for the Home Department* [2017] EWHC 1939 (QB) where Tom was successful in the High Court in a claim for unlawful detention.

Tom also acted for the claimant in an unlawful detention claim which raised the question of whether a deportation order

which was declared unlawful meant that the claimant's detention was retrospectively rendered unlawful. The case settled shortly before trial.

Equality Act

Tom regularly advises and defends a large variety of Equality Act claims against road and rail transport, hotels, retail stores, housing providers and public bodies.

Those include claims brought by litigants in person, where the claims are often lengthy and badly defined.

Tom is always tactical in his approach, thinking about the best way to increase the client's chances of success, often by helping to define the issues in a case from an early stage, which then gets the judge on side and gives them an easy path to finding for the defendant.

This also includes monitoring the client's costs and doing everything to maximise their chances of costs recovery against a claimant by showing unreasonable conduct.

Tom provides regular training and guidance to solicitors who are dealing with these often difficult claims.

Recent examples of cases include:

- Defending a series of claims by a vexatious litigant against rail, bus and tram companies for various allegations of disability discrimination.
- Defending a utility provider against a claim alleging discrimination and a failure to make reasonable adjustments in terms of meter readings and billing.
- Defending a chain of coffee shops against allegations of racial and disability discrimination by a customer, relating to a range of issues from the customer toilets to till receipts.
- Defending allegations of discrimination against landlords and letting agents in respect of a tenanted property.
- Defending a hotel against claims of discrimination and a failure to make reasonable adjustments in terms of their policies regarding mobility scooters.

Notable Cases

Davies v Bridgend County Borough Council [2024] UKSC 14 – application of the 'but for' test in nuisance claims

Wetherell v Student Loans Company Plc [2024] EWHC 1443 (KB) – whether the Student Loans Company is an "emanation of the state" for the purposes of EU law

Davies v Bridgend County Borough Council [2023] EWCA Civ 80 – diminution of value of a property without physical damage is not pure economic loss

Churchill v Merthyr Tydfil Borough Council [2023] EWCA Civ 1416 – a party can be compelled to mediate and the longstanding view from *Halsey* saying otherwise was obiter

Williams v Network Rail Infrastructure Ltd [2018] EWCA 1514 – encroachment of Japanese knotweed rhizomes without physical damage is an actionable nuisance

Richard Williams v Secretary of State for Business, Energy and Industrial Strategy [2018] EWCA Civ 852 – costs consequences of not following the pre-action protocol where a claim is settled pre-proceedings

Miyanji v Secretary of State for the Home Department [2017] EWHC 1939 (QB) – unlawful detention of the claimant pending deportation

Recommendations

"Tom is exceptional at picking up critical and important issues and thereafter in providing clear, detailed and helpful advice to clients. He is exceptionally thorough in his written work and with regards to advocacy, he is always calm, clear, highly skilled, and has a knack for being able to advance legal arguments to courts which are clear and compelling. His cross-examination skills are also superb."

- The Legal 500 2026

"Tom is very experienced and knowledgeable."

- Legal 500 2024

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