

Theo Huckle QC



Call: 1985

Silk: 2011

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Profile

Theo Huckle QC is Head of our Clinical Negligence and Personal Injury Team at Doughty Street, which includes the team's Product Liability and Industrial Disease work. As head of team, Theo is very much driving the team's current development to expand the team and grow the work rapidly across its practice areas in this exciting time for the CNPI team.

Theo has almost unparalleled broad experience as a common law barrister specialising latterly in the injury claim fields. He was a member of the Welsh Government as the Counsel General for Wales during 2011-2016, Wales's devolved Law Officer with a broad remit advising across public law fields. He is a longstanding Exec member of the Personal Injury Bar Association (PIBA). In 2012 Theo was elected a Bencher of Lincoln's Inn, and in 2016 he was appointed a Visiting Professor of Law at King's College London.

His time as a Law Officer has given Theo a highly strategic approach to complex dispute resolution and team leadership.

Recently it's been a busy time for Theo. Having joined Doughty Street, with the move out of government, he took over as General Editor of the Butterworths' Personal Injury Litigation

Service , co-wrote Apil's Guide to Noise Claims (Jordans), took over as Head of Team at Doughty Street and took up the Visiting Professorship. He has also been a regular contributor to Munkman on Employer's Liability (LexisNexis Butterworths) and Occupational Illness Litigation (Thomson Sweet & Maxwell) and with articles for the New Law Journal, JPIL, PILJ and Apil's PI Focus. He co-wrote Butterworths' original practice manual on the new system for Periodical Payments and has now been asked to lead an update to review the system 10 years on. In 2018 he took over as principal consulting editor of Halsbury's Laws Volume 29 on Damages. Theo was Times Lawyer of the Week at the end of 2016, and has twice been shortlisted as Claimant PI Lawyer of the Year at the national PI Awards in Manchester.

Theo likes to undertake a range of interesting cases, particularly those involving novel and complex points, and recent work includes:

- the groundbreaking success in **Royal Opera House v Goldscheider** [2019] EWCA Civ 711, selected as one of The Lawyer's Top 20 Cases for 2019, in which the Court of Appeal upheld the judgment of Nichola Davies J [2018] EWHC 687 (QB) in favour of a world class orchestral viola player who suffered career-ending noise injury during rehearsals for the ROH's 2010 Wagner Ring Cycle; instructed by Chris Fry, Theo led Jonathan Clarke in this first authoritative decision on the 2005 Noise Regulations and first finding of "acoustic shock" as a mechanism of serious injury;
- a series of **Helmand Fever (Q Fever) cases** brought against the MOD by servicemen infected in the Afghanistan campaigns and suffering serious debilitating chronic fatigue syndromes; in the lead case judgment was entered against the MOD for serious disclosure failures after a series of hotly contested interlocutory battles: *Eaglesham v MOD* [2016] EWHC 3011 (QB) Andrews J; two further claims are now proceeding as liability issues remain contested, with one of them currently subject of appeal; Theo leads Paul Kilcoyne in all three cases, instructed by Sue Bowler of Coffin Mew for Mr Eaglesham and by Gary Tierney, Justin Glenister and Diyanne Yates of Hilary Meredith for their clients Mr Taylor and Mr Bass;
- leading advice teams on quantum aspects of the group metal-on-metal hip prosthesis product liability claims conducted by Leigh Day.

Whilst always at home finding and making innovative lines of argument upon liability issues, Theo is particularly well-known for his expertise on quantum issues, and has a particular expertise in complex spreadsheet quantum analysis and presentation. He believes that in complex cases attention to detail in arguing the many variables makes a huge difference to outcomes for the client, and that it is his job fully to understand how those variables affect the

final computations, when making and responding to offers, for negotiations at JSM or other ADR, or at trial.

Theo particularly likes to work digitally and his clerks will be pleased to help you provide instructions/briefs under our fully GDPR compliant arrangements.

Theo believes that seriously injured clients should always be visited by counsel in their homes if possible, and that experts should always be firmly tested in consultation before finalising their reports. If expected to present and argue a schedule of loss in high value cases, he wants to know it inside out and preferably have drafted it himself, or advised in detail upon it before service in its final version.

Theo is happy to help with detailed anticipated fee breakdowns in spreadsheet form to assist with budgeting of complex cases.

Theo is both committed to promoting access to justice and (besides his beloved rugby and skiing) loves the sport of rowing (to which he came as a junior and youth rugby player, and he continues to be an enthusiastic sculler), and so was pleased to be invited to become a non-executive board member and trustee of both **JUSTICE** and **Welsh Rowing** after a long career being at best reasonably competent in a variety of sports.

He is fully supportive of the current Wellbeing agenda, and represents PIBA on the Bar Council's Wellbeing Working Group.

2018 saw him climb Ben Nevis on his birthday, and complete the daunting **Big Welsh Swim** at Llyn Padarn in the foothills of Snowdon: ([YouTube](#)). In 2019 he is now threatened with the 10k “Hurly Burly” swim at Barmouth in September (See [here](#)).

And like the last English World Cup football squad it seems(!), he is also a keen student of Iyengar yoga...

Related practice areas

Clinical Negligence, Personal Injury & Product Liability

Professional Discipline and Regulation

Mediation

Data Protection and Information Law

Children's Rights Group

Awards shortlisting

Claimant Lawyer of the Year, PI Awards 2017, 2018

PI Silk of the Year, Legal 500 Awards 2014

Barrister of the Year, PI Awards 2011, 2012, 2013

What the Directories Say

Chambers & Partners 2016 - 2019

"He has a depth of knowledge in personal injury and an ability to get to grips with hugely complex and technical aspects and arguments."

"He has excellent client skills, leaves no stone unturned and is an absolute pleasure to work with."

"His attention to detail and client skills are great."

"Bright, astute and hard-working... A forceful advocate."

"Especially effective in the industrial disease arena. He has further expertise in high-value injury claims relating to brain and spinal cord damage, amputations and other serious matters..."

Chambers & Partners 2015

Personal Injury Band 1; Clinical Negligence Band 1

"He very much represents the client's interests at all times, never losing focus on that. He doesn't mind arguing points that need to be argued robustly."

"... expertise spanning complex catastrophic injury claims as well as clinical and medical negligence matters..."

"... maintains a broad practice that encompasses clinical negligence matters. He is well versed in complex spinal and brain injury cases."

Chambers & Partners 2014

Personal Injury Band 1; Clinical Negligence Band 1

"He is very committed, excellent and diligent".

"He's excellent – he enjoys working with figures, which in big cases is really important, and he has a very pleasant way with client. He's very technically able and covers all the bases."

"...has a broad and highly regarded personal injury practice, and has developed a similarly strong practice in clinical negligence... He is extremely bright and absurdly industrious..."

“... is highly acclaimed for his handling of catastrophic injury cases, particularly those relating to brain and spinal injuries.”

“... is recognised throughout the circuit and nationally for his expertise in industrial disease claims, particularly those relating to noise-induced hearing loss.”

Appellate Advocacy

Having also conducted the trial in 2018, Theo successfully acted for Mr Goldscheider, formerly a world class orchestral viola player, in the **Royal Opera House v Goldscheider appeal** [2019] EWCA Civ 711, selected as one of The Lawyer's Top 20 Cases for 2019, in which the Court of Appeal upheld in his favour the judgment of Nichola Davies J [2018] EWHC 687 (QB). Mr Goldscheider suffered career-ending noise injury (hyperacusis) during rehearsals for the ROH's 2012 Wagner Ring Cycle, and the case has attracted considerable mainstream media interest in the UK and abroad.

Other appeals are of course less high profile, and under the new rules appeals from first instance decisions of county courts will go to a High Court Judge rather than the Court of Appeal. Theo has good recent experience of these forms of appeal, having been brought in to assist in 2 High Court Clinical Negligence appeals:

- **Price v Cwm Taf University Health Board** [2019] EWHC 938 (QB) Birss J. Knee surgery; informed consent and compliance with surgical guidance.
- **South Tees Hospitals NHS Foundation Trust v Bowstead** (2017) Challenge to material contribution basis of causation finding where hot fixing cement caused burning injury to femoral nerve; claim settled favourably to Claimant ahead of appeal hearing.

Theo has made five recent appearances in the Supreme Court, leading on four of those occasions:

- **Baker v Quantum** [2011] (the first Noise-induced Hearing Loss case to reach the highest court, led by John Hendy QC and leading Robert O'Leary of Civitas Law);
- **Axa v Lord Advocate** [2011] (Asbestos:Pleural Plaques and Constitutional/Devolution law, leading Clive Lewis QC);
-

Byelaws Bill (Wales) Reference [2012] (Constitutional/Devolution law, leading Clive Lewis QC);

- **Agricultural Sector** (Wales) Bill Reference [2014] Constitutional/Devolution law, leading Elisabeth Laing QC);
- **Recovery of Medical Costs for Asbestos Diseases** (Wales) Bill [2014] (Human Rights/Constitutional/Devolution law, leading Richard Gordon QC). (See [here](#))

The three References under s112 of the Government of Wales Act 2006 are acknowledged as the first UK "constitutional cases" to be heard by the Supreme Court.

CA appeals include:

- **Royal Opera House v Goldscheider** [2019] EWCA Civ 711 (Leveson QBP, McCombe, Bean LJJ) Application of the Control of Noise at Work Regulations 2005 to the music industry; existence and proof of noise causation of acoustic shock injury.
- **Lougheed v On The Beach Ltd** [2014] EWCA Civ 1538 (Tomlinson LJ, Floyd LJ, Ouseley J) evidence in Package Travel Regulations cases as to "local standards" of health and safety.
- **Smith v Secretary of State for Energy and Climate Change** [2013] EWCA Civ 1585; [2014] 1 W.L.R. 2283 (Longmore, Underhill, Floyd LJJ) Theo successfully mounted a second case management appeal to the Court of Appeal concerning technical issues as to the basis of grant of Pre Action Disclosure.
- **Ward v Allies & Morrison** [2012] EWCA Civ 1287; [2013] P.I.Q.R. Q1 Review of the Blamire basis of damages for loss of earning capacity compared with the Ogden computational approach, and the requirements for relevant disability within Ogden.
- **Teague v Mersey Docks & Harbour Board** [2008] EWCA Civ 1601 [2009] All ER (D) 249 (Wall, Kay, Moses LJJ) Limitation in industrial deafness claims. Also McNally & Dagnall v MDHC [2009-10], further test limitation cases arising from similar issues concerning dock workers in the period leading to the Dock Strike in 1994-5.
- **Field v British Coal** [2008] EWCA Civ 912 (May, Moore-Bick, Lawrence Collins LJJ) Limitation in disease claims post Hoare/Catholic Care (HL). Subjective aspect of date of knowledge ss14(1) and (2) and constructive knowledge s14(3).
- **Furniss v Firth Brown Tools Limited** [2008] EWCA Civ 182 (Buxton, Laws, Smith LJJ) Limitation in disease claims post Hoare (HL). Knowledge of the Claimant and

trigger events for S14(3) constructive knowledge.

- **Williams v Welsh Ambulance Services NHS Trust** [2008] EWCA Civ 81 (2008) 105(9) L.S.G. 30 (Smith, Thomas, Lloyd LJ) £2m Fatal Accident (RTA) claim involving difficult issues of meaning of "dependency". Claims for adult statutory "dependants" in context of family business successfully continued after the death
- **PRP Architects v Reid** [2006] EWCA Civ 1119 [2007] ICR 78 [2007] PIQR P4 (Pill LJ, Smith LJ, Neuberger LJ) ?Meaning of "work equipment", "for use at work" and "used at work" within the Provision and Use of Workplace Equipment Regulations 1998 and hence applicability of those regulations, and of the Workplace (Health, Safety and Welfare) Regulations 1992, to a defective lift in the common parts of an office building and used by all the tenants and their employees.
- **Smith v Notaro v Plumbase** [2006] EWCA Civ 775 CA (Ward LJ, Rix LJ, Gage LJ)? Competing duties of employer and site controller when employee carrying out manual handling operation using unsafe walkway. Liability of employer for failure to train employee as to manual handling risks of using unsafe walkways despite being "largely a matter of common sense".
- **Herring v MOD** [2004] 1 All E.R. 44 CA [2003] EWCA Civ CA (Potter & Tuckey LJJ, Wall J)? Proper ambit of the Loss of Chance principle (Doyle v Wallace) in personal injury cases.
- **Midco v Piper** [2004] EWCA Civ 476; [2004] N.P.C. 59 (Peter Gibson & Tuckey LJJ, Sir Martin Nourse)? Damages assessment in tortious deceit.
- **Morris v Jones & McCormack** [2003] EWCA Civ CA (Ward & Clarke LJJ, Sir Anthony Evans)? Misrepresentation: inducement, reliance and loss issues.
- **R v Lloyd, McCarthy, Warren** [1998] RTR 374 CA (Otton LJ, Sachs J, HHJ Rivlin) Admissibility of DVLA records and computerised business records.
- **Julian Hodge Bank Ltd v Hall** [1998] CCLR 14, CA (Saville, Thorpe & Judge LJJ)? Consumer Credit Act: Meaning of "Total Amount Payable" and related expressions.

Clinical Negligence and Personal Injury

Theo is also regularly instructed to conduct test litigation and has particular experience of

leading large scale and group litigation, especially through his work on the *Parkes v Meridian* and *Baker v Quantum* litigation during 2003-2011; most recently he led in test trials against British Telecoms Plc in Cardiff (Noise Induced Hearing Loss claims re test tone sets including issues of application of Ogden computation to deafness disability cases) and Boots Plc in Nottingham (Work Related Upper Limb Disorder; carpal tunnel syndrome). Theo recently conducted a further test case management appeal in the BT tone set cases concerning the Sheffield County Court's practice of using Fast Track allocation and restriction of expert evidence in low value Noise Induced Hearing Loss cases: *Offermanns & Aspinall v BT* [2015]. Further appeal is being pursued with the prospect of detailed guidance being given by the Court of Appeal on critical practice issues for solicitors in group low to mid-value disease claims.

The following is a selection of other significant cases demonstrating the breadth of Theo's recent experience and expertise in disease and high value injury claims:

- **Re ASR Hip Implants** [2016-] Complex product liability group litigation. Spreadsheet scheduling of complex quantum and advising on settlement handling schemes.
- **Hickey v Wright Minimix & Ors** [2016-] £2m+ EL claim for specialist construction worker injured by head injury from high pressure concrete delivery pipe.
- **Franklin v HR Wallingford & Ors** [2016] Test litigation in NIHL cases as to obligations of claimant solicitors to provide particular forms of evidence in order to trigger Protocol obligations of Defendants.
- **Lacey v University Hospitals of North Midlands NHS Trust** [2016-] Complex clinical negligence claim for failures in cardiac management of lady sufferer of Churg-Strauss Syndrome.
- **McFadyen v Tredget** [2016-] Road traffic claim for elderly lady driver who lost her right leg after being crushed in the secondary collision when she stopped on the motorway because of a collision with the following car. Complex care management issues and blight of life.
- **Rust v Leeds Teaching Hospitals NHS Trust** [2015-16] £1.5m settlement post JSM in a clinical negligence claim for a young man who lost his leg above the knee as a result of post operative compartment syndrome. Detailed reworking and analysis of complex schedule.
- **Eaglesham v MOD** [2015-] Theo leads in this multi-£m clinical negligence claim for a marine who contracted Q Fever just as he was about to be returned home from service

in Afghanistan and has since developed an extremely disabling chronic fatigue syndrome, a well recognised sequela of this form of “Helmand Fever”.

- **Re Ayannuga** [2015-] Complex and high value product liability for family injured physically and psychologically by gas emission when a plumber used a proprietary sulphuric acid drain cleaner at their home. The father of the family was rendered in a permanent vegetative state.
- **Goldscheider v Royal Opera House** [2015-] Test claim for Hyperacusis and NIHL for senior member of UK’s principal operatic orchestra.
- **Mazo v Boyle (Westbourne Hotel)** [2015] £4.2m claim for complex non-dominant wrist injury sustained by successful female HR consultant operating in the lucrative self-employed interim management market.

Public/Constitutional

- **Axa v Lord Advocate** [2011](Asbestos:Pleural Plaques and Constitutional/Devolution law, leading Clive Lewis QC);
- **Byelaws Bill** (Wales) Reference [2012](Constitutional/Devolution law, leading Clive Lewis QC, now Lewis J);
- **Agricultural Sector** (Wales) Bill Reference [2014] Constitutional/Devolution law, leading Elisabeth Laing QC, now Laing J);
- **Recovery of Medical Costs for Asbestos Diseases** (Wales) Bill [2014] (Human Rights/Constitutional/Devolution law, leading Richard Gordon QC). To view the videos for the 14th May 2014 session's please see **here** and **here**; To view the videos for the 15th of May 2014 session's please see **here** and **here**.

Professional Negligence

As well as his Medical Claims and Clin. Neg. practice generally, Theo recently conducted two interesting high value Prof. Neg claims against solicitors.

The first is for a project engineer who lost his leg after a construction site accident in

Scotland, was advised by his English solicitor that he had to issue in Scotland, and the solicitor withdrew without protecting client's position and with limitation period expiring; Theo agreed to act instructed by Nigel Cook of Cooks and the claim was brought successfully in England against the contractors but settled for 60% because of that limitation risk; the Prof. Neg claim against the first solicitor for the balance of 40% was likewise successfully settled.

The second case was a claim against the claimant's first solicitor, who allowed the limitation period to expire in one of the Virgin Atlantic beauty therapist cases, of which Theo has handled 6 or 7 to successful conclusions including in 2 High Court trials in 2005: *King & Rimmer v Virgin Atlantic* [2005]; *Evans & Hindmarch v Virgin Atlantic* [2011]; Robert Peach of Coffin Mew now instructed as he has done in the rest of that series of cases and the case was successfully settled at mediation.

Arbitration and Mediation

Theo is a dual qualified mediator (ADR and LSOM) and PlcARBS qualified arbitrator and is a member of the www.PlcARBS.co.uk panel of arbitrators.

He has particular experience of ADR in personal injury and family property claims and disputes, and given his broad experience of common law (crime, family, tort, contract) and public law, and his strategic role as a Law Officer at ministerial level in the Welsh Government during 2001-16, is happy to assist with disputes across a broad range of specialisms and also those engaging several legal fields.

For further details, please speak with his clerks on 0207 404 1313 or n.goodwright@doughtystreet.co.uk

Inquiries and Inquest

Theo Huckle QC was during 2011-16 the Counsel General for Wales, a statutory member of the Welsh Government and its senior legal advisor and Law Officer. He joined Doughty Street in 2015 and is a Bencher of Lincoln's Inn and General Editor of the *Butterworths' Personal Injury Litigation Service*.

He began practice at the Bar with a broad based common law practice conducting 12 murder defences before specialising in complex disease cases and latterly also public/constitutional cases, and has great experience of advocacy at every UK level including 5 recent Supreme

Court appearances, and in many different tribunals from public inquiry to coroner's court to magistrates, county and crown court, to employment tribunal and EAT, to CICA, to committees of both Commons and Lords, and, of course, to the National Assembly for Wales. He has conducted death-in-custody and child-clinical-negligence inquests, as well as Professor Pennington's 2008 E. coli O157 Public Inquiry.

He is currently advising for an inquest into the death of a handyman, killed when sulphuric acid sink/drain cleaner caused emission of fatal H₂S gas, as a precursor to a high value product liability claim for seriously injured family members. Theo has a particular interest in complex medico-legal issues in civil and criminal or quasi-criminal contexts and especially enjoys cross-examining expert witnesses. He is also highly thought of for his empathy with victims of serious/fatal personal injury and their families.