



Human Rights Lawyers Association Bursary 2021 Report

Professor Leslie Thomas QC

Introduction

In August 2021 I was delighted to be offered a three-month (which ended up being five-month) internship as Legal Researcher and Assistant to Professor Leslie Thomas QC. I initially met Professor Thomas whilst working as a Senior Legal Fellow at the human rights organisation JUSTICE. He was a member of one of JUSTICE's working parties that I worked on, "[When things go wrong: the response of the justice system](#)", which aimed to make informed recommendations to reform institutional responses to deaths or other serious incidents where a "systemic pattern of failure" is evident.

I was able to build a great relationship with Professor Thomas during my time at JUSTICE and upon my contract coming to an end in August 2021 I took my chances in asking whether he would be willing to take me on as his "helper". He was very receptive to the idea and even more so impressed that I had already planned a way to potentially finance myself: applying for a Human Rights Lawyers Association bursary. I did apply, was successful in securing an award, which I was overjoyed about, and then set a date to start with Professor Thomas in September 2021. The beginning of my internship coincided with what Professor Thomas described as one of the busiest times in his career, so there was a lot of interesting work for me to get involved in. I was super excited to be able to work alongside a leading human rights silk who practises in areas of law that I intend to practise in.

Professor Leslie Thomas QC

Professor Thomas has long been an inspiration of mine for his constant and unapologetic fight for justice and protecting the rights of those wronged by the state and corporates; what he dubs the "David and Goliath" cases.

Professor Thomas is a leading expert in claims against the police and other public authorities, and claims against corporate bodies, with expertise across the full spectrums of civil wrongs, civil litigation, human rights, data and privacy claims. He is an expert in all aspects of inquests and public inquiries, having represented many bereaved families, particularly where there has been abuse of state or corporate power. Some of his notable high-profile cases include: Birmingham Pub Bombing inquest, Kevin Clarke inquest, Sean Rigg inquest, Hillsborough disaster inquests and public inquiry, Mark Duggan inquest, the legacy cases involving the Provisional IRA, Christopher Alder inquest and the Grenfell Tower Inquiry.

He often acts for claimants in judicial review proceedings and other public law proceedings, and he regularly acts for clients in the Caribbean region on constitutional law challenges, including representing inhabitants of the island of Barbuda in a constitutional challenge against the government of Antigua in relation to the Barbudan's rights to their land. As well as his extensive legal practice, he lectures widely to various organisations including coroners, universities, schools, pressure groups and non-profit organisations. He is currently Professor of Law at Gresham College, currently delivering his lecture series, "[Death, The State and Human Rights](#)", and visiting Professor of Law at Goldsmiths Law School, University of London.

My Work

As alluded to above, Professor Thomas's professional career spans widely and no two days or tasks are the same. This offered me the opportunity to get involved in Professor Thomas's domestic and international cases, as well as his lectures and seminars.

Cases

Within the first week of starting my internship I was with Professor Thomas at the Grenfell Tower Inquiry for the first day of Module 5 (examining the fire service's response) and Professor Thomas was set to deliver his [opening statement](#) (see: 1:13:45–2:03:35). The evening before, he emailed me over his statement, a collaborative piece between himself and the other barristers and solicitors acting for Team 2 of the bereaved families, survivors and residents of Grenfell Tower. His instructions to me were: "cut the statement down by 20 minutes, be brutal, add your own flair and let's make this statement resonate with the Inquiry chair and panel and with the many others watching". I spent the evening going through the statement and familiarising myself with the main issues to be conveyed. I was initially a little apprehensive to offer my opinion on, never mind edit, restructure or even delete, the work of experienced lawyers. Notwithstanding, I hit the ground running and spent until the early hours

of the morning re-working, re-structuring and polishing the statement. I received great feedback from Professor Thomas and those instructing for being able to turn it around so quickly and with such measure and impact.

I continued to work on matters relating to the Inquiry throughout my internship and would sometimes join the morning meeting between lawyers for Team 2 before the inquiry. I learned a lot from this work: most importantly, being able to observe how counsel and solicitors work collaboratively, how counsel interact with their lay client, especially those who are vulnerable, and how counsel go about strategically advancing their case in public inquiries, where there is no general right to cross-examine witnesses.

Another case that sticks in my mind involved a young Black man who died during a mental health crisis after being restrained by the Metropolitan Police Service ('MPS'). Professor Thomas acted for the man's family in the inquest, where a jury highlighted serious failures by the police service and others and concluded that police restraint did contribute to the death. Professor Thomas also acted for the family in a subsequent civil action brought against the MPS under the Human Rights Act 1998 ('the HRA'), which I got involved in. I was asked to have a go at drafting a response to a letter by the MPS which contested that our clients were not considered "victims" for the purposes of the HRA, s7(1), and the European Convention on Human Rights ('ECHR'), article 34, in respect of claims under articles 2, 3 and 8 ECHR and so did not have standing to bring the claim. We further claimed for damages for psychiatric harm, which the MPS also rejected on the ground that our clients did not have standing for damages under the HRA in respect of articles 2, 3 and 8. Our argument was that our clients did have standing for claims under the CCHR and therefore could also claim damages for the psychiatric distress/harm which resulted from violations of the Convention. This was regardless of the test in *Alcock and others v Chief Constable of South Yorkshire Police* [1991] 3 WLR 1057 for secondary victims of psychiatric injury at common law. We asserted that the domestic courts clearly took into account domestic tortious damages awards when awarding damages for distress/psychiatric harm under the HRA and therefore, in rebuttal to the MPS's position, we considered that our claim for estimated damages for psychiatric harm was consistent with the position in law.

I began by conducting legal research into direct and indirect victims, referring to, amongst others, the Strasbourg case law (*Vallianatos and others v Greece* [2013] ECHR [GC]; *Yasa v Turkey* (1998) 28 EHRR 408; *Keenan v United Kingdom* 33 EHRR 38), domestic case law (*Daniel v St George's Healthcare NHS Trust* [2016] EWHC 23 (QB) and *Rabone v Pennine Care NHS Trust* [2012] 2 AC 72) as well as the Strasbourg court's ['Practical Guide on](#)

[Admissibility Criteria](#)' (pp.9-15). I applied to each of our clients the principles set out by Lang J in *Daniel* (paras 150-4) for what the likely and correct approach of Strasbourg is in deterring indirect victim status, arguing that each family member satisfied the requirements. Professor Leslie and instructing solicitors were very impressed with my application of the evidence to the law, and few amendments were made (bar a few factual matters).

Lectures, Seminars and Articles

Throughout my time with Professor Thomas, I was given many opportunities to undertake extensive research into an array of different human rights topics for lectures and seminars he delivered. He would often task me with having a first go at drafting the papers too, which he always praised for capturing his style and voice. One of the first lectures I produced an initial draft for was Public Law Project ('PLP')'s "[Judicial Review Trends And Forecasts 2021: Accountability and The Constitution](#)", where Professor Thomas was delivering the closing keynote speech, "Seeking accountability and defending constitutional rights: an Anti – Racist perspective".

The lecture was written when Government was ramping up its assault on the HRA and the courts, with controversial comments made by Justice Secretary Dominic Raab and Attorney General Suella Braverman QC. The Attorney General had, in fact, delivered the opening keynote for the PLP lecture and so we took the opportunity to respond to her. The fundamental contention in the Attorney General's speech was that, over the years, the domestic courts have been unjustifiably overstepping their constitutional position by encroaching on highly political matters that were not the courts' business, and that due to Parliament's sovereignty, it could and should intervene to stop the judiciary from overstepping its function. Essentially, a separation of powers argument – but an ill-founded and unprincipled one – where she professed to be committed to restoring "the balance of power between the executive, legislature and the courts". But she also criticised lawyers who "cloak themselves in a political cause" as well as campaigning organisations who continue their failed political lobbying through the courts.

We rebutted each of her submission throughout our paper. For example, in response to her attack on publicly-funded lawyers and political agenda, we addressed the case of *Lawal v The Secretary of State for The Home Department* [2021] UKUT 114 (IAC). In brief, the case involved an attempt by the Home Office to deport, regardless of the ongoing inquest, an "important witness of fact" to the death of a man in immigration detention. The deportation decision was judicially reviewed last minute by counsel and the Upper Tier Tribunal found,

effectively, that the decision by the Home Office created an “unacceptable risk that the Respondent [the Home Secretary] would fail to comply with her Article 2 procedural duties of securing relevant evidence, following a death in immigration detention”. It was perfect example of a case where but for publicly-funded lawyers acting quickly, an outright attempt by the state to circumvent accountability and deny access to justice would have been exacted and, likely, irreversible.

I also contributed to the research for and drafting of many other lectures and training which focused on a breadth of human rights issues, especially the intersection between defending human right and anti-racism, including for JUSTICE’s 2021 human rights conference, Goldsmith College, the Gresham Lecture series and the Legal Action Group.

Conclusion

My time with Professor Thomas was truly invaluable and a joy from start to finish. I was able to learn an incredible amount about substantive human rights law, litigating human rights cases and the human rights bar. I also got to work with so many highly experienced people and was able to grow my network substantially. I started the bar training course at BPP in Manchester in January 2022 and my time with Professor Leslie really helped prepare me for the course. I still work for Professor Thomas from time to time in between my studies and am confident that we will for many years continue to do so.

I must pay a special thankyou to HRLA who were kind enough to support my plans and offer me a bursary to make it happen. Without the bursary I would not have been able to work with Professor Thomas, and for that I am forever grateful.

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