



Michael Ryan

Education

BA (Oxon), BCL

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Profile

Michael is a barrister specialising in commercial litigation and arbitration, with particular focus on commercial fraud and asset recovery, financial services, insurance, professional liability and construction.

Since commencing practice at 4 New Square he has built up experience of a broad range of commercial disputes. Many of his cases encompass cross-border aspects, contentious company issues, and fraud.

Michael has extensive court and arbitral experience. He has appeared in the High Court (Comm. Ct., TCC and Ch D), the Court of Appeal and the Supreme Court. He has been led (as sole junior) in several substantial High Court trials, and regularly appears unled in trials, applications and appeals in the High Court and County Court.

Commercial Disputes: Michael has built up experience of a broad range of litigation and arbitration. He has experience in contractual disputes, restitutionary claims, shareholders disputes, fraud claims, asset tracing, sale of goods and jurisdiction/choice of law issues. Michael is also frequently instructed to act in interim applications.

Insurance: Michael undertakes a wide range of insurance work, including advice on coverage and construction of policies.

Professional Indemnity: Michael has experience of claims against a wide variety of professionals, with particular emphasis on claims arising out of commercial transactions, and those with elements of fraud.

Construction: Michael frequently acts in construction litigation, arbitration and adjudications. He regularly appears in the TCC.

Other Information

Michael read law at Brasenose College, Oxford: he took first class honours in the BA and a distinction in the BCL, together with several prizes for academic performance; he was awarded the Nicholas Scholarship for the BCL.

Prior to coming to the bar, Michael was appointed lecturer in law at Trinity College and Christchurch College, Oxford, and subsequently lecturer in personal property in the University.

Michael was graded Outstanding on the bar course and ranked first in the Middle Temple, for which he received the Van Der Heyden Lancey Prize. He was a scholar of the Middle Temple.

Professional Liability

Michael acts in claims across the range of professionals. Michael has particular specialism in claims arising out of commercial transactions and claims with an element of fraud. He has considerable trial experience in this area and knows what it takes to win at trial.

A selection of recent cases concerning different professions is set out below.

Lawyers

Michael has extensive experience of claims against lawyers. He is also familiar with the regulatory aspect of the profession, having acted in cases concerning the code of conduct and Solicitors Accounts Rules. He is also familiar with solicitors professional indemnity insurance issues. Recent cases include:

- *Petrocapital v Morrison & Foerester* [2013] EWHC 2682 (Ch): trial in the Chancery Division appearing with Justin Fenwick QC bringing a claim against solicitors in relation to convertible loan notes and irrevocable undertakings.
- Defending a city firm against a claim arising out of conduct of criminal and civil proceedings by the Serious Fraud Office and the Ministry of Justice against a former client. (Led by Justin Fenwick QC.)
- *Hussain v Sugare & Co*: successful defence at trial of a claim arising out of conduct of Proceeds of Crime Act proceedings. The case raised money laundering issues and police seizure of unlawfully obtained cash.
- Successfully striking out a claim in respect of advice given on issues of proprietary estoppel, constructive trust and unjust enrichment on the basis that no breach of duty had been shown in relation to the advice given.
- Acting for solicitors accused of negligence in relation to advice on Inheritance Tax planning and the drafting of deeds of indemnity in this field.

Accountants, Auditors and Actuaries

- *Cattles Ltd v PriceWaterhouseCoopers LLP*: part of the defendant counsel team in the largest auditors negligence claim to date – claim for damages of £1.7bn arising out of the collapse of Cattles and Welcome Finance after the financial crash.
- Instructed by the Claimant in an action seeking to recover damages from auditors of a charity for failure to identify the fraudulent activities of the former chairman of the charity.

Construction Professionals

- *Igloo v Powell Williams Partnership* [2013] EWHC 1718 (TCC), appearing as sole junior to Anneliese Day QC in a two-week trial in the TCC concerning allegations against surveyors and engineers. Successfully defended the claim and obtained an order for indemnity costs.
- *Caring Homes Group Limited v Banks Design Architects*: A claim in the TCC for damages in excess of £500,000 for the allegedly negligent design of a major care home for failing to comply with fire safety requirements. Michael has been retained as sole counsel to defend the architects facing the claim.
- *Gaze v Durrants Limited*: defending a claim against planning consultants arising out of a planning application for a major recycling facility.
- Defending a substantial claim arising out of the design to major refurbishment works carried out to King's College London.

Insurance Brokers and Agents

- *A2Dominion Homes Ltd v Stackhouse Poland Ltd*: a claim for damages in excess of £2.5m alleged to have resulted from negligent placing of property insurance and failure to notify insurers. Michael appeared as sole advocate in a contested interlocutory hearing.
- Defending a claim against brokers for failing to place sufficient insurance in respect of a group of commercial properties.

Surveyors & Valuers

- *Bank of Scotland v Savills*: retained as sole counsel to defend a claim against valuers for damages in excess of £2m arising out of the valuation of a portfolio of high end residential property in Chelsea.
- Various lenders' claims dealing with the application of SAAMCO and claims for contribution as between solicitors and surveyors/valuers.

Directors & Officers

Many of Michael's commercial cases include allegations against directors and officers of companies for breach of

fiduciary and directors' duties. See e.g. *Pennyfeathers Limited v Pennyfeathers Property Company Limited* [2013] EWHC 3530 (Ch). Michael is very familiar with such issues and the related insurance aspect.

International Arbitration

Michael has experience of arbitral proceedings. Many of his cases include an international element. Recent experience includes:

- Acting, with George Spalton, for a Hong Kong Consultancy Firm in an arbitration against a multi-national mining/construction company arising out of alleged breach of services agreement.
- Instructed with Ben Hubble QC in a major insurance coverage arbitration concerning cross-border property transactions.
- Acting for a manufacturer of cables in a transnational sale of goods matter.
- A major shareholders dispute between overseas companies concerning ownership and management of an English telecommunications company. The case includes allegations of fraud and forgery.
- Acting for a high net worth individual from the Middle East in relation to a claim against a former employee for misappropriation of monies. The case raised allegations of breach of fiduciary duty and relief by way of an account.

Michael has experience in private international law matters including:

- Jurisdiction (both a common law and under the Brussels Convention).
- Choice of Law issues.
- Enforcement of foreign judgments. Includes submissions to rely upon a judgment in the Seychelles as establishing issue estoppel in proceedings taking place in England.

Chancery

Many of Michael's commercial matters have a chancery element. He has experience of shareholders disputes (including petitions for relief for unfair prejudice and just and equitable winding up), asset tracing and proprietary claims, breach of directors and fiduciary duties, and fraud.

Recent cases include:

- *Apex Global Management v Global Torch, Re Fi Call*: a major shareholders dispute between overseas companies concerning ownership and management of an English telecommunications company. Cross-petitions were issued for relief from unfairly prejudicial conduct and just and equitable winding up. The trial encompassed allegations of fraud, forgery, breach of fiduciary duty and breach of directors duties. (Led by Justin Fenwick QC.). Michael was also instructed in the interlocutory appeal to the Supreme Court: *HRH Prince Abdulaziz v Apex* [2014] 1 WLR 4495 (SC), and a further application to set aside a judgment on grounds that it was obtained by fraud.
- *Pennyfeathers Limited v Pennyfeathers Property Company Limited* [2013] EWHC 3530 (Ch), appearing at trial with Patrick Lawrence QC bringing a claim against directors for diverting assets from the company. The case raised issues of breach of fiduciary duty, constructive trust and piercing of the corporate veil. Successfully obtained orders that a significant property be held on trust.
- *Central Europe Business Development Ltd v Mena Ventures Ltd & ors*: instructed as sole counsel in a multi-party dispute in the Chancery Division concerning an advance fee fraud. Raises allegations of fraudulent misrepresentation, forgery, dishonest assistance, knowing receipt and tortious conspiracy to defraud.
- Defending a claim by trustees of a discretionary trust against solicitors to the trust for incorrect advice in respect of leases over land held by the trust.
- Successfully striking out a claim against solicitors in respect of advice given on issues of proprietary estoppel, constructive trust and unjust enrichment.

Prior to coming to the bar, Michael taught trusts and land law in Oxford University. He is comfortable in dealing with the chancery aspect to commercial cases.

Commercial Dispute Resolution

Michael deals primarily with commercial disputes. He has experience in contractual disputes, restitutionary claims, shareholders disputes, fraud claims, asset-tracing and sale of goods. Many of his cases have an international element and he is experienced in advising on jurisdiction and choice of law issues. A selection of recent work is set out below.

Fraud and Asset Recovery

- *Apex Global Management v Global Torch, Re Fi Call*: a major shareholders dispute between overseas companies concerning ownership and management of an English telecommunications company. The trial encompassed allegations of fraud, forgery, breach of fiduciary duty and breach of directors duties. (Led by Justin Fenwick QC.) Trial concluded in February 2015, judgment awaited. Michael was also instructed in the interlocutory appeal to the Supreme Court: *HRH Prince Abdulaziz v Apex* [2014] 1 WLR 4495 (SC).
- *Pennyfeathers Limited v Pennyfeathers Property Company Limited* [2013] EWHC 3530 (Ch), appearing at trial with Patrick Lawrence QC bringing a claim against directors for diverting assets from the company. The case raised issues of breach of fiduciary duty, constructive trust and piercing of the corporate veil. Successfully obtained orders that a significant property be held on trust.
- Representing BMW Finance in claims concerning attempts by a commercial hire company to defraud under various hire purchase agreements. Michael appeared as sole counsel at trial and was successful in showing the defendant's evidence to be totally unreliable.
- *Central Europe Business Development Ltd v Mena Ventures Ltd & ors*: instructed as sole counsel in multi-party dispute in the Chancery Division concerning fraud by way of forged bank guarantees. Raises allegations of fraudulent misrepresentation, dishonest assistance, knowing receipt and tortious conspiracy to defraud.
- Fraud in the insurance context including ongoing Commercial Court proceedings concerning allegations of late notification of claims, fraud and dishonesty (led by Justin Fenwick QC).
- Acting for a high net worth individual from the Middle East in relation to a claim against a former employee for misappropriation of monies. The case raised allegations of breach of fiduciary duty and relief by way of an account.
- Acting for a trust in a claim seeking recovery of monies dishonestly appropriated by the CEO of the trust, including dealing with potential claims against the trusts' solicitors, bankers and auditors.

Interim Relief

Michael is frequently instructed to act in interim applications, sometimes ex-parte, during or prior to proceedings. Recent examples include applications for worldwide-freezing injunctions (with Alex Hall Taylor); an application for an interim injunction to restrain a former director from contacting fellow former directors (with Neil Hext QC); resisting an application for Norwich Pharmacal Orders (QBD, Andrews J, Lawtel 13/1/15); an application for relief by way of Bankers Trust Order; several urgent, without-notice applications for interim delivery up of goods.

Cross-Border Disputes

- Acting, with George Spalton, for a Hong Kong Consultancy Firm in an arbitration against a multi-national mining/construction company arising out of alleged breach of services agreement.
- *X v Y*: acting for a Turkish manufacturer of cables in a dispute with an English distributor (with Ben Hubble QC and Can Yeginsu).
- Defence of a claim brought by a Hedge Fund against its former advisers arising out of proceedings in the Grand Court of Cayman relating to investments in Eastern Europe (Led by Graeme McPherson QC).
- Instructed to advise on English Insurance law in relation to an action in Jersey.
- Advising in relation to a dispute between a car hire company and its Israeli franchisee.

Other Experience

- Appearing in a trial in the TCC as sole junior to Anneliese Day QC. The case concerned a £16m property purchase and raised complex engineering issues.
- Acting for a major food retailer in defending a claim made for damage to the highway by its delivery vehicles.

Discontinuance of the claim by the claimant was successfully achieved.

- Acting (with Alex Hall Taylor) in a claim seeking specific performance of a Sale and Purchase Agreement in respect of shares.
- Claims for conversion of goods.
- On-going sale of goods dispute in the TCC.

Financial Services Regulation

Michael's practice includes lending litigation, claims against Independent Financial Advisors, and claims arising out of failed investment schemes. Recent work includes:

- Advising the managers of a foreign property investment scheme in relation to a group action by investors (Led by Anneliese Day QC).
- Acting for an investment vehicle in claims arising out of failed investment in property and film-finance schemes (Led by Graham Chapman QC).

Insurance & Reinsurance

Michael undertakes a range of insurance and reinsurance work, including advice on coverage and construction of policies. Examples include:

- Instructed to defend a Commercial Court claim arising out of transfers of re-insurance business under FSMA Part VII. (Led by Jonathan Hough QC.)
- Instructed with Ben Hubble QC in a major coverage arbitration concerning cross-border property transactions.
- *Haden Taylor v Canopus* [2014] JRC 221 (Royal Court, Jersey): a dispute concerning construction of policies and the extent of the obligation of insurer to indemnify. The decision is one of the few reported decisions on Jersey Insurance Law.
- *Quinn Insurance v Henleys*: instructed by insurers to pursue a claim for reimbursement against an insured after settlement by insurers of liabilities.

Michael also acts for insurers in subrogated recovery actions arising from insured perils, including fire claims. Recent work in this regard includes a multi-party dispute arising out of a major fire at an industrial site (led by Neil Hext QC).

Construction & Engineering

Michael is developing a strong construction practice, and has experience of litigation, arbitration and adjudication in this field.

Michael is at ease dealing with the technical aspect of such cases and has experience of several different fields of expert evidence.

Recent work includes:

- *Leslie v Farrar Construction* [2015] EWHC 58 (TCC): two-week trial in the TCC concerning a dispute over a joint venture to develop sites in the north of England. Successfully defending a claim by the employer in unjust enrichment for £1.2m and recovering substantial damages for lost profits on behalf of the contractor.
- *Igloo v Powell Williams Partnership* [2013] EWHC 1718 (TCC), appearing as sole junior to Anneliese Day QC in a two-week trial in the TCC concerning allegations against surveyors and engineers. Successfully defended the claim and obtained an order for indemnity costs.
- Advising in relation to defective construction of drainage systems in a large housing estate. This raised issues in relation to the NHBC guarantee scheme, the recently enacted Transfer of Private Sewers Regulations 2011 and the liability of Water Authorities under the Water Industry Act 1991.
- *Beaumonts v New Tech Design Limited* (TCC): a claim for damages in excess of £250,000 in respect of an allegedly defective wind turbine. Michael has been retained to defend the firm who installed the turbine. The manufacturers have been joined to the action. Michael appears as sole counsel against leading counsel on the

other side.

- *Caring Homes Group Limited v Banks Design Architects (TCC)*: A claim for damages in excess of £500,000 for the allegedly negligent design of a major care home for failing to comply with fire safety requirements. Michael has been retained as sole counsel to defend the architects facing the claim.
 - Acting in relation to a claim for damage to construction equipment damaged during a fire on site.
 - Advising in relation to liability for defective highways.
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