



Michael Ryan

Education

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Profile

Michael's commercial practice includes disputes concerning Professional Liability, Construction and Insurance. He has recently been led (as sole junior) in trials in the High Court (Chancery Division and TCC) and appears on a regular basis both in the High Court (both Chancery and Queen's Bench Divisions) and County Court in applications, trials and appeals.

Current instructions include: *Cattles Limited v PriceWaterhouseCoopers LLP*, a Commercial Court claim for £1.6bn alleging negligence against auditors of a company; and a major group action against solicitors concerning the Right to Buy legislation.

Prior to coming to the bar, Michael read law at Brasenose College, Oxford, where he obtained a First class degree and subsequently was awarded a Distinction in the BCL.

Whilst at Brasenose, Michael was awarded an Open Exhibition and the Barry Nicholas Scholarship. He was graded Outstanding on the Bar Professional Training Course, coming first in his year at the Middle Temple, where he was a Scholar and Exhibitioner.

Michael taught Land Law and Trusts at Trinity College, Christchurch College and St Anne's College, Oxford. He also taught the Personal Property course in the University.

Professional Liability

Michael has a significant Professional Liability Practice. Michael's practice includes all aspects of professional liability and he regularly advises, settles pleadings and appears in courts and tribunals in this area.

Michael has been led (as sole junior) in several trials in the High Court in this area is experienced in what it takes to win at trial.

Michael has experience in dealing with claims against a variety of professionals including: lawyers, construction professionals, surveyors and valuers, insurance brokers, and financial professionals. Further details can be found in the sections to the left.

Michael's expertise also extends to claims against Directors and Officers of companies. Michael appeared as sole counsel to Patrick Lawrence QC in *Pennyfeathers Limited v Pennyfeathers Property Company Limited* [2013] EWHC 3530 (Ch), in which Patrick and Michael successfully pursued claims against former directors of a company for breach of their directors' duties under Companies Act 2006.

Accountants, Auditors & Actuaries

Michael is currently instructed in *Cattles Limited v PriceWaterhouseCoopers LLP*, a Commercial Court claim for £1.6bn alleging negligence against auditors of a company.

Construction Professionals

Michael has a strong practice in relation to claims against Construction Professionals and general Construction work. He is adept with the particular challenges of this work, including dealing with expert evidence in varied fields.

In *Igloo v Powell Williams Partnership* [2013] EWHC 1718 (TCC), Michael appeared as sole junior to Anneliese Day QC in a two-week trial concerning allegations against surveyors and engineers. Anneliese and Michael acted for the

successful defendants, the claim (which was in excess of £1.5m) being dismissed entirely with an award of indemnity costs. (For more information please [click here](#).)

In another substantial TCC action, Michael is retained with Anneliese Day QC to defend building contractors who face claims by their co-joint venturer for improper billing practices. In addition, they are bringing a substantial counterclaim in respect of the contractor's entitlement to profits from the project. The Claim is valued at a sum in excess of £260,000, the counterclaim is for £1.95million.

Michael has considerable experience of claims against architects, including:

- 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.
- Defending a substantial claim arising out of the design to major refurbishment works carried out to King's College London.

Michael also advised (with Anneliese Day QC) in a case concerning claims against a contractor in respect of alleged defects in a significant residential building.

In addition, Michael has advised in relation to claims arising out of defective construction of drainage infrastructure 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.

Michael has also acted in claims concerning the regulation of electricity providers and liability for defective highways.

Financial Services Professionals

Michael frequently deals with matters arising in relation to financial services. He has dealt with issues arising under the FCA Handbook, including MCOBS and ICOBS. Recently he appeared in a trial, as sole counsel, which raised issues of mis-selling of financial products.

Insurance Brokers & Agents

Michael has experience of claims against insurance brokers including a claim for damages in excess of £2.5m alleged to have resulted from negligent placing of insurance and failure to notify insurers. Michael appeared as sole advocate in a contested interlocutory hearing.

Michael has experience of insurance work generally, which gives him good insight into the issues arising in claims against brokers and agents. He is experienced in drafting pleadings in this area.

Lawyers

Michael recently appeared as sole junior to Justin Fenwick QC in *Petrocapital v Morrison & Foerester* [2013] EWHC 2682 (Ch), a solicitors negligence trial in the Chancery Division. The case raised issues of the adequacy of advice given by a corporate partner in a large commercial firm to an investment company as to the effect of convertible loan notes and non-conversion undertakings.

Michael is familiar with the regulatory aspect of the legal profession, having been recently led by Ben Hubble QC in an arbitration concerning the Solicitors Accounts Rules and Solicitors Professional Indemnity Insurance issues.

Michael also has substantial experience of lender claims, having been involved in a major piece of litigation concerning the failure of a substantial conveyancing scheme. Working with Justin Fenwick QC, Graham Chapman and Lucy Colter, Michael has been retained to draft defences to the large number of claims spawned by the scheme.

In addition, Michael has assisted David Halpern QC in relation to the defence of a claim against solicitors by a bank in respect of a multi-million pound lending agreement.

Michael also has experience of claims dealing with serious allegation of dishonesty and fraud against solicitors. He has been retained to pursue claims in deceit against solicitors. He also deals with issues of coverage by professional indemnity insurers and their rights to decline cover.

Michael is regularly instructed on cases raising the latest issues in claims against lawyers. Recent instructions include a claim against solicitors in respect of the use of sale-and-rent back agreements, which have recently been the subject of the Court of Appeal decision in the *North East Property Buyers* litigation.

Michael has dealt with numerous claims against solicitors concerning a variety of allegations. Recent highlights include:

- 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.
- Defending a claim for negligent drafting of an agreement providing for the transfer of a solicitors' practice.
- Acting for solicitors accused of negligence in relation to advice on Inheritance Tax planning and the drafting of deeds of indemnity in this field.
- Dealing with claims concerning alleged negligent advice in relation to the Consumer Credit Act.
- Advising on a claim for damages for allegedly negligent under-settlement of an employment claim against the Ministry of Defence.

Surveyors & Valuers

Michael has experience of a range of lenders' claims against surveyors and valuers. Michael regularly deals with the issues which arise in this area, including the application of SAAMCO and claims for contribution as between solicitors and surveyors/valuers.

Aside from lenders' claims, Michael has dealt with other claims against surveyors and valuers. He is familiar with the regulatory aspect of the profession, including the RICS regime. Recent work includes advising on a claim against surveyors acting as jointly-appointed adjudicators in a boundary dispute, which include allegations of negligence, bad faith and breach of the CPR.

International Arbitration

Several of Michael's recent cases have included an international element, including:

- Appearing, with George Spalton, in an international arbitration between a Hong Kong Company and a transnational engineering company in relation to breach of service agreements.
- A major insurance coverage arbitration (acting as sole junior to Ben Hubble QC). The underlying events for the purposes of the policies arose out of conveyancing transactions concerning foreign property and cross-border payments of money.
- Acting for a manufacturer of cables in a transnational sale of goods matter
- Defending a claim concerning foreign companies and allegations of advance fee fraud arising out of cross border payments of money.
- A major shareholders dispute between overseas companies concerning ownership and management of an English telecommunications company. The case includes allegations of fraud and forgery. (Led by Justin Fenwick QC.)
- Acting as sole advocate in a claim against solicitors by a former high net worth client from the Middle East concerning construction disputes. The case raised allegations of breach of retainer and breach of fiduciary duty.

Michael has a keen interest in cases with an international element. Having studied Private International Law at postgraduate level (and being awarded a distinction for his performance in this area), Michael has wide knowledge of Conflicts of Law points, including:

- Jurisdiction disputes (both at common law and under the Brussels Convention) including enforceability of jurisdiction agreements and anti-suit injunctions.
- Choice of law issues. Enforcement of foreign judgments.

Michael has considerable court experience, which lends itself equally to arbitral proceedings and is a strong advocate.

Chancery

Michael has a solid background in Chancery matters, having taught land law and trusts prior coming to the bar.

In *Petrocapital v Morrison & Foerester* [2013] EWHC 2682 (Ch) Michael appeared with Justin Fenwick QC bringing a claim against solicitors in relation to convertible loan notes and irrevocable undertakings.

In *Pennyfeathers Limited v Pennyfeathers Property Company Limited* [2013] EWHC 3530 (Ch), Michael appeared with Patrick Lawrence QC bringing a claim against directors for breach of their duties under the Companies Act 2006. The case raised issues of breach of fiduciary duty, constructive trust and piercing of the corporate veil. Patrick and Michael successfully obtained orders that a significant property be held on trust.

Michael frequently acts for banks in relation to mortgage matters. In addition, much of his professional liability work

involves a chancery element. Recent work includes:

- Acting as sole counsel in a case concerning a bank's subrogated rights to a property where the borrower had raised a defence of fraud. Michael successfully represented the bank at first instance; an appeal to the Court of Appeal is pending.
- Acting as sole counsel in a case involving several appeal hearings and emergency applications in the County Court and the High Court (culminating in an appeal hearing before Sweeney J) in respect of a Bank's claim to possession of a £3million property.
- Appearing as sole counsel for the bank in a trial raising allegations of mis-selling of financial products in defence to a claim for possession.
- Dealing with issues relating to LPA Receivers.
- Acting for a Bank in resisting applications for relief in respect of the Bank's claim to possession of commercial premises (successful on appeal).
- 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.
- Acting in relation to a claim against solicitors in respect of advice given on issues of proprietary estoppel, constructive trust and unjust enrichment: successfully striking out the claim on the basis that no breach of duty had been shown in relation to the advice given.
- Dealing with claims to enforce charging orders.

Commercial Dispute Resolution

Michael has considerable trial experience, being instructed as sole junior in disputes in the Chancery Division and TCC. Most of Michael's work is of a commercial nature and Michael tailors his advice and approach to the practical needs of his clients, whether banks, insurers, law firms, transnational companies or individuals.

Current and recent work includes:

- A major shareholders dispute between overseas companies concerning ownership and management of an English telecommunications company. The case includes allegations of fraud and forgery. (Led by Justin Fenwick QC.)
- Appearing in a trial in the Chancery division as sole junior to Patrick Lawrence QC. The case concerned a major development on the Isle of Wight and raised issues in relation to joint ventures, directors' duties, fiduciary duties, constructive trust, offshore companies and piercing the corporate veil.
- Appearing, with George Spalton, in an international arbitration between a Hong Kong Company and a transnational engineering company in relation to breach of service agreements.
- Appearing in a trial in the Chancery Division as sole junior to Justin Fenwick QC. The case raised issues relating to convertible loan notes and irrevocable undertakings in respect of share options.
- 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.
- An insurance dispute concerning allegations of late notification of claims, fraud and dishonesty (led by Justin Fenwick QC).
- Conflicts of law issues, including advice on jurisdiction. Michael studied Private International Law at postgraduate level, being awarded a distinction in this area.
- 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 for a company providing legal advice services. Michael successfully defended claims of misrepresentation at trial.
- Acting for a foreign manufacturer in a transnational sale of goods dispute. The sums in issue exceed £10m.
- Acting (with Alex Hall Taylor) in a claim seeking specific performance of a Sale and Purchase Agreement in respect of shares.
- Acting (with Miles Harris) 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.
- Acting in a TCC dispute over the supply of defective wind turbines.
- Making applications for *Norwich Pharmacal* orders and *Bankers Trust* orders.
- Claims for conversion of goods.
- Claim for defective workmanship on a high-performance car.

Financial Services Regulation

Michael has experience of a range of financial services work including claims against Independent Financial Advisers under the FSMA regime and the application of the FSA principles, rules and guidance.

Insurance & Reinsurance

Much of Michael's Professional Liability and Construction work involves an insurance element, including the impact of ATE policies and Professional Indemnity Policies.

Michael has wide experience of pure insurance matters including:

- Advising on the construction of policies.
- Acting for insurers in defending claims by insureds.
- Acting in coverage disputes between insurers.
- Advising on claims under Third Parties (Rights Against Insurers) Act 1930.

Michael was recently lead by Ben Hubble QC in an arbitration concerning a coverage dispute between insurers in the Solicitors Professional Indemnity context.

Michael has also gained experience dealing with a number of different insurance areas, including Contractors All-Risk Policies, Property Insurance Policies, claims for business interruption losses, and issues of non-disclosure, misrepresentation and notification.

In addition, Michael has experience in the related area of claims against insurance brokers and agents.

Construction & Engineering

Michael is developing a strong construction practice and has experience of dealing with expert evidence in several fields.

In *Igloo v Powell Williams Partnership* [2013] EWHC 1718 (TCC), Michael appeared as sole junior to Anneliese Day QC in a two-week trial concerning allegations against surveyors and engineers. Anneliese and Michael acted for the successful defendants, the claim (which was in excess of £1.5m) being dismissed entirely with an award of indemnity costs. (For more information please [click here](#).)

In another substantial TCC action, Michael is retained with Anneliese Day QC to defend building contractors who face claims by their co-joint venturer for improper billing practices. In addition, they are bringing a substantial counterclaim in respect of the contractor's entitlement to profits from the project. The Claim is valued at a sum in excess of £260,000, the counterclaim is for £1.95million.

Michael also advised (with Anneliese Day QC) in a case concerning claims against a contractor for alleged defects in a significant residential building.

In addition, Michael has advised in relation to defective construction of drainage 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.

Other work includes:

- A claim in the TCC for damages in excess of £250,000 in respect of an allegedly defective wind turbine. Michael has been retained to defend the firm who had responsibility for the installation of the turbine. The manufacturers have been joined to the action. Michael appears as sole counsel against leading counsel on the other side.
- Claims concerning the regulation of electricity providers.
- Advising in relation to liability for defective highways.
- Acting in relation to a claim for damage to construction equipment damaged during a fire on site.
- Defending a claim in the TCC for damages in excess of £500,000 in relation to alleged defects at a major care

home. Michael has been retained as sole counsel.
