



Michael Soole QC



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Year of Call: 1977
Year of Silk: 2002

Profile



Michael currently specialises in the closely interwoven fields of construction, professional liability and insurance. However his professional background is of great experience across a wide range of civil/commercial work. Against prevailing trends, he retains a striking ability and willingness to think and perform across specialist boundaries. For those who take account of Directory plaudits he has been variously described as 'incredibly clever', 'a great public speaker and advocate' and as having a 'lean, focused approach to litigation that strips away procedural flabbiness to get to the core of the matter'. He is currently Chairman of TECBAR (the Technology and Construction Bar Association). As a Recorder he is authorised to sit in the specialist jurisdictions of the TCC and the Central London CJC Chancery List.

In the construction field, he is a well-known face in multi-party TCC disputes, in particular appearing for contractors and professionals in the construction team.

This links with his insurance work where he has a notable speciality in advising on the complex interplay between the various policies on a major construction project. He also regularly advises insureds and insurers on coverage and other issues arising under professional indemnity, product liability, public liability and 'all risks' policies.

His professional liability and disciplinary work extends across all the professions.

For examples of the range of his wider work, see his list of reported cases.

Professional Liability

Michael has great experience and reputation in the field of professional liability, with a particular current emphasis on construction professionals, lawyers and financial services. In addition to advising and appearing in professional negligence claims, he has a particular speciality in advising on the related insurance issues under professional indemnity policies. He also advises and appears on professional disciplinary matters. He is particularly noted for his capacity to cut through the inevitable mass of detail to get to the real heart of the matter. He is a regular speaker on professional liability topics at seminars organised by the specialist Bar associations (PNBA and TECBAR) and others.

Construction Professionals

Michael is a leading practitioner in construction and engineering disputes in the TCC. He is particularly known for his work for and against construction professionals (in particular engineers, geotechnical consultants and architects) in multi-party disputes on major building projects. Allied to this work is his particular speciality in advising insured and insurers on the complex interplay between the various insurance policies (e.g. 'Project' policy; professional indemnity cover; contractors' all risks; public liability; product liability) which are a feature of all substantial projects. He is current Chairman of TECBAR and authorised to sit as Recorder in the TCC.

Recent examples of work include advising/acting for:

- Contractors for warehouse construction: re limitation period in tort against sub-contractors: *Coop v. Birse & others* [2014] EWHC 530 (TCC)
- M & E consultants in multi-party claim concerning docklands residential development (2013-4)
- Contractors in dispute with sub-contractors on JCT interpretation issues (2013)
- Employers/contractors on adjudication issues under *NEC3:WSP CEL Ltd v. Dalkia Utilities Services plc* [2012] EWHC 2428 (TCC)
- engineers and design/build contractors on various insurance policy issues
- employers against architects for negligent roof design
- contractors against architects in 'Bath Spa' litigation
- engineers in various claims relating to warehouse concrete slab design/construction
- engineers in claims concerning settlement at supermarket development site

See also his profile under [Construction and Engineering](#) and [Insurance and Reinsurance](#).

Financial Services Professionals

Michael has advised and appeared in various actions concerning financial services advice. These include :

- acting for company director in claim against insolvency practitioner: *Griffin v. Hacker Young* [2010] PNLR 20
- acting for company director in multi-party action concerning 'financial assistance' and the 'whitewash' procedure (2010-11)
- acting for client against IFA in respect of pensions advice: *Shore v. Sedgwick Financial Services* [2008] PNLR 37 (CA) and [2008] PNLR 10
- Also acting for company vendor in respect of indemnity against pension misselling claims: *Mandrake Holdings v. Countrywide Assurance* [2006] EWCA Civ 1716; [2005] EWHC 311 (Ch); also [2005] EWCA Civ 240

Insurance Brokers & Agents

Michael's work in this field dovetails with his Insurance practice, advising insureds and insurers on coverage and other issues. Recent cases include appearing for the insured in a claim against his brokers where the fire policy had been successfully avoided on the grounds of non-disclosure.

Lawyers

Michael has great experience of advising and appearing for and against lawyers in professional liability claims. This covers the gamut of legal advice, corporate and domestic, contentious and non-contentious. His ability to do so has been particularly strengthened by his experience – contrary to current trends – of having practised across a very wide range of civil and commercial law. This work links with his practice in professional disciplinary matters and professional indemnity insurance.

The subject matter includes, e.g. :

- Conduct of commercial and personal injury litigation
- Drafting commercial agreements
- Conveyancing/beneficial interests/mortgage
- Preparation and execution of wills
- Conflicts of interest

Examples include advising/acting :

- for defendant in respect of advice/drafting of shareholders agreement: *Mathiesen v. Clintons* [2013] EWHC 3056 (Ch)
- for client in respect of Inheritance Tax advice: *Rind v. Theodore Goddard* [2008] PNLR 24;
- for claimants in potential group litigation against solicitors
- as nominated adjudicator in group litigation against solicitors re 'buy-to-let' scheme
- for solicitors and insurers on numerous issues under 'claims-made' PI policies
- for solicitors on disciplinary matters with OSS/Law Society: see e.g. *R (Bramall) v. Law Society* [2005] EWHC 1570 (Admin)
- for client on conduct of litigation: *Taefi v. Jeffrey Green Russell* [2005] EWCA Civ 901
- for solicitor on conduct of litigation: *Collier v. Blount Peter Kramer* [2004] EWCA Civ 467;

Surveyors & Valuers

Through successive property cycles Michael has acted for claimants and defendants in various valuation claims, commercial and domestic. These include:

- defending valuers of London commercial property portfolio against lenders claim (2013-4)
- acting for commercial valuers in professional indemnity dispute: *Travelers Insurance Co Ltd v. Countrywide*

Surveyors Ltd [2010] EWHC 2455 (TCC)

- defending valuers of hotels against over-valuation claim: *Speshal Investments v. Corby Kane* [2003] EWHC
- acting for owners of major Mid-Town commercial property in action against surveyors/land agents concerning site redevelopment
- defending surveyors against claim of negligence in conduct of rent review of commercial property
- acting for lending bank in claim for overvaluation of City property: *Arab Bank v. John D. Wood*; also in the subsequent claim on insurers under the 1930 Act : *Arab Bank v. Zurich Insurance* [1999] 1 Lloyd's Rep 262
- acting for owners and surveyors in various domestic survey/valuation claims

International Arbitration

Michael's work in construction, commercial, insurance and professional liability claims includes advising and appearing in arbitration proceedings.

For a recent appearance in a case concerning arbitral law, see *Travelers Insurance Co Ltd v. Countrywide Surveyors Ltd* [2010] EWHC 2455 (TCC): professional indemnity insurance – arbitration clause – no jurisdiction in Court to order pre-action disclosure.

Michael acts as nominated arbitrator/adjudicator in various disputes, e.g. as

- arbitrator between insurer and insured on professional indemnity policy (2014); issues of notification under claims-made policy
- adjudicator in group litigation between clients and solicitors re 'buy to let' scheme.

Chancery

Michael's practice includes a strong and established 'Chancery' component. This aspect of his work is recognised by his authorisation to sit as Recorder in the Chancery List of the Central London Civil Justice Centre.

On the commercial side of Chancery business examples of his work include acting:

- for company director in multi-party action concerning 'financial assistance' and the 'whitewash' procedure (2010-11)
- for company director against insolvency practitioners in context of 'phoenix' companies: *Griffin v. Hacker Young* [2010] PNLR 10
- for company vendor of pensions business, concerning indemnity against misselling claims; also 'whitewash' procedure: *Mandrake Holdings v. Countrywide Assurance* [2006] EWCA Civ 1716; [2005] EWHC 311 (Ch)
- for contractors: whether estoppel to guarantee/Statute of Frauds: *Actionstrength v. International Glass* [2003] 2 AC 541, HL

On the 'traditional' side of Chancery work, examples include advising/appearing in:

- contested probate actions: issues of undue influence, want of knowledge and approval, capacity
- disputes between family members as to the existence/extent of beneficial interests in property
- claim under the LRA 1925 for damages for wrongful lodging of caution
- challenges by family members to bank mortgages
- application of estoppel to mortgage of registered land: *First National Bank v. Thompson* [1996] Ch 231, CA

Commercial Dispute Resolution

Apart from his particular speciality in construction contracts (for which see the 'Construction and Engineering' section) Michael has a wide range of experience across the general field of commercial contracts, including sale of goods, domestic banking, guarantees and indemnity, with a particular emphasis on questions of contractual construction.

Insurance & Reinsurance

The current focus of Michael's insurance work is on response and coverage issues in three particular contexts:

1. Construction projects: advising on the complex interplay between the various policies which arise in major building projects, e.g. 'Project' policy; professional indemnity cover; contractors' all risks (CAR); product liability; public liability
2. Professional indemnity policies across the professions: in particular issues arising under 'claims made' policies
3. Property damage policies: in particular issues of misrepresentation/non-disclosure in fire, flood claims etc.

Michael acts as nominated arbitrator in PI policy disputes.

Disciplinary

Michael advises and appears in professional disciplinary matters, in particular concerning solicitors and the OSS, SDT and Law Society.

For a reported example, see *R (Bramall) v. Law Society* [2005] EWHC 1570 (Admin)

Construction & Engineering

Michael is a leading practitioner in construction and engineering disputes in the TCC. He is particularly known for his work on behalf of contractors construction professionals and employers in multi-party disputes on major building projects. Allied to this work is his particular speciality in advising insured and insurers on the complex interplay between the various insurance policies (e.g. 'Project' policy; professional indemnity cover; contractors' all risks; public liability; product liability) which are a feature of all substantial projects. He is current Chairman of TECBAR and authorised to sit as Recorder in the TCC.

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 - Employers/contractors on adjudication issues under *NEC3:WSP CEL Ltd v. Dalkia Utilities Services plc* [2012] EWHC 2428 (TCC)
 - contractors on various insurance policy issues
 - sub-contractors of air-conditioning/insulation works
 - employers against architects for negligent roof design
 - water company re statutory diversion works on West Coast Line upgrade
 - contractors in 'Bath Spa' litigation
 - engineers in various claims re warehouse concrete slab design/construction
 - contractors in defective air conditioning claim
 - engineers in claims concerning settlement at supermarket development site
 - contractor in M & E claim at London hotel
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