

# MICHAEL PHILLIS

CALL - 2010 (AUSTRALIA) | CALL - 2017 (ENGLAND & WALES)

*"Excellent, commercial and a pleasure to work with."*



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Michael is an experienced and versatile commercial barrister who specialises in commercial litigation and arbitration, with particular experience of complex and high-value disputes in relation to cross-border disputes, banking and finance, cryptocurrency, trusts, and civil fraud.

Michael is experienced in acting for countries (and national entities or agencies), multi-national corporations including shipping and airlines, private companies, and HNWIs.

Michael has a wide-ranging practice which principally involves difficult points of law or complex factual scenarios across jurisdictions. Michael has over fifteen years of commercial litigation and international arbitration practice. He has extensive experience with commercial court and cross-border litigation, and all forms of ADR. He is particularly skilled in handling cases involving technical facts and complex financial transactions.

Michael is highly regarded for his meticulous attention to detail, exceptional advocacy skills, and ability to work collaboratively with clients and their wider teams. Michael frequently acts unled, is very experienced working as a junior to QCs and senior juniors, and is extremely user-friendly even in the most difficult cases.

Michael is originally from Sydney, Australia, and began legal practice in 2010 as a solicitor at the firm now known as Norton Rose Fulbright. Prior to coming to the bar, Michael was a Senior Associate at Travers Smith acting on complex, cross-border litigation.

Michael is also approved by the DIFC.

## AREAS OF EXPERTISE

### ARBITRATION

*Recent Notable Cases:*

- Acted for Defendant in arbitration with a Paris seat of a series of claims and counterclaims with

quantum approximately US\$6bn.

- Acted for Claimant in a major infrastructure arbitration with a European seat and English law, quantum approximately £4bn
- Acted for Defendant country's team in claim by multi-national bank over domestic resources contracts under English law, quantum approximately \$100m
- Acted in multiple technical arbitrations in England where arbitration and choice of forum clauses impugned as void or voidable
- Acted for agricultural landowner in 'smash and grab' adjudication over large rural estate and construction of outbuildings and subsequent 'true value' arbitration

## COMMERCIAL LITIGATION

*Recent Notable Cases:*

- Acted for Defendant in economic tort claims with worldwide freezing orders, quantum approximately £1bn.
- Acted for copper mining conglomerate in proceedings between Delaware, New York, and London over security instruments worth around US\$800m used as collateral in obtaining options and letters of credit.
- Acted for First Defendant in multi-party fraud and dishonest assistance case between London, BVI, Saudi Arabia, and Egypt over regulated investment vehicles worth around £100m.
- Acted for Claimant Hong Kong businesses in fraudulent misrepresentation claim against English franchisor.
- Acted for Asian bank on enforcement of personal guarantees against UHNW Defendant in Seychelles, quantum approximately £12m.
- Acted for Defendant commodities group in multi-jurisdiction group claim between England, Kenya, and Malawi with major discovery and foreign law expert elements.
- Advising in claim by Indian principal against Singaporean, Indian, and US promoters of corporate beneficiaries of a "shadow company" fraud.
- Acted for Indian-UK group in Claim by former director and connected services firms for fraudulent creation of secured debts against investment worth around £20m.
- Acted for Claimant directors of pharmaceutical group in action based on English and Austrian law in an unfair prejudice petition against co-directors over English and Austrian intellectual property rights.
- Acted for Defendant in claim for breach of a services agreement between an English media company and an Italian contracting firm.
- Acting for Claimant directors in unfair prejudice petition in England over devaluation of large regional finance firm prior to partnership exit.
- Acting for Defendant trustee and prudential trustee of circa £10m trust regarding fiduciary duties and self-dealing.

- Acting for Claimant Chinese and English group companies post-purchase of UK and US-based nanotechnology group against former director and new competitor company for breach of fiduciary duties and restrictive covenants.
- Acted for Defendant partner in dispute over alleged fraud and breach of fiduciary duties claim on cross-border partnership structured between England, Greece, and Cyprus.
- Acted for owner of commercial property site against former manager in secret commission and breach of fiduciary duty claim.
- Acted for Claimant exiting shareholders in software company where incoming shareholders artificially depressed company value and reduced value of earn-out.
- Acted for broking company standing between vendor and purchaser of Hermes Birkin bags where material misrepresentations about former owners of the bags caused a disputed rescission.

## CONSTRUCTION

### *Recent Notable Cases:*

- Acted for Henry Construction in pre-insolvency matters including claims around accounting and performance
- Acted for landowner in 'smash and grab' adjudication over large rural estate and construction of outbuildings
- Acted for developer in refinancing dispute where valuation of the development was the key point
- Opinion for developer on purchase of land from trustees where purported beneficiaries attempting to set aside purchase and make rival bid.
- Advice on expiry of a performance bond conditional on practical completion where JCT had fallen away due to insolvency.
- Acted for freeholder management company over a part-finished development where OTP contracts incorrectly duplicated the voting power of certain leaseholders.
- Acted for leaseholder against London Borough of Hammersmith and Fulham and sub-contractors for breach of warranty and negligence in respect of disrepair and inconvenience caused by faulty works in common areas.
- Advice on liability under a contribution for liability of one party in a quasi-partnership where performance bonds enforced unevenly by a quasi-partner/supplier.
- Initial advise on use of company funds by construction company participating in dispute between shareholders.
- Acted for claimant industrial leasing company against defendant construction company during works.

## FINANCE, CRYPTOCURRENCY, AND BANKING

- Acted for Claimant US, UK, and European investors and umbrella assignee in group action on

ability of English assignee of cryptoassets to recover in the High Court under the jurisdictional gateways.

- Acted for Claimants based in US, UK, Australia, and Europe in group action for breach of service terms and lending regulations against cryptoasset-secured lender with lending and crypto operations split between UK, Switzerland, Cayman, and Delaware.
- Advised pre-action in multiple cryptocurrency claims for Legal 500 Band 1 solicitors, settled before proceedings brought with NDAs.
- Acted for Defendant investor in claim over resulting trust or agency argument over crypto fund in FTX which suffered 100% loss.
- Acted for various Claimants in cryptocurrency claims against Persons Unknown to obtain worldwide injunctions for enforcement over third-party exchanges.
- Acted for Claimant Gibraltar bank seeking leave for service on defendants in UK and Germany.
- Acted in England for Irish Defendant to writ issued in want of jurisdiction based on English judgment brought in breach of CPR.
- Acted for Lloyds Bank as respondent in various applications brought by mortgagors.
- Acted for OBS Group in various appeals and applications related to enforcement of securities against sureties.
- Acted for borrower in regulated lending matter where original lender did not have FCA authorisation and subsequently purported to assign its interest to an FCA authorized entity for recovery.

## INSOLVENCY

*Recent Notable Cases:*

- Acted in English proceedings for applicants in challenge to vesting where US Federal bankruptcy court ordered Escrow terms over allegedly vested assets.
- Represent Defendants in a worldwide freezing injunction relating to the purchase of partnership assets during (undisclosed) insolvency proceedings under the Chabra jurisdiction.
- Acted for developer on purchase of land from trustees where purported beneficiaries attempting to set aside purchase and make rival bid.
- Acted for company in liquidation as respondent to application to set aside judgment on new evidence and arguments not raised at prior hearings.
- Acted for judgment creditor who successfully defended application challenging insolvency proceedings notwithstanding that judgment had been obtained fraudulently.
- Acted for liquidators on various preference claims against former directors and connected persons.
- Acted for directors on disposition at undervalue and related phoenixing claims.
- Urgent equitable winding up of a closely held partnership, with one of two directors holding the company hostage while establishing a competing business.

- Acted for respondent creditor on application to restrain presentation on the basis of costs order in main proceedings.

## PROPERTY

### Recent Notable Cases:

- Defence and Counterclaim in restitution from possession claim where lender and broker took a 100% uplift brokerage fee charged against property.
- Draft opinion and particulars of claim against solicitors for professional negligence in failing to register a registrable interest in a property.

## EMPLOYMENT HISTORY

- Senior Associate, Travers Smith LLP, January 2020 – October 2020
- Senior Associate, Clyde & Co, Mar 2018 – January 2020

## PROFESSIONAL BODIES

- London Solicitors Litigation Association
- ICC Young Arbitrators Forum
- UK Constitutional Law Association
- Solicitors' Wine Society (UK)
- Insolvency and Reconstruction Law Committee, Law Council of Australia

## EDUCATION, PUBLICATIONS, AND AWARDS

- “Data Protection Law”, *Financial Technology and Digital Commercial Law* (OUP) (2024 forthcoming)
- Contributor, *Encyclopedia of Banking Law* (Lexis)
- Visiting Reader, Sciences Po, Paris
- Visiting Researcher, Queens University, Belfast
- Bachelor of Laws (Honours), ANU
- Bachelor of Art (Ancient Greek / Philosophy), ANU
- Adv. Dip. Research, Cambridge
- Australian Postgraduate Award
- Australian National University Vice-Chancellor's Award for Postgraduate Research