



serle court

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## Michael Walsh KC

Year of Silk: 2025 Year of Call: 2006

*"Very smart, commercial and pragmatic. His advocacy is incredibly impressive... A real pleasure to work with."*

Legal 500, 2024



## Practice Overview

Michael specialises in commercial litigation, property, civil fraud and professional liability. Known for his extensive trial experience, strategic focus and excellent cross-examination, clients have told Chambers and Partners: "*Michael provides excellent client service. He is very bright, an excellent advocate and thoroughly enjoyable to work with.*"

Michael frequently appears in courts and tribunals at all levels in disputes concerning commercial litigation, property, company and partnership, banking and securities. He is currently acting in two cases in the Supreme Court and three cases in the Court of Appeal.

Michael has extensive asset recovery experience and is regularly instructed to seek urgent interim relief in freezing and proprietary injunctions, disclosure orders and associated applications to secure or locate assets. Recent work includes acting on behalf of banks to freeze the assets of several individuals who had hidden proceeds of sale of real estate assets in the case of failed or defective securities.

Much of Michael's work across a range of practice areas involves allegations of fraud and dishonesty.

His extensive property experience encompasses all aspects of real estate, personal property and digital assets.

Michael also has a significant interest in artificial intelligence and how this affects the future of litigation and legal services. He frequently advises clients in large scale litigation where AI assisted e-disclosure is deployed to manage significant disclosure projects.

Michael's recent and ongoing commercial work includes:

- A £40 million claim against the Secretary of State, which involved allegations of negligent misstatement and complex disputes relating to the valuation of company shares.
- Acting for an investment fund in a claim alleging fraudulent misrepresentation in relation to financing arrangements for a series of real estate developments.
- A disputed partnership concerning a series of inter-related real estate transactions and developments.
- A partnership dispute concerning a substantial farming and retail operation.

Michael's recent and notable banking and receivership experience includes:

- Advising in relation to regulated lending under the Financial Services and Markets Act 2000
- Acting for a European bank in relation to recovering a £20 million loan secured against various UK assets.
- *Pitt & Others v Bodani* [2022] EHC 123, in which receivers and the Bank of Singapore was enforcing a loan of \$20 million cross-border loan facility to the Defendant's father's offshore company, the debts of which she guaranteed. The bank also claimed subrogation to an earlier charge in light of the Defence.
- *Menon & Menon v Pask & Goode* [2020] 2 WLR 43, which was a landmark decision affecting how fixed charge and LPA receivers bring actions against mortgagor-occupied properties. It also confirmed that section 36 of the Administration of Justice Act 1980 applies to receivers seeking possession, as well as lenders.
- *Arkin & others v Marshall* (which also went to the Court of Appeal on an interlocutory decision involving an important issue of public law about Coronavirus restrictions) was a complex mortgage case involving fixed charge receivers and a bridging lender, who was owed £10million on two facility agreements secured against the titles to three properties.

Michael has experience of advising in respect of failed tax avoidance schemes, particularly in relation to unravelling the consequences of such schemes in the context of mistake and professional liability claims.

Between 2021 and taking silk in 2025, Michael was appointed to the Attorney General's A Panel of Junior Counsel to the Crown. Michael continues to be instructed for the Secretary of State on several high profile appeals in the Court of

## Areas of Expertise

### Property

Michael's real estate expertise is extensive and wide-ranging. He is frequently instructed in very high value and complex disputes about land, developments, and securities.

Michael is regularly instructed in cases and projects where development finance, securities, planning, and compulsory purchase intersect with the law of real property. He has experience of large infrastructure projects in this regard.

Recent Supreme Court cases include:

- *Prescott Place Freeholders v Donovan & others*. This important appeal will be heard in early April 2025 and is the first time the Supreme Court will consider the Landlord and Tenant Act 1987. The appeal will answer a range of important questions, such as:
  - (i) whether the LTA 1987 create proprietary rights or are they merely personal;
  - (ii) whether it is an abuse of process for a beneficiary under a trust to re-litigate issues already determined in proceedings involving the trustee?
  - (iii) The priority of interests between beneficiaries under a trust and tenants with rights created by the Act.
  - (iv) The Court's power to grant injunctions to enforce statutory rights under the Act
- *URS v BDW* in which Michael acts for the Secretary of State, who intervened in the appeal in the Supreme Court. This important appeal concerns the extent of the retrospective effect of section 135 of the Building Safety Act 2022 and the consequential effect on claims under the Defective Premises Act 1972 and the Civil Liability (Contribution Act) 1978. This appeal is the first time the Supreme Court will consider the DPA and the BSA and will undoubtedly have wide ranging implications for the liability of developers and contractors for remedying historic defects in residential buildings. The appeal will be heard over four days from 2-5 December 2024 by a panel of 7 Justices.

Recent cases in the Court of Appeal include:

- *Adriatic Land 5 Ltd v Various Leaseholders of Hippersley Point*, in which Michael acts for the Secretary of State as Intervener. The Appellant is arguing that Schedule 8 of the Building Safety Act is not compliant with A1P1 of the ECHR. This appeal on the retrospective effect of the BSA has also been listed to be heard with *Stratford Village Development Partnership & another v Triathlon Homes LLP & another*, in which Michael also appears for the Government. Both appeals will be heard in a week-long hearing before Easter. The Court of Appeal's decision will no doubt have a major effect on how the lower courts and tribunals apply section 124 and Sch 8 of the BSA.
- *Abacus Land 4 Limited v Bradley & Rhodes*, which concerns whether the contractual test in service charges clauses objective reasonableness or mere rationality in the Braganza sense. The appeal is due to be heard in 2025 and Michael is leading Claudia Barry.
- *Healey v Fraine & Others* [2023] EWCA Civ 549, which was an important decision on the law of adverse possession under the Land Registration Act 2002.

- *Chuan-Hui & Others v K Group Holdings Inc & others* [2021] 1 WLR 5981, which is an important decision about the interaction between services charges under the LTA 1985 and management orders under the LTA 1987.

Michael regularly advises and appears in cases relating to renewal and termination of business leases, terminal dilapidation claims, break notices, claims under the Landlord and Tenant Act 1987, freehold covenants, adverse possession, nuisance, and other property related torts.

Chambers UK Bar Guide 2020 highlighted Michael's track record of success in seeking urgent injunctions and possession orders in cases of unlawful interference with land, saying, "*He has developed particular skills in complex possession claims and protesters, and he is user-friendly.*"

Michael appeared for the successful appellant in the leading decision on the powers of receivers in mortgagor occupied properties: *Menon & Menon v Pask & Goode* [2020] 2 WLR 43, which was a landmark decision affecting how receivers bring actions against mortgagor-occupied properties. It also confirmed that section 36 of the Administration of Justice Act 1980 applies to receivers seeking possession, as well as lenders.

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## Civil Fraud

Michael has acted in many cases involving allegations of dishonesty, forgery, and fraud. He has particular expertise in mortgage fraud and commercial transactions involving disputed documents and dishonesty.

Recent examples of Michael seeking urgent interim relief include:

- *SG Kleinwort Hambros Bank v Sutton* - Michael acts for the Claimant bank against individuals who dissipated assets following the failure of various securities for a loan of £4.5 million. Interim proprietary injunction and disclosure orders were obtained to prevent the Defendant from dealing in the assets pending trial.
- *Castle Trust Capital Plc v Hockey* - Michael acted for the Claimant and obtained an urgent freezing injunction, disclosure orders and witness summons to locate and secure significant sums of money the Defendant had concealed. The case concluded shortly after the interim hearings when the Defendant repaid the sums in full, including the significant costs.

In *Prescott Place Freeholders Limited & Others v Batin & Donovan* [2023] EHC 435, following Michael's cross-examination of the witnesses, the Court found the Defendants to be lying about the execution of various documents and deeds of trust

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## Commercial Litigation

Recent and ongoing commercial work includes:

- A £40 million claim against the Secretary of State, which involves allegations of negligent misstatement and misfeasance in public office.
- Acting for an investment fund in a claim alleging fraudulent misrepresentation in relation to financing arrangements for a series of real estate developments.
- A disputed partnership concerning a series of inter-related real estate transactions and developments worth in excess of £20 million.

- Advising a local authority in relation to a claim for £30 million for breach of duty and misfeasance.
- Advising on a complex contractual dispute over control of a group of offshore companies holding assets in multiple jurisdictions.
- *Pitt, Mackie & Bank of Singapore v Bodani & Bodani* [2022] EWHC, which was a claim relating to a \$40 million loan guarantee and charge governed by the laws of Singapore and England in relation to the debts of an offshore SPV.
- Advising a large local authority in relation to a series of commercial contracts for the provision of its leisure facilities.

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## Banking and Financial Services

Michael has a wealth of experience in banking and financial services disputes. He has been instructed in countless high value disputes about the enforcement of securities in regulated and unregulated lending, both domestically and internationally. He is frequently called upon to advise and act in securities and receivership cases where enforcement is challenging.

Recent and ongoing work includes:

- Advising in relation to regulated lending under the Financial Services and Markets Act 2000
- Acting for a European bank in relation to recovering a £20 million loan secured against various UK assets.

*Arkin & others v Marshall* (which also went to the Court of Appeal on an interlocutory decision involving an important issue of public law about Coronavirus restrictions) was a complex mortgage case involving fixed charge receivers and a bridging lender, who was owed £10million on two facility agreements secured against the titles to three properties. The Defendants said the facilities came under the protection of the Consumer Credit Act 1974 or were regulated mortgage contracts under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. There were also issues of priority of registered and unregistered interests. The claim was settled before judgment was given, with the Defendants giving up possession and submitting to a substantial money judgment.

In *Pitt v Bodani*, Michael acted for the guarantor and mortgagor of a complex offshore facility agreement with a value of \$40million. The claim involved allegations of undue influence and subrogation and settled favourably at trial.

Michael acted for the successful appellants in *Menon & Menon v Pask & Goode* [2020] 2 WLR 43, which was a landmark decision affecting how receivers bring actions against mortgagor-occupied properties.

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## Company

Michael is regularly instructed in complex and high value company and partnership disputes. Recent work includes advising in respect of a multi-million-pound dispute between partners in a long running joint venture relating to the development of property.

Recent work confidential advisory work includes:

- Advising shareholders in relation to unfair prejudice petitions.
- Advising the directors and shareholders of a deadlocked company in relation to a just and equitable winding

up.

- A large shareholder dispute in relation to a chain of veterinary practices.
- Breaches of directors duties in relation to Right to Manage Companies.

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## Professional Negligence

Michael regularly advises claimants and defendants at a pre-action stage in a wide range of professional liability disputes.

*In Aurium Real Estate London Ultra Prime Ltd v Mishcon De Reya LLP* [2022] EWHC 1253 (Ch) Michael acted for the Claimants (led by Rupert Reed KC) in a claim for £68 million against the Defendant solicitor firm for professional negligence in connection with the failure of a site assembly of the Park Modern development overlooking Hyde Park. The claim was one of the first cases to apply the Supreme Court's framework for negligence cases following *Manchester Building Society v Grant Thornton* [2021] UKSC 20.

*In Primavera Associates Ltd v Hertsmere BC* [2022] EWHC 2685 (Ch) Michael acted for the successful Defendant in a claim by a developer for £1.8million in damages for negligent breach of duty. The Court dismissed the claim and found that no duty was owed by the planning authority to Primavera. The outcome in this case reiterates an important point of principle that planning authorities do not owe a duty to take care to an applicant for planning permission in the exercise of their statutory functions. On the facts, the claim failed on the basis that Hertsmere had assumed a duty to Primavera in the course of deciding the planning applications. At the PTR of these proceedings, where Michael appeared alone, the Court gave judgment on Hertsmere's application to have various passages of the Claimant's witness statement struck out because it failed to comply with Practice Direction 57AC. HHJ Paul Matthews (sitting as a High Court Judge) granted the application and struck out various parts of the statement. His judgment at [2022] EWHC 1240 (Ch) gave further important guidance on the Court's expectation of how statements ought to be drafted in compliance with PD57AC.

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## Partnership and LLP

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## Group Litigation

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## Notable Cases

*Prescott Place Freeholders Limited & Others v Batin & Donovan* [2023] EHCW 435

Michael acted for the successful Claimants in this important case about the Landlord and Tenant Act 1987. Two important points of principle emerged from this case: (i) the definition of 'incumbrance' under section 12B(5)(b) was not limited to registered incumbrances; and (ii) the making of an order under section 19 of the 1987 Act did not preclude the freeholder from making granting further interests out of the land.

The procedural history is protracted, and the case largely turned on the facts. The High Court agreed with the Claimants that D2's counterclaim that he was a beneficiary under a trust and was an abuse of process and a breach of the rule in *Henderson v Henderson*. D2 alleged that he executed leases of two flats and a deed of trust in 2014. He had never mentioned the leases before the High Court proceedings. The Court found that D2's evidence was untrue, and neither document was executed on the dates D2 alleged.

A further hearing will decide whether D2 can register the equitable leases he said he executed in 2014, but the Court found were in fact, executed after the section 19 order was made.

*Primavera Associates Ltd v Hertsmere BC* [2022] EWHC 2685 (Ch)

Michael acted for the successful Defendant in a claim by a developer for £1.8million in damages for negligent breach of duty. The Court dismissed the claim and found that no duty was owed by the planning authority to Primavera. The outcome in this case reiterates an important point of principle that planning authorities do not owe a duty to take care to an applicant for planning permission in the exercise of their statutory functions. On the facts, the claim failed on the basis that Hertsmere had assumed a duty to Primavera in the course of deciding the planning applications. At the PTR of these proceedings, where Michael appeared alone, the Court gave judgment on Hertsmere's application to have various passages of the Claimant's witness statement struck out because it failed to comply with Practice Direction 57AC. HHJ Paul Matthews (sitting as a High Court Judge) granted the application and struck out various parts of the statement. His judgment at [2022] EWHC 1240 (Ch) gave further important guidance on the Court's expectation of how statements ought to be drafted in compliance with PD57AC.

*Pitt, Mackie & Bank of Singapore v Bodani & Bodani* [2022] EWHC

Michael acted for the Defendant, who granted a mortgage to the Bank of Singapore over her flat, which was worth £7.5 million and guaranteed the debts of her father's offshore SPV to the sum of \$40 million. When the SPV failed to satisfy a margin call on the facility, which was executed under the laws of Singapore, the bank issued possession proceedings and claimed around \$20 million against the Defendants. The claim was defended on the basis that the Defendant had been unduly influenced by her father and that the bank had notice of it. The bank also claimed subrogation to an earlier charge over the flat. The claim settled during the trial around the conclusion of the Claimants' evidence.

*Aurium Real Estate London Ultra Prime Ltd v Mishcon De Reya LLP* [2022] EWHC 1253 (Ch)

Michael acted for the Claimants (led by Rupert Reed KC) in a claim for £68 million against the Defendant solicitor firm for professional negligence in connection with the failure of a site assembly of the Park Modern development overlooking Hyde Park. The claim was one of the first cases to apply the Supreme Court's framework for negligence cases following *Manchester Building Society v Grant Thornton* [2021] UKSC 20.

*Arkin & others v Marshall* [2021], County Court at Central London

A complex mortgage possession case involving fixed charge receivers and a bridging lender, who was owed £10million on two facility agreements secured against the titles to three properties. The Defendants said the facilities came under the protection of the Consumer Credit Act 1974 or were regulated mortgage contracts under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. There were also issues of priority of registered and unregistered interests. The claim was settled before judgment was given, with the Defendants giving up possession and submitting to a substantial money judgment.

*Chuan-Hui & Others v K Group Holdings Inc & others* [2021] 1 WLR 5981

Michael acted in the Court of Appeal for the successful Respondent in a significant case about whether payments made under a management order under the Landlord and Tenant Act 1987 are service charges within the meaning of section 19 of the Landlord and Tenant Act 1985. The decision gave important guidance to lower courts and tribunals about the operation of the 1987 Act and clarified that payments made to a manager under a management order are 'service charges' within the meaning of section 18 of the Landlord and Tenant Act 1985. In an entirely new development of the law, the Court confirmed that at conclusion of the term of the management order, the arrears owed by tenant for service charges during the manager's appointment are automatically vested in the landlord (or whoever is entitled to recover the service charge).

*Arkin v Marshall* [2020] 1 W.L.R. 3284 (Court of Appeal)

Michael acted for the Appellant in this important appeal which was the first authoritative decision on the Government's coronavirus measures relating to possession actions. CPR Practice Direction 51Z ("PD51Z") stayed (with very limited exceptions) all Part 55 possession claims until after 25 June 2020. The Appellant was a fixed charge

receiver seeking possession of two properties. Case management directions were agreed between the parties, but PD51Z was subsequently brought into force, and the Defendants claimed the entirety of the proceedings were stayed as a result. The Judge at first instance agreed, and the receiver appealed and successfully invited the High Court to transfer the appeal to the Court of Appeal under CPR'

52.23. The Lord Chancellor was then joined as an interested party. The Court of Appeal subsequently heard the appeal urgently and decided that:

1. It is possible to challenge the vires of PD51Z in private law proceedings, without having issued a claim for judicial review;
2. PD 51Z was not ultra vires and is a Pilot within the meaning of CPR 51.2;
3. The stay imposed by PD51Z can in principle be lifted (§42) but only in the “most exceptional circumstances”.
4. If parties agree directions under paragraph 2A(c) of PD51Z, those directions are nevertheless automatically stayed for the duration of PD51Z.

*Menon & Menon v Pask & Goode* [2020] 2 W.L.R. 43.

Michael appeared for the mortgagor in this landmark decision of the High Court on the powers of fixed charge receivers. Michael successfully argued:

1. Receivers cannot sue a mortgagor occupying the mortgaged property in the mortgagor’s own name, acting as their deemed agent; proceedings must be titled in the name of the receivers; and
2. Section 36 of the Administration of Justice Act 1970 applies where a receiver is recovering possession from a mortgagor in occupation of the mortgaged property.

The Court decided that receivers can sue a mortgagor in occupation for possession in the receivers’ own name and that their right to possession is derived from the special nature of the agency between receiver and mortgagor.

*Oung Lin Chaun-Hui & Others v K Group Inc & Others* [2020] 1 WLR 3284

Michael acted for the successful Respondent in a highly significant case about whether payments made under a management order under the Landlord and Tenant Act 1987 are service charges within the meaning of section 19 of the Landlord and Tenant Act 1985. The Court of Appeal’s decision also addresses what happens to service charge debts on the termination of a management order and whether the manager can assign them at law.

The Court decided that:

1. Payments made to a manager under a management order are ‘service charges’ within the meaning of section 18 of the Landlord and Tenant Act 1985.
2. The right of a manager to recover payments from the tenants is derived from the Tribunal’s management order but is superimposed on the existing contractual framework of the lease. The contractual obligations of the parties remain in place, subject to the terms of the management order, and are not disapplied or modified.
3. Where the terms of the management order and the lease conflict, it is the management order that prevails.
4. At the conclusion of the term of the management order, the arrears owed by tenant for service charges during the manager’s appointment are automatically vested in the landlord (or whoever is entitled to recover the service charge).
5. This can be distinguished from the situation if there is a surplus at the end of the manager’s appointment, where the manager should prepare an account and, if necessary, seek direction from the Tribunal (*Kol v Bowring* [2015] UKUT 530 (LC) applied).
6. Accordingly, the landlord (within the meaning of section 30 of the LTA 1985) was entitled to sue on the arrears that accrued during the manager’s appointment without a further direction of the Tribunal or an assignment of the debt.

*Francia Properties Limited v Aristou & Others* [2017] L. & T.R. 5



In this important case, which concerned the competing rights of landlords and Right to Manage (“RTM”) companies, Michael acted for the successful landlord. The landlord intends to develop the roof of the building by adding an additional flat but the RTM company objected on the basis that such a development would interfere with its management functions under Part II, Chapter I of the Commonhold and Leasehold Reform Act 2002. The Court found that the landlord was entitled to carry out the development and that the 2002 Act did not prevent a landlord building on its retained property, where a RTM company had acquired the right to manage, provided it took steps to minimise the disturbance to the RTM company’s management functions.

The Respondents withdrew the appeal before the matter was heard by the Court of Appeal.

## Recommendations

Real Estate Litigation (Chambers Bar Guide)

Property Litigation (Legal 500)

Professional Negligence (Legal 500)

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## Quotes

"Michael provides excellent client service. He is very bright, an excellent advocate and thoroughly enjoyable to work with." *Chambers UK 2025*

"Michael is a modern, commercial barrister who is a real joy to work with. He also has emotional intelligence and communicates very well in a way that works for his clients." *Chambers UK 2025*

"Michael is a brilliant advocate. He has a highly effective style and is also extremely commercial. He is a very strategic lawyer and always has bigger picture in mind alongside the legal and technical points." *Legal 500, 2025*

"Michael combines a deep knowledge of and interest in property law with real power on his feet to put his client’s best case as attractively as possible." *Legal 500, 2025*

"Michael is just so good. He is practical and so approachable." *Chambers UK 2024*

"Michael Walsh is super user-friendly, practical and commercial." *Chambers UK 2023*

"Tenacious advocate, user-friendly and a real asset to any team." *Legal 500 2023*

"He had an ability to think on his feet and creatively problem-solve." "He is user-friendly, responsive and a strong advocate." *Chambers UK 2022*

"Michael is operating well above his level. He provides brilliant advice that commits to what approach should be taken, which instructing solicitors and lawyers love. Michael is very professional, works brilliantly with all members of the team, and rigorous in his analysis of the law, but also very tactically astute as to how to take the advantage in cases." *Legal 500 2022*

"He’s a strong advocate, he’s quick and accessible and he’s very good to work with. Knowledgeable, commercially focused and pragmatic." *Chambers UK 2021*

"Responsive, bright, user-friendly and a tenacious advocate." *Legal 500 2021*

“Easy to work with and commercially minded.” “He has developed particular skills in complex possession claims and protesters and he is user-friendly.” *Chambers UK 2020*

“A robust advocate, user-friendly and extremely helpful.” *Legal 500 2020*

## **Publications**

Megarry’s Manual of the Law of Real Property, 9th Edition

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## **Education & Qualifications**

LLB (Hons), King’s College London

## **Appointments**

Junior Counsel to the Crown – A Panel (2021-2025)

## **Memberships**

Commercial Bar Association

Property Bar Association (Treasurer)

Chancery Bar Association

Professional Negligence Bar Association

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