



Michael Woolcombe-Clarke



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Michael specialises in complex, high-value commercial litigation, construction & engineering and international arbitration matters.

Michael's experience covers a broad range of practice areas (e.g. banking and finance, construction & engineering, general commercial, sale of goods, supply of goods and services and trusts) and multiple jurisdictions (e.g. Australia, British Virgin Islands, Jersey, Nigeria, the Middle East, Russia & the USA).

Michael welcomes instructions, including on an urgent basis, as sole or junior counsel, at all stages of a dispute. He is frequently instructed at the Pre-Action stage, with his early involvement often paying significant dividends for clients.

Prior to commencing his legal career, Michael worked as a Senior Project Engineer for global construction firms. He also ran his own residential property business.

The resulting combination of deep technical knowledge and industry experience, in both the commercial and residential construction sectors, makes him highly sought-after by construction clients and particularly qualified in matters involving expert evidence.

Prior to joining chambers, Michael spent several years at a US elite law firm, following qualification at a top London set. This experience has given him invaluable insight into the needs of professional clients and of those instructing and allows him to readily integrate into larger teams.

Michael has presented to audiences of more than 100 international clients on issues such as frustration and force majeure.

Michael welcomes the opportunity to deliver webinars and training sessions to solicitors, in-house counsel and commercial teams in any of his practice areas.



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## Commercial

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Michael is regularly instructed in complex, high-value commercial matters, which frequently have a multi-jurisdictional component. His early involvement in complex matters often pays significant dividends for clients, supporting efficient resolution.

Michael's experience spans a broad range of commercial areas; including banking and finance, consumer protection, international trade, sale of goods, supply of goods and services and securities.

His work across those areas ranges from simple debt claims to ultra high value, multi-jurisdictional disputes, involving breach of contract, contractual interpretation, economic torts (conspiracy, unlawful means), estoppel, fiduciary duties, misrepresentation, force majeure, frustration, limitation and exclusion of liability, penalties, securities, termination, trusts, unjust enrichment & restitution and warranties.

Michael accepts **public access** instructions and is authorised to conduct litigation.

## Selected Cases

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**Injunction/winding-up:** Appeared on an urgent basis to resist an application to injunct a company from presenting a winding-up petition, following the company's issuance of two statutory demands. Arose under a broader dispute relating to an alleged failure to pay c.£900k, in the context of a series of contracts totalling c.£3M.

- *Anuvu UK Operations Ltd v Profen Communications & Technologies, Inc.* Acted as junior counsel for Anuvu in a c.US\$14m debt claim arising out of the provision of in-flight entertainment services to Turkish Airlines. This matter raised collateral issues of unlawful means, conspiracy, multi-jurisdictional tracing, service out of the jurisdiction and summary judgment.
- *Barclays Bank plc v VEB.RF* [2024] EWHC 3088 (Comm): Acted as junior counsel for VEB in resisting an application under s.32 of the Arbitration Act 1996. This dispute arose out of c.US\$147M of currency swap arrangements and concerned the effect of an anti-suit injunction on a so-called asymmetric jurisdiction clause (LCIA arbitration versus English Courts). It also raised issues relating to compliance with sanctions.
- *Gruber Ors v AIG & Ors* [2020] EWCA Civ 31: Acted as junior counsel for AIG in respect of deferred compensation balances and whether that compensation could be reduced to the extent that AIG (FP) suffered losses in any given year.
- *Hinduja v Hinduja* [2020] EWHC 1533 (Ch): Acted as junior counsel for the defendants in this long-running, multi-jurisdictional contractual dispute/trusts litigation. Included merits and strategic advice, drafting of witness evidence and liaising directly with in-house counsel.
- *The Federal Republic of Nigeria v Royal Dutch Shell plc & Anor* [2020] EWHC 1315: Advised on the application of Article 29 and Article 30 of the Brussels Recast Regulation in multi-jurisdictional fraud and conspiracy proceedings, arising from the award of an oil exploration licence.
- Licensing dispute – F1 broadcaster: Advised on whether client could seek a reduction in price of a licensing agreement, as a result of event cancellations due to COVID-19.
- Good-leaver dispute – private equity: Acted for a private equity house in a dispute concerning payment of a c.US\$50m 'good leaver' sum to a departing CFO. Included advice on merits and strategy, settlement negotiations, during a period of significant cost-cutting by the client, as a result of COVID-19.



- Credit support demand dispute – private equity firm: Advised on the operation of s.2(a)(iii) of the ISDA Master Agreement in the context of a run on a bank, subsequent administration and alleged Events of Default arising from a series of credit support demands.
- Defective aircraft dispute – global airline: Advised on the merits of a debt claim for unpaid compensation, following delivery of defective aircraft, breach and wrongful invoicing.
- Mistaken invoicing dispute – oil major: Advised on the merits of recovery of mistaken invoicing of c.US\$10m in port costs by a major oil company. Issues of contractual construction (in particular, the effect of deeming provisions), unjust enrichment and reputational management.

Recruitment fee dispute – Acted in dispute relating to unpaid recruitment fees relating to hiring of a former Goldman Sachs employee.

Recruitment fee dispute – Acted in dispute relating to unpaid recruitment fees relating to hiring of lawyer to London silver circle firm.

Partnership dispute – Acted in respect of alleged misrepresentation and breaches of a partnership agreement.

## Construction & Engineering

Michael's experience encompasses projects of all sizes, from commercial developments and significant infrastructure projects to residential disputes.

Michael has been involved in adjudication, arbitration, mediation and litigation, relating to breaches of contract, contractual interpretation, delay, defective works, (interim) payment disputes, professional negligence, prolongation, site security/access, valuation and/or termination.

Michael's prior career as a Senior Project Engineer for global contractors means that he is fluent in the technical and commercial realities of construction projects; particularly cost escalation, defects, delay, prolongation and loss and damage resulting from breach.

Michael welcomes instructions from employers, main contractors, sub-contractors and consultants, as well as their insurers.

Where appropriate, Michael also accepts **public access** instructions; including, from adjudicators seeking to recover unpaid fees.

## Selected Cases

- Airport/infrastructure dispute –global construction company: Acted as junior counsel in an airport/infrastructure c.\$5M dispute in the Middle East. Issues included back-to-back liability on subcontracts, entitlement to prolongation costs and claims for variations and delay. Michael's work also included drafting of witness evidence and expert delay and quantum issues.
- Land Cove Tunnel Dispute (Sydney): Assisting Corrs Chambers Westgarth with settling expert evidence in respect of a c.\$300M dispute relating to alleged defects in the tunnel (bulging, cracked concrete lining, and falling debris).
- Airport project delay claim –global construction company: Advised on entitlement to an extension of

time and recovery of approximately US\$57m in prolongation costs, following critical delay on a major airport development in the Middle East.

- Contract repudiation – utilities consortium: Advised on issues relating to repudiation; including complete code of liability and affirmation, as well as overall strategy.
- Payment application dispute: Advised on entitlement to payment. Issues included what constitutes the “*basis on which that sum has been calculated*”, what constitutes a genuine assessment for the purpose of a payment certificate, as well as non-disclosure by the contract administrator that it was also the Employer.
- Payment application dispute: Advised on enforceability of an adjudication decision relating to a payment application dispute; including, issues relating to jurisdiction (whether the relevant dispute had crystallised and/or whether more than one dispute had been referred to adjudication).
- Adjudication: Acted for contractor in respect of a payment dispute under a JCT Prime 2016 contract. Issues raised included what is required to show the “*basis on which that sum has been calculated*”, for purpose of payment applications and payment certificates; what constitutes a genuine assessment for the purpose of a payment certificate; the effect of Employer non-disclosure on validity of payment certificate; Employer’s purported right to set-off alleged damages for delay against a payment application.
- Adjudication: Dispute arising out of a JCT Homeowner contract. Issues included repudiation, termination and loss of profits.
- Adjudication: Dispute arising out of a JCT Homeowner contract. Issues focused on quantum; in particular, the quantification of what constituted a “*reasonable cost to complete*”.
- Adjudication enforcement: Acted in respect of TCC enforcement of c£120k adjudication sum, arising out of JCT against a BVI company.
- Adjudication enforcement: Acted in respect of TCC enforcement of c.£400k adjudication sum.

## International Arbitration

Michael has experience of ICC, LCIA and ad hoc (UNCITRAL) arbitral proceedings, involving allegations of breach of complex construction agreements, unlawful termination, delay and quantum.

### Selected Cases

- *Volpi v Volpi* trust arbitration: Acted as junior counsel in the quantum phase of a multi-billion-dollar trust dispute, arising in respect of the assets of a large business empire, comprised principally of Nigerian oil and gas logistics companies. This matter raised issues relating to the use of offshore structures, duty to account, equitable compensation, trust reconstitution, valuation of trust assets and multi-jurisdictional tracing.
- *Barclays Bank plc v VEB.RF* [2024] EWHC 3088 (Comm): Acted as junior counsel for VEB in the context of an LCIA arbitration, concerning Barclays’ liability to pay approximately £147m, following termination of currency swap arrangements, engaging issues of sanctions, payment mechanics and competing jurisdiction clauses.
- ICC arbitration – global construction company: Acted in a high-value infrastructure dispute in the Middle East, involving delay, prolongation and back-to-back liability issues between main contractor and a specialist sub-contractor.



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## Qualifications

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- MA (Cantab) Law, First-class Honours, University of Cambridge
- BSc Building Construction (equiv. First-class Honours), University of Florida
- BPTC, Very Competent, BPP Law School

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## Memberships

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- Commercial Bar Association
- Society of Construction Law (UK)
- Technology & Construction Bar Association
- Adjudication Society