



## **Michael McLaren QC**

Call: 1981

QC: 2002

### **Practice Areas:**

Michael McLaren QC has a well-established practice in all aspects of commercial litigation and regulatory / disciplinary matters, with particular expertise in the following areas:

- Aviation
- Banking
- Regulatory / disciplinary
- Professional negligence

Recent examples of his practice are set out below.

### **Practitioner's guides**

Michael is recommended in practitioners' guides in the categories of Aviation and Commercial Litigation / Commercial Dispute Resolution. Comments in practitioners' guides have included the following:

*"Hard-hitting"* Chambers UK – Aviation 2011

*"Determined advocate who is a real iron fist in a velvet glove"* Chambers UK Commercial Dispute resolution 2011

*"thoroughness, determination and commitment are second to none"* [Legal 500 2010 (Aviation)]

*"technically astute and formidable practitioner"* [Chambers & Partners 2010 (Aviation)]

*"an incredibly suave style of advocacy which is hugely effective,"* [Chambers & Partners 2010 (Commercial Dispute Resolution)]

*'regarded as providing the "best service and the best solution"'* [Chambers & Partners 2009 (Aviation)]

*"prepared to burn the midnight oil to achieve the right result"* [Chambers & Partners 2009 (Commercial Dispute Resolution)]

*'thorough and extremely pleasant, "covers every angle"'* [Chambers & Partners 2008 (Commercial Dispute Resolution)]

## **Education**

Eton College (scholar)

Christ's College, Cambridge: MA (Law) Cantab (1<sup>st</sup> Class Hons.)

## **Recent Practice**

### **Aviation**

Michael's practice covers all aspects of aviation, including the following:

- acting for major US aircraft lessors seeking to recover an allegedly defective Boeing aircraft from a bankrupt national airline, Olympic; key judgment on proper construction of "hell and high water" clause [2010] EWHC 923 Comm.
- acted for the vendors of a new executive jet when the purchasers declined to complete due to the credit crunch; judgments on jurisdiction ([2009] EWHC 1450 (QB) (Com)) and on penalty clause ([2010] EWHC 40 (Comm)).
- acted for the owners of another executive jet in an LCIA Arbitration with the manufacturer / repairers, Gulfstream.
- advised Kingfisher (a major Indian airline) in its dispute with manufacturer as to non-contractual condition of leased aircraft due to defects in the design and manufacture of aero engines (2009)
- acted for the owner of a vandalised Boeing aircraft in their claim against a UK airport for lack of adequate airport security
- acted for Kaupthing (as mortgagee of an aircraft) seeking preservative relief in relation to an executive jet subject to multiple liens of others.
- acted for Eurocopter in product liability claims arising from several fatal accidents allegedly caused by the failure of helicopter gearboxes
- advised bmi (British Midland) as to a possible judicial review challenge to Heathrow airport charges

### **Banking and finance**

Michael has wide experience of banking disputes, particularly Russian disputes, including the following:

- acted on behalf of a Russian bank in a trio of very substantial cases against an oligarch and his companies, with extensive Siberian oil and gas interests. (The claims were for c.US\$250m and c.US\$115m, + an arbitration for c.US\$250m; and the pleaded counterclaims were for c.US\$5bn.) Successfully retained freezing injunction against strong challenge ([2009] EWHC 2630 (Comm)). The 10-12 day trial adjourned part heard, and all cases settled in August 2010 on very favourable terms.
- provided opinions on English banking law for Russian courts in two unrelated cases (2010).
- advised financial intermediaries as to the merits of a possible challenge to Financial Services Authority Rules (2010)
- advised a borrower in relation to the lender's attempted implementation of a "Market Disruption Clause" in an aircraft financing agreement.

### **Arbitration**

Michael's varied experience of arbitration includes the following:

- acted for Russian bank in arbitration for c.US\$250m (2010)
- acted for owners of executive jet in LCIA Arbitration with manufacturer / repairers, Gulfstream (2010)
- advised as to the jurisdiction of arbitrators in a substantial commodities (zinc-trading) arbitration involving Trafigura BV
- acted for a packaging manufacturer in an arbitration of a dispute as to commission payments.
- advised a Russian property developer in relation to a partnership / JV dispute concerning development land in Moscow (English arbitration clause)
- acted for a ferry company in an arbitration against the shipbuilder for defective construction of a fast ferry

### **Regulatory / Professional Discipline**

Michael's wide experience in the field of professional discipline includes the following:

- acted for the SRA in successfully resisting appeals challenging not only a Solicitors Disciplinary Tribunal (SDT) decision, but also the delay by the SDT in producing reasons and the role of the SDT clerk ([2009] EWHC 918 (Admin); and [2010] EWCA Civ. 100)
- acting for the SRA in challenging the basis on which costs are (increasingly often) not awarded to the SRA in the SDT (2010)
- acting for the SRA in challenging the SDT's decision not to strike off a solicitor found to be guilty of dishonesty (2010)
- acted for a leading insolvency practitioner in ICAEW disciplinary proceedings (2010)
- acted for the SRA in successfully resisting an appeal as to whether a finding of Inadequate Professional Service (IPS) made after bankruptcy was a bankruptcy debt ([2009] EWHC 1943 (Admin))
- acted for the SRA as an interested party in injunction proceedings brought by a former Law Society President concerning the threatened publication by Private Eye of a confidential informal reprimand ([2009] EWHC 39)
- acted for the Bar Council in seeking to defend a challenge to the composition of the Visitor's Panel hearing a disciplinary appeal ([2005] 1 WLR 3019)
- acted for and/or advised various senior accountants in three unconnected high-profile Joint Disciplinary Scheme (JDS) complaints; and also has advised and acted for accountants before all levels of disciplinary tribunals (ACCA, ICAEW and JDS)
- advised the AADB in relation to procedural matters in another intended complaint.
- acted for the Insolvency Practitioners Association in a challenge to their procedures.
- advised and acted for solicitors in their relations with the Law Society, including in connection with actual or threatened interventions and disciplinary proceedings

Other regulatory work includes the following:

- advised financial intermediaries as to the merits of a possible judicial review challenge to Financial Services Authority Rules (2010)
- advised a major airline (BMI, the second biggest user of Heathrow) as to the merits of judicial review challenge to Heathrow airport charges (2008)

## Professional negligence

Michael has particular experience of accountants' negligence, including:

- acted (as a junior) for Stoy Hayward in the £350m litigation resulting from the collapse of Polly Peck International
- acted for accountants in various other claims based on the negligent audit of accounts or negligent approval of financial statements prepared in the context of bids / share-purchase agreements
- acted against accountants in claims for negligent tax advice
- acted for accountants engaged by a regulator to carry out various spot-checks on licensed conveyancers

His experience of negligence claims against other professionals includes the following:

- acted (in 2008) for solicitors facing £25m claim for negligence in relation to share purchase agreement; 3-week Chancery trial settled very favourably
- acted (as a junior) for Richard Ellis in defending c.£100m claim for Trocadero development.

## Chancery

Michael has varied experience in the Chancery Division, including:

- Knowing receipt / dishonest assistance: acted for the SRA in two trials to recover from knowing recipients the proceeds of 3 very substantial mortgage fraud schemes perpetrated by dishonest solicitors ([2010] EWHC 1449 (Ch) and [2010] EWHC 1670 (Ch))
- Trustees' duties: acted for a widow in the trial of her action for breach of duty against the trustees of her deceased husband's life assurance policy ([2009] EWHC 3064 (Ch)).
- Company law: acted in section 459 petitions and advised in relation to voting rights and obligations of preference shareholders arising under a Shareholder Agreement.

## Other commercial dispute resolution

Apart from the above, Michael's broad commercial practice has covered the following:

- Conspiracy: acted for a key alleged conspirator in the litigation stemming from the notorious Equatorial Guinea coup, including successfully striking out claim at first instance ([2005] EWHC 2034) and in CA ([2006] EWCA Civ 1370). The case went to the HL (billed by The Lawyer as one of the top ten cases for 2008); was adjourned part heard; and then the other side withdrew the appeal.
- Assignment: acted successfully for a financing company in an appeal as to the jurisdiction of and principles to be applied by a court when requiring assignees of claims to provide security for the payment of costs ordered to be paid by the assignor ([2006] EWCA Civ. 9).
- Insurance: acted and/or advised in a variety of insurance disputes, including acting for P&I Clubs, mortgagee banks in hull policy cases, hire purchase protection policies and other commercial insurance policies. These include the leading cases of *Kler Knitwear Ltd. v. Lombard General Insurance Co. Ltd.* [2000] Lloyd's IR Reports 47 and *British Credit Trust Holdings v. UK Insurance Ltd.* [2004] 1 All ER (Comm) 444

- Competition: acted for Rover / BMW and Unipart in a substantial anti-competitive practices claim against them.
- Construction + energy: acted and advised in a variety of construction disputes and energy disputes, including a dispute concerning a combined heat and power plant.
- Shipping: (as a junior) extensive experience of shipping disputes.

**Publications / other:**

Contributor to Butterworth's Guide to the Legal Services Act 2007 (LexisNexis)  
Co-editor "Commercial Court Procedure" (Sweet & Maxwell)

Michael has also lectured on air law on air industry courses in the Far East, and led seminars on aviation and insurance topics.