

Michael Clarke



YEAR OF CALL: 2009

INN: LINCOLN'S INN

SOLICITOR: 2004



Very bright and always comes up with practical solutions."

LEGAL 500, 2020

COMMERCIAL, BANKING, INSOLVENCY AND CHANCERY LAW

Practice Overview

Michael is a commercial and chancery barrister specialising in:

- ▶ Wills, trust, probate and inheritance (including private client taxation and TOLATA)
- ▶ Professional negligence in any of his areas of expertise including in relation to negligent tax advice
- ▶ Commercial and contractual disputes

Before coming to the Bar, Michael served as helicopter aircrew in the Royal Air Force for 6 years and as a police officer for 10 years. He was a solicitor in the law firm Burges Salmon LLP where he practised between 2002 and 2009.

In appropriate cases Michael will undertake work via public access.

Areas of Expertise

Commercial

Michael regularly acts and advises in commercial disputes for both corporate and individual clients. His recent work has included:

- ▶ Acting for a claimant sales director for breach of covenant by the company.
- ▶ Acting for a claimant manufacturer and supplier of laser wheel alignment equipment for misrepresentation and breach of contract
- ▶ Acting for a manufacturer of mechanical lifting equipment to resist a claim for fire damage allegedly caused by a manufacturing fault

Insolvency

Michael regularly acts and advises in insolvency cases for both corporate and individual clients. His recent work has included:

- ▶ Resisting an application to annual bankruptcy petition for alleged failure to serve a statutory demand and lack of geographical connection to the jurisdiction.
- ▶ Representing a trustee on an application by the debtor to have assigned to him various causes of action.
- ▶ Advising a trustee in respect of the setting aside of prior transactions.

Professional Negligence

Michael undertakes professional negligence instructions for both claimants and defendants in a wide range of practice areas including representation at mediations.

Michael's recent experience includes:

- ▶ Representing a claimant in respect of a negligent conveyancing transactions.
- ▶ Representing a claimant company in respect of the negligent tax advice given by a major firm of accountants.
- ▶ Representing an independent financial adviser in respect of an allegation of negligent pension advice.
- ▶ Representing an estate in respect of a solicitor's failure to sever a joint tenancy.

Real Estate

Michael regularly acts and advises in real estate matters including the disputed ownership of land, boundary disputes, adverse possession, easements and restrictive covenants. In addition Michael advises upon torts in relation to land, in particular, nuisance and Rylands v Fletcher.

Recent work includes:

- ▶ Acting for clients in respect of disputed easements and restrictive covenants.
- ▶ Successfully obtaining an order for rectification of a conveyance to exclude the operation of section 62 of the Law of Property Act 1925 and the Rule in Wheeldon v Burrows.
- ▶ Appearing in a three-day trial in the Leasehold Valuation Tribunal and successfully defending an application for the replacement of a manager and reduction in service charges.
- ▶ Acting for claimants and defendants in respect of claims brought under the Trusts of Land and Appointment of Trustees Act 1996.

Tax

Michael started his career as a solicitor and chartered tax advisor, and since moving to the Bar in 2009 he has built a strong tax practice with instructions from leading regional solicitors, accountants and tax advisers.

His tax practice is supported by one of his key specialisms, wills & trusts and in addition he is able to provide stand-alone tax advice and representation before the Tax Tribunal including in respect of inheritance tax, capital gains tax, income tax, stamp duty land tax and VAT. As junior counsel to the Crown Michael is regularly instructed

by HMRC but also has an extensive taxpayer focused practice. Michael is able to draw upon his previous experience as a specialist tax solicitor and chartered tax adviser.

Wills & Trusts

Michael has an extensive wills & trusts practice, and regularly advises on the construction of wills, challenges to the validity of wills, claims in respect of mutual wills, applications to remove or replace personal representatives, applications for directions in the administration of estates, breach of trust claims (particularly in respect of but not limited to estates), proprietary estoppel and constructive trust claims and claims under the Inheritance (Provision for Family and Dependents) Act 1975.

Michael is able to draw upon his experience as a senior associate teacher of trusts at the University of Bristol (which continues) and is able to advise upon the tax aspects of wills, trusts and estates having previously practiced as specialist tax solicitor and chartered tax adviser.

Recommendations

"He is a very knowledgeable, competent and down-to-earth person. 'He is very approachable and very practical.'"

CHAMBERS UK, 2020
TAX

"Michael is extremely cost-effective and thorough in his advice. 'He's very practical, down-to-earth and approachable. He's intelligent in an understated way and certainly thinks very quickly on his feet. The main thing is that he is sensible so he doesn't overreach himself.'"

CHAMBERS UK, 2019
TAX

"Cerebral and a quick thinker on his feet."

LEGAL 500, 2019
COMMERCIAL, BANKING, INSOLVENCY AND CHANCERY LAW

"A promising junior with a broad practice that includes matters concerning capital gains tax, employment tax, stamp duty and inheritance tax. He is also qualified as a chartered tax adviser. 'He is very practical and comes up with simple solutions which we like.' 'He is very measured and thinks quickly whilst on his feet.'"

CHAMBERS UK, 2018
TAX

Appointments:

- ▶ Senior Associate Teacher, University of Bristol, Law of Trusts
- ▶ Junior Counsel to the Crown 2015 to 2020

Qualifications & awards:

- ▶ University of Bristol – First Class (2001)

Additional information:

Michael's interests include owning, riding and maintaining classic motorcycles.

Contact Michael:

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