

Michael Bools QC

YEAR OF CALL: 1991 YEAR OF SILK: 2012

"He comes across as a very calm, unflappable and charming advocate who tribunals have a lot of respect for"

Chambers & Partners 2016

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Practice Overview

Michael Bools's practice covers all areas of commercial law and advocacy. He is recommended by the legal directories in the fields of commercial dispute resolution, and energy and natural resources. Chambers & Partners 2017 describes Michael as "An intellectual heavyweight who is always thorough and detailed in his preparation." "He's got exactly the right touch for the big cases" and is "excellent on his feet." He appears at all levels of the court system and in arbitrations and mediations.

Commercial

Commercial Litigation

Michael has a broad based commercial practice which involves litigation and arbitration both at first instance and at appellate level. He is also called to the Bar of the British Virgin Islands.

Fraud

Many of Michael's current and recent cases involve fraud. These include a current claim by an investment fund against its CEO for breach of fiduciary duty and fraudulent diversion of funds (with ancillary claims for knowing receipt); a claim for the fraudulent depletion of a series of bank accounts (*Al Dowaisan v. Salam et al*); defending an alleged fraudulent presentation under a standby letter of credit (both at first instance, *Petrosaudi Oil Services (Venezuela) Ltd v Novo Banco SA* [2016] EWHC 2456 (Comm), and in the Court of Appeal [2017] EWCA Civ 9 and [2017] EWCA Civ 32); representing the seller in a claim to rescind the sale of a 1954 Ferrari model 375 Plus Grand Prix Roadster (*Bonhams 1793 Ltd v Kleve, et al*); and representing Bambino Holdings Ltd (the Ecclestone family trust company) in the long running dispute of the sale of Formula 1 in 2005/6 which, to date, has resulted in two substantial actions: *Bambino Holdings Ltd v. Bayerische Landesbank Anstalt des Offentlichen Rechts* and *Constantin Medien AG v. Bernard Ecclestone and others* [2014] EWHC 387 (Ch).

Given the international nature of his practice, Michael frequently advises on complex issues of jurisdiction and the conflicts of law. He was, for example, recently involved in a multi-million dollar 'corporate raiding' claim in the BVI between two Russian businessmen. In addition to the jurisdictional dispute (raising fundamental issues of BVI jurisdiction and the applicability of the *Fiona Trust* principle), Michael also represented the claimant on various applications for worldwide freezing order and other relief.

In the context of international arbitration, Michael represented the claimants in an ICC arbitration dealing with,

among much else, the conflicts rules applied by arbitrators and the law applicable to issue of an agent's actual or apparent authority.

Other significant commercial litigation involved the long running dispute between *ITV* and *STV* in actions before both the Commercial Court and in the Chancery Division (with Jonathan Hirst QC) and the 3 month trial determining liability for the explosion at the Buncefield oil terminal in 2005 (*Colour Quest Ltd & ors v. Total Downstream UK PLC & ors* [2009] 2 Lloyd's Rep. 1).

Michael has a particular interest in proceedings to enforce both foreign judgments and arbitration awards. He is currently representing a Canadian company seeking to enforce a US\$713 million arbitration award against Venezuela (*Gold Reserve Inc v. Bolivarian Republic of Venezuela* [2016] 1 W.L.R. 2829 (ICSID Additional Facility Rules)), as well as others with awards against Venezuela (*Tidewater v. Bolivarian Republic of Venezuela* (ICSID)). Other cases include *Alfred Mann v. Roland 'Roel' Pieper* (Commercial Court proceedings to enforce a US\$10 million judgment of the New York Court) and *Svenska v. The Government of Lithuania* (proceedings to enforce an ICC arbitration award, both at first instance ((before Teare J [2005] 1 Lloyd's Rep. 515 and Gloster J. [2006] 1 Lloyd's Rep. 181 and in the Court of Appeal ([2007] 2 WLR 876)). *Svenska* is the leading case on the scope of the arbitration exception in s.9, State Immunity Act 1978.

Michael also has wide ranging experience of interlocutory relief in commercial litigation and in particular, of freezing injunctions, both domestic and worldwide. He has appeared in a number of cases in the area including: *Garkusha v. Yegiazarian et al* (2015, Comm Ct, BVI); *Motorola Credit Corporation v Uzan and others (No.1)* (CA) [2002] EWCA Civ 989, 26 June 2002 (refusal of stay of disclosure); *Motorola Credit Corporation v Uzan and others (No.2)* (CA) [2004] 1 WLR 113 (inexpediency of worldwide freezing orders in support of foreign proceedings); *Mobil Cerro Negro Ltd v. Petroleos de Venezuela SA* [2008] 1 Lloyd's Rep. 684; and *Director of the Assets Recovery Agency v Creaven & ors* [2006] 1 WLR 622 (freezing order in assets recovery proceedings - quasi in rem proceedings - legal and living expenses). In addition to *Mareva* relief, Michael also has experience in obtaining other urgent injunctions such as (with Charles Hollander QC) ex parte injunctions to restrain the publication of details of *Barclays'* tax arrangements and, more colourfully, an injunction to restrain the removal from the jurisdiction of a £1.2 million Santo Serafino 'cello made in Venice in 1752 (*Madame Francoise Chamarre v. J & A Beare Limited*).

At appellate level, Michael appeared unled as a junior in the House of Lords and the Court of Appeal in *Scottish & Newcastle v. Othon Ghalanos* [2008] 1 Lloyd's Rep. 461 (HL) and [2007] 2 Lloyd's Rep. 341(CA) - Article 5(1)(b) Brussels Regulations - jurisdiction, place of delivery under a CFR contract and in *Svenska v. The Government of Lithuania (No.2)* [2007] 1 QB 886 (CA) - enforcement of arbitration award, State immunity, issue estoppel arising out of arbitral tribunal's jurisdictional award.

He also appeared with others in the House of Lords in *Crehan v. Intntrepreneur Pub Co.* [2006] 3 WLR 148 and on numerous occasions in the Court of Appeal in, for example, the *Motorola v. Uzan* appeals ((2004) 1 WLR 113 - scope of power to issue worldwide freezing order under s.25 CJJA 1982; and *The Times* 10 July 2002 - proper exercise of discretion to stay disclosure order pending an appeal); and in a series of appeals from decisions of the Divisional Court on judicial reviews of the *Bloody Sunday Inquiry*, (*The Times* 15 April 1999 (anonymity), [2000] 1 WLR 1855 (anonymity 2), (2002) 1 WLR 1246 (venue)).

Energy and Natural Resources

Michael is recommended by Chambers & Partners (2016) in Energy and Natural Resources, being described as a "Highly experienced commercial silk who provides accomplished advocacy in a variety of contexts" and with sources saying, "He is a great guy and an excellent lawyer, who is very personable and a fabulous team player", "He's everything that one would expect from Brick Court and highly approachable", "I have never seen a client not love him. He is a fantastic team player and a really hard worker."

Michael regularly advises major oil companies including, *Centrica*, *Chevron*, *Shell*, *BP* and *ExxonMobil*. He also appears in energy related disputes both in the Commercial Court and in arbitration. Recent cases include a

Commercial Court claim in relation to the sale by Litasco of substantial oil cargoes for importation in Yemem. Reported cases of note are *Cadogan Petroleum Holdings v. Global Process Systems* [2013] 2 Lloyd's Rep. 26 (involving a disputed sale and purchase agreement relating to two gas plants and issues as to the applicability of the penalty doctrine to forfeiture clauses); *Venture North Sea Gas Ltd v. Nuon Exploration & Production UK Ltd* [2010] EWHC 204 (Comm), an expedited Part 8 trial to determine whether *Nuon* was contractually obliged to complete a £100 million purchase of various North Sea gas fields; *Colour Quest Ltd & ors v. Total Downstream UK PLC & ors* [2009] 2 Lloyd's Rep. 1, representing *Chevron* in relation to its potential liability arising out of the explosion at the Buncefield oil terminal (both at the trial and before the Court of Appeal); and *Shell UK Ltd v. Revenue and Customs Commissioners* [2008] STC (SCD) 91 (scope of liability for petroleum revenue tax).

In the arbitration context, Michael recently represented the claimants in an ICC arbitration involving disputed hydrocarbon exploration rights in the southern Indian Ocean, represented a large sovereign investment fund in a dispute about payments due under a sale and purchase agreement for an interest in a Sudanese oil field and previously represented Mobil Oil Nigeria in arbitral proceedings arising out of a joint venture agreement for the exportation of bitumen from Nigeria.

Banking / Professional Negligence

Michael has been involved in a number of disputes arising out of the banking crisis and, in particular, two cases centred on the collapse of *Lehman Brothers*. He advised a large pension fund in relation to losses suffered as a result of the investment of cash collateral from a stock lending program in *Lehman's* and represented a large sovereign wealth fund in an LCIA arbitration centred on the allegedly negligent loss of stock deposited with *Lehman* with an unlimited right of use.

In *I C Mutual v. Robinson et al* Michael acted for the administrators of an investment fund in claims against the fund's auditors for negligence in relation to an alleged *Ponzi* scheme.

Shipping

Michael has a long standing interest in shipping law. He has recently completed, with Sir Richard Aikens and Richard Lord QC, the second edition of *Bills of Lading* (Informa 2016). His doctoral thesis was published in 1997 by LLP, *The Bill of Lading as a Document of Title to Goods: an Anglo American Comparison*.

He regularly advises on questions of shipping law and appears in the Commercial Court and international arbitrations.

Public Law

Michael acted for a number of years for a large number of soldiers involved in the Saville Inquiry into the events surrounding the shootings in Londonderry on 'Bloody Sunday'. In connection with that he was heavily involved in a number of judicial reviews of the tribunal's decisions in relation to the anonymity of witnesses and the venue for their evidence: *R (A and others) v Lord Saville of Newdigate and others* (CA) [2002] 1 WLR 1249 (Venue for military evidence); *R v Lord Saville of Newdigate et al, ex parte A et al* [2000] 1 W.L.R. 1855 (CA) (Anonymity); and *R v The Bloody Sunday Inquiry, ex parte B and others* (CA), *The Times* 5th April 1999.

Michael has also on occasion advised on matters of public international law, including advising in relation to the shooting of Jean Charles de Menezes.

Arbitration

Michael is regularly instructed as counsel in arbitrations involving a wide range of commercial disputes: typical examples include an UNCITRAL arbitration of disputed entitlements under an offshore drilling contract; an ICC arbitration involving a dispute as to whether a State was bound by an exploration agreement signed on its behalf by a Vice President; an LCIA arbitration arising out of the collapse of *Lehman Brothers*; an ICC arbitration dealing

with sums allegedly due under a sale and purchase agreement for the sale of an interest in an oil concession in Sudan; a claim to recover sums paid under a cancelled shipbuilding contract; claims arising out of a collapsed stow; a \$100m dispute arising out of a joint venture agreement for the importation of bitumen into Nigeria; a dispute concerning foreign share dealings in Gazprom; and a dispute involving diamond mining licences in Arkhangelsk.

Qualifications

DPhil (Oxon), LLB (Hons) (UEA), Barrister, Diplock Scholar of The Middle Temple, 1990-1991.

Directory Quotes

- "A real team player who is very thorough and deals with difficult tribunals well." (Chambers & Partners UK & Global 2019)
- "A very clear, meticulous thinker, who is incredibly user-friendly." "He's very clever and he explains things in a simple but confident manner." (Chambers & Partners 2019)
- "A delight to work with, always makes himself available and very user friendly." (The Legal 500 2018-19)
- "Bright, knowledgeable, and understands the energy sector extremely well; fun to work with, too." (The Legal 500 2018-19)
- "Hard-working and bright." "A very good, hands-on commercial silk who is also excellent with clients." "His advice is sensible and commercial. (Chambers & Partners 2018)
- "He was very charming, and put up a tremendous performance in an awful case when everything was against him." (Chambers & Partners 2018)
- "A first-rate advocate and a very good lawyer." (The Legal 500 2017)
- "An intellectual heavyweight who is always thorough and detailed in his preparation." "He's got exactly the right touch for the big cases" and is "excellent on his feet." (Chambers & Partners 2017)
- "He knows what is really important, has a succinct style, and is utterly charming." (The Legal 500 2016)
- "He is a great guy and an excellent lawyer, who is very personable and a fabulous team player." (Chambers & Partners 2016)
- "He's everything that one would expect from Brick Court, and highly approachable." (Chambers & Partners 2016)
- "He comes across as a very calm, unflappable and charming advocate who tribunals have a lot of respect for." (Chambers & Partners 2016)
- "I have never seen a client not love him. He is a fantastic team player and a really hard worker." (Chambers & Partners 2016)
- "He is meticulous in his attention to detail, and is incredibly bright, fantastically user-friendly and highly accessible." (Chambers & Partners 2015)
- "He gets to grip with things very quickly, is very good with juniors, and is loved by clients. He delivers good advice and is good on his feet." (Chambers & Partners 2015)
- "He is never afraid to make a difficult call, and gets stuck into the detail." (The Legal 500 2014)
- "Has impressed market sources since taking silk in 2012." (Chambers & Partners 2014)
- "Extremely clever, very responsive and a pleasure to work with." "Manages to translate sound academic knowledge of the law into highly practical commercial advice." (Chambers & Partners 2014)
- "He has a very nice manner and is tactically very astute. He's an extremely nice person to deal with and an absolute delight to have as an opponent." (Chambers & Partners 2014)
- "Michael Bools QC, sources say, is a "real pleasure to work with" who is "a clever lawyer, an excellent draftsman and a strong team player."" (Chambers & Partners 2013)
- ""grasps complex points very quickly" and is "an extremely persuasive advocate who is phenomenally clever."" (Chambers & Partners 2013)
- 'Has grown in stature and confidence'. (The Legal 500 2012)
- "Michael Bools is 'the top barrister for all-round academic brilliance, ease to work with and sense of humour under extreme stress'." (The Legal 500 2011)

- "Michael Bools "has the ability to understand the most difficult technical issues and is excellent with clients."" (Chambers & Partners 2012)