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Michael Fealy KC

Barrister
Call 1997 Silk 2014

Scope of Practice

• Arbitration • Civil Fraud and Investigations • Commercial Litigation • Company and Insolvency • Energy and Natural Resources • Injunctive Relief • Sale of Goods and Supply of Goods and Services • Jurisdiction and Conflict of Laws • Professional Liability

Overview

Described as 'tenacious', 'approachable' and providing 'first-class legal analysis', Michael Fealy is a leading silk who practises across the broad range of commercial law, litigation and international commercial arbitration. Michael is regularly recommended by the UK's leading legal directories for both his legal expertise, his clarity of communication and his courtroom skills.

His approach combines comprehensive technical expertise with a fearlessness in court. He has a calm and clear communication style and is praised for his ability to cut through complexity. He has considerable experience of leading and managing complex, long-running cases, demonstrating willingness to work closely as part of a team with clients and solicitors to achieve successful outcomes. By way of example, from 2018 to 2022 he led a team of barristers representing SKAT, the Danish tax authority, in its long-running £1.5bn fraud claim.

His client base includes listed companies, owner-managed enterprises, energy businesses and government agencies, based in the UK and overseas. Michael has experience in numerous international commercial arbitrations governed by a variety of rules, and in expert determinations.

Called to the Bar in 1997, he became a KC in 2014. He is also a member of the Irish Bar (1995).

Examples of Recent Cases

Arbitration

Recommended by **Legal 500**, Michael Fealy is a *"strong advocate"*, singled out for his *"excellent advice"*. He has substantial experience in international commercial arbitration dealing with a range of disputes and governed by a variety of rules. He also has experience of expert determination in the electricity industry and rail industry, and in

acting in LNG gas price reviews for both purchaser and seller.

'Michael Fealy has a "real strength of conviction, which he supports with wonderfully considered legal argument". (Legal 500)

His recent work includes:

- ICC Proceedings
  Acting for Middle Eastern company in shareholder dispute with Indian former partners.

- Ad hoc Canadian arbitration
  Acted as expert in English law in shareholders' dispute concerning an Asian mining company.

- Rail Industry Dispute Rules
  Acted for regional transport authority in dispute with train operating company concerning payments to be made to the train operator under long-term franchise of suburban railway network.

- ICC Proceedings
  Acting for major energy company in a dispute concerning the price to be paid for LNG under long-term contract.

- ICC Proceedings
  Acted for a Thai electricity generating company in dispute with trading house under a long-term contract for the supply of coal. Damages of some US$400m claimed.

- Singapore International Arbitration Centre Proceedings
  Acting for Hong Kong-based commodity house in dispute concerning alleged breach of contract for the sale of coal.

- LCIA Proceedings
  For purchasers and sellers in price reviews for LNG sale contracts. Michael has acted as sole counsel in a number of matters in this specialist area.

- LCIA Proceedings
  Acted for Texas-based oil field services provider in a claim for costs incurred in a wrongful death claim in Texas; the case included mediation in New York.

- LCIA Proceedings
  For the claimant against a rig owner in a dispute arising out of a drilling campaign. The claim involved applications for security in many jurisdictions and Michael has advised leading US counsel on the interface between those applications and London arbitration.

- Ad hoc Arbitration under Bahamian Law
  Acted for lender hedge fund in a claim to enforce a loan agreement secured over shares. The claim raised issues about the enforceability of security given over uncertificated securities.

Commercial Litigation

Recommended by both **Chambers UK** (Commercial Dispute Resolution and Energy & Natural Resources) and the **Legal 500** (Energy and International Arbitration), **Michael Fealy** has a busy and diverse commercial practice dealing with all the major issues of the day in commercial law. This includes (but is not limited to) disputes arising out of share sale and purchase agreements, cases involving issues of a technical nature, environmental issues, trademark licensing disputes, warranty disputes and issues concerning agency agreements.

"A commanding advocate who has real presence in court." "Michael is extremely diligent and approachable, and he applies first-class legal analysis to a case." (Chambers UK 2020 - Commercial Dispute Resolution)

- Re Greensill Bank
  Acting for insolvency administrator in resisting anti-suit injunction.
- Skatteforvaltningen (known as SKAT) v Solo Capital Partners LLP
  From 2018 to 2022 Michael led a team of barristers representing SKAT, the Danish tax authority, in its £1.5bn fraud claim. The case is extremely complex and long-running, and Michael's role involved coordination across jurisdictions and managing a significant team of lawyers.
- Apache v Shell, Esso and BP
  Represented the three energy companies in a dispute about the amount of money that Apache had to pay a security for the costs of decommissioning a North Sea oilfield. This is one of the first reported cases dealing with the impact of the end of the working life of these oilfields.
- Premier Oil v Shell
  Represented Shell in a High Court trial concerning the price of crude oil in long-term sale contracts with Premier.
- Raven v Entain
  Acted for Entain, a FTSE100 company in a complex dispute arising for the sale of a spread betting business by Entain. Michael devised a strategy that forced Raven to give up on almost all of its claim.
- Tulip Trading Limited v Bitcoin Association for BSV
  Acted for Claimant in High Court in $4bn in trailblazing claim arising from loss of control of bitcoin following a hack. The claim raised novel issues concerning the ability of bitcoin developers to enable the claimant to recover control of the bitcoin. This was the first contested case to consider the nature of bitcoin in law and the legal duties owed by those involved to each other.
- Sogexia v R Raphaels
  Acted for bank in voluntary winding up dispute with payment card operator.

Breach of Warranty

Michael has particular experience in striking out claims for breach of warranty under a share purchase agreement, including striking out claims due to failure by the purchaser to comply with the notification requirements in the contract. Reported cases comprise:

- Stobart Group v Andrew Tinkler [2019] EWCA Civ 1376 (CA)
  Struck out a claim under an indemnity for taxes.
- Teoco v Aircom [2018] EWCA Civ 23, [2018] BCC 339
  Struck out a claim for tax liabilities in Brazil.
- Ipsos v Dentsu [2015] EWHC 1171
  Struck out a claim for breach of employment law in Brazil.
- Laminates Acquisition Co v. BTR Australia Ltd [2004] 1 All ER (Comm) 73
  For BTR, in the trial of a preliminary issue where the claimant was precluded by its failure to give notice in the specified form from bringing a claim in respect of the defendant's alleged breach of the antitrust warranty in a share sale agreement.

Civil Fraud and Investigations

Michael Fealy has substantial expertise in this sector. He advises and acts for claimants and defendants in fraud and asset tracing claims and also has wide experience of freezing orders. He has particular experience in dividend-withholding tax fraud. He is currently contributing author for: Smith & Monkcom's "Law of Betting, Gambling & Lotteries", dealing with issues arising in the Proceeds of Crime Act 2002.

- SKAT v Solo Capital Partners (2018 - 2022)
  Acting for Danish tax office in multi-jurisdictional £1.5 billion dividend cum-ex fraud claim. Obtained freezing order in that sum. Numerous interlocutory hearings and applications. Acted in trial and appeal on Revenue Rule, establishing that claim could be brought in England.
- Ipsos v Aegis [2015] EWHC 117 (Comm) EWHC 1726 (Comm)
  Acted for the defendants in a £200 million claim for damages for fraud and breach of warranty following a share purchase. Michael has appeared in applications striking out large parts of the claim.

Energy and Natural Resources

Michael's expertise in this sector covers litigation, arbitration and expert determination/adjudications, together with a substantial advisory practice, and he is regularly instructed by major international energy companies as well as international and domestic owners and operators in the oil and gas sector. His instructions include a broad range of disputes, including under joint operating agreements, unitisation agreements, decommissioning security agreements, oil and gas sale contracts, and drilling disputes.

"A standout lawyer – incisive with a great courtroom manner." (Legal 500 - Energy)

- Apache v Shell, Esso and BP [2023] EWHC 1171
  Represented the three energy companies in a dispute about the amount of money that Apache had to pay as security for the costs of decommissioning a North Sea oilfield. This is one of the first reported cases dealing with the impact of the end of the working life of these oilfields.
- Premier Oil v Shell [2023] EWHC 3269
  Represented Shell in a High Court trial concerning the price of crude oil in long-term sale contracts with Premier. The case involved difficult issues concerning the interaction between court proceedings and an expert determination process.
- Swedish SCC proceedings
  Acted for oil major in dispute concerning unitising agreement in West Africa.
- ICC Proceedings
  Acting for a major energy company in a dispute concerning the price to be paid for LNG under long-term contract.
- ICC Proceedings
  Acted for a Thai electricity generating company in dispute with trading house under a long-term contract for the supply of coal. Damages of some US$400m claimed.
- Singapore International Arbitration Centre Proceedings
  Acting for Hong Kong-based commodity house in dispute concerning alleged breach of contract for the sale of coal.
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  Acted for Texas-based oil field services provider in a claim for costs incurred in a wrongful death claim in Texas; the case included mediation in New York.

Jurisdiction and Conflict of Laws

Michael has advised and acted in a number of jurisdiction challenges. He has considerable experience of dealing with issues of foreign law and the enforcement of foreign judgments. He acted for SKAT in establishing that its claims arising from cum-ex fraud were not claims to enforce a foreign revenue law claim.

- In Re Greensill Bank AG
  Acting for the administrator in complex jurisdictional dispute.
- Re UK regional airport
  Acted for regional airport in opposing enforcement of arbitration award made against sovereign state shareholder.
- Italian electricity supplier v Chinese insurance company
  Acted for Italian judgment creditor in seeking to enforce in London an Italian judgement against Chinese defendant.
- SKAT v Solo Capital Partners
  Acted for the Danish tax office in multi-jurisdictional £1.5 billion dividend cum-ex fraud claim. Case had complex issues as to whether it was the enforcement of a foreign revenue claim. Acted in trial and appeal on this issue.

Injunctive Relief

Michael has acted in many injunction applications and is accustomed to accepting instructions at short notice and working under the pressure of an imminent hearing. He is currently acting for Greensill Bank AG in opposing anti-suit injunction made ex parte.

In 2018 he obtained a freezing order for £1.5 billion in SKAT v Solo Capital Partners against multiple defendants in many jurisdictions. He also acted in numerous interim applications arising as a consequence.

In 2017, he obtained an anti-suit injunction to prevent litigation in Pakistan in circumstances where parties had agreed to a non-exclusive jurisdiction clause in favour of the English courts.

What the Directories Say

"Michael is client-focused; he thinks about the bigger picture while delivering excellent written and oral advocacy on the matters." (Chambers UK 2026 - Energy & Natural Resources)

"Michael is incredibly impressive. He gives firm and clear advice, doesn't sit on the fence and quickly gains the confidence of the clients." (Chambers UK 2026 - Energy & Natural Resources)

"For liquid natural gas disputes, Michael is one of the very best in the market. He's easy to work with and, importantly for us, the client always respects and likes working with him." (Chambers UK 2026 - Energy & Natural Resources)

"Michael is a very attractive advocate. He has a good feel for the court and good judgement." (Chambers UK 2026 - Commercial Dispute Resolution)

"He does a brilliant job at difficult applications." (Chambers UK 2026 - Commercial Dispute Resolution)

"Intellectually strong and willing to fight." (Legal 500 2026 - Commercial Litigation)

"Michael Fealy is very clear, good at presenting complicated information in a straightforward fashion and someone who can focus on the key issues in a case." (Chambers UK 2024 - Commercial Litigation)

"Michael's key strength is that he is very clear in his advice. He reaches a conclusion and sticks with it, which is a quality that is very helpful for both clients and solicitors." (Chambers UK 2024 - Commercial Litigation)

"He has very good judgement and is thoughtful." (Chambers UK 2024 - Commercial Litigation)

"*Extremely clever, diligent and commercial, he is a very strong advocate with a very effective style. Forceful but courteous, he is a pleasure to work with*." (Chambers UK 2022 - Commercial Litigation)

"*Helpful and responsive, he is a pleasure to work with as he has an easygoing, good-humoured manner*." "*He is a superb advocate*." (Chambers Global 2021 - Commercial Dispute Resolution)

"*Amongst the most hands-on and tactically astute members of the Bar*." (Legal 500 2021 - Commercial Litigation)

"A responsive, can-do, user-friendly modern day KC – as comfortable on his feet leading the case as he is crafting documents." (Legal 500 2020 - Commercial Litigation)

"A responsive and user-friendly KC with an unassuming manner and a sharp intellect." (Legal 500 2020 - Energy)

"A commanding advocate who has real presence in court." "Michael is extremely diligent and approachable, and he applies first-class legal analysis to a case." (Chambers UK 2020 - Commercial Dispute Resolution)

"A standout lawyer – incisive with a great courtroom manner." (Legal 500 2019-2020 - Energy)

"*Has a natural feel for the issues in a case and is quite down-to-earth*." "*He's very approachable and authoritative in the way he explains things*." (Chambers UK 2019)

'Calm and unflappable; his submissions are measured, realistic and persuasive.' (Legal 500 2019)

"Utterly tenacious and a joy to work with, particularly on cross-border disputes." *"The points he makes are very good, and he gets judges on side."*(Chambers UK 2018)

"Extremely diligent, he offers first-class legal analysis." (Chambers UK 2017)

"Clients simply love Michael. A smooth and forceful advocate, who is brilliantly clever and a great team player". *"Extremely diligent and someone with first-class legal analysis"*. (Chambers UK 2016)

"An iron fist in a silk glove when in court." *"He's fantastic at seeing the wood for the trees and being able to navigate all of the complexities in a case. He makes matters simple so that both the client and judge understand his position."* (Chambers UK 2015)

"Very hard-working, very thorough and very clever." (Chambers UK 2015)

Academic Positions

Lecturer in Corporate Insolvency Law on the University of London LLM Course at UCL (1997 - 2013)

Publications

"An Introduction to the New Civil Procedure Rules" (Cavendish Publishing, 1999)
"The Civil Procedure Rules in Action" (Cavendish Publishing, 2001)
Smith & Monkcom, *"Law of Betting, Gaming & Lotteries"* (4th edition, 2017, Chapter on Money Laundering)
"Debt Subordination and Insolvency Set-Off" (2009) 24 JIBFL 64

Awards

Legal500 LEADING SILK 2023

2027 Chambers Top Ranked UK Bar One Essex Court

ONE ESSEX COURT

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