

# Michael Douglas KC

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Michael Douglas KC has an extensive and wide-ranging civil and commercial practice.

Michael has particular expertise in:

- Professional Negligence
- Insurance & Commercial
- Information Technology

Michael is a versatile practitioner whose knowledge and experience of other diverse areas of law gives him a unique and enviable strength in depth and ensures his continued respect from fellow barristers and popularity with instructing solicitors.

Michael also has experience in other areas of law; construction disputes, property disputes (options, easements, restrictive covenants, land registration, business tenancies), judicial review, Privy Council work and traditional common law areas of negligence, nuisance and strict liability.

## Professional Negligence

Michael's practice has for many years encompassed substantial professional negligence disputes. He has acted and advised in litigation concerning almost all the main professions, in particular disputes involving lawyers, valuers, insurance brokers and financial professionals, engineers and architects.

### Featured Professional Negligence cases

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Acting for Defendant solicitors in the Privy Council in a claim involving important issues about the law of limitation and the accrual of a cause of action/date of damage in professional negligence actions.

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Acting on very substantial claim for professional negligence against major firm of solicitors who conducted the Claimants' failed litigation against a US based Defendant for damages arising out of a joint venture to establish a telephone system in Afghanistan.

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Acting for valuers in a claim for alleged mortgage fraud arising out of the valuation of 64 properties in a new property development. The claim raises Issues of knowledge, reliance and causation.

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Acting for financial advisers in connection with dispute with HMRC arising out of the tax treatment investments of cash or shares in SIPPs.

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Acting for solicitors in a claim for professional negligence arising out of a company/intellectual property dispute in which a delinquent director misappropriated the designs and know-how of a company specializing in playground markings for schools across the UK.

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Acting for solicitors in a claim for alleged professional negligence arising out of advice in connection with the acquisition of a large UK retail chain.

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Acting for solicitor in a case brought against her under the Partnership Act 1890 for allegedly permitting herself to be held out as a partner in a firm in which the principal committed a series of mortgage frauds for his own personal benefit.

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Acting for financial advisers in connection with a claim for negligent advice and/or breach of duty under Financial Services legislation arising out of property investments in the Caribbean.

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Acting for Barclays Bank in a claim for numerous instances of valuation negligence in connection with properties in South London acquired by a high turnover individual investor and his wholly owned companies.

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Acting for Barclays Bank in a substantial fraud involving private clients, solicitors, valuers and mortgage introducers, in connection with the purchase by BVI companies of high value properties in London and elsewhere.

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Acting in a complex claim for professional negligence and fraud in connection with the acquisition by US and Dutch investors of “viatical settlements” (i.e. life insurance policies) backed by bonds, issued by an Italian company, guaranteeing payment of the value of the policies in the event that the life insured survived longer than his or her actuarial life expectancy.

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Acting for valuers in connection with the €100 million + valuation of a substantial retail shopping centre in Paris (case also involves issues of conflicts of laws and securitization).

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Acting for solicitors in an action for professional negligence concerning the alleged failure adequately to protect the client’s IP and confidentiality rights in a dispute with a former director and rival business.

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Acting for accountants in an action by a former client for professional negligence and/or dishonesty in the submission of accounts to HMRC over a period of 6 years.

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Acting in connection with claim against architects for alleged negligent design of flat roof and balcony system on 11 storey residential block in Manchester.

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Acting in connection with claim for contribution between builders and architects in connection with the design of waterproofing and windows in new business headquarters.

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Acting for quantity surveyors and project managers in a multi-million pound claim for professional negligence in connection with the refurbishment of a listed central London commercial building.

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Acting for Defendant solicitors in action for professional negligence arising out of the sale of shares in a private company under a management buy-out.

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Acting for solicitors in a claim for negligence in failing to register a legal charge over property which was subsequently fraudulently sold. Alleged fraud on the part of vendor’s solicitors.

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Acting for solicitors in a claim for alleged negligence in connection with the drafting and implementation of a company incentive share option scheme.

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## Insurance & Commercial

Michael is regularly instructed in litigation or arbitration disputes concerning insurance and commercial agreements. He has arbitration experience as a counsel and party appointed arbitrator in commercial and technical matters.

In the insurance field he has particular experience of policy interpretation, warranties and conditions, non-disclosure, misrepresentation and fraud, conflicts of laws and quantification of loss.

In the commercial field he has advised and acted in relation to a wide variety of commercial agreements. Areas of law covered include every aspect of contract law including contractual interpretation, implied terms, exclusion clauses, repudiation, misrepresentation and fraud, damages, conflicts of laws, agency, distributorship, restraint of trade and injunctive relief.

### Featured Insurance & Commercial cases

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Claim by former employee for costs indemnity under D&O Liability Policy in respect of criminal proceedings arising out of irregular financial dealings. Involved issues of interpretation of “de facto” officer or director, “managerial and supervisory capacity”, and the relevant time at which the employee’s status or capacity was to be judged.

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Acting for Claimant on claim for breach of contract against an execution broker arising out of the termination of an agreement for the execution of forex trades under a computerised “mirror trading” foreign exchange system.

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Acting for Defendant mobile phone company in connection with a claim brought by a former reseller for breach of contract and wrongful termination of a fixed term commercial agency agreement.

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Acting for Claimant in action between two large IT companies concerning breach of workshare provisions and the operation of exclusion and limitation clauses in the sub-contract between them in connection with a large public sector main contract.

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Acting in connection with claim brought in Jersey concerning alleged fraud by former mayor of Sao Paolo Brazil and diversion and tracing of assets.

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Acting on a dispute under a buildings and public liability policy covering a retail shopping centre involving the meaning and effect of latent defect and inherent vice exclusions.

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Acting for Defendant insurance company in connection with claim for indemnity under the provisions of an insurance broker’s indemnity policy.

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Acting on claim in connection with property valuation under large securitization of an international property portfolio by leading Bank and sub-securitization in France.

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Acting for Claimant on claim for indemnity under Financial consultants’ Indemnity Policy in respect of liability for fraudulent activity of deceased former director of company.

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Acting in an arbitration concerning the interpretation of a Saudi contract between a Saudi Company and a large US oil company, for the logging of potential oil exploration sites in Saudi Arabia and the payment of large dividends to the Saudi Company.

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Advising leading petroleum company on effects of sanctions on Libya during conflict.

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Acting in multi-million pound action against leading US electronics company on behalf of inventor of an automotive product.

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Action for rectification of auction sale contract by reason of alleged mistaken description of the Lots being sold.

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Multi-million dollar action for loss caused by fraud, breach of contract and breach of trust in relation to very substantial foreign exchange transactions in Singapore, Jersey and New York.

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Arbitration concerning alleged breach of pharmaceutical distributorship agreement for supply of tropical medical solution involving issues of misrepresentation, repudiatory breach, contractual construction, and availability of scientific data to support marketing in the UK.

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Arbitration concerning alleged fraud under a fire insurance policy and in particular the nature and extent of the damage sustained by highly specialised manufacturing machines used in the clothing trade.

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Action for fraud and breach of contract arising out of acquisition of specialist equatorial rain forest in Guyana, involving legal issues of conflicts of laws, assignment and directors' liability for negligent mis-statement in connection with corporate transactions.

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DTI investigation into alleged dishonest insider dealing in relation to sale of shares by a director of an information technology company immediately before a significant drop in the share price.

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Dispute between substantial airport retailer and Eurotunnel involving a claim for rescission of a 15 year concession of the passenger terminal buildings and a claim for damages amounting to £150 million.

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Action against insurance brokers alleged to have failed to advise about proper level and/or type of insurance on factory buildings which were subsequently destroyed by fire.

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## Technology & Telecoms

Michael is recommended as a leading Information Technology Silk in both Legal 500 and Chambers & Partners UK Guide.

He is a member of the Society for Computers & Law and contributes to the Computers & Law publication. He is frequently invited by organisations such as IBC UK Conferences to speak on aspects of IT law, for example IT Outsourcing Disputes.

Michael is instructed by government organisations and major international companies in connection with outsourcing, contractual and software licensing disputes.

He undertakes both litigation and arbitration work, and advises on all aspects of such disputes including applications for injunctive relief. He regularly advises on all aspects of IT contract law.

He has also been appointed as the adjudicator under an important IT contract between a leading IT supplier and a leading transport organization.

## Featured Technology & Telecoms cases

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Acting for international company in connection with a dispute as to the performance of a contract for IT provision in the Middle East.

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Acting for international IT supplier on a dispute concerning alleged breach of the IT licences granted to sub-contractor in connection with the use of the supplier's software.

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Acting for large insurance company in connection with disputes concerning proper interpretation of commercial payment clauses under an outsourcing agreement with major IT company.

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Acting for sub-contractor in connection with a dispute arising as to allocation of work under a prime contract for the provision of outsourced work to the public sector with a part state-owned and part privately owned national company.

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Acting for contractor in relation to a dispute concerning the development of IT system for use in possible war theatres, arising out of the termination of the contract. Case involved highly technical issues and contractual issues of interpretation and repudiation.

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Acting for sub-contractor of outsourced support services to DVLA in contractual dispute with main contractor, involving factual issues and legal issues as to scope of exemption clause, circumstances in which an account of profits can be awarded as damages for breach of contract.

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Acting for contractor under contract for defence-based IT system involving highly complex IT system and telecommunications issues.

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Advising large outsourcing company in connection with a contractual dispute with major insurance company over the terms and performance of the contract.

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Acting for leading IT company on dispute arising from termination of contract for the nationwide supply of desktop services to Government.

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Acting in major IT sub-contract relating to the Government FiRE Control project for the design of nationwide fire emergency services.

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Acting in connection with dispute between Government and major IT supplier in connection with supply of bespoke software for use in connection with sensitive information.

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Acting for international IT company in connection with dispute arising out of the termination of a worldwide contract for IT services to global information provider.

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Acting for leading international telecommunications provider in a contractual dispute with global provider of financial data.

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Advising a leading national IT supplier in connection with a dispute concerning technology development and supplies under a national telephony and computer network contract.

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Advising technology supplier on contractual issues arising out of contract with television broadcaster to archive film material.

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Advising a leading financial institution in connection with its rights under an out-sourcing contract with a major international IT supplier.

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Advising leading national telecommunications and IT contractor in connection with a variety of substantial disputes arising from the government's NHS computerisation project.

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Advising the government on contractual dispute in connection with the VOSA national programme for the computerisation of MOT testing and certification.

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Advising DTI on contractual dispute over Project Elgar (Insolvency Service outsourced contract) and advising DTI on contractual dispute over Project LOKI (Insolvency Service computerisation of accounting).

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Action by national plumbing manufacturer and distributor against the software developer of a package of enterprise resource software.

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## Other

Michael is a versatile practitioner whose knowledge and experience of other diverse areas of law gives him a unique and enviable strength in depth and ensures his continued respect from fellow barristers and popularity with instructing solicitors.

His experience in other areas of law includes construction disputes, property disputes (options, easements, restrictive covenants, land registration, business tenancies), judicial review, Privy Council work and traditional common law areas of negligence, nuisance and strict liability.

## Appointments

- Accredited mediator

## Publications

- Article: Mandatory Injunctions in IT Disputes (Computers & Law)
- Article: Implied terms in IT contracts (Computers & Law)

## Memberships

- LCIA Users' Council

## Education

- BA (Oxon) Jurisprudence

## Recommendations

Michael is recommended as a leading silk in Legal 500 and in Chambers & Partners Guide to the Legal Profession.

Comments include:

- a fine advocate who is always unruffled in court
- a client focused team player who rolls his sleeves up and gets stuck in
- duly considers the commercial principle rather than dwelling on legal distinctions
- he delivers to the same high standard in court as he does on paper; amazing quality of work
- keen advocacy, litigator's intuition and great client-handling skills
- robust and intellectually rigorous style
- excellent reputation; tons of knowledge
- a straight talker who can distil the complex into a simple form
- brilliant at getting to the core points and presenting complicated arguments with clarity and punch
- gives practical, commercial advice and offers a view instead of sitting on the fence
- one of the most effective professional negligence barristers around