

# Michal Hain

CALL: 2017

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Languages: German (native); Slovak (native); French (conversational)



## Overview

Michal's practice spans all areas of commercial law, including (re)insurance, banking and finance, investor-state disputes and international trade. Much of his work involves complex and multi-jurisdictional litigation, as a result of which Michal has developed particular specialisms in private and public international law.

Described in the directories as "*superbly gifted and a pleasure to work with*", "*incredibly smart*", having "*an exceedingly sharp mind*" and a "*truly safe pair of hands*", Michal has been instructed to appear as sole counsel in high-value cases before the Commercial Court, including [Albion v Heritage](#) [2022] EWHC 162 (Comm), [Civiello v Brodahl](#) [2024] EWHC 707 (Comm) and [ENRC v Dechert, Gerrard and the SFO](#) [2023] EWHC 3280 (Comm). The latter was the second phase of what had been one of The Lawyer's Top 20 Cases of 2021.

Michal is also instructed in one of The Lawyer's Top 20 Cases of 2024, the Russian Aircraft Litigation (see Key Cases below) and has appeared in a number of significant appeals, including:

- in the Supreme Court, [The CMA CGM Libra](#) [2022] 2 All ER 479, on the meaning of seaworthiness and due diligence in contracts of carriage by sea;
- in the Privy Council, [Sian v Halimeda](#) [2024] 2 Lloyd's Rep 65, on the correct test in insolvency where the underlying debt is arbitrable, and the first instance where the Privy Council directed English courts no longer to follow a decision of the English Court of Appeal;
- in the Court of Appeal, [King Crude Carriers v Ridgebury November](#) [2024] 2 Lloyd's Rep 115, on the question of

## Publications

- 'Court considers conflicting dispute resolution clauses in parties' agreements (Albion Energy v Energy Investments Global)' *Lexis@PSL* (24 February 2020).
- 'Past is Prologue – The Role of History in the Law of Equality' *UK Constitutional Law Blog* (9 January 2018).
- 'Guardians of the Constitution – the Constitutional Implications of a Substantive Rule of Law' *UK Constitutional Law Blog* (12 September 2017).
- 'Making Law Far Away From Kitchen Tables: Imposing Trusts Regardless of Formalities' (2014) 3 *Oxford University Undergraduate Law Journal* 55.

## Education

- City Law School, BPTC (2017)
- Harvard Law School, LLM (2016)
- University of Oxford, BA in Jurisprudence, First Class (2015)

whether a debtor can avoid its obligations by wrongfully preventing the occurrence of the relevant condition precedent, as well as [The Flaminia](#) [2023] Bus LR 686, on the proper construction of the Limitation Convention 1976. (The Supreme Court is due to hear appeals in both of these cases in 2025.)

Including as sole counsel, Michal has appeared in arbitrations conducted under the major rules (including ICC, LCIA, SIAC, UNCITRAL, ICSID and LMAA).

Before he started practising, Michal was a judicial assistant to the then-Deputy President, now President of the Supreme Court, Lord Reed in 2018/19, taught contract and tort law at various Oxford colleges, and worked as a mediator in the Harvard Law School Mediation Programme.

As a native German and Slovak speaker, Michal can work with original documents in German, Slovak and Czech.

## Awards / prizes / scholarships

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- First Prize in LCLCBA Jonathan Brock QC Memorial Essay Competition 2017
- First Prize in Property Bar Association Essay Competition 2016
- Peter Taylor Scholarship 2016 (Inner Temple) for the Bar Professional Training Course
- Highly Commended Prize in Law Reform Committee Essay Competition 2015
- Martin Wronker Prize 2015 (Oxford Law Faculty) for Best Performance in Tort
- Gibbs Prize Proxime 2015 (Oxford Law Faculty) for Second Best Performance in Contract, Tort, Land, Trusts
- Ruth Deech Prize 2015 (St Anne's College, Oxford) for Best Performance in Finals
- Ann Kennedy Scholarship (St Anne's College, Oxford) for Outstanding Academic Achievement
- Eli Carter Prizes 2013, 2014, 2015 (St Anne's College, Oxford) for Best Performance in First, Second, Third Year respectively

## Key Cases

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- *Russian Aircraft Litigation*. Michal is instructed in over 90 claims together worth in excess of \$12bn, with David Bailey KC, Charles Kimmins KC, Susannah Jones and Alex Demetriades. They are acting for defendant all and war risks reinsurers against whom the claimant lessors make claims under reinsurance contracts that they say give them direct causes of action on the basis that the Russian airlines did not return hundreds of aircraft, in respect of which the lessors say they validly terminated the leasing. On behalf of their clients, the team also successfully applied for joinder in parallel proceedings brought by some of the same claimants under different insurance policies culminating in a three-month trial from October to December 2024.
- *ENRC v Dechert, Gerrard and the SFO* [2023] EWHC 3280 (Comm). Following the 'phase 1' trial on liability, which had been one of The Lawyer's Top 20 Cases of 2021, Michal was instructed for Mr Gerrard, a former partner at Dechert. Michal subsequently appeared as sole counsel in a two-week 'phase 1A' trial that addressed issues of causation, loss and contribution. The litigation also involved the first reported instance ([2023] 2 WLUK 442) of a trial judge recusing himself from an application for contempt following a successful application by Michal (led, for that hearing, by Sasha Wass KC).
- *Sian v Halimeda* [2024] 2 Lloyd's Rep 65. Having written a chapter on *Commencing Insolvency Proceedings on the Basis of an Arbitrable Debt* in Bamforth and Gandhi (eds), *Arbitration and Insolvency*, Michal was instructed to appear in the Privy Council led by Paul Lowenstein KC and Rupert Hamilton on the question of whether the test for winding up should depend on whether the underlying debt is subject to an agreement to arbitrate.
- *King Crude Carriers v Ridgebury November* [2024] 2 Lloyd's Rep 115. Michal has been instructed in four arbitral references relating to a sale of oil tankers since proceedings commenced. Led by Julian Kenny KC, Michal appeared in the hearing of preliminary issues before the tribunal, the section 68 challenge as well as the section 69 appeal in the High Court, and the subsequent appeal to the Court of Appeal. The critical issue was whether Lord Watson, in *Mackay v Dick* (1881) 6 App Cas 251, had been right to say that where a party wrongfully prevented the fulfilment of a condition precedent to a debt, the condition would be deemed fulfilled. An appeal is pending before the Supreme Court.
- *The CMA CGM Libra* [2022] 2 All ER 479. Together with Timothy Hill KC and Alex Carless, Michal was instructed in the Supreme Court appeal about the meaning of seaworthiness and the obligation to exercise due diligence, which are two foundational concepts in virtually all contracts for the carriage of goods by sea.

## Commercial Litigation

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Michal's broad practice covers all aspects of Commercial Court work, including applications arising from arbitrations and obtaining relief in aid of enforcing arbitral awards or foreign judgments as well as other interim remedies. Increasingly, Michal is instructed to appear as sole counsel in these cases.

- [Albion v Heritage](#) [2022] EWHC 162 (Comm). As sole counsel, Michal appeared in a week-long Commercial Court trial regarding a claim for more than \$6 million, which turned on the proper construction of a loan agreement as varied by a subsequent share purchase agreement.
- [Civiello v Brodahl](#) [2024] EWHC 707 (Comm). Michal, as sole counsel, appeared in the Commercial Court relating to the scope of a freezing order and other relief against a judgment debtor who had not paid a foreign judgment debt. The litigation also involved issues of the scope of the court's powers to grant a worldwide freezing order in aid of enforcing a foreign judgment. HHJ Pelling KC's judgment on that point is unreported, but Falk LJ granted permission to appeal, and the appeal is pending.
- [ENRC v Gerrard](#) [2023] EWHC 3280 (Comm). Following the 'phase 1' trial on liability, which had been one of The Lawyer's Top 20 Cases of 2021, Michal was instructed for Mr Gerrard, a former partner at Dechert. Michal subsequently appeared as sole counsel in a two-week 'phase 1A' trial that addressed issues of causation, loss and contribution. The litigation also involved the first reported instance ([2023] 2 WLUK 442) of a trial judge recusing himself from an application for contempt following a successful application by Michal (led, for that hearing, by Sasha Wass KC).
- [Sian v Halimeda](#) [2024] 2 Lloyd's Rep 65. Having written a chapter on *Commencing Insolvency Proceedings on the Basis of an Arbitrable Debt* in Bamforth and Gandhi (eds), *Arbitration and Insolvency*, Michal was instructed to appear in the Privy Council led by Paul Lowenstein KC and Rupert Hamilton on the question of whether the test for winding up should be different where the underlying debt is subject to an agreement to arbitrate.
- [King Crude Carriers v Ridgebury November](#) [2024] 2 Lloyd's Rep 115. These appeals raised the critical issue of whether debtors could avoid their obligations to pay by wrongfully preventing the occurrence of a condition, upon the occurrence of which the debt had become due. Michal was led by Julian Kenny KC. An appeal is pending before the Supreme Court.

## International Arbitration

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Michal has extensive experience appearing before international tribunals, including in investor-state disputes. He has also served as a tribunal secretary to Sir Bernard Rix as sole arbitrator in an LCIA arbitration.

Much of Michal's practice also combines litigation and arbitration, including court proceedings brought to enforce or challenge arbitral awards.

- [Sian v Halimeda](#) [2024] 2 Lloyd's Rep 65. Having written a chapter on *Commencing Insolvency Proceedings on the Basis of an Arbitrable Debt* in Bamforth and Gandhi (eds), *Arbitration and Insolvency*, Michal was instructed to appear in the Privy Council led by Paul Lowenstein KC and Rupert Hamilton on the question of whether the test for winding up should depend on whether the underlying debt is subject to an agreement to arbitrate.
- *Freezing Injunction to enforce LCIA award* (2022). Michal was instructed as sole counsel to seek a worldwide freezing order to enforce an award for about US\$15 million.
- [King Crude Carriers v Ridgebury November](#) [2024] 2 Lloyd's Rep 115. Michal has been instructed in four arbitral references relating to a sale of oil tankers since proceedings commenced. Led by Julian Kenny KC, Michal appeared in the hearing of preliminary issues before the tribunal, the section 68 challenge as well as the section 69 appeal in the High Court, and the subsequent appeal to the Court of Appeal. The critical issue was whether Lord Watson, in *Mackay v Dick* (1881) 6 App Cas 251, had been right to say that where a party wrongfully prevented the fulfilment of a condition precedent to a debt, the condition would be deemed fulfilled. An appeal is pending before the Supreme Court.
- *Albion Energy v EIGL* [2020] 1 Lloyd's Rep 501. Michal, led by Lord Ghabiner QC and Julian Kenny QC, acted for the successful response to an application for a stay under the Arbitration Act 1996. The jurisdiction of the Court turned on the correct interpretation of a potentially overlapping exclusive jurisdiction clause and an arbitration clause across different contracts.
- *ICC arbitration seated in Singapore* (2023). Michal, with Timothy Hill KC, acted for the claimant in a \$400m energy dispute arising out of the respondent's cancellation of long-term contracts in the context of the extreme price volatility in the markets.

## Insurance

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- *Russian Aircraft Litigation*. Michal is instructed in over 90 claims together worth in excess of \$12bn, with David Bailey KC, Charles Kimmins KC, Susannah Jones and Alex Demetriades. They are acting for defendant all and war risks reinsurers

against whom the claimant lessors make claims under reinsurance contracts that they say give them direct causes of action on the basis that the Russian airlines did not return hundreds of aircraft, in respect of which the lessors say they validly terminated the leasing. On behalf of their clients, the team also successfully applied for joinder in parallel proceedings brought by some of the same claimants under different insurance policies culminating in a three-month trial from October to December 2024.

- *Marine Insurance Claims arising from Russian invasion of Ukraine*. Michal, together with Timothy Hill KC, has been instructed by insurers in a series of marine insurance claims arising from the Russian full-scale invasion of Ukraine.
- *Re-Insurance Arbitration (2020)*. Led by Philip Edey QC and Susannah Jones, Michal acted for the claimant reinsured in a high-value dispute that included allegations of 'over-lining', non-disclosure and misrepresentation under the previous law and the duty of fair representation under the current Insurance Act 2015.

## Shipping and Commodities

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The vast majority of Michal's shipping and commodities practice takes place in confidential arbitrations. Nonetheless, he has appeared in a number of notable court cases, including the following.

- [The CMA CGM Libra](#) [2022] 2 All ER 479. Together with Timothy Hill KC and Alex Carless, Michal was instructed in the Supreme Court appeal about the meaning of seaworthiness and the obligation to exercise due diligence, which are two foundational concepts in virtually all contracts for the carriage of goods by sea.
- [The Flaminia](#) [2023] Bus LR 686. Led by Julian Kenny KC, Michal acted in limitation proceedings arising from a catastrophic explosion. The proceedings involved an application for summary judgment on whether the charterer was prevented from limiting its liability because it had been reckless, an application for an anti-suit injunction and then a series of hearings (in the High Court, Court of Appeal, and upcoming in 2025, in the Supreme Court) on the proper construction of the Limitation Convention 1976.
- [The Aquafreedom](#) [2024] EWHC 255 (Comm). Michal, together with Timothy Hill KC, appeared for the charterer in a hearing that turned on the proper construction and effect of certain 'subjects'.
- [Yangtze Navigation and another v TPT Shipping and others](#) [2024] EWHC 2371 (Comm). Although this was a jurisdiction challenge, it raised the issue of whether exporters of certain cargoes had been the undisclosed principal of the party who had issued letters of indemnity enabling the discharge of cargoes. Michal was led by Timothy Young KC.
- [Falcon Trident Shipping v Levant Shipping](#) [2021] EWHC 2204 (Comm), [2021] Costs LR 803. Michal acted as sole counsel in the London Circuit Commercial Court in a case the proper construction of a settlement agreement that, in the judge's words, "*questions of general interest as to the effect of a pre-action Part 36 offer, and as to the proper categorisation and recovery of fees that are incurred in investigating and securing a claim in another jurisdiction*" (at [3]).

## Recommendations

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Michal is friendly, responsive and has a good understanding of the factual background behind a claim. [The Legal 500 UK Bar 2025](#)

Michal has an exceedingly sharp mind, and he truly is a safe pair of hands. [The Legal 500 UK Bar 2024](#)

Michal is incredibly smart and always has the most relevant case, or excellent strategic suggestions on the tip of his tongue. [The Legal 500 UK Bar 2024](#)

Superbly gifted and a pleasure to work with. [The Legal 500 UK Bar 2022](#)