

MICHAEL HORTON

Call 1993

Silk 2021

ABOUT ME

Michael Horton was appointed a QC in March 2021. He specialises in complex financial remedy cases and in property disputes between unmarried couples and other family members (ie ToLATA disputes). He has particular experience of appellate work and work with an international element. Mike also undertakes some court of protection work.

Mike was shortlisted by Chambers UK for family law junior of the year in October 2020. In Chambers UK 2021, Mike is described as ‘exceptionally bright’ and ‘great at complex technical issues’, and in previous years was described as ‘really knowledgeable’ and a ‘tough litigator.’ In Legal500 2020, Mike was said to be an ‘an impressive advocate’ and ‘his attention to detail is impeccable’.

Mike has written extensively on family law matters. His book, *Compromise in Family Law: Law and Practice*, was published in December 2016, and has been described as a ‘handy, concise – yet comprehensive and informed – reference book’ and making ‘a highly distinctive contribution to family law literature.’ Since summer 2017, Mike has also been responsible for editing chapter 21 of *Rayden & Jackson on Relationship Breakdown, Finances and Children*, which is the chapter dealing with property and ToLATA disputes. He is also a contributing editor of the *Jordans/ Lexis Nexis looseleaf and online publication, Family Law Precedents Service*.

Mike led Alex Laing for the appellant in the case of *Villiers v Villiers*, which was heard in the Supreme Court in December 2019, and judgment given in July 2020. The appeal related to whether the English court should entertain an application for failure to maintain under s 27 when there are divorce proceedings before the Scottish courts. Subsequently, Mike and Alex successfully represented Mr Villiers, acting pro bono, in the first instance proceedings, instructed by Dawson Cornwell, and judgment was given on 11 March 2021 in which Mr Villiers successfully defended the s 27 maintenance application against him.

Mike also recently represented Southall Black Sisters on their intervention in the ‘non-marriage’ appeal of *Akhter v Khan*. Mike drafted a skeleton argument on behalf of Southall Black Sisters, who were given permission to intervene and make oral submissions, highlighting the detrimental impact of the concept of a ‘non-marriage’ has on some minority ethnic women.

EXPERIENCE

Mike specialises in complex financial remedy cases and in ToLATA disputes, including appellate work and international cases.

His broad practice extends to:

- Conventional financial remedies disputes;
- Property disputes between cohabitants or other family members who are not married or in a civil partnership;
- Advising on and drafting pre-nuptial agreements, post-nuptial agreements, and cohabitation agreements;
- Intervenors' property claims in financial remedy proceedings (where parents or other family members claim an interest in family property – 'the bank of Mum and Dad');
- International jurisdiction and forum disputes, including Heman injunctions and drafting affidavit of laws for use in foreign proceedings;
- Applications under Part 3 of the Matrimonial and Family Proceedings Act 1984, including pension sharing claims following an overseas divorce;
- Advising on and acting in applications to set aside financial remedy orders for non-disclosure, mistake, or under the Barder or Thwaite principles;
- Avoidance of disposition orders;
- Concurrent Schedule 1 and ToLATA claims;
- International child maintenance claims;
- Enforcement of financial remedy orders, including judgment summons
- Cases where insolvency impacts on financial remedy cases: Mike has appeared in the bankruptcy court on contested applications annulment of bankruptcy, and has represented trustees in bankruptcy in property disputes;
- The enforcement of pension sharing orders (especially where the pension fund to be shared was under the control of the respondent spouse);
- Claims under the Inheritance (Provision for Family and Dependants) Act 1975;
- Child support cases (including advising on a recent appeal from the Upper Tribunal to the Court of Appeal);
- Cases where a financial remedy claim is in conflict with confiscation orders made in the Crown Court (in cases both before and after the Proceeds of Crime Act 2002 came into force);
- Cases where one party appears to be caught by the 'remarriage trap'; and
- Costs disputes.
- Mike has a particular forte in property law claims, especially those made under ToLATA (the Trusts of Land and Appointment of Trustees Act 1996).

This area of his practice extends to:

- A successful proprietary estoppel claim against the executors of an estate in relation to the major asset of the estate;
- Jurisdiction issues where parties are divorcing overseas but have real property based in England and Wales;
- Drug confiscation proceedings in the Court of Appeal on a property law point;
- A ToLATA and Partnership Act claim relating to 27 properties purchased over 10 years;
- A claim to an interest in a holiday home in Spain, brought here under the provisions of Brussels I;
- A successful claim that jointly owned property was owned in shares where the mortgage fell only on one party's share;

- Complex equitable accounting issues in relation to a property developed by the co-owners
- A disputed application for a restriction resulting in proceedings before the Property Chamber of the First-Tier Tribunal;
- A claim for rectification of a declaration of trust;
- A claim to set aside a declaration trust for duress or overt act undue influence;
- Cases involving illegality arguments;
- A dispute over the ownership of a houseboat;
- The effect of mutual wills;
- Contested probate matters; and
- Relationship undue influence cases.

Notable cases include:

- *Villiers v Villiers* – appeal to the Supreme Court in an intra-UK jurisdiction dispute relating to maintenance, and subsequent trial of the s 27 application (failure to maintain), resulting in Mr Villiers’ successful defence of the application;
- *Ahkter v Khan* – representing Southall Black Sisters in their intervention arguing against the concept of ‘non-marriage’ as damaging to women who only undergo a religious marriage without a civil ceremony;
- *Holland v O’Neill* – appeal to the Court of Appeal over the role of detriment in common intention constructive trust cases;
- *Read v Panzone* – appeal relating to judge’s powers to make avoidance of disposition orders relating to a property in Panama where no application was made for such an order;
- *Olu-Williams* – complex committal proceedings and judgment summons relating to enforcement of maintenance orders;
- *Magiera v Magiera*, an appeal in a jurisdiction dispute under Brussels I in ToLATA proceedings, where the spouses were divorced in France, were already litigating over property in Poland and where one spouse had brought proceedings in England
- *Barnes v Phillips*, an important ToLATA decision of the Court of Appeal on how the presumption of beneficial joint tenancy may be rebutted;
- *Hamilton*, the leading Court of Appeal case on whether it is possible to draft orders for the payment of money over time as a series of lump sums as opposed to a single but variable lump sum payable by instalments;

Mike has also acted for local authorities and the Official Solicitor in Court of Protection cases. He represented a local authority in the Court of Protection in an important test case on the appointment of welfare deputies: *London Borough of Havering v LD & Anor* [2010] EWHC 3876 (COP) (25 June 2010).

Mike has extensive experience of other family law work, including injunctions under the Family Law Act and of divorce proceedings, including defended divorces and jurisdiction disputes. He advises in cases of alleged professional negligence in his areas of expertise.

Mike is a qualified Arbitrator (MCI (Arb)) and accepts instructions to arbitrate financial remedy and ToLATA disputes. He is happy to accept instructions for early neutral evaluations and act

as a private FDR 'judge'. He is also trained in collaborative law. Mike will soon to be able to accept instructions as a civil mediator. He has undertaken the week long training course run by the Society of Mediators.

Mike was a member of the Family Procedure Rule Committee from 2014 to 2020. In 2019, he was appointed a deputy district judge.

Mike undertakes direct Public Access work.

Mike frequently lectures for a number of CPD course providers.

Recent topics have included:

- Recent changes to capital gains tax
- The protection of pension sharing claims
- Setting aside for non-disclosure
- ToLATA claims procedure: a Practical Guide for Family Lawyers
- Nuptial agreements: drafting tips and traps
- Bankruptcy, Financial Remedies and the Family Home
- The enforceability of family arbitration awards

Mike also gives in-house seminars for firms of solicitors. If you wish to arrange for such an in-house talk, please contact the clerks.

PRACTICE AREAS

Family Finance & Private Client

Court of Protection

Dispute Resolution

International

Direct Access

TOLATA

EDUCATION

Mike graduated from Trinity Hall, Cambridge in 1991 with an Upper Second Class Honours degree in Law.

LANGUAGES

Some French

APPOINTMENTS

Family Procedure Rule Committee, 2014 to 2020

Deputy District Judge , 2019

TESTIMONIALS

“Patient yet professional with clients, he has the ability to grasp the details in a case and filter out the main issues.” “Exceptionally bright, even by barristerial standards, he's great at complex technical issues.” “A pleasure to be against, and a really sensible, completely straightforward barrister. He is respected by all.” (Chambers UK Bar 2021)

“His preparation is of the highest order.” Legal 500 2019

“Technically excellent and always prepared to fight.” “Michael is incredibly hard-working, really knowledgeable and someone who gets excited about his cases. A tough litigator, who's very communicative, he's no-nonsense and he has a lot of faith in the instructing solicitor and the client.” Chambers & Partners 2020

“He always puts in 110% – his attention to detail is impeccable and he's an impressive advocate.” Legal 500 2020

PUBLICATIONS

Compromise in Family Law: Law and Practice. London: Lexis Nexis/ Family Law, December 2016

Rayden & Jackson on Relationship Breakdown, Finances and Children: Contributing Editor of chapter 21 on property law disputes

Contributing Editor, Family Law Precedents Service (Jordans/ Lexis Nexis looseleaf and online service)

Protecting the pension sharing order: 2 part article in Family Law, with Rhys Taylor and Paul Cobley: [2021] Fam Law 266, on when pension sharing orders take effect and what can be done to protect the applicant before the orders take effect

Non-molestation orders: Valid Service in the time of Coronavirus (with Rachel Cooper) – 2 part article in Family Law Week in summer 2020 on the rules relating to personal service of non-molestation orders

Setting aside executory orders: a terrible fate for *Thwaite*? [2018] Fam Law 884

The variability of lump sum orders [2013] Fam Law 411 – (Download PDF)

This article was published by Family Law (a publishing imprint of Jordan Publishing Ltd) in the April 2013 issue of the journal Family Law, at [2013] Fam Law 411. It deals with an aspect of the decision in *Hamilton v Hamilton* [2013] Fam 292

The Family Court: “Be careful what you wish for” – (Download PDF)

This article was published in June 2012 by Family Law Week and examined the then recently introduced Crime and Courts Bill and its proposals for the creation of a single family court, the reasons for its establishment, how it might work and whether it was necessary at all

Consulting editor, *Child Support: A Practitioner’s Guide* (by Wendy Mantle) (FT Law & Tax) (1996)

Family Homes and Domestic Violence: A Practical Guide. London: FT Law & Tax, 1996

Residence and Contact: A Practical Guide. London: FT Law & Tax, 1996 (with Lyn Ayrton)

CASES

Villiers v Villiers

Supreme Court: [2020] UKSC 30 [2020] 3 WLR 171 [2020] 2 FLR 917

Court of Appeal: [2018] EWCA Civ 1120 [2019] Fam 138 [2018] 2 FLR 1183

(whether courts in England and Wales can stay application for maintenance under s 27 of the Matrimonial Causes Act on forum non conveniens grounds where are Scottish divorce proceedings)

Subsequent first instance decision on s 27 application: [2021] EWFC 23

Holland v O’Neill

[2020] EWCA Civ 1583

(whether the claimant had established any detrimental reliance on the common intention found by the judge)

Read v Panzone & Anor

[2019] EWCA Civ 1662 [2020] 1 FLR 445

(dispute about property in Panama and whether judge entitled to make an avoidance of disposition order)

Olu-Williams v Olu-Williams

[2018] EWHC 2464 (Fam)

(judgment summons and committal proceedings for failure to pay maintenance and to provide disclosure)

Magiera v Magiera

[2016] EWCA Civ 1292 [2017] Fam 327 [2017] 3 WLR 41 [2017] Fam Law 286

– on appeal from:

G v G

[2015] EWHC 2101 (Fam) [2016] 4 WLR 22

(jurisdiction dispute in tolata proceedings with concurrent Polish proceedings and French divorce proceedings)

Barnes v Phillips

[2015] EWCA Civ 1056 [2016] 2 FLR 1292

(appeal in tolata claim where shares were found to have altered post-separation)

WD v HD

[2015] EWHC 1547 (Fam) [2017] 1 FLR 160

(appeal against variation of maintenance orders and imposition of clean break; Calderbank offers on appeal)

Yordanova v Iordanov

[2013] EWCA Civ 464

(appeal against non-recognition of Bulgarian divorce)

Hamilton v Hamilton

[2013] EWCA Civ 13 [2013] Fam 292 [2014] 1 FLR 55

(whether court can make orders for non-variable lump sums as well as variable orders for lump sum by instalments)

Gourisaria v Gourisaria

[2011] 1 FLR 262 [2010] EWCA Civ 1019

(appeal against refusal to adjourn financial remedy proceedings where related proceedings in India)

London Borough of Havering v LD & Anor

[2010] EWHC 3876 (COP) [2010] COPLR Con Vol 809

(whether local authority should be appointed welfare deputy)

Fallon v Fallon

[2008] EWCA Civ 1653 [2010] 1 FLR 910

(appeal against order made on wrong factual assumption)

RE F (Restrictions on Applications)

[2005] EWCA Civ 499 [2005] 2 FLR 950

(appeal against s 91(14) order where applicant withdrew application for direct contact at outset of fact-finding hearing)

R v Mills

[2001] EWCA Crim 2875

(appeal relating to confiscation order over family home with disputed beneficial interests)