

MICHAEL HORTON KC

Year called 1993

Silk 2021

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OVERVIEW

Equally at home in the civil and family courts, Michael Horton KC specialises in complex financial remedy cases and in property disputes between unmarried couples and other family members (i.e., TLATA disputes), including appellate work and work with an international element. He is known for his accessible, down to earth, and robust approach, incisive analysis, and unrivalled legal knowledge. He is a popular choice as a family law arbitrator, private FDR evaluator, and civil mediator.

PRACTICE AREAS

- Family Finance & Private Client
 - ToLATA/ family property/ probate
 - Dispute Resolution/ arbitration/ private FDR
 - International
 - Direct Access
 - Court of Protection
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EXPERIENCE

Financial remedies

Mike has extensive experience in complex financial remedies work, including high net worth cases and where assets are in complex trust or company structures. He was shortlisted by Chambers UK for family law junior of the year in 2020. He advises on and drafts pre-nuptial agreements and other relationship agreements. In 2013 he appeared in the important case of Hamilton on whether an order for the payment of lump sum by instalments could be varied. He is particularly interested in set aside claims, where a party seeks to reopen family law compromises. His book, *Compromise in Family Law: Law and Practice*, was published in 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’.

TLATA and other property disputes

Renowned for his expertise in family property cases, whether in free-standing ‘TLATA’ cases, or in intervener cases, where third parties bring property law claims within financial remedy proceedings, Mike is often instructed in cases where there is a TLATA claim alongside a Schedule 1 claim between unmarried couples. He has appeared in several leading TLATA cases, such as *Hudson v Hathway* in 2022, where he led Guy Holland of 36 Family, *O’Neill v Holland* (2020) and *Barnes v Philips* (2015). Mike is the editor of chapter 21 of *Rayden & Jackson on Relationship Breakdown, Finances and Children*, which is the chapter dealing with property and TLATA disputes. Mike has a keen interest in in cohabitation law reform and gave evidence (together with Elizabeth Darlington of 1GC) to the Women and Equalities Select Committee as part of their 2021-22 enquiry into this issue.

International family law

His international family law experience includes jurisdiction disputes, stays on forum non conveniens grounds, and cross-border enforcement, as exemplified by the forum dispute in *Villiers v Villiers*, in which Mike led Alex Laing in the Supreme Court, with 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. Before Mostyn J in March 2021, Mr Villiers was successful in having the s 27 claim dismissed, but the ruling was overturned by the Court of Appeal in June 2022. Mike is a fellow of the International Academy of Family Lawyers. He is regularly instructed in claims under Part III of the Matrimonial and Family Proceedings Act 1984 for financial provision following an overseas divorce. Mike has also appeared in and advised on several cases in the Cayman Islands. He also has experience of cases where the recognition of foreign divorces is in issue, such as *Al Saleh v Nakeed* (2021).

Validity of marriage/ non-qualifying ceremony

Mike has considerable experience of advising on the validity of marriages and on ‘non-qualifying ceremonies’, especially where Muslim couples enter into a nikah. In 2019, Mike appeared in the *Akhter v Khan* appeal dealing with what was then called ‘non-marriage’. 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-qualifying ceremony has on some minority ethnic women.

Arbitration/ private FDR/ mediator

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 often acts as a private FDR evaluator, especially in cases involving intervener issues. Mike is a qualified civil mediator

and accepts instructions to mediate ToLATA and other property disputes. He is also trained in collaborative law. He is a deputy district judge with a FRC (financial remedy court) ticket and a Panel Deemster in the Isle of Man.

Lectures and articles

Mike has written extensively on family law and property law issues, including a summary of the decision in *Unger v Hasan* ([link to chambers website](#)), and a recent two-part article in *Family Law* on protecting pension sharing claims. He is a well-respected lecturer, and in recent months has given talks on divorce reform, non-court-based dispute resolution, and also spoke on Schedule 1 claims at the At A Glance conference in October 2023.

His financial remedy practice extends to:

- Conventional financial remedies disputes;
- Advising on and drafting pre-nuptial agreements, post-nuptial agreements, and cohabitation agreements;
- Interveners' 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 *Hemain* injunctions and drafting affidavit of laws for use in foreign proceedings;
- Applications under Part III 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 TLATA 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 Dependents) Act 1975;
- Child support cases (including advising on 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);
- Professional negligence cases
- Cases where one party appears to be caught by the 'remarriage trap'; and
- Costs disputes.

Mike's property law and ToLATA practice includes:

- A successful claim based on emails amounting to a disposition in signed writing
- 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 TLATA 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.
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TESTIMONIALS

“Michael is highly intelligent, intellectually rigorous. He is always impeccably well prepared and researched” (Legal 500 2023)

“Michael Horton is completely brilliant at what he does. He's quick on his feet and open to thoughts and ideas from clients, solicitors, and junior barristers. Michael cares about the clients and is available to chat and assist no matter how small the case may be or how busy his diary is.”

“Michael Horton is a very lovely, charming advocate.”

“He is very versatile and a great advocate”.

(Chambers & Partners 2023)

“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)

“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)

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 loose-leaf and online service)

Protecting the pension sharing order: 2-part article in Family Law, with Rhys Taylor and Paul Cobley: [2021] Fam Law 266 & [2021] Fam Law 395, 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](#)

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”](#)

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.

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

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

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

CASES

Unger v ul-Hasan

[2023] UKSC 22 [2023] 2 FLR 860.

(Supreme Court decision on whether financial remedy claims can survive the death of one or both spouses).

Hudson v Hathway

[2022] EWCA Civ 1648 [2023] KB 345.

(Court of Appeal decision on whether detrimental reliance required to change beneficial interests in cases where presumption of beneficial joint tenancy not rebutted at time of acquisition, and on whether emails can amount to signed writing for purpose of s 53(1)(a) and (c) of the Law of Property Act 1925)

MN v AN

[2023] EWHC 613 (Fam) [2023] Fam Law 639.

(A decision of Moor J where the pre-nuptial agreement was challenged on the ground of undue influence and on ground of unfairness in failing to meet needs).

McLean v McLean

[2023] EWHC 1863 (Ch) [2023] 4 WLR 69.

(A decision of Sir Anthony Mann on appeal as to whether a contract not to change the will was necessary for the doctrine of mutual wills to operate).

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 23 [2022] 1 FLR 513, and Court of Appeal decision [2022] EWCA Civ 772 [2023] Fam 1.

Al Saleh v Nakeeb

[2021] EWHC 3186 (Fam) [2022] 2 FLR 503

(A decision on appeal relating to the non-recognition of a Syrian divorce).

Akhter v Khan

[2020] EWCA Civ 122 [2021] Fam 277.

(A decision of the Court of Appeal as to whether a couple who had entered into a nikah with the intention of having a subsequent civil marriage ceremony had formed a valid marriage, void marriage, or merely a 'non-qualifying ceremony').

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 tolatá proceedings with concurrent Polish proceedings and French divorce proceedings).

Barnes v Phillips

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

(appeal in tolatá 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).

EDUCATION AND PROFESSIONAL MEMBERSHIPS

Mike graduated from Trinity Hall, Cambridge in 1991 with a degree in Law.

He is a member of Gray's Inn.

Mike was a member of the Family Procedure Rule Committee from 2014 to 2020.

Mike was appointed a Deputy District Judge in 2019. He sits in civil cases and has a ticket to sit in the financial remedy court.

Mike was appointed as a Panel Deemster (part-time judge) in the Isle of Man in 2022.

Mike is a member of the Family Law Bar Association, the Chancery Bar Association, and the Chartered Institute of Arbitration, and of Resolution.

Mike was a member of the FLBA national committee from 2010 to 2013.

Mike is a member of the International Academy of Family Lawyers.
