

ANDREW LATIMER

Year of call: 1995

Qualifications: BA (Oxon); BCL - Hertford College Oxford

Clerked by: Louise Barnes Luke Heywood

AREAS OF EXPERTISE:

Commercial Litigation Company Partnership Real Estate
Litigation Civil Procedure



Profile

Andrew Latimer appears in the Business and Property Courts and since 2017 has appeared twice in the Court of Appeal without a leader and also as a junior in the Supreme Court. His commercial practice includes unfair prejudice petitions, claims for breaches of directors duties, partnership claims, breaches of warranty disputes, claims for misrepresentation and professional negligence arising out of business and property work.

He appeared at trial and in the Court of Appeal in *Regency Villas v Diamond Resorts* without a leader and as a junior counsel in the Supreme Court in 2018. He has advised in relation to easements at the Richard Seiffert-designed Gateway House beside Manchester Piccadilly station, has advised on easements involving two airfields, rights of entry by utility companies to private land and on mobile telephone masts and rights under the Electronic Communications Code.

He writes for Sweet & Maxwell's *Commercial Litigation: Pre-emptive remedies* and has appeared in several cases on civil procedure which are referred to in the White Book (see Civil Procedure section below).

He had a pedigree bull names after him, *Deveron Latimer*, in the course of a case concerning the extent to which damages could be recovered for economic loss caused by negligence.

Year of Call: 1995

Areas of Expertise

Commercial Litigation

Hughes v Whyatt [2019] EWHC (HHJ Stephen Davies, defeated allegation of forgery of signature and fabrication of documents after 4 day trial. Judgment deals with issues of declaration of trust of shares and defence of illegality)

Quinn v Bank of Ireland [2018] EWHC (HHJ Pearce, obtained reverse summary judgment on a claim for breach of duty of care in 'allowing' a nursing home business to go into administration and for alleged misrepresentation in the course of taking a personal guarantee)

US Mortgage Finance v Dew [2017] EWHC Civ 299 (CA and Burton J, obtained summary judgment in England on judgment entered in Florida and upheld on appeal. The issue was whether debtor had submitted to jurisdiction in Florida or could deny debt in England)

One Fish Co Ltd v Iceland Foods Ltd [2017] EWHC 3366 (HHJ Eyre QC, defeated claim for £500k following 5 day trial. The case turned on alleged implied terms and variation of a contract)

NCC Skills v Ascentis [2016] EWHC 2006 (Garnham J, defeated summary judgment application against exam board because of counterclaim relating to failure by course provider to prevent cheating)

Shafi v Rutherford [2014] EWCA Civ 1186 (CA, construction of agreement relating to expert determination and whether an expert was free to depart from earlier sets of accounts in computing liabilities)

R v H (advising on contractual aspects of the Trade in Goods (Control) Order 2003 regarding UK licensing of arms dealing)

Penny v Montagu (led by Lesley Anderson QC in a minority shareholders petition with 13 days of interim hearings and 4 written judgments on interim applications. The trial settled in early 2012 after 8 weeks in court)

Linfoot v Adamson [2012] BPIR 1033 (HHJ Behrens, challenge to decision of supervisor under s.263 of the Insolvency Act 1986 and whether s.303 IA 1986 could be used to cut down the scope of the challenge)

Hitachi Capital (UK) plc v V12 Finance Limited & Davies [2009] EWHC 2432 (Comm) (Commercial Court, application for third party costs order under s.51 of Supreme Court Act 1981)

The Anglo-Eastern Trust v Kermanshahchi [2003] BPIR 1229 (Hart J, led by Paul Chaisty QC at trial of £1.4m claim for repayment of loan monies and proceedings under s.423 of Insolvency Act 1986 to recover property transferred by Defendant to his wife before delivery of judgment in summary judgment application)

Company

Re Lloyds Autobody Limited [2018] EWHC 2336 (HHJ Hodge QC: 12 day trial of an unfair prejudice petition ending with detailed judgment on liability and share valuation, including whether to apply a discount to a minority shareholding and whether or not to split a discount reflecting minority shareholding)

Blomqvist v Zavarco [2016] Bus LR 907, [2017] 1 BCLC 373 (HHJ Cooke, 3 day trial concerning when company is estopped from denying that share capital is paid up)

Maresca v Brookfield Development and Construction Ltd [2013] EWHC 3151 (Norris J, defeated unfair prejudice petition and the court gave guidance on the relationship between unfair prejudice petitions and the 'just and equitable' ground for winding up in the light of section 125(2) of the Insolvency Act 1986).

Penny v Montagu (led by Lesley Anderson QC in a minority shareholders petition with 13 days of interim hearings and 4 written judgments on interim applications. The trial settled in early 2012 after 8 weeks in court)

Eskape v Route [2011] EWHC 1635 (HHJ Hodge QC, 15 day trial in the Chancery Division concerning allegations of breaches of directors duties, passing off, misuse of confidential information and economic torts and a cross claim for minority shareholders prejudice and/or just and equitable winding up)

Partnership

Andrew Latimer advises on partnership disputes including disputes involving solicitors' partnerships. Many of these cases can be resolved out of court. Recent cases which have proceeded to trial:

Re Lloyds Autobody Limited [2018] EWHC 2336 (HHJ Hodge QC: 12 day trial of an unfair prejudice petition and a second set of partnership proceedings involving just and equitable winding up of partnership)

Rogers v Barr [2017] EWHC 1423: (David Halpern QC: 8 day trial concerning issues of whether a property partnership was formed overseas and the dissolution of that partnership. The trial also included taking evidence by videolink)

Real Estate Litigation

Regency Villas v Diamond Resorts [2018] UKSC 57 (Supreme Court) and [2017] Ch 516 (CA and HHJ Purl QC) novel point on whether English law recognises an easement to use recreational facilities such as a golf course or swimming pool for free. The Supreme Court decided that English law did and surveyed law from Commonwealth jurisdictions on the point. The case has significant implications for the principles surrounding recognition of easements in English law and commercial implications for landowners who would otherwise charge for use of expensive recreational facilities.

US Mortgage Finance v Dew [2017] EWHC Civ 299 (CA and Burton J, obtained summary judgment in England on judgment entered in Florida and upheld on appeal. The issue was whether debtor had submitted to jurisdiction in Florida or could deny debt in England)

National Grid Electricity v Hillam [2016] EWHC (HHJ Behrens, rights of inspection and entry upon private land arising from Electricity Act 1989)

Piccadilly Gateway Limited v Network Rail: advised on right of way litigation at Gateway House, Manchester (designed by Richard Seiffert in the 1960s) over the approach to Manchester Piccadilly station and access to a multi-storey car park.

Places for People Ltd v Ribble Heights Residents Association (MAN/30UK/LSC/2008/0074, 18.1.11) (Manchester Leasehold Valuation Tribunal, 8 day hearing concerning service charges collectively worth over £1m and successfully opposed paper application for permission to appeal to the Upper Tribunal)

Thane Investments Ltd v Tomlinson [2007] 1 P&CR DG3, [2006] EWHC 1182 (Hart J, forgery does not render lease void)

Civil Procedure

Andrew Latimer edits chapters for Sweet & Maxwell's *Commercial Litigation: Pre-emptive Remedies* loose-leaf on Summary Judgment and Default Judgments. He has been involved in several cases noted in the White Book (*ICI, Anglo-Eastern* and *Lunnun*) turning on civil procedure as well as others in the Court of Appeal and at first instance:

US Mortgage Finance v Dew [2017] EWHC Civ 299 (CA and Burton J, obtained summary judgment in England on judgment entered in Florida and upheld on appeal. The issue was whether debtor had submitted to jurisdiction in Florida or could deny debt in England)

NCC Skills v Ascentis [2016] EWHC 2006 (Garnham J, defeated summary judgment application against exam board because of counterclaim relating to failure by course provider to prevent cheating)

Burden Holdings (UK) Ltd v Fielding [2014] EWHC 3356 (HHJ Hodge QC, CPR 31.14 and how specific the reference to documents in a witness statement must be before disclosure is ordered)

ICI Chemicals & Polymers Ltd v TTE Training Ltd [2007] EWCA Civ 725 (CA, summary judgment for Defendant on construction of deed defeated £300k claim)

R&M Stansfield Enterprises Ltd v AXA Insurance UK plc [2006] EWCA Civ 881 (CA, calculation of loss of profits and mitigation of loss in complicated assessment of damages)

The Anglo-Eastern Trust Ltd v Kermanshahchi, Times, 8 November 2002, (Park J, addition or deletion of penal notice on order, prior to service, without returning to court)

The Anglo-Eastern Trust Ltd v Kermanshahchi [2002] EWCA Civ 198 (CA, led by Peter Smith QC, impecuniosity and a conditional order of £1m, practice to be adopted when conditional orders sought as alternative to summary judgment)

Lunnun v Singh, Times, 19 July 1999 (CA, extent to which causation and contributory negligence can be disputed on assessment of damages following default judgment)

Memberships

Chancery Bar Association, Northern Chancery Bar Association

Appointments

Trustee of the Kings Chambers and Ian Mark Cooper Trust (2018)

Treasurer, Northern Chancery Bar Association (since 2018)

BSB External Examiner for Commercial Litigation (2013-16)

Committee Member, Northern Chancery Bar Association (since 2011)

Attorney-General's Panel for Civil Litigation (2000-2007)

Publications

Contributor to Sweet & Maxwell's loose-leaf, *Commercial Litigation: Pre-emptive remedies*

Chapters 5 and 6 on Default Judgments and Summary Judgment (since 2003)

Qualifications

Hertford College, Oxford (1990-94)

BA (Jurisprudence) - 1st class (1993). Joint winner of University Land Law prize

BCL (1994)

Holt Award, Gray's Inn (1995)

Recommendations

Chambers UK 2022

"Andrew Latimer is very clear and methodical; he is very pleasant to work with."

Legal 500 2022

"Andrew is definitely a star in the making. He is thorough and presents very well."

Chambers UK 2021

"I find him to be one of the most reliable and professional barristers I work with." "He's good at what he does, and he is honest, straightforward and easy to deal with."

"He's a ferocious advocate and he really gets stuck into a case." "He has a huge brain and he wears it very lightly."

Legal 500 2020

"Andrew is a meticulous and thorough individual who is always well prepared for conferences and hearings. His preparation for witness cross examination is excellent and his submissions in court are impressive."

"Andrew is very much a star and someone we would highly recommend. He is very good on paperwork and a first-class advocate."

Chambers UK 2020

"He has an incredible ability to get to grips with the detail of a complex dispute at the outset. He has extraordinary legal and technical knowledge."

"He is very reasoned in everything he does." "He is very intellectual and very bright."

Chambers UK 2019

"Very diligent and good at persuading judges." "He's brilliant. He gives really useful tactical input on cases which helps bring them to satisfactory conclusions."

"Andrew Latimer is a very good junior. He has a dry sense of humour. You have fun working with him without any loss of attention to the minutest detail of the cases." "He is very thorough and robust."

Legal 500 2019

"Unflappable and dedicated."

Chambers UK 2018

"Clients and solicitors love him. He is always a master of his papers, and is calm, intelligent and very effective in court." "He is very proactive, and has especially good insight as to the tactical steps required to close a matter down."

"His advocacy always hits the right note and he's excellent with clients." "He is a master of his papers, calm, intelligent and very effective in court."

Legal 500 2018

"A great mix of aggression and pragmatism."

Chambers UK 2017

"He is very good on his feet and great with clients. He can bring a very tranquil attitude to quite fraught matters." "A great all-round lawyer, and I know many people adore him."

"He is absolutely excellent - extremely good to work with, good with clients, a strong advocate and one of the rare barristers who is very good at mediation and negotiation, but is also prepared to fight."

Legal 500 2017

"An excellent all-round advocate."

Chambers UK 2016

"An extremely bright barrister and skilful advocate who is good at thinking on his feet in court. Held in high esteem by his peers, he is straightforward and highly perceptive."

"He provided excellent, well thought through and perceptive advice. His advocacy always hits the right note and he's excellent with clients."

Recommended for Commercial Litigation/Commercial Dispute Resolution by Chambers UK every year since 2002

Has a comprehensive commercial and chancery practice, which covers partnership and shareholder disputes, commercial property and professional negligence. He is a favourite with solicitors, who value his "fantastically bright, can-do attitude." ..."He is very hard-working. He's not only academic, but able to get into detail in a practical sense too." (2015)

"He is excellent on his feet, has outstanding technical knowledge and is very approachable." "He is a very robust advocate with a unique and impressive sense of humour." (2014)

"...measured and powerful advocate who times his attacks very carefully to maximum effect. "Documents he drafts "prick any bubble of pomposity the other side has in a marvellous way" and his cross-examination is joyous" to behold. He is instructed in a marvellous way" and his cross-examination is joyous" to behold. He is instructed in a variety of commercial disputes and his recent work includes advising clients on freezing orders, breach of directors' duties and misrepresentations claims." (2013)

Recommended for Chancery by Chambers UK every year since 2007:

"Maintains an extensive chancery practice focusing on commercial litigation. His caseload encompasses insolvency law, landlord and tenant disputes, partnership, shareholders' rights and breach of trust." (2015)

"He is an amazingly skilful cross-examiner. He never shows any emotion, is courteous to a fault and never rises to bait." "He has a laid-back approach which can be absolutely invaluable - he keeps things in perspective. He is vicious and withering in written arguments, but his manner remains laid-back and affable." (2014)

"Sources praise Andrew Latimer's advocacy , and say: "If you need a scrap in court, he's the best." (2013)

