

ANDREW GRANTHAM QC, FCIARB

Year of call: 1991
Year of silk: 2020

Qualifications: St Catherine's College, Oxford: BA 1988 (Jurisprudence), BCL 1989, MA 1997 Chartered Institute of Arbitrators: Fellow 2001

Clerked by: Gary Young Harry Young

AREAS OF EXPERTISE:

Arbitration Banking & Finance Civil Fraud Company Dispute Resolution Insurance International Private Client, Trusts and Probate Professional Negligence



Profile

Andrew practises almost exclusively in Commercial and Chancery Dispute Resolution including Arbitration and International Disputes. He also undertakes some non-contentious work.

He was called to the Bar following a short career as a full-time law lecturer at Wadham College, Oxford and part-time lecturer at King's College, London.

Andrew specialises in cases of high value and considerable complexity. He has particular expertise in contractual and corporate disputes. His clients include banks and major public companies as well as a number of smaller manufacturing and other companies and professional firms.

Year of Call: 1991

Areas of Expertise

Arbitration

Andrew has acted as both arbitrator and advocate in several high value arbitrations.

Significant Arbitrations

An arbitration between a supplier of automatic vehicle number plate recognition systems and a supermarket group. The arbitration arose out of the termination of a contract for the supply of such systems throughout the stores operated by the group and was resolved shortly prior to the final hearing. Andrew appeared alone on behalf of the claimant supplier of equipment.

An arbitration arising out of the widening of the M62 motorway near Whitefield. The arbitration arose between the main contractor and its planing subcontractor under a FCEC standard form of sub-contract. Andrew appeared on behalf of the respondent main contractor.

An arbitration arising out of the termination of a commercial agency agreement. I acted as the arbitrator.

An ongoing arbitration in Zurich between 2 parties to a joint venture agreement where the claim is for US\$40m and there is a counterclaim for US\$30m in which Andrew has been acting as junior counsel.

An ongoing ICC arbitration arising of the development of para of London Docklands. Andrew is acting as lead counsel on behalf of the claimant whose claim is for over US\$30m.

Banking & Finance

Andrew has acted both for and against banks and financial institutions in numerous cases including in disputes involving guarantees and indemnities; the mis-selling of financial products; negligent advice and wrongful payments.

Significant Reported Cases

Cooper v Bank of Scotland plc [2013] EWHC 4645 (Ch) In this case a claim was made by a customer of a bank alleging that the bank had wrongfully made payments exceeding £600,000 out of his account and that he had suffered consequential loss which he ultimately alleged to be in excess of £16,000,000. The claim was ultimately settled after Andrew on behalf of the bank had successfully resisted an appeal against an order

refusing to grant the claimant relief from sanctions.

Murphy v HSBC Plc [2004] EWHC 467 (Ch) Andrew acted on behalf of the claimants in a case involving a claim for damages for negligence against a bank by its customers. Silber J reviewed the test applicable for the imposition of a duty of care upon the bank relying upon Andrew's analysis of the law but ultimately found against the claimants on the facts.

Civil Fraud

Andrew is frequently instructed on civil fraud cases, particularly those requiring urgent asset preservation/recovery injunctions. Examples of recent cases include:

- A claim against a solicitor who had misappropriated £300,000 of client moneys (freezing injunction obtained – personal and proprietary claims pursued);
- A claim against persons unknown who fraudulently procured over £270,000 from bank accounts located out of the jurisdiction (freezing injunction and asset preservation order obtained culminating in judgment in default)
- Advising BVI liquidators on the merits of adopting a (9 figure) multi-million pound, multi-party shareholder dispute claim in the Chancery Division involving amongst other matters an alleged fraudulent conspiracy and misrepresentations between the various investors

Company

Andrew's company practice extends to contentious and non-contentious matters. His contentious practice includes shareholder disputes (including derivative actions and unfair prejudice petitions) and claims against directors. His non-contentious work includes reduction of share capital and restructuring.

Significant Reported Cases

Bhullar v Bhullar [2016] 1 B.C.L.C. 106 authority on test for the grant of permission to continue a common law derivative action. Morgan J considered that test and its relationship with the test for the grant of an indemnity to the claimant by the company. Andrew appeared as junior counsel for the defendant who succeeded in resisting permission for 1 of the 2 claims and the application for an indemnity.

Discovery Yachts Ltd, [2021] Bus. L.R. 1422 The case is the leading authority on 2 issues concerning Section 217 of the Insolvency Act 1986. First, it establishes that where a company's liability for a debt had been established in court proceedings, it automatically established the personal liability for the debt of a director pursuant to S. 217 Insolvency Act 1986, where that individual had been involved in the management of the company in contravention of s.216. Second, the debt is incurred for the purposes of S217 at the time that the company acts in breach of the contract giving rise to the debt rather than the date on which the contract is made.

Dispute Resolution

Andrew has extensive experience in domestic and international dispute resolution before the Courts of England and Wales and overseas as well as in arbitration including ICC Arbitration. His particular expertise includes the following areas:

- abuse of confidential information;
- applications for freezing injunctions and asset preservation orders;
- copyright and passing off;
- civil fraud and asset recovery;
- domestic and international carriage of goods;
- financial services including mis-selling of derivatives and other financial products;
- insurance and reinsurance contract disputes;
- sale of goods including retention of title; and
- share and business sale disputes.

Significant Reported Cases

Shua Ltd v Camp & Furnace Ltd [2020] EWHC 687 (Ch). In this case Andrew appeared on behalf of the successful claimant at the trial of a dispute surrounding ownership of the brand known as "Bongo's Bingo" and the right to hold events using that name.

Carr v Formation plc [2018] EWHC 3116 (Ch). In this case Andrew successfully applied for permission to adduce expert evidence on behalf of one of the Defendants on the issue of market practice in a claim for recovery of an alleged secret commission paid to a football agent on the basis that such evidence was relevant to the issues of unlawful means conspiracy and limitation, in particular deliberate concealment.

Dutton v Minards [2015] EWCA Civ 984 [2015] 6 Costs L.R. 1047. In this case Andrew successfully acted on behalf of the Claimants in the Court of Appeal in a case concerning the exercise of the Court's discretion as to costs following the deliberate late acceptance by the Defendants of a Part 36 offer made by the Claimants which on its face was less valuable than a previous Part 36 offer made by the Defendants.

Webster v Liddington [2014] EWCA Civ 560; [2014] P.N.L.R. 26. In this case Andrew acted successfully on behalf of a group of claimants as junior counsel. It is the leading authority on responsibility for misrepresentations contained within literature produced by a third party handed over to representees.

Parking Eye v Somerfield Stores [2012] EWCA Civ 1338; [2013] Q.B. 840; [2013] 2 W.L.R. 939; [2012] 2 Lloyd's Rep. 679. Andrew acted successfully on behalf of Parking Eye as junior counsel. It was referred to extensively by the Supreme Court in *Patel v Mirza* the leading authority on the effect of illegality on the enforceability of contracts. The Court of Appeal considered the effect of an intention to perform a contract in an illegal manner and introduced the principle of proportionality in determining whether the illegality was such as to preclude contractual enforcement.

Insurance

Andrew has considerable experience in advising upon and acting on behalf of clients with substantial insurance related disputes and in respect of subrogated claims. His experience includes:-

- Advising an insurer on whether a particular term was a policy condition (*George Hunt Cranes Limited v Scottish Boiler & General Insurance Co Limited* [2001] EWCA Civ 1964, [2002] 1 All ER (Comm) 366)
- Advising on whether an indemnity insurer is entitled to refuse to indemnify its insured in respect of liability arising out of a fire causing damage valued at approximately £500,000 on the grounds of breach of warranty and/or excluded peril
- A claim on behalf of the insured against underwriters and an insurance broker for over £1.5m arising out of an alleged non-disclosure of material events
- A claim against an insurance broker for over £3 million for failing to inform the underwriters of convictions for Trading Standards offences and for completing proposal forms without referring to such convictions as a consequence of which the underwriters avoided flood damage cover
- A quantum only arbitration against an insurer arising out of 2 successive fires at a hotel where claims were made in respect of both material damage and business interruption

International

Andrew has considerable experience in advising upon and acting on behalf of clients with international disputes.

He has experience in obtaining anti-suit and worldwide freezing injunctions and relief in support of foreign proceedings. He also has experience in applications to serve out of the jurisdiction, and enforcement of foreign judgments and arbitral awards in England and Wales.

He is frequently called upon to advise as to the appropriate forum for the resolution of and applicable law governing disputes and advised overseas clients and law firms in relation to both domestic and foreign disputes.

Recent experience includes advising the liquidators of a BVI company as to whether they should adopt the claimant's case in a multi-million US\$ shareholder dispute being litigated in the Chancery Division in London.

Acting as junior counsel in an international trust dispute in the Grand Court of the Cayman Islands.

An ongoing arbitration in Zurich between 2 parties to a joint venture agreement where the claim is for US\$40m and there is a counterclaim for US\$30m in which Andrew has been acting as junior counsel. The parties are domiciled in the BVI, England and other European jurisdictions.

An ongoing ICC arbitration arising of the development of para of London Docklands. Andrew is acting as lead counsel on behalf of the claimant whose claim is for over US\$30m. The dispute involves companies domiciled in Hong Kong, China, the BVI as well as England.

A dispute between companies domiciled in the Isle of Man in respect of an online gambling concession in East Asia and associated IPR licence.

Private Client, Trusts and Probate

In the area of trusts and probate Andrew has extensive experience in disputes both domestic and international between trustees and beneficiaries, the appointment, removal and replacement of trustees and executors and the administration of trusts and estates. He also has experience in acting for and against trust corporations both in the Courts of England and Wales and in advising in offshore jurisdictions.

He applies his skills as an experienced practitioner in commercial dispute resolution to all his cases adopting a client-friendly, commercial,

pragmatic but robust approach.

Significant Recent Cases

Perry v Neupert [2019] EWHC 52 (Ch). Andrew appeared as junior counsel on behalf of the Claimants who successfully secured an order appointing 1 of them, a daughter of the deceased, as an executor together with an independent executor, in the face of trenchant opposition from the trustees of various discretionary trusts, established by the deceased. In the proceedings the trustees relied upon alleged misconduct of the Claimants in multiple jurisdictions including in the Cayman Islands, the BVI, Switzerland and Liechtenstein (in which the trusts were domiciled).

Perry v Neupert [2019] EWHC 2275 (Ch). Andrew appeared as junior counsel on behalf of the Claimants who successfully (1) recovered 85% of their costs from the Defendant, the executor named in the will of their late husband/father who had initially resisted but subsequently consented to his removal and (2) resisted an application by the Defendant for an order that his costs be met out of the estate.

The costs of successful beneficiaries in proceedings brought under section 50 of the Administration of Justice Act 1985—Perry v Neupert: <https://academic.oup.com/tandt/advance-article/doi/10.1093/tandt/ttz103/5626210?guestAccessKey=2d25392d-f38a-4a5f-8bf2-8b68fec035e>

Professional Negligence

Andrew is frequently instructed on cases, involving professional negligence claims against accountants, construction professionals, financial practitioners, insurance brokers and surveyors. Examples of claims in which Andrew has acted include the following:

- A claim on behalf of the insured against underwriters and an insurance broker for over £1.5m arising out of an alleged non-disclosure of material events
- A claim against an insurance broker for over £3 million for failing to inform the underwriters of convictions for Trading Standards offences and for completing proposal forms without referring to such convictions as a consequence of which the underwriters avoided flood damage cover
- A claim against a solicitor for approximately £500,000 arising out of his failure to note the existence of 2 leases registered against the title of the freehold blocks of flats acquired by the client and subsequent conduct of the consequential legal proceedings
- A claim against a solicitor for £1m who gave negligent advice as to the merits of investing that sum in a start-up hotel business
- A claim for approximately £500,000 against an animal feed expert who gave negligent advice as to a mineral supplement to be used as an element in bovine feed
- *Halsall v Champion Consulting Ltd* [2017] EWHC 1079 (QB), [2017] P.N.L.R. 32: claim against former tax advisers for damages for negligent advice in respect of tax avoidance schemes

Memberships

Northern Circuit Commercial Bar Association

COMBAR

Northern Chancery Bar Association

Chancery Bar Association

Professional Negligence Bar Association

British and Irish Commercial Bar Association (Treasurer)

Publications

Commercial Litigation Pre Emptive Remedies (Sweet & Maxwell)

Appointments/ Qualifications

St Catherine's College, Oxford: BA 1988 (Jurisprudence), BCL 1989, MA 1997

Chartered Institute of Arbitrators: Fellow 2001

Recommendations

Chambers UK Bar 2022

"He has a fantastic eye for detail and is always on top of the papers." "He's ultra-responsive, ultra-cooperative and a pleasure to work with."

Legal 500 2022

"Andrew's attention to detail and vast experience are two of his many strengths. He also has a phenomenal ability to turn work around and respond to instructing solicitor's queries very quickly. He makes you think that your case is the only case he has on his books which is a great attribute."

"Andrew is very experienced in his field and his written work is excellent. Andrew is one of the most responsive and client friendly silks in Manchester. He is an absolute pleasure to work with."

"It is genuinely difficult to find something remotely negative to say about Andrew."

Chambers UK Bar 2021

Chancery

"He has a very personable manner. Judges like him and he always comes across as very reasonable when he speaks." "He's good on the detail."

Commercial Dispute Resolution

"His written arguments are very good – clear and concise." "He is very good at presenting things in a very straightforward way." "He is very bright and thorough – if he's on your team no stone will be left unturned."

Professional Negligence

"His knowledge is good and he is very capable intellectually; a ruthless advocate in court." "He is an intellectual powerhouse."

Legal 500 2021

Chancery Probate and Tax

"He has a phenomenal intellect, ability to get to grips with cases quickly and comprehensively, thoroughness, knowledge of case law."

Commercial Litigation

"He is first rate and very impressive in complex financial services case (sic)."

Company and Insolvency

"Very bright and a superb mastery of the detail."

Professional Negligence

"He is very impressive."

Legal 500, 2020

"He has a phenomenal intellect, ability to get to grips with cases quickly and comprehensively, thoroughness, knowledge of case law."

"Instils complete confidence in clients."

Chambers UK 2020

"He knows everything about everything; he is incredibly clever. He is great at getting to the heart of matters from a legal point of view, makes everything clear and concise and judges love him." "He is very intelligent and knows everything about the law. He is safe and reliable - you can trust his advice."

Chancery "Super bright and very responsive." "He is very detailed."

"He is extremely thorough, knowledgeable and approachable." "He is a technically excellent and vigorous advocate. Clients immediately respect and trust his advice." "He has a fantastic mind and an extraordinary eye for detail."

Chambers UK 2019

"Extremely diligent, always fully prepared, and someone who gives very good, straightforward advice. "

"He is very thorough and really gets to know the ins and outs of cases." "He is very capable and is always able to make the best of difficult situations."

Legal 500 2019

"Very dedicated and extremely hard working."

Chambers UK 2018

"A fiery advocate."

"He has marvellous attention to detail. If there is a document-heavy and complex piece of litigation, he is very well suited to it. He never lets you down." "He is thorough, knowledgeable and approachable."

Legal 500 2018

"He is remarkably thorough and has a real eye for detail."

Chambers UK 2017

"A very brainy lawyer who always fights very hard for his client." "His written work and advice is always to a very high standard."

"An untiring and tenacious barrister." "He is extremely bright and offers a high standard of client service as well as sound, technical and commercial advice."

Legal 500 2017

"Always well prepared and conscientious with clients."

Chambers UK 2016

"A very proactive, quick and efficient practitioner."

"He is extremely thorough and an excellent advocate with a very good understanding of the law."

"He is very knowledgeable and gives good, concise advice."

