

## Andrew Twigger QC

Call 1994

Silk 2011

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Andrew has extensive experience of High Court litigation and regularly appears in both the Chancery Division and the Commercial Court. He also appears in the Court of Appeal and the Supreme Court. In addition, Andrew acts in commercial arbitrations and mediations, and has been involved in offshore litigation including in the Bahamas, the Cayman Islands, the BVI, Bermuda and Hong Kong.

**Commercial Disputes:** Andrew's practice encompasses disputes of all kinds involving domestic and international businesses and property, including claims for breach of contract, warranty and misrepresentation claims, claims for rectification of contracts and other documents, claims in respect of licence agreements, share purchase agreements, joint venture agreements, franchise agreements, agency agreements and success fees, claims concerning title to real and personal property (including works of art), restitutionary and quantum meruit claims and claims for breach of confidence and breach of fiduciary duty.

**Civil Fraud:** Andrew has wide experience of claims in respect of fraud and dishonesty and related asset recovery and international enforcement, including obtaining or resisting freezing orders, proprietary claims involving the tracing and following of assets, claims involving bribes and secret profits, claims for dishonest assistance, knowing receipt and constructive trusts, claims for fraudulent misrepresentation and deceit, claims to set aside judgments for fraud, shams and piercing the corporate veil.

**Banking and Financial Services:** Andrew has a particular interest in cases related to banking and is regularly instructed on behalf of issuers, noteholders and trustees in relation to bond issues including sovereign debt and securitisations, covered bonds, collateral debt obligations and CMBS transactions; he has extensive experience of claims involving trading in derivatives of all kinds, including credit default swaps and synthetic CDOs, claims involving the interpretation of ISDA documentation, claims concerning private equity, mutual funds, hedge funds, REITs, venture capital and leveraged buy-outs, claims involving fixed and floating charges, debentures and other security interests and claims arising out of regulatory issues and financial services, including mis-selling claims.

**Company and Partnership Disputes:** Andrew acts in relation to shareholder disputes of all kinds, including unfair prejudice petitions and petitions to wind up companies on the just and equitable ground, derivative actions, claims for breach of fiduciary (and other) duties against directors, claims challenging decisions taken at board meetings and shareholders' meetings and claims concerning vicarious liability for acts of employees and attribution of their acts and knowledge to the company. Andrew also acts in disputes between partners, including the taking of partnership accounts.

**Insolvency and Restructuring:** Andrew has been involved with claims by and against liquidators, receivers and administrators, claims concerning unlawful dividends, preferences, transactions at an undervalue, fraud on creditors, mutual set-off, priorities between creditors and cross-border insolvency issues.

**Trusts:** Andrew is experienced in contentious trust disputes in the UK and offshore, particularly in relation to breaches of duty by trustees, proprietary claims to trust assets and claims for knowing receipt and dishonest assistance.

### Notable Recent Cases

- ***Kazakhstan Kagazi v. Arip*** – Andrew was instructed for two defendants accused of defrauding the claimant companies of \$160 million whilst under their control. Pre-trial, Andrew successfully appealed the refusal of permission to issue a contribution notice against the first defendant. The Court of Appeal held that a freezing order could be made in support of the contribution claim (the first Court of Appeal decision on the point): [2016] EWCA Civ 1036; [2017] 1 W.L.R. 1360. Picken J heard the main trial over 13 weeks between April and July 2017 and a lengthy judgment dealing with a wide range of issues was handed down in December 2017: [2017] EWHC 3374 (Comm).
- ***Blue Power Group v. ENI Norge AS*** – Andrew is instructed for the claimant in an ongoing claim for up to €1 billion in the Chancery Division, involving allegations of breach of exclusivity, best endeavours and confidentiality clauses in various agreements relating to the potential use of the claimant's Compressed Natural Gas technology in the Goliat oil field off the Norwegian coast, operated by the defendant.
- ***Wood v. Sureterm Direct*** – Andrew was instructed for the claimant in this Commercial Court action arising out of a sale of an insurance business. Andrew successfully argued a preliminary issue concerning the construction of an indemnity in relation to alleged mis-selling of policies. He appeared at first instance, in the Court of Appeal and in the Supreme Court. Lord Hodge's judgment is the latest in a line of cases at this level dealing with the construction of commercial contracts and helpfully reconciles some of the earlier authorities: [2017] UKSC 24; [2017] 2 W.L.R. 1095.
- ***Campbell v. Campbell*** – Andrew acts for the defendant in this claim concerning a worldwide partnership between two brothers who, for many years, ran various jewellery businesses through entities in the UK, Thailand, Hong Kong and New York: [2017] EWHC 182 (Ch). A partnership winding-up process is now ongoing. Andrew successfully resisted an appeal concerning whether costs of a foreign lawyer were recoverable: [2018] EWCA Civ 80 (Costs appeal).
- ***Ong v. Ping*** – Andrew is instructed for the claimants and obtained an order setting aside a number of earlier judgments of the High Court, which were held to have been obtained by fraud: [2015] EWHC 1742 (Ch). In November 2017 Andrew successfully resisted an appeal of the Judge's decision establishing that a settlor had declared a trust of real property, despite the absence of words identifying the property in the instrument: [2017] EWCA Civ 2069. The judgement considers the correct approach to determining whether a settlor has effectively declared herself a trustee.
- ***Re FSC Andrews Ltd.*** – Andrew succeeded in striking out an unfair prejudice petition on the grounds that it was bound to fail and was an abuse of process: [2015] EWHC 4042 (Ch). The matter was compromised.
- ***BTG International Ltd. v. Genzyme Corporation*** – Andrew was instructed for the Claimant in this Commercial Court action concerning royalties payable pursuant to an agreement licensing the worldwide production and sale of pharmaceuticals under certain patents.
- ***Re BW Ltd.*** – Andrew was instructed for two companies forming part of an investment structured by Investcorp Bank BSC. An investor issued petitions for the winding up of the companies on the just and equitable ground. The matter settled shortly before the trial, which was listed in August 2015 before Justice Jones in the Cayman Islands.
- ***Edmond de Rothschild Securities (UK) Ltd v. Exillon Energy plc*** – Andrew was instructed on behalf of the claimant, which brought proceedings in the Commercial Court for payment of a success fee under terms of an engagement letter. Summary judgment was granted to the claimant by Males J in July 2014: [2014] EWHC 2165 (Comm).
- ***Day v. Harris & Day v. Royal College of Music*** – Andrew was instructed in relation to two appeals to the Court of Appeal heard in January 2013 concerning the estate of the late Sir Malcolm Arnold, the well-known musician and composer. Amongst the issues arising was the question of title to a large number of manuscripts of Sir Malcolm's works which are currently held by the Royal College of Music: [2014] Ch. 211.
- ***Benedetti v. Sawiris*** – Andrew was instructed to represent the Claimant in this long running litigation concerning the acquisition of a leading Italian telecommunications company, which was the largest leveraged buy-out in Europe in 2005. The Supreme Court's decision is the first time the application of restitutionary principles to *quantum meruit* claims has been considered at the highest level: [2014] AC 938.

- **Independent Trustee Services Limited v. Morris** – Andrew was instructed on behalf of the respondent wife, whose ex-husband had paid off an ancillary relief award with money which later turned out to have been stolen from a pension fund. The Court of Appeal held that the fund was entitled to trace the stolen money into the wife's assets, despite her innocence of any wrongdoing: [2013] Ch. 91.
- **Arab Banking Corporation v. Ahmad Hamad Algosaibi & Brothers** – Andrew was instructed for two of the Claimant banks in a Commercial Court action seeking repayment under various facilities. The Defendants admitted liability part way through the trial and Andrew was subsequently involved in seeking enforcement, including the determination of priorities amongst parties seeking charging orders: [2011] EWHC 2444 (Comm).
- **CPC Group Ltd. v. Qatari Diar Real Estate Investment Company** – Andrew was instructed on behalf of the Defendant in this high profile action in the Chancery Division concerning the withdrawal of an application for planning permission in relation to the development of the Chelsea Barracks site following comments made by HRH the Prince of Wales. The Court's judgment includes some consideration of the law as to the effect of clauses requiring mutual good faith and the use of all reasonable endeavours: [2010] EWHC 1535 (Ch).
- **MAN v Freightliner v. Ernst & Young** – Andrew acted for the Defendant in this high-profile trial in the Commercial Court, involving commercial fraud and auditors' negligence: [2005] EWHC 2347 (Comm). He also acted on the appeal to the Court of Appeal: [2008] 2 BCLC 22.
- **Black v. Sumitomo** – remains a leading case in relation to pre-action disclosure: [2002] 1 WLR 1562.

The clerks are happy to discuss the basis on which Andrew will act in any given matter. In the absence of express written agreement otherwise, the terms under which Andrew accepts instructions are The Standard Contractual Terms for the Supply of Legal Services By Barristers to Authorised Persons 2012 (as updated from time to time) referred to in the BSB Handbook.

### Memberships

Commercial Bar Association  
Chancery Bar Association  
Member of the Chancery Bar Association Committee (2013 to date)  
Member of the Bar Council Legal Services Committee (2013 to date)

### Publications

"Sophisticated Investors : Do they have any rights?" JIBFL 2010

### Qualifications

BA (Oxon)



### Recommendations

Chambers UK, 2021

## **Chancery: Commercial**

"He is a brilliant strategist and is so clever, but also hugely involved in the detail. He has the vision for this work - he can see what the judge will like and what they won't."

## **Commercial Dispute Resolution**

"He is incredibly bright, a real whizz-kid." "A brilliant advocate who is fearless."

## **Legal 500, 2021**

## **Commercial Litigation**

"Undoubtedly one of the top silks for commercial disputes – he is charming, forensic and brilliant in Court, and Judges trust his calm and measured advocacy."

## **Chambers UK, 2020**

## **Chancery: Commercial**

"He's the best QC I work with; he has high-level vision of how we can win the case."

## **Commercial Dispute Resolution**

"A formidable advocate, charming to work with and excellent at client handling, who gets to the root of issues and explains legal points simply." "He is incisive, commercial and very good on his feet."

## **Chambers UK, 2019**

## **Chancery: Commercial**

"A very good strategist with very good judgement." "He is persuasive and forceful on his feet and very accessible and easy to deal with."

## **Commercial. Dispute Resolution**

"Very clever and an excellent tactician."

## **Chambers UK, 2018**

## **Chancery: Commercial**

"Extremely clever, very good at drafting and a sound tactician. His advocacy really stands out, and he has a very comfortable court manner." "A particularly good appeal advocate who is attentively listened to by judges."

## **Commercial. Dispute Resolution**

"His advocacy really stands out and he has a very comfortable court manner." "Technically brilliant and shows great attention to detail."

## **Chambers UK, 2017**

## **Banking & Finance**

"He is very thorough and his drafting is impeccable since he really gets his head around all the issues." "He is technically brilliant and has great attention to detail."

### **Chancery: Commercial**

"He's very thorough and his drafting's impeccable. He really gets his head round all the issues and gets stuck in."

### **Commercial. Dispute Resolution**

"Clever, persuasive and supportive." "He's practical, user-friendly, very meticulous and hard-working."

### **Chambers UK, 2016**

#### **Chancery: Commercial**

"A phenomenally clever man."

"He is a pleasure to come up against because he is extremely straightforward. He is extremely good."

### **Chambers UK, 2016**

#### **Banking & Finance**

"He is most impressive - very thoughtful and strategic."

### **Chambers UK, 2016**

#### **Commercial Dispute Resolution**

"A fantastic resource. He reduces complex matters to their basic elements."

"Clever, persuasive and supportive."

### **Legal 500, 2015**

#### **Commercial Litigation**

"Picks up the key points in a case quickly and delivers excellent advice in conference."

### **Legal 500, 2015**

#### **Banking and Finance**

"Very accessible and responsive with a good courtroom style of advocacy."

### **Chambers UK, 2015**

#### **Chancery: Commercial, Commercial Dispute Resolution, Banking & Finance**

"Is very bright, very user-friendly and very down to earth. He provides the client with complete confidence."

### **Legal 500, 2014**

"Excellent analysis both on law and tactics."