

# Andrew Scott

*“One to watch; he is clear, persuasive and a calming influence in high-pressure situations”*

– LEGAL 500, 2016

Year of call: 2010  
Degree: BA (Oxon) First Class; BCL (Oxon, Vinerian Scholar) Distinction;  
DPhil (Oxon); BVC (Outstanding)



The focus of Andrew's practice is commercial litigation and arbitration. Much of his practice involves cross-border disputes, drawing on his private international law research and teaching experience as a Fellow of All Souls College, Oxford. Since commencing practice, he has acted in some of the leading cases in this field, including several in the Court of Appeal and Supreme Court involving issues of jurisdiction, applicable law, and interim relief.

Legal Week Stars of the Bar 2014 - Andrew was selected from a field of more than 350 candidates as one of the ten 'most promising commercial and Chancery junior barristers recognised for their exceptional abilities'. Legal Week noted Andrew's 'formidable reputation for commercial litigation and international arbitration, far above his 2010 call' and 'his tactical awareness, his ability to get straight to the heart of the issue and the very high quality of his written work'.

## EXPERIENCE

### Commercial

Andrew is frequently instructed on commercial cases, both as sole counsel and led. He regularly appears in all divisions of the High Court and Court of Appeal, and has experience of a wide range of interlocutory proceedings, including those involving anti-suit injunctions, freezing orders, summary judgment, and service out of the jurisdiction.

In addition to a wide range of general commercial work, Andrew's practice covers more specialist areas such as private international law, commercial arbitration, reinsurance and insurance, and cross-border insolvency. Andrew has a particular interest and expertise regarding disputes about the English Court's jurisdiction and associated matters such as stays, anti-suit injunctive relief, and jurisdictional immunities. He has worked on a number of the leading cases in this field recent years, including several in the Court of Appeal and Supreme Court.

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## Cases

### **Perella Weinberg Partners (UK) LLP v Codere SA**

(Commercial Court, 2015 - )

Acting for financial service provider in respect of claims in the Commercial Court for relief in respect of a dispute arising under a letter of engagement and the commencement and continuance of foreign proceedings regarding it. The case is among the first to consider the new *lis pendens* rule under Article 31(2) of the Brussels I Recast Regulation.

### **Re OGX Petroleo E Gas SA**

Acting (with Andreas Gledhill QC) for bondholders in a dispute with entities subject to Brazilian insolvency proceedings, including in English proceedings before the Chancery Division and in London arbitration. In the former, Snowden J gave what is the first judgment to consider duties of full and frank disclosure in recognition applications under the Cross-Border Insolvency Regulations [2016] EWHC 25 (Ch), [2016] Bus LR 121.

### **Exmek Pharmaceuticals SAC v Alkem Laboratories Ltd**

[2015] EWHC 3158 (Comm); [2016] 1 Lloyd's Rep. 239

Acted (with Andrew Green QC) for the respondent in successfully resisting a challenge to an arbitral award, the case giving rise to issues concerning submission to the jurisdiction and waiver of rights under an arbitration agreement in the context of foreign proceedings brought in breach of such agreement.

### **Tseitline v Mikhelson**

[2015] EWHC 3065 (Comm)

Acting for the defendant in this jurisdiction challenge, including on grounds relating to personal service. Phillips J's judgment is the first reported case to consider the requirements of personal service in the context of foreign defendants, who do not speak or understand English. The case is presently on appeal to the Court of Appeal.

### **Libyan Investment Authority v Société Générale SA & Ors**

(Commercial Court, 2015 - ) [2015] EWHC 550 (QB); [2016] EWHC 375 (Comm)

Acting for the individual known as Person B in these high profile Commercial Court proceedings in which the LIA seeks relief in respect of an alleged fraudulent and corrupt scheme in connection with Gaddafi-era trades (with Andrew Hunter QC). There are "confidentiality club" orders in place by reason of the security situation in Libya.

### **A v B**

[2015] EWHC 1944 (Comm); K v S [2015] EWHC 1945 (Comm)

Acting for the respondent in successfully resisting arbitration claims challenging an LCIA arbitration award ordering payment of sums in excess of US\$72 million (with Alan Maclean QC). The claims were dismissed following trial over 5 days. See also, dealing with interim relief at an earlier stage of the proceedings: Y v S [2015] 1 Lloyd's Rep 703.

**Sabbagh v Khoury & Ors**

[2014] EWHC 3233 (Comm)

Acting for the “anchor” defendant resisting claims in excess of US\$600 million (with Andrew Hunter QC). The defendants’ jurisdiction challenge was heard over 5 days in July 2014, and substantially upheld on the ground that the principal claim (>US\$500 million) was unarguable. The case is presently on appeal to the Court of Appeal.

**AMT Futures Ltd v Marzillier, Dr Meier & Dr Guntner  
Rechtsanwaltsgesellschaft mbH**

[2015] 2 WLR 187 (Popplewell J) and [2015] 3 WLR 282 (Court of Appeal)

Acting for the claimant in claims for damages against a German law firm for inducing the claimant’s former clients to sue in Germany, in breach of contractual terms providing for English law and jurisdiction (with Thomas de la Mare QC). The case is the leading domestic authority on the application of Article 5(3) of the Brussels I Regulation to claims for inducing breach of contract. The case is presently on appeal to the Supreme Court.

**Petter v EMC Corp**

[2015] EWHC 1498 (QB) (Cooke J) [2015] IRLR 847 (Court of Appeal)

Acting for the claimant employee in a cross-border dispute with his former employer (with Paul Goulding QC). The case is the leading authority on the English Court’s jurisdiction in cross-border employment disputes and its power to grant anti-suit relief to protect weaker parties (such as employees) under the Brussels I Recast Regulation. The case is presently on appeal to the Supreme Court.

**UKFI v Mammadov; SWFC v KSM**

(Commercial Court, 2015)

Acting as sole counsel for the claimants in this dispute arising from the abortive sale of Sheffield Wednesday Football Club. The Commercial Court (by summary judgment) upheld the claimants’ case on liability and a claim to recover a £1,000,000 sponsorship fee. Following an assessment of damages hearing November 2015, damages in excess of £10,000,000 were awarded.

**Standard Bank plc v EFAD & ors**

[2014] EWHC 1834 (Comm)

Acted for the claimant bank in multi-million US\$ claims against Kuwaiti defendants, arising out of an Islamic finance facility (with Robert Anderson QC). The defendants’ jurisdiction challenge was successfully resisted at first instance.

**Thai-Lao Lignite (Thailand) Co Ltd v Laos & Ors**

(Commercial Court) [2013] 2 All ER (Comm) 883 (Popplewell J)

Acting for the Central Bank of Laos in successfully discharging on state immunity grounds a freezing order affecting its assets (with Robert Howe QC).

**Sibir Energy plc & ors v Tchigirinski & ors**

[2012] EWHC 1844 (QB)

Acted for the claimant oil company, seeking to recover approximately US\$400 million misappropriated monies, in response to an appeal against HHJ Mackie QC's decision on jurisdiction over co-defendants under Article 6(1) of the Brussels I Regulation (with Andrew Hunter QC).

**Re a joint venture dispute**

Acted for the claimant in a major dispute arising from a joint venture in the hospitality sector. The dispute gave rise to two LCIA arbitrations, proceedings in Switzerland, and various proceedings in the Caribbean, involving complex issues of contractual construction and company law (with Ian Mill QC, Robert Anderson QC, Shaheed Fatima, and Tom Mountford).

**Djibouti v Boreh & Ors**

(Commercial Court)

Until shortly before trial, acted for the principal corporate defendant in multi-million US\$ claims arising out of infrastructure development projects in Djibouti (with Andrew Hunter QC).

**Otkritie International Investment Management Ltd & ors v Urumov & ors**

(Commercial Court)

Until shortly before trial, acted for the principal defendants, being two traders, their wives and companies, resisting claims for approximately US\$180 million (with Andrew Green QC and Robert Weekes).

## Civil Fraud, Asset Recovery & Injunctive Relief

Andrew has worked on a number of high-profile civil fraud disputes, including appearing without a leader at various interim hearings.

### Cases

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## Arbitration

Andrew has significant experience of high-value domestic and international arbitration, acting both as sole counsel and with a leader. He has appeared before a variety of tribunals in various jurisdictions. He has experience of both ad hoc arbitration (and in particular in the Bermuda Form context) and institutional arbitration under ICC, UNCITRAL, LCIA, LMAA, and ICSID Rules.

## Cases

**[Confidential Owner] v [Confidential Re-Fitter]**

(LMAA arbitration)

Acting as sole counsel for a yacht owner in respect of a multi-million Euro dispute arising from the termination of a refit agreement.

**[Confidential Owner] v [Confidential Charterer]**

(LMAA Arbitration)

Acting for a charterer in respect of dispute arising from a "holiday charter", resisting claims for hire based on a counterclaim for damages in respect of loss of the value of the charter and/or loss of amenity and enjoyment.

**[Confidential Insured] v [Confidential Insurers]**

(London Arbitration, Bermuda Form) (2015-)

Acting for the insured in a US\$50 million claim under a liability insurance policy written on the Bermuda Form (with Andrew Hunter QC).

**Tennessee Valley Authority v Various Bermuda Insurers**

(London arbitration) (2013-2015)

Acted for the successful claimant (a US public corporation) in a US\$250 million series of liability insurance claims against major Bermudian insurers (with Andrew Hunter QC). One case settled, the others went to trial (each of 4 weeks). In addition to assisting with written submissions, Andrew cross-examined various expert witnesses.

**[Confidential] v [Confidential]**

(Austrian arbitration, under the Vienna Rules)

Acted as sole counsel for property investment fund in respect of a multi-million Euro dispute arising from a Croatian property development. The trial took place over 5 days and involved allegations of fraud and complex issues of Croatian law.

**[Confidential] v [Confidential]**

(Indian arbitration, under ICC Rules)

Acted for a manufacturer defending a claim for approximately US\$40 million brought by distributor (with Andrew Green QC). In addition to assisting with written submissions, Andrew cross-examined the distributor's principal expert witness.

**[Confidential] v [Confidential]**

(London arbitration, under UNCITRAL Rules)

Acted as junior counsel for a property developer against a well-known investment bank in respect of multi-million US\$ dispute under complex finance documentation.

**[Reinsured confidential] v [Reinsurer confidential]**

(2011) (London arbitration)

Acted for reinsured in this substantial reinsurance claim arising out of the destruction of a US naval dockyard by Hurricane Katrina (with Andrew Hunter QC).

**[Investor confidential] v [State confidential]**

(ICSID Arbitration)

Andrew was instructed as juge rapporteur to the Tribunal in this substantial investment treaty arbitration.

## Public International Law

Consistently with the international focus of Andrew's practice, he is often instructed to appear in proceedings before the English Courts raising international law issues or to advise regarding them. He has a particular interest and expertise in relation to jurisdictional immunities and has appeared in some of the leading cases in this field in recent years.

## Cases

### **Al Attiya v Bin-Jassim Bin-Jaber Al Thani**

[2016] EWHC 212 (QB)

Acting for the defendant, a former head of state, in successfully resisting English jurisdiction on grounds of state and diplomatic immunity (with Lord Pannick QC and Monica Carss-Frisk). The decision is among the leading cases on the principles applicable to the determination of an individual's status as "diplomatic agent" and Blake J's analysis (adopting in this regard the defendant's submissions) was upheld by the Court of Appeal in *W v H* [2016] EWCA Civ 176.

### **Thai-Lao Lignite (Thailand) Co Ltd v Laos & Ors**

(Commercial Court) [2013] 2 All ER (Comm) 883 (Poplewell J)

Acting for the Central Bank of Laos in successfully discharging on state immunity grounds a freezing order affecting its assets (with Robert Howe QC).

### **Re the enforceability of a foreign tax assessment**

Advising (with Lord Pannick QC) on the enforceability of a foreign tax assessment under mutual assistance regimes and international law principles of extraterritoriality.

## Financial Services

Andrew was seconded to the Financial Services Authority for 5 months in 2012, and has since worked on a variety financial regulatory disputes for regulated individuals, entities, and regulators.

## Cases

### **Tax planning scheme claims**

Acting as junior counsel for claimants in claims before the Chancery Division of alleged misrepresentation and breach of contract in connection with a tax planning scheme challenged by HMRC (with Sam Grodzinski QC and Tom Cleaver).

### **Accounts and Actuaries Schemes proceedings**

Acting as junior counsel for the Financial Reporting Council in proceedings under its Accountants and Actuaries Schemes (with Andrew Green QC, Andrew George QC, and Flora Robertson).

### **Proposed share holder class action**

Acting as junior counsel in connection with a proposed shareholder class action under s. 90/90A FSMA based on findings in US regulatory proceedings (with Andrew Hunter QC and Tom Coates).

### **Regulatory fine enforceability**

Advising a regulated individual regarding the enforceability in England of one of the largest regulatory fines imposed by the SEC on an individual trader (with Andrew Green QC).

## Media & Entertainment

Andrew has acted for media and entertainment clients in a wide range of disputes.

*“His grasp of the complexities of a case and his analytical powers are extraordinarily impressive.”*

– CHAMBERS UK, 2018

## Cases

### **Sony ATV v WPMC**

[2015] EWHC 1853 (Ch)

Acted for the claimant owners of copyrights in Lennon/McCartney songs in their successful claims for copyright infringement arising from the production of a documentary "The Beatles: The Lost Concert" (with Ian Mill QC).

### **Gameware Europe Ltd v (1) Sony Computer Entertainment Europe Limited; (2) System 3 Software Limited; (3) Mark Andrew Cale**

(Chancery Division, 2013)

Acted for the principal defendants in this dispute concerning ownership and infringement of intellectual property in the well-known "James Pond" and "Creatures" computer games (with Andrew Green QC).

### **Universal Music Arts Entertainment Ltd v D’Arcangelo**

(QBD, 2012)

Acted for the claimant in this claim arising from termination of an agency agreement.

### **Re a claim in respect of a movie soundtrack**

Acting for a composer in respect of claims arising from the wrongful termination of his engagement to provide the soundtrack and score for a Christmas movie.

### **Burton v The Kills Ltd**

(County Court, 2012)

Acting for the band resisting a claim brought by former tour crew, which settled at the start of a trial listed for 5 days.

### **Re contract review**

Assisting a major record label in a review of artists’ contracts, in the course of which Andrew gained experience of a wide range of recording, management, and other music industry contracts.



## ACHIEVEMENTS

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### Education

BA (Oxon) First Class; BCL (Oxon, Vinerian Scholar) Distinction; DPhil (Oxon); BVC (Outstanding)

- Eldon Scholarship (most promising graduate of Oxford University intending to practise at the Bar, 2009)
- Vinerian Scholarship (best performance in the BCL)
- Oxford University Examination Prizes (restitution, jurisprudence and political theory, contract law, constitutional Law)

### Publications

- Réunion revised? [2008] LMCLQ 113 (case note on Case C-98/06 Freeport v Arnoldssen)
- A Commentary on the Rome II Regulation: Choice of Law for Non-contractual Obligations [2008] LMCLQ 274 (co-written)
- 'The Scope of Non-Contractual Obligations' in J Ahern and W Binchy, eds., The Rome II Regulation on the Law Applicable to Non-Contractual Obligations (Brill, Leiden, 2009)
- Total Chaos? [2010] LMCLQ 536 (case note on Shell UK Ltd v Total Ltd [2010] EWCA Civ 180, co-written)
- 'The territorial scope of British employment legislation' [2010] LMCLQ 640
- 'International private law', in International Maritime and Commercial Law Yearbook, 2009- (co-written)
- 'Decisions of British Courts during involving questions of private international law' in British Yearbook of International Law, 2010- date
- Andrew was on the advisory group which assisted Professor Andrew Burrows in producing A Restatement of the English Law of Unjust Enrichment (OUP, 2012)
- The 'Cross-Border Disputes' chapter in P Goulding (ed) Employee Competition (3rd edn) (forthcoming) (co-written)

### Research & Lecturing

Before coming to the Bar, Andrew was a Fellow of All Souls College, Oxford. His research addressed various topics in commercial private international law. At Oxford, Andrew was also a college tutor, teaching contract, tort, land and trusts law. He has also given graduate seminars on restitution and conflict of laws.

- Andrew has given lectures and seminars at practitioner and academic conferences, recent topics including:
- "The enforcement in the UK of foreign judgments obtained in breach of an arbitration clause" (London Shipping Law Centre)
- "What is a non-contractual obligation?" (Trinity College Dublin; Max Plank Institute, Hamburg)
- "From Samengo-Turner to Duarte" (British Institute in International and Comparative Law seminar at Herbert Smith)
- "The litigation (and arbitration) of international employment disputes" (New York University)

- “Characterization problems in employment disputes” (Trinity College Dublin)
- “Synergies between the Brussels I Regulation and Rome I and II Regulations” (British Institute of International and Comparative Law)