



Andrew Rigney QC



Contents

Rankings	2
International Arbitration	2
Selected Cases	3
Construction & Engineering	4
Selected Cases	5
Energy & Natural Resources	6
Selected Cases	6
Insurance & Reinsurance	8
Selected Cases	8
Property Damage	10
Selected Cases	10
Commercial	12
Selected Cases	12
Professional Liability	13
Selected Cases	13
Qualifications	14
Memberships	15
Recommendations	15

"Exceptionally intelligent, extremely hard-working, impeccably mannered, a brilliant advocate, a wise strategist, and a thoroughly decent human being..."
(Legal 500, 2022)



Andrew Rigney QC is joint Head of Chambers.

Andrew has an extensive domestic and international practice, which encompasses a wide range of civil and commercial work. He specialises in large-scale disputes arising out of very substantial projects involving complex factual and technical evidence, leading large multi-disciplinary (and often multi-national) teams of lawyers and experts.

Andrew's areas of expertise include (i) construction and engineering disputes (both in the TCC and in domestic and international arbitration) including, amongst other things, large infrastructure projects, ports, shipbuilding, power plants, a number of international airports, the de-commissioning of a nuclear power station, a naval base, a co-location headquarters for the Ministry of Defence, hotels, roads, rail, process plants, water treatment plants, de-salination plants, sewerage plants, (ii) energy and natural resources (both onshore and offshore) including waste energy plants, CHP and the largest renewables plant of its kind in the world (iii) international arbitration (iv) insurance and reinsurance (v) professional indemnity work (in particular engineers, architects, surveyors, solicitors and accountants) (vi) property damage and (vii) commercial litigation including sale of goods, financial instruments, aviation leasing agreements and product liability.

He is familiar with a wide range of standard forms (including JCT, ICE, NEC, FIDIC, IChemE, PPC, TPC, ACE, RIBA etc) and PFI contracts, and a wide range of arbitral rules (ICC, LCIA, UNCITRAL, EDF and LMAA etc); and he has acted in relation to claims concerning projects in the United States, the Caribbean, Russia, Central and Eastern Europe, the Indian sub-continent, Africa, Turkey, Hong Kong and the Middle East (including the UAE, Qatar, Kuwait, Oman and Saudi Arabia) as well as in the United Kingdom.

So far as coverage work is concerned, he has wide experience of disputes involving CAR/EAR policies (including, in particular, the operation of DE and LEG clauses (and clauses based on them)) and Public Liability, Product Liability and Employers' Liability policies (including Business Interruption); and he has acted in relation to some of the largest domestic and international losses. He has advised in relation to the effect of COVID-19 in the context of a number of worldwide Business Interruption and Material Damage wordings, and was instructed by Zurich in the FCA coronavirus test case (*FCA v Arch et al*), a landmark insurance claim to determine whether certain non-damage BI wordings provide cover in relation to the COVID-19 pandemic. The first instance judgment of Flaux LJ and Butcher J is at [2020] EWHC 2448 (Comm)



and [2020] Lloyds Rep IR 527, and the judgment of the Supreme Court is at [2021] UKSC 1.

Andrew also has substantial experience of conflicts of laws and jurisdictional challenges (including cases involving the Brussels Regulation and Rome Regulations), and of civil law systems in the Middle East, including issues of Egyptian, UAE, Qatari, Kuwaiti, Saudi and Omani law.

Rankings

Andrew is listed as a global and national leader in *Who's Who Legal 2022* (in 2020, he was described as "at the undoubtedly one of the smartest barristers bar"), and is listed in *Chambers Global 2022*, and *Legal 500 EMEA 2022*. In addition, he is recognised as a Leading Silk by *Chambers UK 2022* and *Legal 500 2022* in the fields of:

- International Arbitration
- Construction
- Energy & Natural Resources
- Insurance & Reinsurance
- Property Damage
- Professional Negligence

Andrew was shortlisted by *Chambers UK* for Construction Silk of the Year in 2017 and by *Legal 500* for the award of Construction and Energy Silk of the Year for 2017, 2018, 2019 and 2020, and he was shortlisted by *Chambers UK* for International Arbitration Silk of the Year for 2021.

He is described in these Directories as "a fantastic QC", "eminent" and "go-to" silk who is "sought after by clients around the globe", "exceptional", "phenomenal", "fantastically user-friendly", "supremely clever", "an intellectual heavyweight", "incredibly intellectual", "exceptionally intelligent", "extremely bright", "incredibly gifted", "charm personified", "impeccably-mannered", "one of the top QCs", "absolutely first-rate", "unflappable", "an absolute pleasure and a delight to work with", "exceptionally hard-working", with "incredible legal skills and commercial acumen" and a "truly impressive", "brilliant", "superb", "incredibly effective" and "top class" advocate with a "razor-sharp intellect", and a "devastating" and "ruthless" cross examiner who "gets the law right first time, every time".

International Arbitration

Andrew has a very extensive international arbitration practice. He has acted in relation to claims concerning projects in the United States, the Caribbean, the United Kingdom, Russia, Central and Eastern Europe, Africa, Turkey, the Indian subcontinent and Hong Kong; and in a substantial number of arbitrations relating to projects in the Middle East (including Qatar, Kuwait, the UAE, Oman and Saudi Arabia). His experience includes largescale infrastructure projects, oil and gas facilities, power stations, the decommissioning of a nuclear power station, process plants, de-salination plants, water treatment and sewerage plants, renewables (including the largest renewables plant of its kind in the world), three major international airports, roads, railways, shipbuilding, ports, cross-border sale of goods and a number of cases involving substantial insurance losses. He is familiar with a wide range of arbitral rules (ICC, LCIA, UNCITRAL, EDF, LMAA etc) and contracts (including FIDIC), and he has substantial experience of civil law systems in the Middle East.



Listed as a Leading Silk in Chambers UK (2022) and Legal 500 (2022)

Selected Cases

- Acting for the EPC contractor in a \$200m ICC arbitration in relation to claims for variations, extensions of time and loss and expense relating to the design and construction of a polysilicon plant for a national government in the Middle East, including issues as to design obligations, liquidated damages, limitations of liability clauses and waiver and estoppel. London seat and English substantive law
- Acting on behalf of the contractor in relation to a series of ICC arbitrations for \$several hundred million relating to a \$20 billion project in connection with one of the world's largest chemical plants in the Middle East. The issues in dispute include contract formation and the jurisdiction of the tribunal
- Acting for the state-owned employer in a \$3billion ICC oil and gas arbitration relating to the measurement and valuation of work in connection with a very substantial EPC project in the Middle East. The substantive hearing was preceded by a jurisdictional hearing as a result of which the initial tribunal resigned, and the main hearing involved complex issues of on-shore and off-shore custom and practice in relation to measurement and pricing and the application of local law. London seat and local substantive law
- Acting in a \$multimillion UNCITRAL pricing arbitration in relation to one of the world's largest desalination and power plants in the Middle East, including a preliminary jurisdictional hearing
- Acting in a \$multimillion ICC reinsurance arbitration arising out of a construction project in the Middle East
- Acting in relation to c \$350m claim arising out of a gas facility in Africa
- Acting in relation to c \$750m dispute concerning a major infrastructure project in the Middle East
- Acting for Insurers in relation to a c\$50 million ICC arbitration concerning coverage under an EAR policy for the catastrophic failure of a gas turbine at a power station in the Indian sub-continent, including the application and construction of extended maintenance cover, and DE3/LEG2 clauses as well as issues as to jurisdiction
- Acting in \$multi-million LMAA shipbuilding arbitration relating to the design and construction of one of the largest vessels of its kind in the world. The issues arising included the scope of design obligations and the existence and treatment of design defects, payment obligations, the requirements for delivery and the obligations and entitlements to which delivery gave rise, delay (including issues of concurrency), disruption and loss and expense, issues relating to termination, liquidated damages, the operation of clauses relating to retention and security and exclusion and limitation of liability, restitution and waiver and estoppel. London seat and English substantive law
- Acting in relation to the decommissioning of a nuclear power station
- Acting in relation to an ICC arbitration concerning a \$multi million claim arising out of a major fire at a recycling plant in the Middle East involving (amongst other things) complex issues as to jurisdiction and choice of law, and the application of the United Nations Convention on Contracts for the International Sale of Goods. London seat and English law
- Acting in relation to coverage disputes (including as to the scope of LEG clauses) involving c\$100m arising out of a major infrastructure project in the Middle East
- Acting on behalf of an African government in connection with a \$30 million claim for extensions of time, variations and loss and expense arising out of a major infrastructure project in the first international arbitration (under EDF Rules) held in that country. Local seat and local substantive law. The main hearing was preceded by a successful jurisdictional challenge as a result of which the

original tribunal resigned

- Acting on behalf of the contractor in a c\$600 million ICC arbitration for arising out of the construction of a major international airport in the Middle East for (amongst other things) extensions of time (including issues of concurrency), loss and expense and disruption. The claim involves complex jurisdictional issues and detailed consideration of a contract based on the FIDIC Red Book. Middle Eastern seat and local substantive law
- Acting on behalf of an African government in relation a c\$200 million dispute concerning a major public building programme, involving complex issues as to jurisdiction, construction, misrepresentation, frustration, waiver and estoppel
- Acting for the employer in a \$150m ICC oil and gas arbitration relating to the engineering, procurement and construction of a major Gas Processing Plant in the Middle East, involving (amongst other things) issues relating to variations, delay (including issues of concurrency), loss and expense, notices, waiver and estoppel and liquidated damages. London seat and English substantive law
- Acting for the employer in £100m LCIA arbitration arising out of a major EPC oil and gas project in the Middle East, involving claims for extensions of time (including issues of concurrency), loss and expense and variations, and questions relating to the proper construction of clauses providing for the limitation of liability and exclusive remedies. London seat and local substantive law
- Acting on behalf of the contractor in a \$500m ICC arbitration in relation to the construction of a major international sports stadium in the Middle East under a contract based on the FIDIC terms and conditions. After successfully resisting a jurisdictional challenge based on the alleged absence of timely notification of claims, the contractor pursued claims for variations, extensions of time and loss and expense. UAE seat and UAE substantive law
- Acting in relation to ICC arbitration concerning\$ multi million claim arising out of a major fire at a recycling plant in the Middle East involving (amongst other things) complex issues as to jurisdiction and choice of law and the application of the United Nations Convention on Contracts for the International Sale of Goods. London seat and English law
- Acting on behalf of the successful Respondent in challenging the tribunal's jurisdiction in a \$multi-million ICC arbitration for variations, extensions of time and loss and expense in relation to the construction of an airport in the Middle East. London seat and English substantive law
- Acting for the EPC Japanese sub-contractor in a £30 million ICC arbitration in relation to the construction of a substantial process plant in the north east of England relating to variations, delay (including issues of concurrency), loss and expense and disruption. London seat and English substantive law

Construction & Engineering

Andrew has a very substantial construction and engineering practice across a wide range of sectors, including large infrastructure projects, ports, shipbuilding, airports, hotels, roads, rail, tram systems, process plants, oil & gas, FPSOs, water treatment plants, sewerage plants, waste energy plants, CHP and renewables.

He is familiar with a wide range of standard forms (including JCT, ICE, GC Works, NEC, FIDIC, IChemE, PPC, TPC, ACE, RIBA etc) and has appeared in all Divisions of the High Court, Court of Appeal and all forms of ADR.

Listed as a Leading Silk in Chambers UK (2022 and Legal 500 (2022))

Selected Cases

- Leading counsel for the successful Respondent in *Mears v Costplan Services et al* [2019] EWCA Civ 502, in which the Court of Appeal considered the meaning of “practical completion” for the first time in 50 years, and held that trifling patent defects (even if irremediable) do not prevent practical completion from being certified
- Retained in relation to civil claims arising out of the *Grenfell Tower* fire
- Acting in relation to £tens of millions and £hundreds of millions disputes concerning allegedly defective cladding and fires stopping in the wake of the *Grenfell* disaster
- Acting on behalf of the contractor in a £100 million arbitration relating to the construction of headquarters for the MoD on a modified GC Works form of contract
- Acting on behalf of luxury hotel group in relation its £90 million dispute in the TCC arising out of the termination of the contractor’s employment under a JCT contract and claims for consequent losses and liquidated damages in relation to the construction of a landmark hotel in London
- Acting in relation to claims for £tens of millions relating to a number of hospital PFI contracts
- Acting in relation to a c £50 million ICC arbitration arising out of renewable energy biomass project in Europe
- Acting in relation to a £tens of millions dispute concerning the design and construction of a flagship hotel in London
- Acting in relation to c £150 million dispute concerning a waste energy plant in Europe
- Acting in connection with \$ multi-million claims relating to omissions and variations before a DAB relating to construction of a power station in the Americas
- Acting in a £multi-million oil and gas dispute in the TCC arising out of a project for the design and construction of a FPSO as part of a \$5billion project involving issues as to the scope of design, extensions of time, variations, loss and expense, termination and the operability of a liquidated damages clause
- Acting in relation to a dispute involving £several hundred million arising out of defects in a major landmark development in the UK
- Acting in relation to a c £50 million dispute arising out of claims for delay, loss and expense and loss and damage arising out of a major UK residential and leisure development
- Acting in a three month c£100 million ICC arbitration in relation to the upgrading of the communications system of the London Underground
- Acting in relation to a \$multi-million claim concerning the design, delivery and installation of very large shipping plant, giving rise to questions relating to the achievement of delivery, variations, prolongation, loss and expense, waiver and estoppel
- Acting on behalf of the contractor in a £40 million TCC dispute in relation to defects in the design and construction of a CCGT power station in the UK
- Advising in relation to a £multi-million TCC claim relating to the design and operation of a CHP system at a hospital constructed under a PFI contract in the UK
- Acting in domestic LCIA arbitration relating to a claim for
- Advising in relation to £multi-million final account dispute in relation to the design and construction of a sewerage treatment plant in the UK involving (amongst other things) the applicability of limitation of liability clauses
- Acting in relation to a £multi-million adjudication arising out of an allegedly late design of a business park development and involving (amongst other things) questions as to the proper construction of a novation and analysis of its consequences
- Advising in relation to a £multi-million final account dispute arising out of a termination in

connection with the construction of a waste management plant in the UK on the IChemE terms and conditions, including in relation to notices for payment applications, the application of liquidated damages and in relation to various guarantees

- Acting in £multi-million TCC dispute arising out of a PFI contract for the construction of a number of new schools and the refurbishment of existing schools in the North of England, involving (amongst other things) issues relating to name-borrowing
- Advising in connection with the proper construction of the ACA Standard Forms of Contract for Project Partnering and Term Partnering
- Acting in an LCIA arbitration relating to defects in and damage to a school constructed under a PFI project as a result of the use of IBAA, involving coverage questions relating to the operation of DE exclusion clauses, and questions of waiver and estoppel
- Acting in a £multi-million TCC dispute arising out of the design and construction of a major tram network in the south of England
- Acting in £multi-million TCC dispute concerning defects in a major UK hotel development, involving (amongst other things) complex issues as to the valuation of loss of profits
- Acting in a number of adjudications relating to contracts relating to the operation of trains on various lines of the London Underground
- Wide experience of cases relating to adjudication, both during the adjudication process and in relation to the enforcement of adjudicators' decisions, including *Parsons v Purac* [2002] 7 BLR 334 (CA) and *Bovis Lend Lease v Triangle Development* [2003] 1 BLR 31, 86 Con LR 26

Energy & Natural Resources

Andrew's extensive energy & natural resources practice includes large scale projects in the United Kingdom and overseas. He is familiar with a wide range of standard forms and a wide range of arbitral rules; and he has acted in relation to claims concerning projects in the United States, the Caribbean, Russia, Central and Eastern Europe, Turkey and the Middle East (including the UAE, Qatar, Kuwait, and Saudi Arabia) as well as in the United Kingdom. In addition, Andrew has substantial experience of civil law systems in the Middle East.

Listed as a Leading Silk in Legal 500 (2022)

Selected Cases

- Acting for the EPC contractor in a \$200m ICC arbitration in relation to claims for variations, extensions of time (including issues of concurrency) and loss and expense relating to the design and construction of a polysilicon plant in the Middle East, including issues as to design obligations, liquidated damages, limitations of liability clauses and waiver and estoppel. London seat and English substantive law
 - Acting for the state-owned employer in a \$3billion ICC oil and gas arbitration relating to the measurement and valuation of work in connection with a very substantial EPC project in the Middle East. The substantive hearing was preceded by a jurisdictional hearing as a result of which the initial tribunal resigned, and the main hearing involved complex issues of on-shore and off-shore custom and practice in relation to measurement and pricing and the application of local law. London seat and local substantive law
 - Acting in relation to c \$350m claim arising out of a gas facility in Africa
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- Acting in relation to a £50 million ICC arbitration arising out of renewable energy biomass project in Europe
- Acting in relation to c£150 million dispute concerning a waste energy plant in Europe
- Acting in relation to a £multi-million dispute arising out of defects at an energy from waste and CHP plant in Europe
- Acting in relation to £multi-million PFI dispute concerning a waste for energy plant in the UK
- Acting for the Japanese EPC sub-contractor in a £30 million ICC arbitration in relation to the construction of a substantial process plant in the north east of England relating to variations, delay (including issues of concurrency), loss and expense and disruption
- Acting for the employer in a \$150m ICC oil and gas arbitration relating to the engineering, procurement and construction of a major Gas Processing Plant in the Middle East, involving (amongst other things) issues relating to variations, delay (including issues of concurrency), loss and expense, notices, waiver and estoppel and liquidated damages. London seat and English substantive law
- Acting in a £multi-million oil and gas dispute in the TCC arising out of a project for the design and construction of a FPSO as part of a \$5billion project involving issues as to design, extensions of time, variations, loss and expense and the operability of a liquidated damages clause
- Acting for the employer in a £100m LCIA arbitration arising out of a major EPC oil and gas project in the Middle East, involving claims for extensions of time (including issues of concurrency), loss and expense and variations, and questions relating to the proper construction of clauses providing for the limitation of liability and exclusive remedies. London seat and local substantive law
- Acting in £multi-million dispute arising out of a PFI contract in relation to construction of a gas pipeline in the UK
- Acting in a \$multi-million LCIA arbitration arising out of the design of a water treatment plant in Eastern Europe involving issues as to design and quality and fitness under the Sale of Goods Act 1979 and the Supply and Sale of Goods Act 1982
- Acting in relation to a \$multi-million dispute concerning the construction of a major plant in the US in involving issues as to the effect of certain warranties and limitation of liability clauses
- Acting on behalf of the contractor in relation to a \$several hundred million ICC arbitration concerning a major renewable energy plant in Europe giving rise to issues as to design and issues under the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 as to quality and fitness, as well as issues in relation to limitation of liability and exclusive remedies provisions
- Acting in relation to a £multi-million dispute arising out of the application of a clause providing for relief from liquidated damages during interim operation in connection with a waste to energy plant constructed under a PFI project in the UK
- Acting on behalf of the contractor in a £40 million TCC dispute in relation to defects in the design and construction of a CCGT power station in the UK
- Advising in relation to a £multi-million TCC claim relating to the design and operation of a CHP system at a hospital constructed under a PFI contract in the UK
- Acting in relation to a £tens of millions dispute before a DAB arising out of the construction of a CCGT power station in the Caribbean involving (amongst other things) questions as to the applicability of an exclusive remedies clause, and omissions and variations
- Advising in relation to a \$multi-million dispute arising out of the decommissioning of nuclear power station in Eastern Europe
- Advising in connection with matters of contractual construction in connection with a \$50 million dispute relating to a power plant project in Asia



Insurance & Reinsurance

Andrew has wide experience of CAR/EAR policies (including DE and LEG clauses), property risks, life and PHI cover, professional indemnity policies, PL and EL policies, product liability policies, including coverage disputes, fraud, nondisclosure, misrepresentation, moral hazard and co-insurance and Business Interruption. He acted for the successful party in the leading case on the effect of non-compliance with a notification clause in a liability policy which is not expressed to be a condition precedent.

Listed as a Leading Silk in Chambers UK (2022) and Legal 500 (2022)

Selected Cases

- Acting on behalf of Zurich in the FCA coronavirus test case (*FCA v Arch et al*), a landmark insurance claim to determine whether certain non-damage BI wordings provide cover in relation to the COVID-19 pandemic. The first instance judgment of Flaux LJ and Butcher J is at [2020] EWHC 2448 (Comm) and [2020] Lloyds Rep IR 527, and the judgment of the Supreme Court is at [2021] UKSC 1
- Advising on coverage in respect of property damage claims in respect of a major overseas loss arising out of a tunnel collapse amounting to \$1 billion
- Advising on £several hundred million coverage dispute in relation to alleged defects in a series of residential buildings
- Acting in relation to a c £100 million claim under a project CAR policy in relation to defects in a flagship building in Europe, including issues as to the application and construction of DE/LEG clauses
- Advising in connection with a \$70 million coverage dispute under a PI policy in relation to defects arising out of the design and construction of a major road project
- Acting for Insurers in relation to a c\$50 million ICC arbitration concerning coverage under an EAR policy for the catastrophic failure of a gas turbine at a power station in the Indian sub-continent, including the application and construction of extended maintenance cover, and DE3/LEG2 clauses
- Acting in a \$multimillion ICC reinsurance arbitration arising out of a construction project in the Middle East
- Acting in relation to coverage disputes (including as to the scope of LEG clauses) involving c\$100m arising out of a major infrastructure project in the Middle East
- Acting in £multi-million coverage dispute concerning a landmark hotel in central London
- Acting in relation to a c £50 million coverage dispute (including as to the effect of LEG clauses) concerning defects at an energy from waste and CHP plant in Europe
- Acting in £multi-million domestic insurance arbitration arising out of the construction of a number of schools under a PFI project and relating to a claim under a CAR policy, which involved (amongst other things) consideration of the operation of DE clauses, the application of principles of waiver and estoppel, gradual deterioration and gradually operating causes exclusions and limitation
- Acting in relation to c£150 million notification dispute concerning alleged defects in a waste energy plant in Europe
- Acting in relation to £tens of millions and £hundreds of millions disputes concerning allegedly defective cladding and fire stopping in the wake of the *Grenfell* disaster
- Advising in relation to a c £50 million claim under a professional indemnity policy arising out of major infrastructure project
- Advising in relation to c £100 million claim under professional indemnity policy arising out of the construction of a major public facility

- Advising in connection with a c£50 million coverage dispute arising out of a major energy project
- Advising in relation to a £multi-million coverage dispute concerning the scope of a Products Liability policy in the context of a claim arising out of a £multi-million construction contract
- Acting £multimillion coverage dispute relating to damage/defects affecting major hotel development in the UK
- Advising on avoidance for non-disclosure and coverage in relation to £ tens of million coverage dispute relating to a major product recall
- Advising insurers on coverage issues relating to non-disclosure and misrepresentation, waiver and estoppel, in connection with a number of Employer's Liability policies in relation to accidents on construction sites
- Acting in relation to c £ 50 million coverage dispute concerning a major UK retail and leisure development, involving (amongst other things) issues as to the proper construction and application of DE exclusions
- Advising insurers on the scope of a hot works warranty in the context of a £multi-million coverage dispute
- Advising insurers in relation to the scope and application of clauses in Public Liability policies excluding cover for liability arising in contract
- Advising on coverage issues arising out a £30m claim relating to the inter-relationship between indemnity and insurance clauses and co-insurance
- Acting for insurers in relation to a \$multi-million LCIA international arbitration in relation to coverage issues arising out of hurricane and flood damage in the US. London seat and English law
- Acting for insurers in connection with coverage issues in relation to a £multi-million claim arising out of hurricane and flood damage in the Caribbean
- Advising on coverage issues in relation to \$multi-million claims under property and liability policies in relation to the collapse of a major public building in the Far East, including as to the proper construction of clauses limiting liability for defects and damage similar to DE and LEG clauses.
- Advising on notification (and whether the provisions as to notification were conditions precedent) in relation to a £multi-million claim under a Professional Indemnity policy arising out of the construction of a pier
- Advising on coverage and avoidance (on the grounds of non-disclosure and misrepresentation) in relation to a £multi-million claim arising out of a major industrial fire in central England
- Acting on behalf of insurers in relation to a claim brought under a building guarantee policy – *Bache v Zurich Insurance plc* [2014] EWHC 2430 (TCC); [2014] Lloyd's Rep IR 33
- Advising on co-insurance issues in relation to the Magna Park litigation arising out of the £150m fire at a warehouse at Magna Park distribution centre in central England
- Advising on coverage under a CAR policy in relation to a \$multi-million claim for damage to a subsea cable
- Advising on coverage under CAR policy in relation to flood damage arising out of the construction of a hotel under a JCT Design and Build Contract
- Advising on coverage in respect of a £multi-million claim under a Public Liability policy arising out of the collapse of part of a stadium in continental Europe
- Advising on insurance issues (including the effect of indemnity and insurance provisions in the underlying construction contract and issues of co-insurance) in relation to £20m claim arising out of fire in central London
- Successfully resisting an application for a declaration that insurers were obliged to indemnify a lessee whose interest was noted on the policy – *Eurocrest Ventures v Zurich Insurance* [2012]
- Acting on behalf insurers in a TCC trial involving issues relating to causation and the approach to prejudice alleged to have been suffered by insurers as a result of late notification – *Milton Keynes*



BC v Nulty, Wing Bat & NIG [2011] EWHC 2847 (TCC)

Property Damage

Andrew has wide experience of property damage litigation, and has been instructed in some of the largest and most complex property damage cases of recent years including the claims arising out of the collapse of the tunnel at Gerrard's Cross and the Magna Park litigation arising out of the fire at Magna Park distribution centre in central England. He acted on behalf of the successful Respondents in the Court of Appeal in the leading case of *Nulty & ors v Milton Keynes BC* [2013] EWCA Civ 15 and had recently appeared in the Court of Appeal in *Southern Gas Networks plc v Thames Water Utilities Ltd* [2018] EWCA Civ 33, in which the Court of Appeal considered (amongst other things) the principles relating to ouster of common law liability by a statutory scheme.

Listed as a Leading Silk in Chambers UK (2022)

Selected Cases

- Advising on coverage in respect of property damage claims in respect of a major overseas loss arising out of the collapse of a tunnel collapse amounting to \$1 billion
- Acting for insurers in relation to a \$multi-million LCIA international arbitration in relation to coverage issues arising out of hurricane and flood damage in the US
- Retained in relation to civil claims arising out of the *Grenfell Tower* fire
- Acting in relation to tens of millions and hundreds of millions disputes concerning allegedly defective cladding and fire stopping in the wake of the *Grenfell Tower* fire
- Acting in relation to tens of millions claim arising out of a major fire at a hotel in the UK
- Acting in relation to c£120 million claim arising out of fire at a major public building in the UK
- Acting in relation to a £multi million claim arising out of a catastrophic fire at state of the art military testing facility
- Acting for the claimants in \$multimillion claim arising out of damage to a trading floor following a major fire, including a hotly contested application to amend by substituting the second claimant – *TRW & TP ICAP v Whirlpool et al* [2020] EWHC 1414 (TCC), [2020] 6 WLUK 62, 190 Con LR 84
- Acting in relation to ICC arbitration concerning \$ multi million claim arising out of a major fire at a recycling plant in the Middle East involving (amongst other things) complex issues as to jurisdiction and choice of law and the application of the United Nations Convention on Contracts for the International Sale of Goods. London seat and English law
- Acting for insurers in connection with coverage issues in relation to a £multi-million claim arising out of hurricane and flood damage in the Caribbean
- Advising on coverage issues in relation to \$multi-million claims under property and liability policies in relation to the collapse of a major public building in the Far East including defects, damage and gradually operating causes exclusions
- Advising on coverage under CAR policy in relation to flood damage arising out of the construction of a hotel under a JCT Design and Build Contract
- Advising as to the relationship between indemnity and insurance provisions in the underlying JCT contract in relation to damage to a data centre
- Acting on behalf of Thames Water Utilities Limited at first instance and in the Court of Appeal in a claim concerning the losses which are recoverable under section 82 of the New Streets and

- Roadworks Act 1991 and the principles governing the statutory ouster of common law liability- Southern Gas Networks plc v Thames Water Utilities [2016] EWHC 1669; [2018] EWCA Civ 33
- Acting on behalf of the Defendant in £15 million claim arising out of a major fire during the construction of a large commercial development in North London involving issues as to the requisite level of proof and complex evidence as to fire spread
 - Acting in \$multi-million ICC arbitration arising out of a claim in respect of a fire at a plant in the Middle East
 - Acting on behalf of large group of Claimants in multi-party TCC litigation concerning a £20m claim arising out of a major fire at a warehouse in the north of England involving (amongst other things) issues as to contractual limitation of liability clauses and complex evidence as to fire spread
 - Acting in a £multi-million TCC claim relating to flooding damage arising out of the construction of a major by-pass in the UK, including advising on the effect on liability of certain insurance provisions
 - Acting in a £multi-million TCC claim arising out of fire damage resulting from the failure of a CO2 extinguishment system in an aluminium factory in central England
 - Acting on behalf of the insurers of an employer in a claim against architects and engineers in relation to the design of a London hospital arising out of extensive damage resulting from a major fire
 - Acting on behalf of the lessees in the Magna Park litigation relating to a £150 million claim arising out of a fire at a warehouse at Magna Park distribution centre in central England
 - Representing the successful Respondents in the Court of Appeal in Nulty & ors v Milton Keynes BC [2013] EWCA Civ 15, in which the Court of Appeal considered the correct approach as to competing possible causes in relation to a £4.5 million fire at a recycling centre
 - Advising on a £multi-million claim arising out of the Buncefield explosion
 - Advising on coverage and avoidance (on the grounds of non-disclosure and misrepresentation) in relation to a £multi-million claim arising out of a major industrial fire in central England
 - Advising in relation to issues of notification, coverage and co-insurance arising out of a £multi-million claim concerning damage arising out of a flood alleviation scheme in South East England
 - Advising on claims against the architect and engineer in relation to defects in the design and construction of an extension to a factory which resulted in a dust explosion
 - Acting on behalf of the German tower crane manufacturer in relation to a £10 million dispute arising out of an accident at Canary Wharf (2006-2007). This involved a preliminary issue of jurisdiction under the Judgment Regulation – see *Hewden Tower Cranes Ltd v Wolffkran GmbH* [2007] 6 BLR 273
 - Acting on behalf of the Japanese manufacturers of sophisticated industrial printing presses in relation to a £10 million product liability claim arising out of a substantial fire at factory premises. In addition to complex technical evidence, the case gave rise to a novel question as to statutory interpretation and the operation of The Supply of Machinery (Safety) Regulations 1992 and The Machinery Directive 89/392/EEC – see *Vibixa & Polestar Jowetts v Komori (UK) Ltd et al* [2006] 1 WLR 2472 (CA) (2004-2006)
 - Acting in relation to a series of product liability claims £100 million arising out of the discolouration of uPVC. These cases involved eminent scientific experts from around the world in a number of different fields. In addition, one such case involved substantial issues in relation to the disclosure of confidential information – see *Premier Profiles Limited v Tioxide Europe Limited and Kronos Inc* [2002] 10 BLR 467



Commercial

Andrew has considerable experience of complex commercial disputes, including disputes involving issues of jurisdiction and conflict of laws, and complex technical evidence.

Selected Cases

- Advising on \$100 million international loan transaction in relation to assets in South America Acting on substantial claim in respect of cross-border sales transaction in connection with interim and thereafter permanent anti-arbitration injunction – see *Whitworths v Synergy* [2014] EWHC 4239 (Comm) (Cooke J)
- Acting in £multi-million dispute relating to advertising on the London Underground
- Acting on behalf of the buyers in a £20 million ICC arbitration arising out of a cross border sale of defective electrical products
- Acting in \$multi-million LMAA shipbuilding arbitration relating to the design and construction of one of the largest vessels of its kind in the world. The case has involved a number of preliminary issues relating to the construction of the contract and the existence and treatment of design defects, the operation of clauses relating to retention and security, and waiver and estoppel
- Acting on behalf of the lessees in the Magna Park litigation relating to a £150 million claim arising out of a fire at a warehouse at Magna Park distribution centre in central England
- Acting in relation to the underlying claim and associated coverage dispute coverage arising out of a £4.5 million fire at recycling centre
- Acting on behalf of the suppliers of motor industry tooling in relation to a claim for c £8million
- Acting for a major hotel group in relation to a jurisdictional dispute arising out of a £2million claim for commission
- Acting in relation to a dispute over European tax liabilities arising out of a substantial share purchase agreement
- Acting in relation to number of £multi-million railway industry disputes (£5-£10 million) concerning the repair of rolling stock, track maintenance and the fitness for purpose of various components
- Acting on behalf of the building owners in relation to a £3 million dispute arising out of the failure of a CO2 fire extinguishment system
- Acting on behalf of the buyers in a £multi-million sale of goods/product liability claim relating to the supply of printing industry plant and equipment arising out of a fire in Northern England
- Acting on behalf of the German tower crane manufacturer in relation to a £10 million dispute arising out of an accident at Canary Wharf. This involved a preliminary issue of jurisdiction under the Judgment Regulation – see *Hewden Tower Cranes Ltd v Wolffkran GmbH* [2007] 6 BLR 273
- Acting on behalf of the Japanese manufacturers of sophisticated industrial printing presses in relation to a 10 million product liability claim arising out of a substantial fire at factory premises. In addition to complex technical evidence, the case gave rise to a novel question as to statutory interpretation and the operation of The Supply of Machinery (Safety) Regulations 1992 and The Machinery Directive 89/392/EEC – see *Vibixa & Polestar Jowetts v Komori (UK) Ltd et al* [2006] 1 WLR 2472 (CA) (2004-2006)
- Acting in relation to a series of product liability claims £100 million arising out of the discolouration of uPVC. These cases involved eminent scientific experts from around the world in a number of different fields. In addition, one such case involved substantial issues in relation to the disclosure of confidential information – see *Premier Profiles Limited v Tioxide Europe Limited and Kronos Inc*

[2002] 10 BLR 467

- Acting and advising in relation to a number of lengthy disputes arising out of a series of complex aircraft leasing agreements, including an action in the Commercial Court relating to letters of credit in the region of US\$30 million. The issues involved have included rights of termination, restraint of trade, waiver, estoppel and remedies of specific performance, and, in addition, interesting questions of privilege and confidentiality
- Acting on behalf of a major finance house in relation to a number disputes arising out of very substantial commercial leasing agreements. The issues involved have included penalty clauses, misrepresentation, mistake, exclusive remedies clauses, exclusion clauses, repudiatory breach and affirmation
- Advising in relation to warehousing and distribution agreements (involving issues in relation to bailment, termination, liens and retention of title clauses)
- Acting on behalf of manufacturers of components for commercial vehicles in the context of a substantial product liability claim

Professional Liability

Andrew's wide range of professional indemnity work includes claims against engineers, architects, surveyors, solicitors, quantity surveyors, brokers and accountants, with a particular emphasis on claims arising out of major construction and engineering projects.

Listed as a Leading Silk in Chambers UK (2022) and Legal 500 (2022)

Selected Cases

- Advising in relation to a £multi-million claim against the architect and the structural engineer in connection with a collapse of a roof at a hotel
- Advising on a £multi-million claim against the architect and structural engineer in relation to defects in the design and construction of an extension to a factory which resulted in a dust explosion
- Acting in a c £25 million claim against the designers of a major new, state of the art research and development centre
- Acting in relation to a £multi-million claim against the main contractor, architect and structural engineer in relation to (amongst other things) the defective design of a leisure centre in the North of England
- Acting in relation to c £120 million claim against engineers and architect in connection with the design of works to a major public building
- Acting in relation to a £tens of millions claim against architects and structural engineers concerning the design and construction of a flagship hotel in London
- Acting in relation to £multi million claim against architects and engineers in relation to major residential development in the North of England
- Acting in £multi-million claim against services engineers
- Acting on behalf of engineers in relation to c\$100m dispute in relation to the design of a port
- Advising as to liability of geotechnical engineers in relation to the collapse of a railway cutting in the Midlands
- Acting in multimillion LCIA arbitration arising out of allegations of defective design in respect of a recycling plant in the Middle East. London seat and English law

- Acting on behalf of the insurers of an employer in a £multi-million claim against architects and engineers in relation to the design of a London hospital arising out of a major fire
- Acting in \$multi-million LMAA shipbuilding arbitration relating to (amongst other things) the design of one of the largest vessels of its kind in the world
- Acting in £multi-million LCIA arbitration in relation to a claim against designers of a water treatment plant in Eastern Europe
- Acting in relation to a £multi-million dispute in relation to the design of a flood alleviation scheme in South East England
- Acting in a £multi-million oil and gas dispute in the TCC in relation to (amongst other things) the design a FPSO as part of a \$5billion project
- Acting in relation to a claim arising out of the design/specification of bathroom tiles for a luxury hotel
- Advising in relation to £multi-million final dispute in relation to (amongst other things) the design of a sewerage treatment plant in the UK involving (amongst other things) the applicability of limitation of liability clauses
- Advising architects in relation to a £multi-million claim by the employer against architects and engineers in relation to a residential development
- Advising on £multi-million claims against architects and engineers arising out of a major fires at factories and schools
- Acting in a £multi-million claim against engineers in relation to a hospital development (including the design of the CHP system)
- Advising in relation to £multi-million claim against structural engineers in relation to a railway upgrade
- Acting on behalf of engineers in a £multi-million TCC claim in relation to the design of a tram network in south east England
- Acting on behalf of engineers in £multi-million claim arising out of flooding to major new road
- Advising on behalf of engineers in relation to a £100 million dispute arising out of the collapse of the Gerrards Cross tunnel
- Acting in a \$several hundred million ICC arbitration in relation to the design of a major renewable energy plant in Europe giving rise to issues in relation to design
- Acting in a £multi-million claim against architects and structural engineers arising out of a building conversion
- Advising in relation to £50 million lender's negligence action against surveyors in relation to a substantial book of mortgage loans
- Acting in £50 million claim against leading firm of solicitors in relation to its conduct of the defence of various sets of proceedings regarding foreign currency exchange outlets on behalf of the same clients by the same claimant
- Acting on behalf of risk assessors in £multi-million litigation arising out of the insurance of the US version of "Who Wants to Be a Millionaire?"

Qualifications

- 1986-1989 Christ's College, Cambridge, MA, English Tripos
- 1989-1990 Japan Exchange and Teach ("JET") Programme: British Government/Japanese Government programme teaching English near Tokyo
- 1990-1991 The City University, Diploma in Law (Distinction)
- 1991-1992 Gray's Inn: Uthwatt Scholar, Mooting Award, United States Moots Tour (1993)



Memberships

- Commercial Bar Association
- Technology and Construction Bar Association (former Committee member)
- Society of Construction Law
- Society of Construction Law (Gulf)
- London Common Law and Commercial Bar Association
- Professional Negligence Bar Association
- LCIA

Recommendations

"Exceptionally intelligent, extremely hard-working, impeccably mannered, a brilliant advocate, a wise strategist, and a thoroughly decent human being..." "Extremely personable, focused and brilliant, supportive and thoughtful of instructing counsel, a pleasure to work with." "Attentive, thoughtful, commercially-minded, intelligent and very easy to work with, he commands great respect from his peers." Legal 500, 2022

"an eminent" and "go-to" silk with an "unbelievable interest in the detail of a case". "He is phenomenal exceptional team player.." " Andrew is fantastic .very experienced advocate .pleasure to work with" " an exemplary QC with.. incredible legal skills and commercial acumen" " an incredibly effective advocate" and "fantastically user-friendly" Chambers & Partners, 2022

"Tremendous: enthusiastic, hardworking, smooth with clients and imbued with a calm authority." Legal 500 EMEA, 2021

"...extremely thorough and clever a ruthless cross-examiner phenomenally good with clients gives them comfort and confidence an absolute pleasure to work with, extremely accommodating and willing to go the extra mile very impressive, calm and intellectual respected lawyer who is well liked by judges his standout strength is his technical ability and his breadth of knowledge across insurance, construction and arbitration issues a superb command of the subject matter of any case " Chambers & Partners, 2021

"Extremely bright and meticulous – a first-class silk!"; "He is ferociously hardworking, utterly charming, forensic, responsive and eloquent."; "A fantastic QC with a great eye for detail" Legal 500, 2021

"...extremely clever, invariably charming, incredibly hardworking and a persuasive advocate"; "a fantastic QC with a great eye for detail; his client care is second to none"; "unfailingly diligent, charm personified, willing to roll his sleeves up and get in the trench with you..." Legal 500, 2020

"Eminent silk...incredibly intellectual, phenomenally hard-working and accessible...phenomenal in his client handling and willingness to roll his sleeves up; a superb advocate...very thorough, very rigorous, very clear and a delight to work with...he is sought after by clients around the globe...very bright, easy to work with and a team player...unflappable and an excellent advocate..."



Chambers & Partners, 2020

"Eminent silk who regularly acts in high-value litigation and arbitration in the UK and internationally. His work on construction cases in the energy sector elicits particular praise...exceptional service...real team player... a considerable intellect, great attention to detail and very incisive cross-examination...A truly impressive advocate"

Chambers & Partners, 2019

"Intellectual heavyweight, impeccably polite, a top-class advocate and gets the law right first time, every time... Intellectually very sharp...charming, diligent, courteous, incredibly hardworking – just an all round delight to work with."

Legal 500, 2018

"He is exceptional, particularly on construction and engineering cases..."

Legal 500, 2018

"He has all of the qualities you want in a silk: intellectual ability, good advocacy and incredibly sound advice. He's invariably excellent...Very measured and very thoughtful. He has a very sensible approach to all the issues."

Chambers & Partners, 2018

"An extremely nice person to deal with, who in spite of his pleasant demeanor is utterly ruthless in cross-examination. He appreciates that the devil is in the detail and focuses on the key points...Provides quality advice and quality service. He gets very involved and will always give you an honest opinion up front."

Chambers & Partners, 2018