

Andrew Dinsmore

CALL: 2013 (ENGLAND AND WALES); 2018 (NORTHERN IRELAND)

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Overview

Andrew has extensive international commercial litigation and arbitration experience. His practice focuses on cybersecurity fraud, banking, shipbuilding, shipping, energy, insurance and sport.

He is often instructed to appear both as junior counsel in complex, multi-jurisdictional, high-value cases and as sole counsel in the Commercial Court, Chancery Division and in arbitration. He also has full rights of audience to appear before the AIFC Court in the Republic of Kazakhstan.

Andrew has been at the forefront of developments in cybersecurity fraud and GDPR breaches, in that he acts for a group of claimants in their action against British Airways under the GDPR following a high-profile data breach, has acted in numerous urgent injunctions following cybersecurity breaches, and has published several articles on this topic.

He regularly publishes articles for the Journal of International Banking and Financial Law (JIBFL), the European Business Law Review and the Lloyd's Maritime & Commercial Law Quarterly. He also sat on the Commercial Bar Association (COMBAR) Brexit Working Groups, which published papers on the impact of Brexit on private international law and on international arbitration.

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Education

- City University: Bar Professional Training Course, Very

Publications

- 'Cybersecurity litigation: jurisdiction, applicable law and class actions' (2018) 8 JIBFL 505.
- 'Joint insurance issues in The Ocean Victory: the roads not taken' [2018] Lloyd's Maritime and Commercial Law Quarterly 50 (co-author).
- 'The legal implications of cyber-security breaches for financial institutions' (2017) 11 JIBFL 676.
- 'The Strengthening of Jurisdiction Agreements Following Brussels Reg (Recast) And The Impact of Brexit' [2017] 8 JIBFL 476.
- 'Jurisdiction, Enforcement and the Conflict of Laws in Cross-Border Commercial Disputes: What are the Legal Consequences of Brexit?' (2016) 27 (7) EBLR 903.
- Chapter 11 (in personam jurisdiction) in the 4th and 5th Supplement of Dicey, Morris & Collins on the Conflict of Laws (15th edn, Sweet & Maxwell 2018) (supporting editor).
- Sat on the two COMBAR Brexit Working Groups. The first to advise on the impact of Brexit on the conflict of laws in

- Competent (2013)
- University of Cambridge: Commercial LLM, First Class (2012), top ten in the year
- University of Cambridge: BA (Hons) in Law, Double First (2011)

England and Wales and the second to advise on the impact of Brexit on international arbitration in London; Andrew played a key role in drafting both position papers.

Awards / scholarships / prizes

- Shelford Scholarship: awarded by Lincoln's Inn to students who continue to excel during pupillage (2013).
- Lord Mansfield Scholarship: awarded by Lincoln's Inn – the highest scholarship given by the Inn to fund the BPTC and provide accommodation for 2012–13. Awards “are made on merit. Merit is assessed in terms of the candidate’s intellectual qualities ... together with qualities of personality and presentation also regarded as being of the greatest importance in anyone aiming at life as a barrister.”
- Hardwicke Scholarship: awarded by Lincoln's Inn for students of outstanding academic calibre (2012).
- Larmor Award: awarded by St John's College, Cambridge, to “undergraduates adjudged to be the most worthy for intellectual qualifications or for moral conduct and practical activities” (2011).
- Rebecca Squire Scholarship: awarded by the Faculty of Law for academic excellence (2010 and 2011).
- Whytehead Scholarship: awarded by St John's College for academic excellence (2010, 2011 and 2012).
- McMahon Scholarship: awarded by St John's College for exceptional students pursuing a career at the Bar (2012).
- McMahon Prize: awarded by St John's College for outstanding academic achievement (2012).
- Wright Prize 2012: awarded by the University of Cambridge for special merit in the category of first class honours; ordinarily those in the top third of firsts (2012).

Professional memberships

- Arbitration Ireland
- COMBAR
- London Common Law and Commercial Bar Association
- London Shipping Law Centre
- Young Maritime Professionals

Lectures / talks

- ‘The Practicalities of Off-Hire’: Lloyd's Maritime Academy, Time & Voyage Charterparties Seminars (2017).

Example cases

- Acting as Junior Counsel to Lawrence Akka QC advising and drafting Particulars of Claim in a seven-figure claim resulting from professional negligence in the context of an IT consultancy agreement.
- Acted as junior counsel to Philip Edey QC in a US\$1–2 billion international fraud concerning shares in a wind-farm company in Thailand.
- Acting as junior counsel to David Lewis QC in a US\$300 million international fraud concerning allegedly forged warehouse receipts in the context of commodities repurchasing agreements in Hong Kong and Singapore. David and Andrew recently appeared in a jurisdiction challenge in relation to this case: *E,D & F Man Capital Markets Limited v Come Harvest Limited & others* [2019] EWHC 1661 (Comm).
- Acting on behalf of two large groups of claimants in bringing actions against, first, British Airways and, secondly, Cathay Pacific in two of the first large-scale pieces of group litigation in England against major corporations for breaches of the GDPR due to the hacking of BA's and Cathay's website, which led to theft of approximately 380,000 and 9.4 million people's personal and financial details (respectively) in 2018.
- Advised (as sole counsel) in an appeal to the GAFTA Board of Appeal in relation to a seven-figure commodities dispute.
- Acted as junior to Michael Ashcroft QC to defend an urgent, eight-figure freezing injunction application brought under s 44 Arbitration Act 1996 in the context of the corporate restructuring of a major shipowner.
- Schenker Ltd v Negocios Europa Ltd* [2018] 1 WLR 718; [2017] EWHC 2921 (QB): acted (as sole counsel) in the first English High Court authority to apply the common law rule barring set-off against freight to airfreight.
- Acted in 14 interlinked shipbuilding arbitrations concerning technical issues in relation to the operation of stern tube bearings (led by Roderick Cordara QC and Adam Board).

- Acted in four interlinked shipbuilding arbitrations concerning technical issues in relation to the operation of stern tube bearings (led by Vasanti Selvaratnam QC).
- Acted in a seven-figure arbitration concerning a joint venture dispute in Africa (led by Luke Pearce).
- Obtained an emergency anti-suit injunction to restrain foreign proceedings brought in breach of an arbitration agreement (led by Vasanti Selvaratnam QC).
- *The Celtic Explorer* [2015] EWHC 1810 (Comm): the first case to consider whether delay in the publication of an arbitration award constituted a serious procedural irregularity under s 68 Arbitration Act 1996 (assisted Timothy Hill QC).
- Advised a major Formula 1 team on obtaining an urgent injunction from the Commercial Court to restrain a breach of contract (led by Edmund King QC).

International commercial litigation

- Acting as junior counsel to Philip Edey QC in a US\$1-2bn international fraud concerning shares in a wind-farm company in Thailand.
- Acting as junior counsel to David Lewis QC in a US\$300m international fraud concerning allegedly forged warehouse receipts in the context of commodities repurchasing agreements in Hong Kong and Singapore. David and Andrew recently appeared in a jurisdiction challenge in relation to this case: *E,D & F Man Capital Markets Limited v Come Harvest Limited & others* [2019] EWHC 1661 (Comm).
- Acting on behalf of two large groups of claimants in bringing actions against, first, British Airways and, secondly, Cathay Pacific in two of the first large-scale pieces of group litigation in England against major corporations under the new GDPR. This follows the hacking of BA's and Cathay's website which led to theft of approximately 380,000 and 9.4m people's personal and financial details (respectively), in 2018.
- Advising a major Formula 1 team on obtaining an urgent injunction from the Commercial Court to restrain a breach of contract, led by Edmund King QC.
- Appeared, as sole counsel, in *Schenker Ltd v Negocios Europa Ltd* [2018] Lloyd's Rep. Plus 4; [2018] 1 W.L.R. 718; [2017] EWHC 2921 (QB), which is the first English High Court authority to apply the common law rule barring set-off against freight to airfreight.
- Acting, as sole counsel, in a six-figure fraud concerning the sale of a Supercar.
- Acting as junior counsel to James Ramsden QC in a six-figure fraud in relation to a property development contract.
- Advised, as sole counsel, in a seven-figure dispute with issues of contractual formation, jurisdiction and applicable law.
- Advised, as sole counsel, in a seven-figure bailment dispute with issues of jurisdiction.
- Advising a major international airline, as sole counsel, on its obligations under a seven-figure landing gear servicing contract.
- Acting in numerous cases, as sole counsel, to obtain emergency freezing injunctions and Norwich Pharmacal Orders in the context of a seven-figure cyber-fraud.
- Instructed to advise, as sole counsel, in a seven-figure Term Facility Agreement and related Share Pledge dispute.
- Advising a major international airline on an eight-figure commercial dispute, led by Edmund King QC.
- Advised on the availability of an interim 'Asset Preservation Order' from the Commercial Court in support of anticipated seven figure Luxembourg proceedings.
- Instructed as sole counsel to represent a public relations and media company in a dispute against a high-profile businesswoman from the BBC series 'Dragon's Den'.
- Appeared, as sole counsel, in a full-day jurisdiction hearing in the Commercial Court concerning a disputed jurisdiction agreement.
- Acted in a US\$20 million two-day arbitration concerning the interaction of a chain of commercial contracts, led by Vasanti Selvaratnam QC.
- Instructed, as sole counsel, to advise on and draft pleadings in a seven-figure dispute concerning breach of warranties contained in a Business Purchase Agreement.
- Advising on and drafting pleadings, as sole counsel, in a case involving an exclusive software distribution agreement with the sole basis of English jurisdiction being Art. 25 of the Brussels 1 Regulation (as recast).

International arbitration

- Assisting Singaporean Counsel with an appeal to the Singaporean Court following an award on jurisdiction by a SIAC Tribunal.
- Acting as junior counsel to Paul Lowenstein QC in an eight-figure LCIA Arbitration concerning an action being brought on allegedly forged documents following the breakdown of a Ukrainian joint venture.
- Defending against an urgent, eight-figure freezing injunction application brought under s. 44 of the 1996 Act in the context of the corporate restructuring of a major shipowner, led by Michael Ashcroft QC.
- Acting in an international arbitration with issues of joint-venture financing in Africa, led by Luke Pearce.
- Obtaining an emergency anti-suit injunction to restrain foreign proceedings brought in breach of an arbitration agreement, led by Vasanti Selvaratnam QC.
- Acting in an appeal under sections 68 and 69 of the Arbitration Act 1996 to the Commercial Court following three eight-figure arbitral awards, led by Vasanti Selvaratnam QC.
- Acting for a Russian Private Equity Company in an SCC Arbitration concerning issues of contractual formation and the conflict of laws. Drafting submissions in a seven-figure LCIA Arbitration representing a Russian client in relation to the sale of a bank.
- Assisted Timothy Hill QC in *The Celtic Explorer* [2015] EWHC 1810 (Comm) which was the first case to consider whether delay in the publication of an arbitration award constituted a serious procedural irregularity under s. 68 of the Arbitration Act 1996.
- Assisting John Robb with the underlying arbitration and application in *Union Marine Classification Services LLC v Comoros* [2015] EWHC 508 (Comm).

Shipping

- Acting in an appeal to the GAFTA Board of Appeal in relation to a seven-figure commodities dispute.
- Acting for Buyers in fourteen inter-linked shipbuilding arbitrations concerning defective stern tube bearings and fuel overconsumption, led by Roderick Cordara QC and Adam Board.
- Acting for Buyers in two eight-figure shipbuilding arbitrations where the vessel was undeliverable due to design failures in relation to the stern tube bearing, led by Vasanti Selvaratnam QC.
- Acting in two inter-linked shipbuilding arbitrations concerning implied terms of good faith and circuity of action, led by Vasanti Selvaratnam QC.
- Acting in an eight-figure arbitration which concerned cancellation of an offshore shipbuilding contract following delay, led by Nigel Eaton QC.
- Instructed to provide a joint opinion on the interaction between ship arrests and the recognition of foreign insolvency proceedings for use in the Singaporean High Court litigation, led by James Morgan QC.
- Acting, as sole counsel, to arrest a vessel in relation to a seven-figure Charterparty arbitration concerning breach of an Inter Club Agreement.
- Acting, as sole counsel, in an SCMA Arbitration concerning demurrage.
- Instructed, as sole counsel, by Shipowners to bring an action against cargo interests insurers for General Average Expenditure under an Average Guarantee and an Average Bond.
- Acting in an eight-figure arbitration concerning the abandonment a charterparty, led by Simon Croall QC.
- Instructed, as sole counsel, in relation to an international bunker fraud dispute.
- Drafting Defence Submissions, as sole counsel, in response to a contaminated cargo claim under a pro-forma Vegoil Voyage Charterparty.
- Drafting Claim Submissions, as sole counsel, in relation to sums due for towing services under a BIMCO TOWCON contract.
- Advising, as sole counsel, on the availability of an anti-arrest injunction against bunker suppliers in the context of an English law governed supply contract containing a lien clause governed by US law.
- Drafting submissions, as sole counsel, in a dispute concerning the BIMCO Voywar clause.
- Drafting submissions, as sole counsel, in a dispute concerning allegations of inadequate cleaning under the ASBATANKVOY terms.

- Drafting submissions, as sole counsel, in a case concerning the apportionment of loss for a shortage claim under the Inter-Club New York Produce Exchange Agreement 1996.
- Advising, as sole counsel, on the recoverability of fees incurred by Charterers against Owners upon failure of an Asian Gypsy Moth inspection in Canada.

Insurance and reinsurance

- Acting as sole counsel for the assured in a seven-figure hull claim relating to perils of the sea encountered during a break up voyage with tug.
- Acting, as sole counsel, in a seven-figure dispute concerning allegations of breach of class warranty.
- Acted, as sole counsel, in a dispute concerning material non-disclosure.
- Defended a claim, as sole counsel, on the basis of fraud by the insured due to a gross exaggeration of the loss suffered.
- Acted, as sole counsel, in an on-going subrogation recovery claim concerning ownership of a bespoke six figure diamond and ruby ring.
- Advised, as sole counsel, on The Cyber Attack Exclusion Clause (CL380).
- Advised, as sole counsel, on the liability of an Excess Insurer to contribute to General Average Expenditure in circumstances where the amount paid was within the primary layer but the overall insured value was above it.
- Advised, as sole counsel, on waiver of LLMC Limits.

Banking and financial services

- Acting as junior counsel to Sean Snook to advise shipowners in resisting a nine-figure action brought in Hong Kong by a major international bank under four inter-linked ship-mortgages.
- Acting as sole counsel to advise a FinTech start-up on their application to the Financial Conduct Authority for authorisation as an owner under a regulated consumer hire agreement in accordance with the Financial Services and Markets Act 2000 (Regulated Activities Order).
- Acting in an international arbitration with issues of joint-venture financing in Africa, led by Luke Pearce.
- Advised the Financial Conduct Authority on the authorisation of online peer-to-peer lending platforms under Article 36H of Financial Services and Markets Act 2000 (Regulated Activities Order).
- Advised a Russian bank on the procedure for forced sale of a multi-million dollar mortgaged vessel.
- Drafted submissions in a seven-figure LCIA Arbitration representing a Russian client in relation to the sale of a bank.
- Advised on the quantification of losses arising from a breach of freight hedging products.
- Assisted numerous major city law firms with s. 166 (FSMA) skilled person reviews in quantifying consequential losses arising from the mis-sale of Interest Rate Hedging Products.

Civil fraud

- Acting as junior counsel to Paul Lowenstein QC in an eight-figure LCIA Arbitration concerning an action being brought on allegedly forged documents following the breakdown of a Ukrainian joint venture.
- Acting as junior counsel to Philip Edey QC in a US\$1-2bn international fraud concerning shares in a wind-farm company in Thailand.
- Acting as junior counsel to David Lewis QC in a US\$300m international fraud concerning allegedly forged warehouse receipts in the context of commodities repurchasing agreements in Hong Kong and Singapore. David and Andrew recently appeared in a jurisdiction challenge in relation to this case: *E,D & F Man Capital Markets Limited v Come Harvest Limited & others* [2019] EWHC 1661 (Comm).
- Acting as junior counsel to James Ramsden QC in a six-figure fraud in relation to a property development contract.
- Acting in numerous cases, as sole counsel, to obtain emergency freezing injunctions and Norwich Pharmacal Orders in the context of a seven-figure cyber-fraud.
- Acting, as sole counsel, in a six-figure fraud concerning the sale of a Supercar.

