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Andrew Lenon KC

Barrister
Call 1982 Silk 2006

Scope of Practice

• Arbitration • Banking and Financial Services • Civil Fraud and Investigations • Commercial Litigation • Company and Insolvency • Competition and EU Law • Employment • Energy and Natural Resources • Online Gaming, IT and Telecommunications • Insurance and Reinsurance • Jurisdiction and Conflict of Laws • Media, Entertainment and Broadcasting • Mediation • Partnerships • Pension Schemes and Share Schemes • Professional Liability

Overview

Andrew Lenon's practice covers the full range of company and commercial litigation, arbitration and advisory work. He has particular expertise in cases involving chancery commercial issues arising in the banking & financial services and company & insolvency sectors. He also has a substantial practice involving the insurance & reinsurance and energy industries.

Andrew has been called to the bar in the Cayman Islands, the BVI and the Turks & Caicos and he speaks Spanish, German and Russian. He is also an SCMA accredited mediator. Andrew also sits as a chairman of the Competition Appeals Tribunal, as an Arbitrator and as a Deputy High Court Judge in the Business and Property Courts.

Examples of Recent Cases

Arbitration

- Glencore AG v. Bharat Aluminium Company Ltd (2010) - Appearing for Defendant in ICC arbitration arising out of contract for sale of a consignment of aluminium.
- Econet Wireless Ltd v. Vee Networks Ltd & Ors - [2006] EWHC 1568 (Comm) - For Celtel, successfully discharging an injunction, obtained in breach of an arbitration clause, restraining the US$1.2 billion sale of a Nigerian telecommunications company.
- ICC Proceedings (2005) - For aviation specialist Lloyd's Syndicate, in an arbitration of a dispute stemming from a refusal to pay losses following the purchase of programmes of Aviation Bodily Injury Carve-Out reinsurace.
- ICC Proceedings (2005) - For defendant gas exploration company in an arbitration arising out of a dispute over payments for an offshore drilling installation / platform.
- LCIA Proceedings (2004) - For excess layer professional indemnity underwriters, in an arbitration of a dispute over alleged non disclosure of facts relating to defective piles in a building development in Hong

Kong.

- LCIA Proceedings (2003/4) - For major life insurer, in an arbitration of a dispute over alleged mistake in the terms of reinsurance cover provided in respect of its life assurance business.
- ICC Proceedings (2001) - For defendant in an arbitration of a dispute, in Brussels, concerning liability for a defective steam turbine electricity generator. The claim was governed by Portuguese law and involved complex technical and foreign law issues. Cross examination was regulated by the tribunal on strict 'stop-clock' basis.
- Westland Helicopters Ltd v. Arab Organisation for Industrialisation (1994) - For claimant in major ICC proceedings in Geneva, and subsequent worldwide enforcement proceedings (see: [1995] QB 282; [1995] 2 WLR 126; [1995] 2 All ER 387; [1994] 2 Lloyd's rep 608).

Banking and Financial Services

'Clear in his advice, very accessible and a hugely confident cross-examiner.' Legal 500 2015

- Phoenix Meridian Equity Limited v Lyxor Asset Management S.A. – (Cayman Islands HC 2009) – Acted for the Claimant in proceedings in the High Court of the Cayman Islands arising out of a dispute over the redemption value of a principal protected investment in hedge funds. The case entailed a detailed understanding of derivative pricing methodology.
- Maple Leaf Macro Volatility Master Fund -v- (1) Jacques Rouvroy (2) Krzysztof Trylinski (Commercial Court 2008/09) - Successfully acting for the Claimant (Maple Leaf, a Cayman incorporated hedge fund), in pursuit of it's claim for damages arising out of fraudulent misrepresentation and deceit.
- Citibank NA v. MBI Assurance SA & Ors - [2006] EWHC 3215 (Ch); [2007] EWCA Civ 11 - For MBI Assurance, successfully resisting a challenge to its right, as the note controlling party under loan notes issued by a creditor of Eurotunnel, to direct the exercise of a cash option available under the debt restructuring plan ordered by the French Court.
- Re SSSL Realisations Ltd - [2004] EWHC 1760 (Ch); [2006] EWCA Civ 7; [2006] 2 WLR 1369; [2006] BCC 233 - For AIG Europe (UK) Ltd, (1st instance and Court of Appeal), in successfully resisting challenge to the validity of its subordinated debt provisions.
- Re asset backed hedge fund - Advising hedge fund on dispute with bank over margin calls under repo agreement arising out of illiquidity in the credit market (2007)
- Australia New Zealand Banking Group Ltd v. Societe Generale - [2000] CLC 161; [2000] Lloyd's Rep Med 153 - For claimant, at 1st instance and subsequently before the Court of Appeal, in proceedings for the recovery of sum due under ISDA currency SWAP transaction. The case involved an important point of construction on the ISDA Master Agreement and led to the successful recovery of a multi million dollar debt.
- Equitable Life Assurance Society v. Hyman - [2002] 1 AC 408 (HL) - For the Equitable, 1st instance, Court of Appeal and House of Lords, in landmark proceedings arising out of a dispute over allocation of discretionary bonuses to policyholders.
- Lehman Brothers v. Russian Banks (1998) (Comm) - For claimant in proceedings against various Russian Banks arising out of ISDA currency swap transactions and involved obtaining worldwide freezing orders.
- Lloyd's Bank Plc v. Independent Insurance Co. Ltd - [1999] 2 WLR 986; [1999] 1 All ER (Comm) 8; Lloyd's Rep Bank 1; [1999] CLC 510; [2000] 1 QB 110 (CA) - For the appellant, in proceedings before the Court of Appeal successfully resisting bank's claim for restitution of electronic transfer.
- Household Global Funding Inc. & Ors v. British Gas Trading Ltd & Ors - [2001] EWCA Civ 1156 - For BGTL, at 1st instance and subsequently before the Court of Appeal, in proceedings arising from the termination of a joint venture agreement concerning the 'Goldfish' credit card.
- OPRA v. Thorn Pension Fund (2002) - For Thorn, in review proceedings before the Occupational Pensions Regulatory Authority relating to modification of the company's occupational pension scheme under s69 of the Pensions Act 1995.

Civil Fraud and Investigations

- UCC v. Bender and Koonmen - For claimant in major tracing and asset recovery proceedings in Jersey (2006).
- Bird v. Hadkinson - (Times 7 April 1999) (Ch) - For the trustee in bankruptcy in major insolvency proceedings involving recovery of assets located in UK and other jurisdictions.

- Canada Trust & Ors v. Stolzenberg & Ors (No. 2) - [1998] 1 All ER 318; [1998] 1 WLR 547 (CA) - For Canada Trust in proceedings involving international tracing of assets and raising new jurisdictional issues under the Brussels Convention.
- S&T Bautrading v. Nordling - [1997] 3 All ER 718 (CA) - For claimant in fraud proceedings and an application for a worldwide mareva injunction raising a new jurisdictional issue under the Brussels Convention.
- Arab Monetary Fund v. Hashim (1993) (Ch) - For AMF in six month trial against the ex president of the AMF for breaches of fiduciary duty involving worldwide tracing and asset recovery.

Company and Insolvency

- Rey & anr v. FNCB Ltd - [2006] EWHC 1386 (Ch); [2006] NPC 71 - For the successful respondent, where a clause in a voluntary arrangement that precluded all creditors from commencing or continuing legal proceedings in respect of any personal liability of the debtor did not preclude a secured creditor from enforcing his security.
- Smurthwaite v. Simpson-Smith & Anr - [2005] All ER (D) 275 (Apr); LTL 20/4/05 & 28/4/05 (Unreported elsewhere) - For creditor in successfully setting aside an individual voluntary arrangement (IVA) and obtaining penal costs order against the nominee.
- Thomson v. Somers & Ors - [2004] All ER (D) 170 (Nov); LTL 11/11/04 (Unreported elsewhere) - For successful claimant, where failure by defendants to issue shares in accordance with the loan agreement entitlement the claimant to recover sums paid.
- Citibank NA v. MBI Assurance SA & Ors - [2006] EWHC 3215 (Ch); [2007] EWCA Civ 11 - For MBI Assurance, successfully resisting a challenge to its right, as the note controlling party under loan notes issued by a creditor of Eurotunnel, to direct the exercise of a cash option available under the debt restructuring plan ordered by the French Court.
- Re Aberdeen Preferred Inc - [2004] EWHC 199 (Ch) - Successfully challenging a proposed scheme of arrangement.
- Re SSSL Realisations Ltd - [2004] EWHC 1760 (Ch); [2006] EWCA Civ 7; [2006] 2 WLR 1369; [2006] BCC 233 - The leading English authority on the legal effects of debt subordination provisions. For AIG, at first instance and subsequently before the Court of Appeal, successfully resisting challenge to its debt subordination provisions in a double corporate insolvency.
- Brocks Mount Ltd v. Beasant - [2003] EWHC 1063 (Ch); LTL 28/4/2003 (Unreported elsewhere) - For the claimant company, successfully recovering money misappropiated by a director, in proceedings for breach of fiduciary duty, where making an unauthorised payment to another company with which the director was involved he had not acted honestly and reasonably and so was unable to obtain relief for his conduct under s727(1) Companies Act 1985.
- Re Fun Learning Ltd (Chan) (2000) - For defendant directors (and majority shareholders) in s459 proceedings.
- Bird v. Hadkinson (Ch) (1999) - For trustee in bankruptcy in major insolvency proceedings involving successful tracing and asset recovery in UK and other jurisdictions.
- Re Powerstore (Trading) Ltd; Re Homepower Stores Ltd - [1997] 1 WLR 1280; [1998] 1 All ER 121; [1998] BCC 305; [1998] 1 BCLC 90 - For the Inland Revenue on an application raising a novel jurisdictional issue concerning creditors' claims in an administration.
- The Joint Liquidators of Sasea Finance Ltd v. KPMG - [1998] BCC 216 - For KPMG, in s236 proceedings. Auditors ordered to disclose documents to office holders following spectacular corporate failure.
- Sasea Finance Ltd v. KPMG (formerly KPMG Peat Marwick McLintock) (a firm) - Times 25 August 1998; LTL 11/5/2001 (Unreported elsewhere) - For KPMG, applications for strike out of auditors negligence claim.
- Soden and Anr v. Burns; R v Secretary of State for Trade & Industry, ex parte Soden; Re Atlantic Computers plc - [1996] 3 All ER 967; [1996] 1 WLR 1512; [1996] 2 BCLC 636 - For British & Commonwealth, in landmark s236 proceedings.

Energy and Natural Resources

'A fine grasp of the commercial issues.' Legal 500 2015

- Venture v. Nuon [2010] EWHC 204 (Comm) - For Nuon in case about whether an executed agreement, such as a joint operating agreement (JOA), is considered to be "in substantially the form" of a draft agreement for the

purposes of fulfilling a condition precedent to completion in a sale and purchase agreement.

- ICC Proceedings (2005) - For respondent oil exploration company in dispute concerning payment for the hire of onshore and offshore drilling rig installations / platforms.
- Npower plc v. First Contact Ltd (Comm) (2005) - For defendant, in dispute concerning alleged bribery of agent and the application of the Commercial Agents (Council Directive) Regulations 1993 to doorstep salesmen in the energy sector.
- Re TXU Europe Group (2004) - Advised power supplier on its claim for damages arising from the premature termination of a long term electricity supply contract with TXU.
- Re Contaminated Land Legislation (2004) - Advised, a gas / electricity major on potential liabilities under the contaminated land legislation and specifically under part IIa of the Environmental Protection Act 1990 in respect of contamination caused by statutory predecessors.
- Conoco (U.K.) Ltd v. The Ecosse Gas Company Ltd (2002) (Comm) - For Conoco, in proceedings arising out of a contract for sale of interest in North Sea gas fields.
- Re The Balancing & Settlement Code (2001) - Advising a domestic electricity supplier in relation to losses suffered as a result of misdeclaration in contract position and in relation to the trading of electricity under the Code.
- ICC Proceedings (2001) - Concerned liability for a defective steam turbine electricity generator. The claim was governed by Portuguese law and involved complex technical and foreign law issues.
- ICC Proceedings (1998) - For claimant in proceedings arising form breach of supply contracts for the construction of a power station in India.

Commercial Litigation

'A very impressive barrister who cuts through the chaff.' **Legal 500 2019 Commercial Litigation**

- Echinacash v. Friedman (2010/11) - For Defendant in claim for recovery of shares in BVI company (BVI Commercial Court and East Caribbean Court of Appeal)
- Maple Leaf v. Rouvroy and another (2008) - acting for hedge fund in claim for repayment of loan to finance takeover of French listed company.
- Harrison v. Harrison - [2008] EWHC 362 (QB), [2008] Fam Law 613 - Acting for the ex-husband in successfully striking out proceedings brought by ex-wife, seeking to set aside judgment in previous ancillary relief proceeding on grounds of alleged perjury.
- Kuwait Airways Corporation v. Iraqi Airways Company (2004) (Comm) - For IAC in dispute over conversion of aircraft.
- Beasant v. Lexicon Holdings Ltd & Anr - [2006] EWHC 3160 (Ch); LTL 19/12/2006 (Unreported Elsewhere) - With Jonathan Brock KC successfully defending proceedings for title to a property where a party to a joint venture agreement had not validly exercised an option to purchase under the agreement since he had failed to comply with a term of the agreement requiring him to provide proof of funds.
- Econet Wireless Ltd v. Vee Networks Ltd & Ors - [2006] EWHC 1568 (Comm) - For Celtel, successfully discharging an injunction, obtained in breach of an arbitration clause, restraining the US$1.2 billion sale of a Nigerian telecommunications company.
- Cunningham v. Aryal & Anr - [2002] EWHC 2380 (QB); [2002] All ER (D) 176 - For defendant in claim for restitution of money from agent.
- Westland Helicopters Ltd v. Arab Organisation for Industrialisation - [1995] QB 282 - For claimant in major ICC proceedings in Geneva, and subsequent worldwide enforcement proceedings (see: [1995] 2 WLR 126; [1995] 2 All ER 387; [1994] 2 Lloyd's Rep 608).
- Union Traffic Ltd v. Transport & General Workers Union & Ors - [1989] IRLR 127; [1989] ICR 98 (CA) - For Claimant, on application for interim injunction against trade union.
- Advised in connection with a dispute over the broadcasting rights to 'Formula 1' events.
- Advised in connection with the broadcasting rights to the 2002/2006 FIFA World Cup Finals.
- Dr Rentschler Biotechnologie GmbH v. Biogen (1996) (Comm) - For claimant in proceedings for delivery up of pharmaceutical products governed by German law.

- Marshall v. NM Financial Management Ltd - [1995] 4 All ER 785; [1995] 1 WLR 1461; [1996] IRLR 20; [1995] ICR 1042; 14 Tr L 458; [1997] IRLR 449; [1997] 1 WLR 1527; [1997] ICR 1065 - For IFA in successful challenge to financial service company's restrictive covenant.
- BSkyB v. Telenor (1996) (QB) - For BSkyB in litigation concerning rights to a broadcasting satellite.

Insurance and Reinsurance

"Staunch in his client's cause," he is "reliability personified" Chambers and Partners 2009

- ICC Proceedings (2005) - For aviation specialist Lloyds Syndicate, in an ICC arbitration of a dispute stemming from a refusal to pay losses following the purchase of programmes of Aviation Bodily Injury Carve-Out reinsurance.
- LCIA Proceedings (2004) - For excess layer professional indemnity underwriters, in an arbitration over alleged non disclosure of facts relating to defective piles in a building development in Hong Kong.
- LCIA Proceedings (2003/4) - For major life insurer, in an arbitration of a dispute over an alleged mistake in the terms of reinsurance cover provided in respect of its life assurance business.
- Countrywide Assured Group plc & Ors v. Marshall & Ors (AIG Europe (UK) Ltd & Ors, Intervening) - [2002] EWHC 2082 (Comm); [2003] All ER (Comm) 237; [2003] Lloyd's Rep PN 1 - For the insurers, in a case involving the construction of aggregation clauses in professional indemnity insurance relating to pensions mis-selling.
- The Orion Insurance Company plc v. Basler Verischerungs-Gesellscaft (otherwise known as The Baloise Insurance Company) & The Baloise Marine Insurance Company Ltd (CA) (1999) - For Orion, before the Court of Appeal in substantial proceedings (18 days) which settled shortly prior to its commencement. The appeal concerned proceedings to set aside judgment on the grounds that it was obtained by fraud. For related litigation see also: Odyssey Re (London) (formerly Sphere Drake Insurance Plc) & Anr v. OIC Run-Off (formerly Orion Insurance Co Pc).
- HLB Kidsons v. Lloyds Underwriters (Comm) (2006) - For professional indemnity underwriters, in litigation over claims notification.
- Scottish Re Holdings Ltd v. General Reinsurance Life UK Ltd (2007) - For Scottish Re, in Commercial Court proceedings arising out of a claims handling agreement relating to airline loss of licence / crew disability reinsurance business. Dispute as to whether a profit sharing agreement existed between Scottish Re and Gen Re for the business managed by Scottish Re and, if so, how much is owed.

Pension Schemes and Share Schemes

- Stakeholder pensions - Recently advised major pensions provider on terms of stakeholder pension arrangements.
- Equitable Life Assurance Society v. Hyman - [2002] 1 AC 408 (HL) - For the Equitable, at 1st instance, Court of Appeal and House of Lords, in landmark proceedings arising out of a dispute over allocation of discretionary bonuses to policyholders.
- OPRA v. Thorn Pension Fund (2002) - For Thorn, in review proceedings before the Occupational Pensions Regulatory Authority relating to modification of the company's occupational pension scheme under s69 of the Pensions Act 1995.

Professional Liability

- Raymond v. Killik & Co - For Defendants in professional negligence (stockbroking) claim.
- Atlas Securities v. KPMG (2004) - For KPMG in professional (auditors') negligence proceedings in the Turks & Caicos Islands, successfully striking out the bulk of the claim.
- Sasea Finance (In Liquidation) v. KPMG (2000) (Ch) - For KPMG in professional negligence claim involving alleged duty to whistle blow on the part of auditors, successfully striking out the bulk of the claim.
- British & Commonwealth Holdings Ltd (In administration) v. Barclays de Zoete Wedd Ltd & Ors - [1998] BCC 200; Times 25 April 1997; [1999] 1 BCLC (Ch) - For B&C in the major professional negligence proceedings arising out of its acquisition of Atlantic computers, involving proceedings against merchant bank advisers and auditors.
- Acts as chairman of Bar Disciplinary Tribunals hearing professional misconduct cases against members of the bar.

Competition and EU Law

- Lafarge Tarmac Holdings Limited (“Lafarge”) and the Competition Commission as Chairman of the Competition Appeal Tribunal (“CAT”) in proceedings following the latter’s report into the aggregates, cement and ready-mix concrete market. The Competition Commission ordered Lafarge, a major cement producer, to divest itself of certain cement production plants.

What the Directories Say

'A very impressive barrister who cuts through the chaff.' (Legal 500 2019 - Commercial Litigation)

'Great on the detail.' (Legal 500 2019 - Professional Negligence)

'Just so dang clever, gets to the relevant points very quickly.’ (Legal 500 - 2018 Commercial Litigation)

'Delights clients with his in - depth legal expertise and his ability to communicate in Russian' Legal 500 2013

'A very able silk' (Legal 500 2018 - Professional Negligence)

"A fantastic leader with a deep understanding of the legal and procedural issues." (Legal 500 2015 - Commercial Litigation)

"A fine grasp of the commercial issues." (Legal 500 2015 - Energy)

"Clear in his advice, very accessible and a hugely confident cross-exainer." (Legal 2015 - Banking & Finance)

"He has first rate experience." (Legal 500 2015 - Professional Negligence)

''Andrew provides excellent advice; it is a pleasure working with him" (Legal 500 2014 - Commercial Litigation)

"He has a very good commercial grasp of cases." (Legal 500 2014 - Energy)

"He has an extensive experience advising on ISDA Agreements." (Legal 500 2014 - Banking & Finance)

"Excellent on financial - related professional negligence cases." (Legal 500 2014 - Professional Negligence)

Andrew Lenon KC who ‘delights clients with his in-depth legal expertise and his ability to communicate in Russian’’ (Legal 500 2013)

Publications

2014 - Article on the disputed onership of investors' collateral in the MF Global insolvency, which was published in the Journal of International Banking Law in June 2014

2006 - Article in the Journal of International Banking Law and Regulation on "Debt subordination in a group insolvency - The Save Group case".

2004 - Address given to various law firms on recent changes to the money laundering legislation.

2001 - Article in the Journal of International Banking Law and Regulation on "Early termination provisions in ISDA derivative contracts".

2000 - On-line seminar at www.2ends.com on contempt proceedings as a tactical weapon in civil litigation.

1997 - Article in the New Law Journal on the globalisation of interim remedies in support of court proceedings and

arbitrations.

Awards

2027 Chambers Top Ranked UK Bar
One Essex Court

Legal500 TOP TIER SET 2027

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