

## Andrew Onslow QC

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Year Of Call: **1982**

Year Of Silk: **2002**



Andrew Onslow QC is *“a highly accomplished commercial and banking silk”, “a first-class advocate who can get to grips with the thorniest of issues”*. His main areas of practice are general commercial litigation and arbitration, banking and finance, fraud, professional negligence and art and cultural property. In recent years he has acted in some of the weightiest and most high-profile cases in the English Courts – among them The RBS Rights Issue Litigation (the first major claim under FSMA s.90), Perry v National Crime Agency (the first major claim for compensation under POCA s.283), Thwaytes v Sotheby’s (the Caravaggio case, now the leading case on an auctioneer’s duties to a consignor), R v Hayes (the first SFO LIBOR prosecution) and R v Bittar (the first Euribor prosecution). Among current cases, he is instructed in ENRC v Gerrard & Dechert LLP (trial June 2021), SKAT v Solo Capital Partners (acting for lead defendants in US\$2bn claim by Danish tax authorities, alleging cum-ex dividend fraud), £ hundreds million claim against Clydesdale Bank and its parent company, National Australia Bank, and a number of FSMA s.90A claims He was recently successful at trial in Byers v Samba Financial Group (acting for the defendant), and in two appeals to the Court of Appeal (Libyan Investment Authority v King (acting for the LIA in a claim for fraud in relation to the Maple Cross hotel development), and Strategic Technology Pts Ltd v Procurement Bureau of the Republic of China (acting for the appellant Taiwan), now the leading case on enforcement of a foreign judgment under Administration of Justice Act 1920) He is described as *“very hands on and fiercely intellectual ... bright, approachable and extremely good in court ... a very tenacious cross-examiner.”*

Andrew regularly sits as an arbitrator. He has given expert evidence in derivatives/tax litigation in a US Federal Court, and provided opinions for use in the Moscow Court of Arbitrazh the Madrid Court of First Instance and the courts of New York and California. He was formerly a Chairman of Bar Disciplinary Tribunals, and is currently a member of the AIM (London Stock Exchange) Disciplinary Panel pool, and of the CAfA (Court of Arbitration for Art) pool of arbitrators. He is a Council member of JUSTICE, a founding member of the FSLA (Financial Services Lawyers Association) Advisory Board, and a Bencher of the Middle Temple. He was shortlisted for Commercial Litigation Silk of the Year in the 2018 Chambers & Partners Bar Awards.

## Directory Quotes

*“Just fantastic – he has an almost ideal mix of being extremely engaging and highly personable, and also on top of all of the issues, and is very easy to work with as a result.”*

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Chambers & Partners 2021

“One of the best cross-examiners, with a quick and practical grasp of complex issues.”

Chambers & Partners 2021

## Expertise

### Banking & Finance

Andrew has been recognised as a leading banking and finance silk in the directories for many years, having acted in numerous banking and bank-related cases. He has been praised as “*a very knowledgeable banking silk who is incredibly user-friendly and accessible*”, “*Outstanding. He has no airs and graces and absolutely gets stuck in*” (Chambers & Partners), and to “*cut through the key issues and develop the case to great effect*” (Legal 500). Examples of cases in this field are:

***SKAT v Solo Capital Partners*** - acting for defendants in worldwide \$2 billion litigation brought by the Danish tax authority to recover withholding tax refunds

***Farol Holdings Ltd v Clydesdale Bank plc*** - acting for hundreds of “Tailored Business Loan” borrowers in claim for losses caused by (alleged) wrongful Break Cost charges

FSMA s.90A - shareholders’ claims for losses caused by publication of untrue and misleading financial information

***Trustees of the Mineworkers Pension Scheme v Royal Bank of Scotland*** [2014] EWHC 227 (Ch) - acting for claimants in litigation over RBS's £12bn 2008 Rights Issue

***Perry v NCA*** - acting for the NCA in defending claims for compensation under s.283 Proceeds of Crime Act 2002

***PCP Capital Partners LLP v Barclays Bank plc; R v Barclays Bank plc & Ors*** - acting for the SFO in the civil/commercial aspects of this major prosecution and commercial litigation

***Loreley Financing (Jersey) No 26 Ltd v Lehman Brothers*** - acting for claimant in US\$72m claim arising from the sale of CDO Notes

***R v Hayes*** (Southwark Crown Court and Court of Appeal Criminal Division) - acting for the SFO in civil/commercial aspects of this LIBOR-related prosecution

***R v Bittar*** (Southwark Crown Court and Court of Appeal Criminal Division) - acting for the SFO in trial (and appeal) of issues concerning the meaning of the Euribor Code and the application of Belgian law

***H v B Bank*** (Comm Ct) - acting for Claimant in claim for wrongful close-out of investment fund

***Nahum v Citibank NA*** (Comm. Ct., settled at trial) - acting for defendant private bank in claim

concerning the unwinding of credit default swaps

***Golden Sunsets Navigation (UK) Ltd v Lloyds Portfolio Leasing Ltd*** [2010] EWHC (Comm.)  
703 - acting for Defendant bank in dispute under complex shipping finance lease

Derivatives claims brought by investment banks against Italian municipalities

***B v J Bank*** (Hong Kong) - advising major investment bank in claim for specific performance of SpinOut provisions in private equity deal

***R v S*** (Comm Ct) - acting for life insurance company in claims arising from payments made under the forged signature of the chief executive.

## **Civil Fraud**

Andrew has been recognised as a leading fraud practitioner for many years, and is highly rated in the directories in this field. Chambers & Partners describes him as “a redoubtable advocate with a wide commercial practice who is sought out for his ability to prosecute and defend multibillion-pound claims ... very punchy in his advocacy and down-to earth in his opinions”. Legal 500 reports that “his support is exceptional and he throws himself into the case”. As shown by his recent caseload, he has become involved in recent years in work in the field of heavy criminal fraud, acting repeatedly for the SFO. Recent cases in the fraud field include:

***Iranian Offshore Engineering and Construction Company v Dean Investment Holdings S.A.***  
- acting for IOEC in £75m claim arising from the purchase of the GSP Fortuna, a mobile oil drilling rig - the rig was not delivered, and the purchase money not returned - Judgment in March 2019 against all 9 Defendants

***Libyan Investment Authority v King*** - acting for the LIA in a claim for the return of a £10m + investment in a hotel development project at Maple Cross

***Akers v Samba Financial Group*** - acting for Samba Bank in defence of a knowing receipt claim arising from the collapse of Maan Al-Sanea's Saad Group

***Farol Holdings Ltd v Clydesdale Bank plc*** - acting for hundreds of “Tailored Business Loan” borrowers in claim for losses caused by (alleged) wrongful Break Cost charges

FSMA s.90A - shareholders' claims for losses caused by publication of untrue and misleading financial information

***The VW emissions litigation*** - acting for claimants in claims based on the alleged fraudulent use of a “defeat device” in VW engines

***PCP Capital Partners LLP v Barclays Bank plc; R v Barclays Bank plc & Ors*** - acting for the SFO in the civil/commercial aspects of this major prosecution and commercial litigation

***Perry v NCA*** - acting for the NCA in defending claims for compensation under s.283 Proceeds of Crime Act 2002

**R v Bittar** (Southwark Crown Court and Court of Appeal Criminal Division) – acting for the SFO in trial (and appeal) of issues concerning the meaning of the Euribor Code and the application of Belgian law

**R v Hayes** (Southwark Crown Court and Court of Appeal Criminal Division) - acting for the SFO in civil/commercial aspects of this LIBOR-related prosecution

**Loreley Financing (Jersey) No 26 Ltd v Lehman Brothers** - acting for claimant in US\$72m claim arising from the sale of CDO Notes

**Public JSC VA Bank v Maksimov** - freezing order proceedings concerning the ownership of \$80m of Ukrainian assets

**Seaton Trustees v Schneider Electric FZE** - acting for the sellers in a £10m + fraud, warranty and mismanagement dispute following sale of a Dubai electronic solutions company

**Polonskiy v Alexander Dobrovinsky & Partners** - a \$300m claim by a well-known Cambodian-based Russian businessman (Polonskiy) against a leading Russian lawyer in relation to the sale of Polonskiy's former business

**R v S** - acting for life insurance company in claims arising from payments made under the forged signature of the chief executive

**Attorney General of Zambia v Meer Care & Desai** (Court of Appeal) [2008] EWCA Civ 1007 - acting for Defendant solicitor in successful appeal against finding of fraud

**Kensington International Limited v Republic of Congo** (Commercial Court) - acting for US hedge fund in third party debt proceedings against African state and oil purchasers

**National Grid v McKenzie & Others** (Chancery Division) - acting for major utility company in fraud and bribery claim against ex-employee and associates - search orders and freezing injunctions.

## **Commercial Litigation and Arbitration**

Andrew has been recognised as a leading commercial silk for many years, having acted in numerous heavy commercial cases. He is described in the directories as “a fantastic advocate” (Chambers & Partners), “a first-class advocate who can get to grips with the thorniest of issues ... Definitely someone you want on your team. He has an excellent grasp of legal issues and is incredibly diligent with good client skills” (Chambers Global), “a calm and measured advocate who provides a wealth of experience and a sensible approach” (Legal 500). Among recent cases are:

**SKAT v Solo Capital Partners** - acting for defendants in worldwide \$2 billion litigation brought by the Danish tax authority to recover withholding tax refunds

**Strategic Technologies Pte Ltd v Procurement Bureau of the Republic of China Ministry of National Defence** (Court of Appeal) - acting for appellant (Taiwan) in successful appeal against the registration of a “judgment on a judgment”, a Cayman Islands judgment based on a Singapore judgment

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**Abela v Baadarani** (Supreme Court) - the leading case on retrospective validation of service by an alternative means (CPR 16.15)

**Iranian Offshore Engineering and Construction Company v Dean Investment Holdings S.A.**  
- acting for IOEC in £75m claim arising from the purchase of the GSP Fortuna, a mobile oil drilling rig - the rig was not delivered, and the purchase money not returned - Judgment in March 2019 against all 9 Defendants

**Libyan Investment Authority v King** - acting for the LIA in a claim for the return of a £10m + investment in a hotel development project at Maple Cross

**Akers v Samba Financial Group** - acting for Samba Bank in defence of a knowing receipt claim arising from the collapse of Maan Al-Sanea's Saad Group

**Farol Holdings Ltd v Clydesdale Bank plc** - acting for hundreds of "Tailored Business Loan" borrowers in claim for losses caused by (alleged) wrongful Break Cost charges

**Trustees of the Mineworkers Pension Scheme v Royal Bank of Scotland** [2014] EWHC 227 (Ch) - acting for claimants in litigation over RBS's £12bn 2008 Rights Issue

**FSMA s.90A** - shareholders' claims for losses caused by publication of untrue and misleading financial information

**PCP Capital Partners LLP v Barclays Bank plc; R v Barclays Bank plc & Ors** - acting for the SFO in the civil/commercial aspects of this major prosecution and commercial litigation

**Phoenix Healthcare Distribution Ltd v Woodward** - acting for successful Appellant (Phoenix) in Ch D and CA, overturning Master's decision to validate defective service under CPR 6.15: see also *Abela v Baadarani* (SC) below

**Perry v NCA** - acting for the NCA in defending claims for compensation under s.283 Proceeds of Crime Act 2002

**Thwaytes v Sotheby's** [2015] EWHC 36 (Ch) - acting for Sotheby's in successful defence of a negligence claim in relation to a painting sold as a copy of Caravaggio's *Cardsharps*

**Loreley Financing (Jersey) No 26 Ltd v Lehman Brothers** - acting for claimant in US\$72m claim arising from the sale of CDO Notes

**R v Hayes** (Southwark Crown Court and Court of Appeal Criminal Division) - acting for the SFO in civil/commercial aspects of this LIBOR-related prosecution

**Bieber v Teathers** [2012] BCLC 585 (Ch D.); [2012] EWCA Civ 1466 (CA) - acting for defendant stockbrokers in £20-£30 million claim for negligent creation and management of a film finance investment scheme

**Public JSC VA Bank v Maksimov** - freezing order proceedings concerning the ownership of \$80m of Ukrainian assets

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**Seaton Trustees v Schneider Electric FZE** - acting for the sellers in a £10m + fraud, warranty and mismanagement dispute following sale of a Dubai electronic solutions company

**Ruby Roz Agricol LLP v Republic of Kazakhstan** - acting for claimant in applications made in proceedings under Arbitration Act 1996 s.67 challenging the decision of an Arbitral Tribunal that it had no jurisdiction to determine the dispute with the Respondent.

**Polonskiy v Alexander Dobrovinsky & Partners** - a \$300m claim by a well-known Cambodian-based Russian businessman (Polonskiy) against a leading Russian lawyer in relation to the sale of Polonskiy's former business

**Abela v Baadarani** [2013] 1 WLR 2043 - Supreme Court - acting for Defendant/Respondent - service by an alternative method, and extensions of time for service, outside the jurisdiction after expiry of limitation period

**H v B Bank** (Comm Ct) - acting for Claimant in claim for wrongful close-out of investment fund

**F v S** (ICC Arbitration) - acting for D in substantial Manila/HK arbitration concerning failure of joint venture

**Cherney v Deripaska** (CA) [2012] All ER D 43; [2013] CP Rep 1 - acting for Claimant/Respondent on appeal against Commercial Court's refusal to make "witness protection orders" providing for evidence to be given in private and witnesses to be anonymised - Appeal dismissed

**Sibir v Tchigirinsky** (Comm Ct) [2012] 2 All ER (Comm) 1285; [2012] ILPr 52 - acting for proposed Defendant, domiciled in Switzerland, on application to join him to the proceedings - challenge to jurisdiction - intended defendant contending claimants having no genuine intention of pursuing anchor defendant - Lugano Convention Art 6(1)

**The Procter & Gamble Company v Svenska Cellulosa Aktiebolaget** [2012] EWHC 498 (Ch) - acting for Defendant in a £10 million claim under business sale agreement - central construction/implication issue as to the Euro/£ exchange rate to be applied where contract silent

**Nahum v Citibank NA** (Comm. Ct) - acting for defendant private bank in claim concerning the unwinding of credit default swaps

**Golden Sunsets Navigation (UK) Ltd v Lloyds Portfolio Leasing Ltd** [2010] EWHC (Comm.) 703 - acting for Defendant bank in dispute under complex shipping finance lease

Derivatives claims brought by investment banks against Italian municipalities

**Double G Communications Ltd v News Group International Ltd** [2011] EWHC 961 - acting for NGN in a quantum trial arising from NGN's cancellation of a board game contract

**NML Capital Ltd v Republic of Argentina** [2009] QB 579 - acting for NML in enforcement of New York Judgments - major state immunity issues (eventually decided by the Supreme Court)

**B v J Bank** (Hong Kong) - advising major investment bank in claim for specific performance of

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SpinOut provisions in private equity deal

**Community Gateway Association v Beha Williams Norman Ltd** - professional negligence litigation arising from the 2005 transfer of Preston's social housing to the Claimant

**Raja v Hoogstraten** (Chancery Division and CA) [2009] 1 WLR 1143 - acting for solicitors in claim for wrongfully procuring writ of sequestration (2006-2008)

**G v A Bank** (offshore) - acting for Defendant Bank in claim for negligent investment management

**R v S** - acting for life insurance company in claims arising from payments made under the forged signature of the chief executive

**Attorney General of Zambia v Meer Care & Desai** (Court of Appeal) [2008] EWCA Civ 1007 1007 - acting for Defendant solicitor in successful appeal against finding of fraud.

**Kensington International Limited v Republic of Congo** (Commercial Court) - acting for US hedge fund in third party debt proceedings against African state and oil purchasers

**National Grid v McKenzie & Others** (Chancery Division) - acting for major utility company in fraud and bribery claim against ex-employee and associates - search orders and freezing orders

## **Professional Negligence and Art/Cultural Property**

Andrew has been recognised as a leading silk in this field for many years. The most recent directories say: "Andrew was incredibly easy to work with, which is important when you are working under intense pressure. On his feet you could see he had the trust of the tribunal ... A very accomplished practitioner and advocate who works very well in the financial area" (Chambers UK), "a very polished and respected advocate" (Legal 500). He has appeared for auction houses in two of the leading cases this century - Thomson v Christie's (the Houghton Urns case - trial and appeal 2004-2005) and Thwaytes v Sotheby's (the Caravaggio case - trial 2014). In that field, Chambers UK describes him as having a "strong niche practice" - "very impressive on his feet ... a sharp cross examiner." Recent cases include:

**Film Finance Litigation** - presently instructed in major claim against tax counsel and IFA in respect of film finance tax advice

**Q v E** - title dispute over valuable historic diamond

**Q v J** - claim against dealer for return of \$5 million purchase price of artefacts sold as ancient works, but alleged to be modern forgeries

**M v N & S** - acting for defendant seller of Egyptian statue in misattribution claim

**Farol Holdings Ltd v Clydesdale Bank plc** - acting for hundreds of "Tailored Business Loan" borrowers in claim for losses caused by (alleged) wrongful Break Cost charges

**BPC Hotels Ltd v Wright Hassall & Anr** [2016] EWHC 1286 (TCC) [2016] All ER (D) 44 - acting

for defendant barrister in dismissal of professional negligence claim

***Trustees of the Mineworkers Pension Scheme v Royal Bank of Scotland*** [2014] EWHC 227 (Ch) - acting for claimants in litigation over RBS's £12bn 2008 Rights Issue - defence of no negligence

***Thwaytes v Sotheby's*** [2015] EWHC 36 (Ch) - acting for Sotheby's in successful defence of a negligence claim in relation to a painting sold as a copy of Caravaggio's Cardsharps

***Bieber v Teathers*** [2012] BCLC 585 (Ch D.); [2012] EWCA Civ 1466 (CA) - acting for defendant stockbrokers in £20-£30 million claim for negligent creation and management of a film finance investment scheme

***Ackerman v Ackerman*** - acting for a defendant barrister/expert adjudicator in claim to set aside expert determination in intra-family commercial property dispute [2011] EWHC 3469 (Ch); [2012] EWCA Civ 768

***Community Gateway Association v Beha Williams Norman Ltd*** [2011] EWHC 2311 - professional negligence litigation arising from the 2005 transfer of Preston's social housing to the Claimant

***Raja v Hoogstraten*** (Chancery Division and CA) [2009] 1 WLR 1143 - acting for solicitors in claim for wrongfully procuring writ of sequestration

***G v A Bank*** (offshore) - acting for Defendant Bank in claim for negligent investment management

## **Appointments**

AIM (London Stock Exchange) Disciplinary Panel

CAFA (Court of Arbitration for Art) Arbitrator Panel

JUSTICE Council

FSLA Advisory Board

Bencher Middle Temple

Formerly Chairman of Bar Disciplinary Tribunals

Registered Practitioner with rights of audience at the AIFC, in Kazhakstan

## **Memberships**

Combar

LCLCBA

Financial Services Lawyers Association (FSLA); Advisory Board Member

PAIAM (Professional Advisers to the International Art Market)

JUSTICE

Classics for All

Bar Choral Society

## **Education**

Lancing College 1970-1974

Corpus Christi College, Oxford 1975-1979 (Open Scholar, 1st class Literae Humaniores)

City University Diploma in Law 1981

Called to the Bar Middle Temple 1982 (Entrance Scholarship, Harmsworth Scholarship, Lechmere Essay Prize 1982)