# Andrew Miller KC

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amiller@2tg.co.uk

+44 (0)20 7822 1200

Andrew Miller KC practices as a full time mediator and arbitrator both in the UK and internationally. Andrew is one of only four barrister Silks (KC) listed in Band 1 of Chambers and Partners UK Bar listing for mediators. Andrew has been acting as a mediator for 9 years and became a full time mediator 5 years ago, following a distinguished and impressive career as a barrister spanning over 28 years. As a barrister and now as a mediator he has managed and resolved countless commercial disputes both domestically and internationally. Andrew also practices as an arbitrator.

Today, he focuses on his role as a highly regarded Mediator and Arbitrator, offering his services worldwide across a broad spectrum of commercial sectors. His expertise and practice includes areas such as commercial, company, construction, employment, energy, insolvency, insurance and reinsurance, shareholder disputes and property, property damage, and professional negligence.

Andrew stands out for his progressive and passionate approach, advocating Early Stage Mediation and a balanced combination of facilitative and evaluative mediation.

Andrew has mediated disputes involving parties and legal professionals based in the UK, Abu Dhabi, Australia, Azerbaijan, Bahrain, Brazil, Canada, Dubai, France, Germany, Hong Kong, Israel, Italy, Jersey, Lithuania, Maldives, Montenegro, Philippines, Serbia, South Africa, Singapore, Spain, Switzerland, Turkey and the USA.

In addition, Andrew has been actively engaged in promoting mediation through training, seminars, workshops and talks all over the world, including in Cambodia, Dubai, India, the Philippines Singapore and Switzerland. He regularly judges the prestigious Indian Mediation competitions both online and in person at the Dr. Ram Manohar Lohiya National Law University in Lucknow India.



2TG
2 Temple Gardens
London
EC4Y 9AY

T: +44 (0)20 7822 1200
E: clerks@2tg.co.uk
DX: Chancery Lane 134

In 2023 Andrew was inducted into the law faculty of the Straus Institute for Dispute Resolution at Pepperdine Caruso Law as part of an international team of experienced mediation practitioners presenting an Advanced Mediation programme at Chateau d' Hauteville, in Vevey, Lake Geneva Switzerland, Turkey and the USA.

In addition, Andrew has been actively engaged in promoting mediation through training, seminars, workshops and talks all over the world, including in Cambodia, Dubai, India, the Philippines and Singapore.

His expertise in Professional Negligence, Insurance and Property Damage as Counsel and now as a Mediator has been recognised over may years in both of the leading legal directories.

# Expertise

## Mediation

"Andrew is simply superb" Chambers and Partners 2024
"One of the elite mediators in London" Legal 500 2024

Described as 'one of the best' and Band 1 ranked in Chambers and Partners for Mediation, Andrew has been involved in the mediation of disputes since 1995. He has experience of over 250 mediations across a wide range of disputes, acting as lead mediator in commercial disputes valued from £10,000 to over £200 million. Andrew acts as a mediator over the full range of commercial mediation utilising his specialist knowledge and expertise gained over 30 years practicing as a leading junior barrister and KC. Crucially, Andrew brings to the mediation forum three decades of hands-on experience in all aspects of dispute resolution in both domestic and international litigation and arbitration. Andrew receives glowing feedback and testimonials on his performance and skill as a mediator.

As a mediator, Andrew's substantial commercial dispute resolution experience allows him to be able to assist the parties to the mediation by being able to identify for the parties the strengths and weaknesses of their case, reality test the parties' case and proposed options for settlements. As a proponent of the Active v Passive approach to mediation Andrew engages with the process and is not scared to debate with the parties in order to find a solution. Andrew welcomes a direct approach at all stages of the mediation and is very adaptable and able to deploy a blend of facilitation and evaluation to suit individual mediations. Andrew also has experience acting as a co-mediator.

Andrew is on a number of mediation panels, including the, In Place of Strife (IPOS), Centre for Effective Dispute Resolution (CEDR), the Royal Institute of Chartered Surveyors mediation panel (RICS) and MC4I (a panel for construction and insurance specialists). He is also appointment to the RICS' President's Panel of Mediators in recognition of his expertise in matters pertaining to construction, professional indemnity and property damage. Andrew is only one of 12 mediators worldwide on the RICS' President's Panel, and the first KC to be appointed. Andrew also continues to be part of the RICS mediation training faculty teaching the RICS Evaluative Mediation Accreditation Course nationally.

His outstanding reputation and standing were reflected in his 2022 nomination and appointment as a Distinguished Fellow of the International Academy of Mediators – a position obtained only by nomination



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and held by only 15 other mediation practitioners in the UK. He was awarded the prestigious NMA Civil & Commercial Mediator of the Year for 2020 and 2021.

Andrew has been involved in the judging of several prestigious international mediation and negotiation competitions

# Arbitration

Andrew Miller KC practices as a single and panel Arbitrator in commercial arbitrations and has been a Fellow of the Chartered Institute of Arbitrators (FCIArb) since 1999. Andrew is also a trustee of the Chartered Institute of Arbitrators since 2019.

He has over 30 years of experience of dealing with and resolving commercial disputes both domestically and internationally. He practices as an Arbitrator in a wide range of commercial sectors, including in the areas of construction, energy, property damage, insurance and reinsurance, professional negligence and general commercial disputes.

He has used his background as a successful KC commercial practitioner and his substantial experience of both litigation and arbitration to become a practical, efficient, approachable and user-friendly arbitrator. He works with the parties to the arbitration by ensuring that the key issues in dispute are properly ventilated and addressed during the course of the arbitration process. Andrew believes in a hands-on approach to the procedural management of arbitrations.

Andrew has been involved in domestic and international arbitrations including large value disputes of half a billion US$, including heavyweight experience of high value ICC arbitrations on the international stage both as counsel and as umpire.

Particular highlights include:

- successfully representing the respondent power boiler manufacturer and project manager in a US$450m ICC arbitration over two years in Singapore concerning the design, manufacture and construction of a power boiler in the largest paper mill in Indonesia.
- acting in a US$200m delay and disruption claim arising out of the construction of a power plant in the Philippines.
- representing a major UK Oil and Gas Project Management company in respect three claims including a US$53m claim arising out of the drilling of a prospective well in West Africa
- acting on an ICC Arbitration by the insurers of a power plant in Albania in respect of a claim following an explosion in one of its turbines due to poor maintenance.

Andrew has consistently been recognised by clients and in the legal directories for his strong negotiation and tactical skills. He is praised for his commercial approach to the resolution of disputes, whether in the traditional litigation forum, arbitration or in mediation.

# Construction and Infrastructure

Andrew has had a large construction practice both domestically and internationally. Andrew has in-depth



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understanding of delay and disruption claims, defects claims and engineering disputes. He also has specialist knowledge of disputes involving power plants, as well as of the oil and gas and energy sectors, having focused upon this area throughout his time in practice. He has experience of claims involving most of the major standard form contracts including the JCT suite of contracts, the FIDIC suite of contracts, ICE Conditions of Contract, NEC Engineering Contracts and IEE (Institution of Electrical Engineers). Andrew also has experience of many ad-hoc forms of construction contracts.

In addition to domestic UK litigation, Andrew has substantial experience of both domestic and international arbitration, and litigation experience in South East Asia in Singapore and Brunei.

## Notable Construction and Infrastructure cases

US$140m construction/property damage (fire) claim brought by owners of a fertilizer plant against their insurers following repudiation of insurance claim post (Arbitrator).

£32m – Delay and disruption, EOT, acceleration and prolongation claims brought in respect of the design and build of a cement plant in Nigeria (FIFIC) (Arbitration and Mediation).

£20m – Breach of contract and negligence claim brought by 26 individual property owners over the defective construction, certification and negligent building of a large residential block of flats in Manchester (JCT Contract).

US$6m dispute arising out of the project management of two prospective wells being drilled in the North Sea (NEC Engineering Contract).

US$43m dispute arising out of the project management of an exploration drilling campaign in waters off Guinea, West Africa (FIDIC and ad-hoc Construction Contacts).

£7m ICC Arbitration by the reinsurers of the Cement factory in respect of a subrogated recovery against a Chinese construction company who constructed and then operated and maintained the cement factory. Delay, disruption and property damage claim (FIDIC Contracts).

Dispute concerning the design, manufacture, transportation, installation and commission of four turbines and associated equipment for the Bakun Hydroelectric project in Sarawak (FIDIC Suite of Contracts).

US$650m ICC Arbitration claim concerning the design, manufacture and construction of a power boiler in the largest paper mill in Indonesia.



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US$200m delay and disruption and additional cost claim arising out of the construction of a 1000 MW multi-fuel combined cycle power plant in the Philippines (Combination of Ad-Hoc and FIDIC suite of contracts).

£7m claim against the manufacturers and suppliers of a defective protective paint system installed at Didcot B Power Station (JCT Contract).

US$28m delay and disruption claim, arising out of the construction of an extension to an LNG plant and jetty in Brunei.

£6m delay and disruption and additional cost claim in respect of the upgrade to the Docklands Light Railway (JCT Contracts).

£30m claim by the purchaser of a hotel being built by the defendant developer in Wembley, London in respect of whether practical completion was achieved in time or at all (JCT and IEE contracts).

Delay and disruption and defects claim arising out of upgrade works being undertaken to the London Underground at Charing Cross and Embankment Underground stations (Ad-hoc – Transport for London Standard Form Contract).

# Insurance & Reinsurance

Andrew has a significant commercial insurance practice. Over the last few years he has represented MMI both at first instance and in the Court of Appeal in the *EL Policy Trigger Litigation*[2009] Lloyd's Rep. IR 295; [2010] EWCA Civ 1096, and the claimant in *Scottish Coal v Royal and Sun Alliance Insurance PLC & Ors* [2008] Lloyd's Rep. IR 718, in addition to appearing in and advising on numerous other insurance and reinsurance matters, including a £7m reinsurance claim arising out of hurricane damage to Mexico's highway structure, a case requiring both insurance and construction expertise – *Axa Seguros S.A de C.V v Allianz Insurance Plc & Others* [2011] EWHC 268 Comm. He has seen recent success in two large TCC actions, *Brit Inns Ltd v BDW Ltd* [2012] EWHC 2143 (TCC); [2012] EWHC 2489 (TCC) which has provided a wake-up call to the recovery sector of the insurance industry and *Mueller Europe Ltd v Central Roofing (South Wales) Ltd* [2013] EWHC 237 (TCC) where he achieved a £23.5m judgment for his clients.

Andrew is regularly instructed in insurance and reinsurance disputes arising out of a range of covers (including business interruption, property, employers' liability, public liability, life, critical illness and motor) and concerning coverage, policy interpretation and indemnification matters (fraudulent claims, misrepresentation, breach of warranty, co-insured's negligence, non-disclosure issues, questions of dual insurance).



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He has also been instructed in a non-contentious context to advise on policy terms, and has acted for insureds in policy term negotiations.

Andrew has specific expertise regarding the insurance requirements of the construction and power industry, in particular the policies required for the construction and operations phase of large infrastructure projects.

## Notable Insurance & Reinsurance cases

Brit Inns Ltd v BDW Ltd & J Reddington [2012] EWHC 2143 (TCC) Coulson J; [2012] EWHC 2489 (TCC)

Instructed by the Defendant and Third Party in this subrogated claim brought by the Claimant's insurers and an additional claim brought by the insureds, in respect of flooding to commercial premises in South London. One of the key issues was the extent to which the Insurer could rely on the insurance adjustment undertaken by its loss adjuster and upon which it agreed to indemnify the insured. This case has attracted significant insurance industry and legal attention. In particular the case has caused consternation within the insurance industry by reason of the fact that the judge rejected outright the insurance adjustment undertaken by the insurer's loss adjuster on the grounds that it was a fundamentally flawed adjustment. Additionally, the Claimants were significantly penalised in costs for bringing a grossly exaggerated claim (Instructed by Kennedys).

Fushe Kruje Cement Factory SH.P.K v CBMI Construction Company Ltd (2011-ongoing)

Instructed by the reinsurers of the Fushe Kruje Cement factory in respect of policy issues (joint insurance) arising out of a proposed subrogated recovery against CBMI, a Chinese construction company who constructed and then operated and maintained the cement factory. The claim concerns CBMI's breaches of their obligations under the O&M contract that led to the seizure and failure of one of the power plant's diesel engines (Instructed by Kennedys).

Ho Chi Minh City Insurance Company v Electricite De France (2011-ongoing)

Instructed by the reinsurers of Ho Chi Minh City Insurance Company in respect of policy issues arising out of a US2.2m subrogated claim against EDF under the provisions of a construction all risks/delay in startup policy in respect of damaged steam impact damage occasioned to certain components of a Combined Cycle Gas Turbine facility in Phy My, Vietnam during its commissioning (Instructed by Kennedys).

AXA Seguros SA de CV v Allianz Insurance PLC

"He is someone I would trust with my life as an advocate. He has a really good manner with clients and is really good at looking at the realities of a case."

Acted for five reinsurers in a £7m claim concerning an alleged repudiatory breach of a facultative reinsurance contract in respect of the Mexican highway network and a claim arising out of substantial damage caused by hurricane Juliette in 2001. The case involved policy coverage issues of the primary insurance relating to the construction and maintenance of the highway network (Instructed by Kennedys, led by Colin Edelman QC and by Roger Ter Haar QC).



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Beagelman v Royal Sun Alliance (2011-ongoing)

Instructed by the Claimants in this claim directly against insurers in respect of a failure to provide a proper indemnity in respect of losses caused by a fire to their home. The case is unusual in that the Claimants are proceeding against the insurer despite having been provided with an indemnity and payment post fire to undertake repairs and reinstatement of the property. The Claimants' case is that such repairs were carried out inadequately, principally by reason of a failure on the part of contractors, instructed by RSA's loss adjusters to decontaminate the property (Instructed by Kennedys).

Purplesea Developments Ltd v QBE International Insurance Ltd (Comm Ct 2011 - settled)

Instructed by Purplesea in respect of its £7m fire insurance claim against QBE in respect of its failure to provide and indemnify in respect of both the property damage and business interruption claim following the total destruction of a night club by fire. QBE had failed to provide indemnity pursuant to the terms of its commercial property insurance policy by reason of alleged material non-disclosure (Instructed by Debenhams Ottaway).

Municipal Mutual Insurance Company Ltd v Zurich Insurance Company & 10 Others (& 5 Other Actions) [2009] Lloyd's Rep. IR 295. [2010] EWCA Civ 1096, The EL Trigger Litigation

Named by The Lawyer as one of the top 10 cases of 2008 and the subject of extensive national media interest. Included issues of employers' liability policy construction, (particularly in light of statutory compulsory insurance regimes), estoppel and market practice, as well as complex medical evidence on the aetiology of asbestos-related disease (Instructed by Watmores, led by Howard Palmer QC).

Robinson v Prudential Insurance (2011 Comm Ct. Settled)

Acted for the claimant in this £1.2m claim under a critical illness policy. Andrew advanced a strong claim based on the proper construction of the insurance policy and achieved a successful settlement of the claim for his client prior to trial.

Scottish Coal v Royal & Sun Alliance Insurance PLC & Ors [2008] Lloyd's Rep. IR 718

Established the principle that non-disclosure to leading underwriter cannot be relied upon by the following market. Also raised issues of what constitutes a material change of risk in the context of mining/construction project (Instructed by McClure Naismith, led by Robert Moxon-Browne QC).

Amiss v Royal & Sun Alliance (2007-09 Comm. Ct. Settled)

Acting for the claimant in this claim arising out of £1.5m fire damage to substantial domestic and commercial premises and the refusal on the part of RSA to indemnify its insured. The case potentially had major implications for the insurance industry as it questioned what responsibility an insurer had to determine the level of coverage to be provided under the insurance to enable its insured to have sufficient coverage in the event of a total loss (Instructed by Glynns Solicitors).



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Sykes v Norwich Union (QBD,Leeds Mercantile Court - 2009-10, settled at Mediation)

Acted for the claimant in his £500K claim against NU under a critical illness policy. The case concerned the definition of total permanent disablement (Instructed by Simpson Millar).

# Property Damage

Since his earliest days of his practice (when he was instructed in a £100m claim arising out of a fire at a chicken food processing factory in Birmingham) Andrew has dealt with numerous high value claims arising from fires, explosions, floods, subsidence, defective design and product liability and has detailed grasp of the expert evidence required in these often highly technical cases.

Andrew acted for Chubb Insurance PLC, one of the successful claimants in the litigation arising out of the 2005 Buncefield explosion which caused in excess of £1BN-worth of damage. Following the determination of the issue of liability in the Buncefield claims and having successfully handled Chubb's claims worth in excess of £16m, Andrew was instructed in five further Buncefield claims on the issue of quantum, one of which was a claim for in excess of £17m involving the rebuilding and repair of in excess of 25 separate commercial premises. Andrew brought each of these cases to a conclusion achieving successful settlements for his clients.

He has seen recent success in two large TCC actions, *Brit Inns Ltd v BDW Ltd* [2012] EWHC 2143 (TCC); [2012] EWHC 2489 (TCC) which provided a wake-up call to the recovery sector of the insurance industry and *Mueller Europe Ltd v Central Roofing (South Wales) Ltd* [2013] EWHC 237 (TCC) where he achieved a £23.5m judgment for his clients.

Many of Andrew's property damage cases (especially those concerning flooding) are for or against public bodies and raise complex questions of law regarding the exercise of statutory duties and powers. In all these areas he has acted both for insurers in subrogated recovery claims and for the indemnity insurers of construction professionals.

## Notable Property Damage cases

Mueller Europe Ltd v Central Roofing (South Wales) Ltd [2013] EWHC 237 (TCC)

Instructed by the Claimant's insurers in respect a wholly subrogated claim arising out a fire to a large copper tubing manufacturing factory in Wolverhampton. The trial on all issues of liability and quantum was held in 2013 and included a substantial material damage claim and a complex business interruption claim. Andrew was successful in obtaining a £23.5m judgment for his clients (Instructed by Kennedys).

Brit Inns Ltd v BDW Ltd & J Reddington [2012] EWHC 2143 (TCC) Coulson J; [2012] EWHC 2489 (TCC)

Instructed by the Defendant and Third Party in this subrogated claim brought by the Claimant's insurers and an additional claim brought by the insured, in respect of flooding to commercial premises in South London. The case involved a substantial material damage claim and a complex business interruption claim brought in respect of the start-up business. Andrew successfully defended this claim achieving a judgment sum



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substantially below the amount paid out by Brit Inn's insurers to its insured and obtained punitive costs orders against the Claimants.

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K v P (2012 - ongoing TCC)

Instructed in this £30m claim by the purchaser of a hotel being built by the defendant developer in Wembley, London. The primary issue is whether practical completion of the project was achieved within the timeframe and in accordance with the terms of the contract and the purchaser's entitlement to the return of the deposit monies in the event that it did not (Instructed by Stephien Lake).

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Marks & Spencer Group Plc v Exel Ltd & Don Bur Ltd (2012 TCC - ongoing)

Instructed in this £2m+ claim brought by M&S in respect of the fire damage to its stock and the associated losses caused by interruption to its business. The fire originated in the donkey engine compartment of an HGV vehicle sold by Don Bur to M&S and occurred when at Exel's warehouse in Coventry. Exel provided warehouse, sortation and transportation services to M&S (Instructed by Berrymans).

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Blackwater Marina Ltd v Straightedge Manufacturing Ltd (2012 TCC - ongoing)

Instructed by the Claimant in this £500K action arising out of a fire which originated in the Defendant's furniture building factory and caused destruction of the Claimant's adjacent boat building and repair facilities. The case involves detailed arguments as to the origins of the fire and the responsibility for the cause and spread of the fire (Instructed by Berrymans).

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Silenzio Panels Ltd v Eurocom Ltd (2012 TCC - ongoing)

Instructed by the Defendant in this delay and disruption and defects claim arising out of upgrade works being undertaken to the London Underground at Charing Cross and Embankment Underground stations (Instructed by Clyde & Co).

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Sellars & Others v Network Rail & Others (2011 TCC - ongoing)

Instructed by 7 Claimants in this actions arising out of flood damage to several domestic properties in the North of England during the floods of June 2007. The case involves technical issues relating to the causation of the flood by reason of the Defendant's temporary works being undertaken to reline a culvert (Instructed by Eversheds).

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British Transport Police Authority v Prima Health & Safety Ltd (2011 TCC - ongoing)

Instructed by the Claimant in this claim arising out of a fire at the Claimant's forensic laboratory during the use of an ethanol finger print dyeing bath. The claim centers around the COSHH and DSEAR risk assessments provided by the Defendant in respect of the Claimant's Fingerprint Dyeing Procedure (Instructed by Berrymans).

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WPP Group Ltd v John Sisk & Sons Ltd (2011 TCC - ongoing)



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Instructed by the Claimant in this action in respect of £1.5m water damage claim caused by the Defendant's pavement works which were taking place directly above the Claimant's subterranean computer and communications room (Instructed by Weightmans).

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Volkswagen Group UK Ltd v (1) Dencora Construction & (2) PDR Construction Limited (TCC 2011 - settled)

Instructed by Volkswagen in this claim arising for damages arising from the failure of a roof in high winds at a newly built Volkswagen/Audi car showroom. The construction of the premises had been subject to a design and build contract (Instructed by Kennedys).

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ING (UK) Listed Real Estate Nominee (No.1) Ltd v Magna Park Management Ltd (2010 - Settled)

Instructed in this substantial £150m multi-party fire action by the freeholders of a large ("super") warehouse that was leased to Primark and contained in excess of £50m of Primark's stock that was destroyed in the fire (Instructed by Berrymans Lace Mawer, led by Robert Moxon Browne QC).

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Kent County Council v W H Griggs Electrical Contractor Limited (TCC, 2009 - 2010 settled)

Andrew acted for the first defendant Griggs in this multi-party claim by Kent CC for the £2.5m rebuild cost of a school destroyed by a fire alleged to have been caused by the failure of a single component light fitting installed by the electrical contractor Griggs. Allegations of blame passed down the contractual chain (Instructed by Berrymans).

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Buncefield Litigation [2009] EWHC 540 Comm

Represented Chubb Insurance PLC and its insured in this £1BN property damage claim arising out of the explosion of an oil storage depot in 2005. Andrew handled both the liability and quantum aspects of each of Chubb's 12 claims worth in excess of £16m (Instructed by Cozen O'Connor).

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Hertfordshire Council v Total Oil PLC (TCC - Settled 2010)

Instructed by Hertfordshire County Council in respect of their claim arising out of the damage caused to the public highways surrounding the Buncefield refinery caused by the explosion and the wider damage and contamination which resulted from the use of chemicals and foam during the fire fighting stage (Instructed by Kennedys).

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Brixton Investments & Others v Total Oil PLC (TCC - Settled 2010)

Instructed by Brixton Investments in respect of their claim arising out of the damage caused to three separate commercial sites close to the Buncefield refinery and involving damage to in excess of 25 buildings and principally to wall and roof cladding.

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Europa Shop Fitting Ltd v Total Oil PLC (TCC - Settled 2009)

Instructed by both Europa and their insurers in respect of their claim for the cost of demolishing and



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rebuilding their office and manufacturing headquarters. The claim was worth in excess of £2m.

Trademark v Total Oil PLC (TCC Settled 2009)

Andrew acted for Trademark in respect of its uninsured losses arising out of the damage caused to its business premises and consequential commercial losses.

Decorum Borough Council

Andrew advised Decorum in respect of their economic losses arising from the involvement of their properties and use of their resources following the Buncefield explosion.

MJ Cordin & Ors v Newport City Council (LTL 30/6/2009)

Application of Rylands v Fletcher strict liability to a local authority which had created a reservoir on its land from which there was an escape of water causing flooding, notwithstanding reservoir was for the general good of inhabitants of the area (Instructed by Dolmans).

Quinetic Holdings Ltd v BAE Systems (Operations) Ltd (2008, TCC, settled)

£1.5m action in respect of fire damage to a property leased to the MOD, and arising out of classified experiments with a plasma stealth demonstrator (Instructed by Beachcroft LLP).

# International Project & Arbitration

Andrew has heavyweight experience of high value ICC arbitrations on the international stage. Between 2005 and 2007 he successfully represented the respondent power boiler manufacturer and project manager in a US$450m ICC arbitration in Singapore concerning the design, manufacture and construction of a power boiler in the largest paper mill in Indonesia. Previously, he acted in (among others) a US$200m delay and disruption claim arising out of the construction of a power plant in the Philippines.

Andrew is currently representing a major UK Oil and Gas Project Management company in respect three claims including a US$53m claim arising out of the drilling of a prospective well in West Africa and is instructed in an ICC Arbitration by the insurers of a power plant in Albania in respect of a claim following an explosion in one of its turbines due to poor maintenance.

Andrew has in-depth understanding of delay and disruption claims, defects claims and engineering disputes. He also has specialist knowledge of disputes involving power plants, as well as of the oil and gas and energy sectors, having focused upon this area throughout his time in practice. He is a highly experienced advocate in many forums: arbitrations and court proceedings both domestic and international, as well as adjudications and mediation hearings. He is an expert in witness conferencing.

On many occasions he has been retained to advise on non-contentious matters particularly in respect of the creation of construction and engineering contracts, as well as being retained and engaged “on site” for a



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number of international clients.

## Notable International Project & Arbitration cases

AGR Well Management Ltd v Antrim Resources (NI) Ltd (2012 - ongoing)

Instructed by AGR in this US$6m dispute arising out of their project management of two prospective wells being drilled in the North Sea. The case involves a dispute over the number of wells that were drilled during the campaign and whether a sidetrack well constitutes a firm well within the meaning of the Project Management and drilling contracts (Instructed by McClure Naismith).

SCS v AGR Well Management Ltd (2012 - ongoing)

Instructed by AGR in the defence of this US$43m claim brought by SCS against AGR arising out of AGR's project management of a drilling campaign in waters off Guinea, West Africa. The case involves issues relating to the selection of the drilling rig, the fitness for purpose of that rig, the drilling plan, analysis of Non-Productive time and the technical operation (and non-operation) issues of the drilling rig (Instructed by McClure Naismith).

Jasper Drilling Private Ltd v AGR Well Management Ltd (2012 - ongoing)

Instructed by AGR in this US$10m dispute arising out of AGR's project management of a drilling campaign in waters off Guinea, West Africa. The Claimant's claim for unpaid invoices relating to the hire of rig is challenged by reason of the Claimant's failure to perform the drilling operations in accordance with the terms of the drilling rig contract (Instructed by McClure Naismith).

Fushe Kruje Cement Factory SH.P.K v CBMI Construction Company Ltd (2012 - ongoing)

Instructed in this £7m ICC Arbitration by the reinsurers of the Fushe Kruje Cement factory in respect of a subrogated recovery against CBMI, a Chinese construction company who constructed and then operated and maintained the cement factory. The claim concerns CBMI's breaches of their obligations under the O&M contract that led to the seizure and failure of one of the power plant's diesel engines (Instructed by Kennedys).

IMPSA (M) SDH BHD v Sarawak Hydro SDN BHD (2012 - settled)

Instructed to advise on an arbitration claim pursuant to a supplemental agreement entered into between IMPSA and the employer in respect of design, manufacture, transportation, installation and commission of four turbines and associated equipment for the Bakun Hydroelectric project in Sarawak (Instructed by Contract Solutions International (Singapore) on behalf of IMPSA).

Norscan v Foster Wheeler Energia Oy (2007, ICC arbitration)

Successful defence of US$450m claim in Singapore concerning the design, manufacture and construction of a power boiler in the largest paper mill in Indonesia. Complex technical issues requiring mastery of in excess of 1m documents, witness conferencing (Instructed by Fulbright & Jaworski – London).



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Siemens v FGPC (2004, ICC Arbitration)

US$200m delay and disruption and additional cost claim arising out of the construction of a 1000 MW multi-fuel combined cycle power plant in the Philippines. Retained by the employer to advise during the construction phase of the project and subsequently to act on its behalf in the dispute phase (Instructed by British Gas and Skadden, Arps, Slate, Meagher & Flom LLP – Hong Kong, London & Los Angeles).

Bilfinger & Berger and Birse Joint Venture v Croda Mebon (TCC, 2000)

Instructed by Bilfinger + Berger and Birse Joint Venture in their successful £7m claim against the manufacturers and suppliers of a defective protective paint system installed at Didcot B Power Station (Instructed by Addleshaw Goddard).

Bilfinger & Berger v Earls Terrace (1999, Arbitration)

Claim arising out of the construction of 25 houses in Earls Terrace ("millionaires' row"), Kensington, and concerning main contractors' liability in contract and tort for defective works both to the original and subsequent purchasers (Instructed by Addleshaw Goddard, led by Howard Palmer QC).

ITH v Brunei LNG (Shell) (1996, ICC Arbitration)

US$28m delay and disruption claim, arising out of the construction of an extension to an LNG plant and jetty in Brunei. Acted in first instance and Court of Appeal proceedings in Brunei, and at mediation hearings in London and Singapore (Instructed by Shell Brunei and Baker & Mackenzie, Singapore, led by Michael Burton QC and Patrick Twigg QC).

Balfour Beatty Civil Engineering Ltd v Dockland Light Railway [1996] CLC 1435: 78 BLR 42: 49 Con LR 1: (1996) 12 Const LJ 259

Represented the DLR in a £6m delay and disruption and additional cost claim arising out of a major extension to the DLRBalfour Beatty Civil Engineering Ltd v Dockland Light Railway [1996] CLC 1435: 78 BLR 42: 49 Con LR 1: (1996) 12 Const LJ 259 (Instructed by Ashurst, led by Vivian Ramsey QC).

# Commercial Dispute Resolution

Andrew is instructed regularly in a large number of commercial cases, the reach and complexity of which typify the multi-disciplinary expertise which Andrew brings to bear in his commercial litigation practice.

See also cases listed under "Insurance".

## Notable Commercial Dispute Resolution cases

Tramtrack Croydon Ltd v Go-Ahead Group Plc [2012 - QB Settled]



2TG
2 Temple Gardens
London
EC4Y 9AY

T: +44 (0)20 7822 1200
E: clerks@2tg.co.uk
DX: Chancery Lane 134

Instructed by the Claimant in this £1m+ claim arising out of collision between a bus and a tram in Croydon resulting in the loss of use of the tram to the Croydon tram system for a period of 1 year with the consequential interruption to business claim. Complicated issues relating to the calculation of the business interruption claim by reason of the notional loss of passengers by reason of the reduction in the number of trams and the application of the Oyster Card pre-payment system to the calculation of a business interruption loss.

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Caterpillar Logistics Services (UK) Ltd v P Huesca de Crean [2011 EWCA Civ 1671]

Instructed by the Defendant/Respondent in the Claimant's application for permission to appeal the refusal of the trial judge to award an interim injunction in this restraint of trade case (Instructed by Keelys).

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Manoudakis v Easy Group Holdings Ltd [2011] EWHC 3614 QB

Instructed by the Claimant as previous finance director of Easy Jet and the Easy Group in respect of his claim for breach of a consultancy agreement following his termination of employment with the Easy Group. Claim concerned allegations of breach of fiduciary duty arising out of the use of a company credit card for person use. Andrew successfully obtained judgment for the Claimant for the full amount claimed plus and award of indemnity costs (Instructed by Debenhams Ottaway).

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Howe-Jones v Flight Ambulance International Rent-A-Jet Ag (QBD, 2011 Settled at Mediation)

£1.2m claim concerning complicated jurisdictional issues arising out of the Montreal Convention in this claim about the provision of an air ambulance and specifically the meaning of "accident" within s.17 of the Convention. The case involved the relationship and scope of responsibility as between the medical assistance company acting on behalf of the primary insurers and the air-medical flight assistance company for whom Andrew acted (Instructed by McClure Naismith).

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Regent Office Care Ltd v Doyle & Garrett (2011, Settled)

Instructed by the defendants in respect of a £500,000 breach warranty claim against them arising out of the sale of a cleaning company to the claimant (Instructed by Harvey Ingram LLP).

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Chaucer Insurance v Towergate Stafford Knight Company Ltd (Ch.D, 2010 Settled)

Complex £1M action raising insurance, professional negligence, settlement / compromise and company law issues (Instructed by Browne Jacobson LLP).

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Gallaher Ltd v Montgomery Transport Ltd (Comm. Ct, 2009 - ongoing)

Acting for the claimant in its £1.2m CMR contract claim against the defendant haulage company in respect of the theft of a large consignment of cigarettes by their driver (Instructed by Cozen O'Connor).

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IG Group Holdings PLC v Mr X (2009, Mediation)



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Represented IG in a dispute over scope of its duty to inform a spread betting client that shares on which he had taken a position had been delisted. Case raised complex issues regarding obligation to advise as to matters which comprised the commercial purpose of the contract (Instructed directly by IG Group Holdings PLC).

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Bryn Thomas Crane Hire v Winterlift Ltd (2009 - advisory role)

Advised on the contractual liability of the owner and hirer in respect of crane equipment hired under the Contractors Plant Association Model Conditions of Hire (Instructed by Just Law).

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Gaz De France Energy v Fyfield JV (Comm. Ct, 2007-2010 - settled)

Acted for the Defendant in this £500K claim where the claimant sought payment of a £500K gas bill in respect of sums that had allegedly been incurred but never billed. Claim raised technical issues regarding estoppel and deemed contracts under the Gas Act 1986 (Instructed by CKFT).

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Koo Golden East v Bank of Nova Scotia, Central Bank of Mongolia & Anr [2008] EWHC 1120 (QB); [2007] EWCA Civ 1443

A case concerning the alleged conversion of US$70m of gold by the Central Bank of Mongolia. The claim turned on whether a Norwich Pharmacal order (to disclose the location of the gold) was available against BNS where BNS had not itself engaged in any tortious acts, and where it acted as agent for the Central Bank of Mongolia, which in turn claimed sovereign immunity. The case was reported on both substantive and costs grounds (Instructed by Squire Saunders & Dempsey LLP).

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# Professional Negligence

Andrew brings to his professional liability practice his considerable expertise in construction and insurance claims. As a result, many of his instructions in this area focus upon claims against construction and insurance professionals.

Outside the fields of construction and insurance he has represented both claimants and professionals in many contexts, including claims concerning accountants, auditors, barristers, chartered surveyors, estate agents, local authorities, quantity surveyors, and solicitors.

Andrew is also recognised as a leader in the field of claims brought against education professionals (teachers, schools, governing bodies and local authorities) involving allegations of (among others) abuse of position, bullying, dyslexia, dyspraxia, race, sexual abuse and wrongful education. He acted for the School in *Thomson v Berkhamsted Collegiate School*, which at over £1m was the largest ever bullying claim to be brought in the UK, and which attracted significant national media attention. The claimant discontinued during trial.

Please see cases listed under “Construction & Property Damage” for professional negligence actions concerning construction professionals.



2TG
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## Notable Professional Negligence cases

RSN Property Ltd v Hiliershrw Solicitors LLP [2012 - ongoing]

Instructed by the Claimants in this professional negligence action brought against their conveyancing solicitors in respect of the Claimant's purchase of a private road. The issues relate to the advice given or omitted in respect of other property owners' rights to park on the private road. The claim principally in respect of the diminution in value of the road and the legal costs post-conveyance incurred by the Claimants in fighting claims by other property owners who had asserted prescriptive rights and easements over the road (Instructed by Druces).

Thomson v Berkhamsted Collegiate School [2009] EWHC 2374 (QB)

The primary issue was whether a school was under a duty to detect and/or prevent bullying which had not been reported to it and which was unknown to parents. Main action discontinued, but reported as leading case concerning procedure to be used in determination of applications for costs against non-parties (pupil's parents) (Instructed by Berrymans Lace Mawer).

B v Reading Borough Council & 2 Others [2009] EWHC 998 (QB); [2007] EWHC Civ 1313 (CoA); [2006] EWHC 2449 (QB)

Ground-breaking Court of Appeal decision establishing that no direct or vicarious duty is owed by local authorities to parents in the investigation of child abuse cases. Also concerned allegations of misfeasance in public office (Instructed by Watmores).

Horton v Lloyds Pharmacy [2006] EWHC 2808

Duties of pharmacists dealing with unclear prescriptions; complex causation issues arising out of previous negligent prescription by third party. Claim valued at £193m (Instructed by Watmores, led by Robert Moxon Browne QC).

Faulkner v Enfield County Council & Lea Valley School [2003] ELR 426

Leading case on scope of a school's duty to take steps to prevent bullying (Instructed by Berrymans Lace Mawer).

Lister & Ors v Hesley Hall Ltd [2001] UKHL 22, [2002] 1 AC 215, [2001] 2 WLR 1311, [2001] 2 All ER 769

House of Lords case concerning vicarious liability of a care home for deliberate acts of abuse perpetrated by one of its employees, but of which it had no knowledge (Instructed by Beachcroft Wansbroughs, led by Andrew Collender QC).



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# Appointments

- CEDR Accredited Mediator
- Fellow of the Chartered Institute of Arbitrators (FCIArb)
- Queen's Counsel (2014)

# Memberships

- CEDR Exchange
- Chartered Institute of Arbitrators
- Technology & Construction Bar Association (TECBAR)
- Professional Negligence Bar Association (PNBA)
- Commercial Bar & Common Law Association (COMBAR)
- London Common Law & Commercial Bar Association (LCLCBA)
- Western Circuit

# Testimonials

## Testimonials of Andrew Miller KC's Mediation Practice

*"Andrew definitely made a difference by helping the parties focus on their real needs to reach resolution. Andrew is very skilled and made the process virtually painless. This is how mediation is supposed to work."*
**In house Legal Advisor – Global Manufacturer of Wind Turbines**

*"I was not sure we were going to get to a resolution – but we did, and I suspect that was a result of the process adopted by Andrew. There was a significant difference between the parties in respect to quantum and liability and Andrew skilfully brought the parties to resolution."*
**Insurance Loss Adjuster (Appointed on behalf of the Defendants)**

*"We were impressed by Andrew's conduct of the mediation. He was sensitive to commercial issues and had a very strong level of legal expertise."*
**Senior Partner – Large commercial firm – Guildford**

*"I would not hesitate to recommend Andrew as a mediator. He was able to cut through the issues quickly and this led to the parties making concessions early in the day. Andrew's pragmatic approach meant that the parties were sensible and were able to focus on the most relevant aspects of the case, which in turn meant that a settlement was reached."*
**Senior Partner (Defendant representative) – London City Firm**

*"Throughout the process Andrew showed very good sensitivity to personality and group relations. The mediation did not result in a resolution on the day, but I nevertheless consider that the process was worthwhile. The day assisted to understand the realities of both parties' positions, issues likely to be raised*



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*at trial, and strengths and weaknesses of each party."*
**Associate solicitor specialising in commercial and residential property litigation**

*"Andrew was easy to work with and very helpful. He was calm, clear and fair throughout. The mediation day went smoothly despite the parties being a long distance apart. Andrew's clarity, precise identification of the issues and strengths and weaknesses of both sides' case made a decisive difference to the outcome of the mediation."*
**Senior Partner – Solicitor firm in Cambridgeshire**

*"Andrew took a very pragmatic approach to the mediation; his approach was sensible and reasonable, and his questions were helpful in concentrating the parties on the issues in dispute and recognising the weaknesses and strengths of each individual's case."*
**Partner – London Solicitor Firm**

*"Andrew's style of mediation utilised his years of experience as a barrister and assisted the parties to focus upon finding their settlement."*
**Partner – Solicitor's Firm Milton Keynes**

*"Andrew provided a shining example of how a mediator can deal with a difficult case. I would have no hesitation to recommend him in future."*
**Senior Solicitor – Commercial Partner**

*"Andrew was precise in identifying for the parties their key areas of difference, thereby creating a settlement framework from the outset. He prepared the parties for and facilitated an excellent joint meeting in which both parties could explore their positions. In doing so Andrew brought a wider perspective for both parties to consider their case and settlement options."*
**Partner – Solicitor's Firm Northampton**

*"I would recommend Andrew as a mediator without doubt. Whilst this was a small value case compared to many it was important to my clients and, I suspect, our opponents. Andrew recognised this and dealt with the participants in a manner that suggested it was important to him as well. Andrew's ability to convey his understanding of the issues and to illustrate, when needed, that his experience in Court was such that he knew that neither party should consider it as an option."*
**Senior Loss Adjuster**

*"Andrew's overall performance showed a wide range of required knowledge and his skills made a decisive difference by opening people's eyes to reality. He knows what he is doing."***Director of Roofing and Cladding Company – Party to the mediation**

*"The parties were fairly pragmatic as to the difficulties with the case, but Andrew was instrumental in getting the parties to accept those difficulties and the impact these had on the likely outcome."*
**Solicitor Partner specializing in Property Damage Claims**

*"Andrew was extremely helpful to us, as we had no prior mediation experience. This was our first and hopefully last mediation experience, but we would definitely use him again if the situation arose."*
**Farm Owner – Pembrokeshire Wales – Party to the Mediation**

*"Andrew went out of his way to understand the background and the full history of the dispute and picked it up very quickly. His personal style and true desire to get a satisfactory outcome for both parties was a key factor in ensuring this was a successful mediation."*



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**Family of Farm Owner – Pembrokeshire Wales – Party to the mediation**

*"The case fell within Andrew's expertise and he had clearly prepared excellently for the mediation and had a good understanding of the issues in dispute and the areas where compromise could be made."*
**Solicitor for the Defendant Insurer Party**

*"Overall Excellent… Andrew keep up the good fight to get mediation recognised as a very valuable tool to be utilised before litigation. Money well spent from our perspective and, I suspect, for our opponents as well."*
**Chartered Loss Adjuster**

*"Andrew uses his experience as a barrister to the full and this was well received by the parties. It gave them confidence in him from the outset. His first meetings were more progressive as a result as he asked probing questions about each party's position giving them a different perspective right from the outset. … He maintained and excellent rapport with all.*

*Andrew's preparation of the parties from the beginning initial meetings meant that everyone was prepared before going into the joint session. As a result, the joint meeting was perceived by all as a forum for communication rather than simply stating a position. Andrew's preparation of the parties made the meeting very productive.*

*Andrew had gravitas and took control of the room. This created an environment in which the parties could sense they were in safe hands. He managed the parties' expectations and prepared them for the process. Andrew injected humour into the opening session having gained trust and rapport – this lightened the atmosphere and engaged all parties in the room. His manner, conversational style and engagement carried the parties through a robust introduction and set the tone for straight talking appraisals throughout the day.*

*Andrew was consistent throughout the day. He explained part of his role was to evaluative with a small 'e' and he reality checked using his experience as a barrister from the outset presenting alternative interpretations to facts presented and giving clarity to how issues might be challenged. He quickly gained respect and trust from those present".*
**Extract from report prepared by a CEDR Appointed Observer and Assessor (Senior Solicitor Partner)**

# Recommendations

*"One of the best mediators. Andrew is amazing at diffusing tension and bringing hostile parties together in a way that very few mediators can do." "He brings both legal acumen, personality and ability to bear to make people see the bigger picture and settle their issues outside of technicalities." "Andrew is simply superb. His very thoughtful and skilled approach helped resolve a very tricky case for our client."*
**Chambers UK 2024**

*A member of both 2 Temple Gardens and IPOS Mediation, Andrew Miller KC is "one of the elite mediators in London. He is focused and to the point, and has a unique ability to see the route to the resolution of a dispute, getting there with as little fuss as possible." Practising as a lead mediator since 2017, Miller is a go-to mediator for heavyweight commercial disputes, as well as insurance and construction industry-related claims.*
**Legal 500 2024**



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*Andrew Miller is 'superb. He knows when to press and to pose difficult questions, and when to stay in the background. We would not have got anywhere close to settlement without him.' He is highly regarded for major commercial disputes; and in a recent 18-month period, He extended his client base within both the insurance and construction sectors.*
**Legal 500 2023**

*"Andrew is excellent. He is intimately familiar with the issues and is on top of the detail. He is great with clients." "Andrew is really good at unlocking a mediation." "Andrew Miller is knowledgeable and experienced." "Andrew Miller KC is pragmatic and hands-on. He also has a nice manner with the client."*
**Chambers UK 2023**

*"I was impressed with his performance as a mediator; he had clearly spent time to read into all the papers thoroughly, he got the key points each party wished to make before the time and worked very hard throughout the mediation to really push the parties together." "He worked tirelessly to get each party to understand the other's perspective."*
*"He is someone I would trust with my life as an advocate. He has a really good manner with clients and is really good at looking at the realities of a case."*
**Chambers UK 2021**

*The "energetic and engaging" Andrew Miller KC ... is "adept at both getting to the nub of the issues in dispute and reality-testing challenging clients."*
*"Particularly noted for heavyweight, high-value commercial disputes."*
*"He is very effective in court."*
*"Has a robust sense of the commercial realities faced by clients, and is excellent at helping them to achieve their best commercial outcome in litigation."*
**Legal 500 2021**

*"A respected practitioner and an established name in this area." "He's able to quickly pinpoint the key legal issues in an extremely fact-heavy dispute."*
**Chambers UK 2020**

*"He is tactically excellent."*
*"Very effective in court."*
**Legal 500 2020**

*"Offers effective advice and advocacy and is always clear in his strategy"*
*"An expert in his field. He is very approachable"*
**Chambers UK 2019**

*"He is able to explain complicated matters without too much legalese. His is a calm and steady style, and he is highly persuasive." "He has an excellent commercial attitude, and is astute responsive and approachable."*
**Chambers UK 2018**

*"First rate"*
**Legal 500 2018**

*"He's got a friendly, non-pompous approach. He's good with clients and he just gets his head down and works."*
*"Very savvy, with good client skills and a commercial approach. He's astute and responsive."*



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**Chambers UK 2017**

*"He is very meticulous, and gets on top of large volumes of papers quickly and efficiently."*
**Legal 500 2017**

*"He was very commercially aware, understood our position, and was forceful in fighting for us."*
**Chambers UK 2016**

*"Extremely strong on his feet, providing silky smooth advocacy."*
**Legal 500 2016**

*"He's very user-friendly, effective and good to work with."*
**Chambers UK 2015**

*"Andrew Miller has an extensive property damage practice, and regularly receives instructions from both public bodies and insurers."*
*"He's a very good advocate who can make tough decisions."*
*"He is a veteran of complex claims relating to fires floods, subsidence and explosions."*
**Chambers UK 2014**

*"Excellent interpersonal skills and good on his feet."*
*"Always extremely well prepared."*
**Legal 500 2014**

*"Andrew Miller is brilliant."*
**Legal 500 2013**

*"an outstanding Junior"*
*"a standout Junior"*
**Legal 500 2011**

*"very pleasant to work with"*
**Legal 500 2010**

*"I would trust him with my life."*
**Legal 500 2008**



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