# Andrew Shaw

Called to the Bar 2013

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Andrew's main areas of practice are insolvency/restructuring, commercial litigation, banking disputes, company law, civil fraud and sport.

Much of Andrew's work has an international component and he has been instructed in a number of complicated commercial disputes that have occurred within the context of a cross-border insolvency. High profile cases in which he has been instructed in recent years include *LBI v Rabobank International*, *AHAB v Saad Investments Company Ltd* and *Robert Tchenguiz v Grant Thornton LLP*. He has also developed significant experience in relation to the recognition of foreign insolvency proceedings in England and Wales, both under the Cross-Border Insolvency Regulations 2006 and at common law.

Andrew has extensive insolvency and restructuring experience and has been involved in many retail restructurings, including Toys R Us, House of Fraser, the Arcadia Group, Mamas & Papas, L K Bennett and Debenhams. He is also frequently instructed in cases which require the identification and recovery of concealed assets.

Andrew has significant experience of commercial litigation, applications under the Insolvency Act 1986 and applications under the Companies Act 2006. He regularly appears in both the High Court and the County Court as sole counsel.

Andrew has also been instructed by football regulatory bodies in England and Europe in relation to disciplinary proceedings against clubs that have breached financial fair play regulations.

Andrew is a co-author of *Corporate Administrations and Rescue Procedures* and is a contributor to the forthcoming edition of *Rowlatt on Principal and Surety.* He has also contributed to *Moss, Fletcher and Isaacs on the EU Regulation on Insolvency Proceedings*.

Before qualifying as a barrister, Andrew served as a Royal Marines officer for ten years, leaving as a major.

## Areas of Practice

Andrew carries out advocacy and advisory work across all of Chambers' practice areas and frequently appears in both the High Court and the County Court.

## Insolvency and Restructuring

Recent cases include:

- ***Re Chu Jiaru*** [2021] EWHC 2549 (Ch), application for interim relief, recognition of Hong Kong bankruptcy proceedings and additional relief under the Cross-Border Insolvency Regulations 2006
- ***Re Wang Liangping***, application for recognition of Hong Kong bankruptcy proceedings and additional relief under the Cross-Border Insolvency Regulations 2006
- ***Re Jet Airways (India) Ltd***, application for remission of realisations to a foreign office-holder
- ***Re Motylev***, appointment of interim receivers
- ***Re Hat & Mitre Plc*** [2020] EWHC 2649 (Ch), application to remove administrators and for relief under paragraph 74 of Schedule B1 to the Insolvency Act 1986
- ***Re London Oil & Gas Ltd*** [2020] EWHC 35 (Ch) and [2020] EWHC 482 (Ch) (with Barry Isaacs QC), challenge to the validity of an out of court appointment of administrators
- ***Discovery Northampton Ltd v Debenhams Retail Ltd*** [2020] BCC 9 (with Jeremy Goldring QC), challenge to a CVA
- ***CFL Financial Ltd v Bass*** [2019] BPIR 1327, application to prevent nominees of an IVA summoning a creditors' meeting
- ***Re Taylormade Fitout Limited***, application by a liquidator to recover sums from a director
- ***Re Robert Maxwell Group plc & Ors,*** discharge of pre-Enterprise Act 2002 administration order and winding up of the remaining Robert Maxwell companies
- ***Economy Energy Trading Ltd v Access Install Ltd***, restraint of presentation of a winding up petition
- ***Re Sanderson Young Ltd,*** administration order for a pre-pack administration
- ***Re Greenfield***, annulment of a bankruptcy order
- Acting as junior counsel (with Daniel Bayfield QC) on the production of an expert opinion for the Scottish courts in relation to a scheme of arrangement
- ***Fine Organics v Agform Ltd***, restraint of advertisement of a winding up petition
- ***Re Mikhail Shlosberg*** [2018] EWHC 603 (Ch), application under s.366 of the Insolvency Act 1986
- ***Long v Nicholson***, void transaction under s.284 of the Insolvency Act 1986
- ***Re Ve Interactive Limited*** [2018] EWHC 186 (Ch), removal of administrators under paragraph 88 of the Insolvency Act 1986
- ***Re Satellite Services (a firm)***, enforcement of a call by liquidators
- ***Crystal Palace FC v Tony Pulis***, bankruptcy petition
- ***Re FAI General Insurance Company Ltd***, termination of a provisional liquidation
- ***Kean v Lucas*** [2017] BCC 311, request for a direction not to summon a creditors' meeting requested by creditors
- Advising on whether an order under the Children Act 1989 is a transaction at an undervalue
- Advising the liquidator of an unlimited company on settling the list of contributories and making a call
- ***Kean v Lucas*** [2016] EWHC 2684 (Ch), request for a creditors' meeting to remove a liquidator
- ***Re NSM Plc***, discharge of pre-Enterprise Act 2002 administration order and sanction of a distribution by the administrators
- ***Re Samsun Logix Corporation***, recognition application under the Cross-Border Insolvency Regulations 2006
- ***Re Nortel Networks***, appointment of a conflicts administrator

- ***Sanko Holdings Co, Ltd v Glencore Ltd*** [2015] EWHC 1031 (Ch) (with Tom Smith QC), remission of monies abroad under the Cross-Border Insolvency Regulations 2006
- Acting as junior counsel (with Simon Mortimore QC) in relation to the production of an expert opinion for the New York Courts on schemes of arrangement and CVAs

- Advising and/or appearing in relation to:

- Winding up petitions (including disputed debt petitions and contributories' petitions)
- Administration orders
- Validation orders
- Applications under the Cross-Border Insolvency Regulations 2006
- Applications concerning the termination and the extension of administrations
- Bankruptcy petitions
- Setting aside statutory demands
- Bankruptcy annulment applications
- Possession applications made by trustees in bankruptcy
- Preference and transaction at an undervalue claims
- Applications under s.236 and s.366 of the Insolvency Act 1986
- Individual voluntary arrangements
- Company voluntary arrangements
- Calls by liquidators

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## Banking and Finance

Recent cases include:

- ***Re FundingSecure Ltd*** [2021] EWHC 798 (Ch), construction of contract between a facilitator of peer-to-peer lending and investors
- ***Re MF Global UK Limited*** [2019] EWHC 705 (Ch) (with Tom Smith QC), application for a case management stay by the German Federal Tax Office
- ***The Bank of New York Mellon v Essar Steel India Ltd*** [2018] EWHC 3177 (Ch) (with Tom Smith QC), application by a notes trustee for declaratory relief
- ***Re Olympia Securities Commercial Plc*** [2017] EWHC 2807 (Ch), construction of various facility and security documents
- Advising on the enforceability of a personal guarantee
- Acting as junior counsel (with David Allison QC) in relation to a dispute over the rectification / construction of an agreement
- ***GSO Credit – A Partners LP v Barclays Bank Plc*** [2016] EWHC 146 (Comm) (with Tom Smith QC), first judgment in the new Financial List, construction of LMA standard terms in relation to sale of commitment under a surety bonds facility
- ***LBI hf v Rabobank International*** (with William Trower QC and Georgina Peters), dispute over the settlement of trades under a 1992 ISDA Master Agreement
- Acting as junior counsel in a dispute over the settlement of trades under a GMRA 2000 (with

Tom Smith QC)

## Commercial Litigation and Arbitration

Recent cases include:

- ***Middleton v Makins***, unjust enrichment claim for return of a deposit for purchase of an aircraft
- ***VB Football Assets v Blackpool Football Club (Properties) Ltd*** [2019] 4 WLR 93 (with Mark Phillips QC), application by court-appointed receivers for approval of the sale of Blackpool Football Club
- Examination of the officers of a judgment debtor under CPR Pt 71
- Advising on effect of back-to-back retention of title clauses (with David Allison QC)
- ***Re Satellite Services (a firm)***, enforcement of a judgment debt by charging orders and third-party debt orders
- ***V8 Gourmet (Moorgate) Ltd v Underwood & Co***, dispute over a solicitors' lien
- ***Dunhill v Hughmans***, appeal against a costs order
- ***Funding Circle Ltd v Dunville***, strike out of a defence to a claim under a peer-to-peer lending agreement
- ***VSA Capital Ltd v Smith***, application to set aside default judgment on a claim under a financial services agreement
- ***The Bank of Tokyo-Mitsubishi UFJ Limited v The Owners of the MV Sanko Mineral*** [2014] EWHC 3927 (Admlty) (with Tom Smith QC), treatment of sale proceeds of a vessel
- ***Trapeze Music and Entertainment Ltd v Duckett***, dispute arising from a joint venture agreement
- Acting as junior counsel (with David Allison QC) in a contractual dispute concerning the sale of commodities

## Company

Recent cases include:

- ***Re RJH Stanhope Ltd*** [2020] EWHC 2808 (Ch), claims against a director for breach of fiduciary duty
- ***Re London Oil & Gas Ltd*** [2020] EWHC 2311 (Ch), application to set aside loan agreements as void for want of authority having been executed in breach of fiduciary duty
- ***Atom Bank plc v C W Taylor Ltd***, rectification of the charges register
- ***Re Lynx Property Management Ltd***, misfeasance claims against a company director
- ***Re National Australia Bank Ltd***, rectification of the register of companies
- ***Re James Property Portfolio Ltd***, restoration of a company to the register and rectification of its register of members
- ***Zavarco v Morstan Nominees Ltd & Ors***, application to apply restrictions to shares

- Advising or appearing in relation to:

- unfair prejudice petitions
- misfeasance claims against directors
- specific performance of a shareholders' agreement
- restoration of companies to the register
- procedure for proposing and passing written resolutions

- Assisting in the drafting of a share subscription agreement

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## Civil Fraud and Asset Recovery

Advising and / or appearing in relation to freezing injunctions, search orders, *Norwich Pharmacal* applications, proprietary injunctions and applications under section 365 of the Insolvency Act 1986

Recent cases include:

- ***AA v BB*** [2021] EWHC 1833 (Ch) (with Stephen Robins), application concerning the ability of a claimant to pursue proprietary claims against a defendant's solicitors
- ***AA v BB*** [2021] EWCA Civ 1017 (with Stephen Robins), appeal concerning relevance of pre-existing POCA restraint order to applications for freezing injunctions against the same respondents
- ***AA v BB*** [2020] EWHC 2463 (Ch) and [2020] EWHC 2490 (Ch) (with Stephen Robins and Matthew Abraham), applications for freezing and proprietary injunctions
- ***Whelan v Smith***, applications for freezing and proprietary injunctions
- ***Koldyreva v Motylev*** [2020] EWHC 3083 (Ch) and [2020] EWHC 3084 (Ch) (with Paul McGrath QC) applications for a freezing order, search orders and *Norwich Pharmacal* orders
- ***Tchenguiz v Grant Thornton UK LLP*** (with David Allison QC and Henry Phillips), claim for unlawful means conspiracy
- ***Willmont v Shlosberg*** [2017] EWHC 428 (Ch) (with Paul McGrath QC and David Davies), proprietary injunction obtained by trustee in bankruptcy
- ***Asuquo v Gbajabiamila*** claim that a registered charge is a sham or a transaction defrauding creditors
- ***AHAB v Saad Investments Company Ltd & Ors*** (with Michael Crystal QC, Mark Phillips QC and Marcus Haywood), multi-billion dollar fraud claim
- Acting as junior counsel (with Barry Isaacs QC) in relation to the production of an expert opinion for the New York Courts on s.423 of the Insolvency Act 1986

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## Offshore

Recent cases include:

- Advising in relation to clawback claims in Jersey
- Advising in relation to Guernsey companies in administration in England
- Advising in relation to contempt of court proceedings brought in Guernsey
- Acting as junior counsel (with Michael Crystal QC, Mark Phillips QC and Marcus Haywood) in ***AHAB v Saad Investments Company Ltd & Ors*** (in liquidation in the Cayman Islands)
- Working on matters involving the laws of Jersey, Guernsey, the Cayman Islands, the British Virgin Islands, Gibraltar, Korea, Japan, the United Arab Emirates, Saudi Arabia, Switzerland, Luxembourg, Latvia and Austria

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## Insurance

Recent cases include:

- Advising on the effect of bankruptcy / entry into an individual voluntary arrangement of the insured on the liability of insurers under professional indemnity policies (with Barry Isaacs QC)
- Assisting in the preparation of advice on the availability of set-off as a defence to subrogated claims for a contribution in relation to various asbestos-related payments

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## Trusts and Property

Recent cases include:

- ***Ghai v Maymask (228) Ltd*** [2020] UKUT 293 (LC), appeal against the dismissal of an objection to the registration of a disposition
- Advising on the registration of sale partnership property by liquidators
- ***Akanbi v Akanbi***, summary judgment on claim asserting a beneficial interest in a property
- Advising on the powers of receivers under a legal charge
- Advising on the liability of a company in administration for sums paid to it in breach of trust
- ***Long v Gardner***, enforcement of a Proceeds of Crime Act confiscation order
- Advising on the validity of receivers' appointments
- Advising and appearing in relation to a claim for a declaration of the beneficial owners of several properties
- Acting as junior counsel (with Tom Smith QC) in relation to the winding up of an insolvent trust

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## Sport

Acting for football regulators in both England and Europe in relation to disciplinary proceedings against clubs for breaches of the applicable financial fair play regulations.

## Pro Bono

- ***Asuquo v Gbajabiamila***, enforcement of a charging order
- ***Asuquo v Gbajabiamila***, claim that a registered charge is a sham or a transaction defrauding creditors

## Career

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| 2013 | Called to the Bar of England and Wales |
| 2001-2011 | Royal Marines Officer |

## Memberships

Chancery Bar Association

Commercial Bar Association

Insolvency Lawyers' Association

INSOL International

R3

Restructuring and Insolvency Specialists Association (Cayman)

## Publications

**Books**

Author of ***Corporate Administrations and Rescue Procedures*** (3rd edition, Bloomsbury, 2017) (with William Trower QC, Adam Goodison and Matthew Abraham)

Contributor to Moss, Fletcher & Isaacs, ***The EC Regulation on Insolvency Proceedings*** (3rd edition, OUP, 2016)

**Articles**

**Ways to get paid in a sovereign default** (2014) 10 JIBFL 629

**The Slender Thread of Modified Universalism after *Singularis*** (2015) 2 JIBFL 74 (with Barry Isaacs QC)

**Discharge of debts: how foreign insolvencies may affect English law obligations** (2016) 4 JIFBL 210

Case note on ***Singularis Holdings Ltd v PricewaterhouseCoopers*** [2014] UKPC 36 and ***PricewaterhouseCoopers v Saad Investments Co Ltd*** [2014] UKPC 35; (2015) 12(1) Int CR 3 (with Robert Amey)

Case note on ***Stephen John Akers v Samba Financial Group*** [2014] EWCA Civ 1516; (2015) 12(4) Int CR 245

Case note on ***Philpott v Lycee Francais Charles De Gaulle School*** [2015] EWHC 1065 (Ch); (2016) 13(3) Int CR 206

**A further limit on modified universalism: the rule in Gibbs re-affirmed** (2018) 5 JIFBL 301

## Education and Qualifications

2012-2013 City University, Bar Professional Training Course, Outstanding
2011-2012 City University, Graduate Diploma in Law, Distinction
1997-2001 Magdalen College, Oxford University, Master of Chemistry, First Class

## Prizes and Scholarships

Ede and Ravenscroft Prize for best performance on the BPTC (Lincoln's Inn)
Scarman Prize (City University)
Cholmeley Award (Lincoln's Inn)
Buchanan Prize (Lincoln's Inn)
Lord Mansfield Scholarship (Lincoln's Inn)
BPTC Scholarship for student on the course with the top GDL mark from City University (City University)
Maitland Advocacy Prize (Maitland Chambers)
Lord Haldane Scholarship (Lincoln's Inn)
Demyship (Magdalen College, Oxford University)

## Interests

Skiing, hill-walking, running and reading