



**Andrew Miller QC – “QC Mediator”**

CEDR Accreditation: 2014

CEDR Panel Admission: 2018

Languages: English

Location: United Kingdom

***“ 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.”***

- 2018 Testimonial – Party Legal Representative

### Overview

Andrew Miller QC has almost 30 years of experience of dealing with and resolving commercial disputes both domestically and internationally which makes him ideally suited as a commercial mediator. He now practices as a QC Mediator in a wide range of commercial sectors, including in the practice areas of construction, property damage, insurance and reinsurance, professional negligence and general commercial disputes. Andrew continues to be based at Temple Garden, a leading civil/commercial set of chambers.

### Professional Background

Andrew has been involved in the mediation of disputes since 1996. He has experience of over 150 mediations and has been involved in mediations both domestically and internationally. Andrew has acted as lead mediator in commercial disputes valued at between £10,000 to £20,000,000.

Andrew has been consistently 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 through ADR.

In the *Legal 500* and *Chambers UK* Andrew has received considerable praise over the years including reference to his “Excellent interpersonal skills... he’s very user-friendly, effective and good to work with”, the fact that he “Always extremely well prepared” and crucially that he is “Very pleasant to work with.” Since acting as a mediator he has received glowing feedback and testimonials on his performance and skill as a mediator.

Andrew has used his background as a successful Junior and QC commercial practitioner and his substantial experience of mediation to become a practical, efficient, approachable and user-friendly mediator. Andrew’s substantial commercial



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 and be suitably skilled to reality test the parties' case and proposed options for settlements. Andrew engages with the process and is not scared to engage and 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 favours and is a proponent of *active v passive* approach to mediation and is an advocate for *Early Stage Mediation* (ESM). Andrew writes and speaks regularly on mediation and in particular on the '*changing face of mediation*', which he is very much, a part of. Andrew has given seminars on mediation throughout the UK, in Singapore and Cambodia.

Andrew also practices as a single and Panel Arbitrator and is a Fellow of the Chartered Institute of Arbitrators (FCIArb). Andrew is trustee of the Chartered Institute of Arbitrators.

### Expertise

- Commercial Contracts
- Construction & Engineering
- Employment & Workplace
- Energy & Natural Resources
- Insurance / Reinsurance
- Professional Negligence
- Property
- Property Damage
- Sale of Goods & Services

### Dispute Experience

#### Commercial Contracts

Andrew has almost 30 years' experience of dealing with commercial contract disputes both as a barrister in the traditional litigation forum and as a barrister and mediator in mediation. Andrew's commercial practice has been wide ranging, predominantly acting for commercial clients both lay and professional. The range of his clients has been significant, which has included the representation of small and large businesses and commercial interests, insurers and reinsurers, contractors and developers and government bodies. Andrew has practiced both domestically and internationally in claims up to a US\$650m in value. Commercial disputes and mediation experience include the following:

- Disputes between insurers and their policyholders and disputes between insurers and reinsurers.
- Disputes over the commercial implications of a delay to construction developments and projects.
- Contracts concerning the sale and provision of goods.
- Breach of finance agreements
- Third parties' claims by and against insurers.



- Developers and investors claims arising out of failed developments.
- Commercial / Business interruption claims.
- Economic and financial loss of use claims arising out of property damage.
- Fraudulent commercial claims
- Shareholder agreement disputes
- Restraint of trade cases / breach of consultancy agreements.
- Partnership disputes
- Breach of warranty claims.
- Company Act claims.

#### **Construction & Engineering (including International Arbitration and Projects)**

Andrew has had a large construction practice both domestically and internationally. 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 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. The majority of Andrew's construction cases have used mediation as part of the dispute resolution process. Construction litigation and arbitration disputes and mediation experience have included the following:

- £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 Contracts)
- £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.
- 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)

### **Employment & Workplace**

Andrew is an accredited employment work place mediator. As part of his practice as a barrister he has dealt with cases involving restraint of trade cases, wrongful termination and breach of consultancy agreements. As a mediator he has experience of breach of employment contract by an employee and restraint of trade disputes.

### **Energy & Natural Resources**

A substantial part of his construction and International Projects practice has involved cases dealing with *Energy and Natural Resources* and the construction of large scale facilities and plant within the oil, gas and natural resources industries. (For list of disputes see above). Andrew's first ever mediation, in 1996, was a three-day mediation in Singapore arising out of the construction of an LNG pipeline and transportation jetty in Brunei. As his cases reflect, he has had significant experience both as counsel and as mediator dealing with disputes in the oil and gas industry.

### **Insurance / Reinsurance**

As a barrister Andrew had a significant commercial insurance practice, being involved in several landmark cases for the insurance industry including the *Employers' Liability Trigger Litigation* and the *Brit Inns Case*, which provided a much needed

wake-up call to the recovery sector of the insurance industry. Andrew was regularly instructed in insurance and reinsurance disputes arising out of a range of covers (including business interruption, property, property damage, 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). Andrew has specific expertise regarding the insurance relating to the construction, operation and maintenance phase of projects. Insurance disputes and experience acting as a mediator have included claims and disputes arising out the following:

- Cases involving flood damage, both man made by nature.
- Insurance claims arising out of a conflict between joint insurers.
- Conflicts over insurance relating to the construction and operations phase of a project.
- Dispute over conflicts between primary insurers and reinsurers over compensation arising out of substantial damage caused by hurricane Juliette in 2001 in Mexico.
- Policy coverage issues and Policy *Trigger* issues.
- Claims by policyholders / insurers in respect of indemnity either given or refused under domestic and commercial policies.
- Inadequate and wrongful assessment of damage by loss adjusters.
- Fire claims – including subrogated, first party, third party and insurer to insurer disputes.
- Business interruption claims arising out of insurance claims.
- Life insurance claims / Critical illness claims.
- Insurance disputes relating to insurance claims against insurance companies in runoff.
- Insurance non-disclosure and fraudulent claims.
- Claims involving wrongful assessment of damages by loss adjustors (*Brit Inns*).

### **Professional Negligence**

Andrew brought to his professional liability practice his considerable expertise in construction and insurance claims. As a result, many of his instructions in this area focused upon claims against construction and insurance professionals. Outside the fields of construction and insurance he represented both claimants and professionals in many contexts, including claims concerning accountants, auditors, barristers, chartered surveyors, estate agents, local authorities, schools, quantity surveyors, and solicitors. Litigation and mediated disputes have included claims arising out the following:

- Defective advice by construction professionals during the course of construction projects.
- Negligent valuation cases.

- Defective advice provided by professionals in respect of land swaps and building developments.
- Claims against conveyancing solicitors in respect of negligent advice, acts or omissions whilst handling the sale of land and properties.
- Disputes against accountants and auditors in respect of the provision of accounts.
- Claims against local authorities and schools in respect of the provision of education and actions by pupils and parents in respect of the failure to provide education and protection/abuse cases.
- Disputes concerning the wrongful provision of medication by pharmacists.
- Disputes concerning the negligent undertaking of due diligence by solicitors and accountants.
- Negligent actions against engineers, surveyors and other construction professionals.

### **Property**

Throughout the spectrum of Andrew's practice and conduct of litigation his cases have involved issues relating to property. He continues to be instructed as a mediator in all aspects of property disputes. His litigation and disputes whilst acting as a mediator have included:

- Property damage – fire, flood and explosion claims (see below)
- Commercial disputes arising out of the sale of property.
- Disputes concerning the rights of one landholder over another.
- Boundary disputes.
- Disputes between landowners and local authorities
- Professional negligence actions relating to the sale or transfer of land.

### **Property Damage**

Since his earliest days of his practice (when at only 8 years call, 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 was one of the Counsel involved in the liability and quantum litigation arising out of the 2005 Buncefield explosion which caused in excess of £1BN-worth of damage. Over the last 30 years he has been involved in many landmark trials under the auspices of the TCC. Acting as Counsel and subsequently as mediator, his property damage disputes have included the following:



- Claims involving large-scale natural disasters (primarily flooding) for or against private and public bodies.
- £23m property damage and business interruption claim arising out of a fire to a large copper tubing-manufacturing factory in Wolverhampton.
- Successful defence of a fraudulent property damage claim arising out of flooding damage to commercial premises.
- £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.
- £500K dispute 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.
- £1m fire claim arising out of a fire at a Police forensic laboratory during the use of an ethanol fingerprint dyeing bath; Case involved consideration of COSHH and DSEAR risk assessments provided by the Defendant.
- £1.5m water damage claim caused by the Defendant's works which were taking place directly above the Claimant's subterranean computer and communications room.
- Case involving damage caused by wind to a *Volkswagen* showroom due to its defective design.
- £150m multi-party fire action by the freeholders of a large ("super") warehouse that was leased to Primark.
- £2.5m fire damage to a school destroyed by a fire caused by the failure of a light fitting.
- *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 personally handled both the liability and quantum aspects of each of Chubb's 12 claims worth in excess of £16m (Instructed by Cozen O'Connor).
- £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.
- £2.2m fire claim arising out of negligently installed electricity metering equipment.

### Sale of Goods and Services

Andrew's commercial QC and mediation practice has included several cases involving the sale of goods and services. (See Commercial Disputes above).

### Personal Style



Andrew has used his background as a successful QC (and Junior Counsel) commercial practitioner and his substantial experience of mediation to become a practical, efficient, approachable and user-friendly mediator. His experience allows him to reality test the parties' case in an objective and non-partisan manner.

Andrew has a complete hands on approach and encourages the parties to remain fully active and involved throughout the whole process. This is reflected by the amount of effort he puts into the process both prior to and on the mediation day. Andrew ensures that the Mediation process belongs to the parties.

Andrew's personal style has been the subject of considerable praise by both parties and their representatives throughout his mediation practice.

### Feedback

*"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***

*"He has an excellent commercial attitude, and is astute, responsive and approachable."*

***Chambers UK 2018***

*"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)***

*"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 at trial, and strengths and weaknesses of each party."*

***- Associate solicitor specialising in commercial and residential property litigation***

*"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***

*"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**

*“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 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 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 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**

*“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**

*“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**

*“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**

*“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.”*

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

*“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 had a good grasp of issues, firm and fair and tailored the process well to our parties.”*

- **Partner, London City Firm**

*“Andrew has a good range of Professional mediation skills which quickly generates positive responses from both sides. Andrew was very professional whilst also being open-minded and innovative when necessary.”*

- **CEO of Mediation Party**

*“Andrew’s pre mediation email was very clear and his document regarding the process and how to prepare was specifically helpful for me as this is the first time we have had to use this service.”*

- **Managing Director of Mediation Party**



*“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 an 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 evaluate 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)**

## Legal Directories

### Chambers UK 2019

“An expert in his field. He is very approachable.”

“Offers effective advice and advocacy and is always clear in his strategy.”

### Chambers UK 2018

“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.”

“He is extremely well regarded, very professional and someone who certainly knows his stuff.”

“Very approachable and knowledgeable”



"He has an excellent commercial attitude and is astute, responsive and approachable."

**Legal 500 2018**

"First rate."

**Chambers UK 2017:**

"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."

**Legal 500 2017**

"He is very meticulous and gets on top of large volumes of papers quickly and efficiently."

**Legal 500 2016:**

"Extremely strong on his feet, providing silky smooth advocacy"

**Chambers UK 2016:**

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

**Chambers UK 2015:**

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

**Legal 500 2014:**

"Excellent interpersonal skills and good on his feet."

"Always extremely well prepared."

**Chambers UK 2014:**

"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."

**Legal 500 2013:**

"Andrew Miller is brilliant"

**Legal 500 2011:**

"An outstanding Junior"

**Legal 500 2011:**

"A standout Junior"



**Legal 500 2010:**

“Very pleasant to work with.”

**Legal 500 2008:**

“I would trust him with my life.”

**Professional Skills**

1986: University of Southampton LLB

1989: Inns of Court School of Law: Barrister at Law

1999: Fellow of the Chartered Institute of Arbitrators (FCIArb)

2014: Queen’s Counsel

2014: CEDR Accredited Mediator

2016: Workplace and Employment Accredited Mediator

**Professional Skills**

Andrew has given several seminars on mediation including a nationwide roadshow (London, Bristol, Birmingham, Manchester, Leeds and Cardiff) under the title “*Mediation – is it any longer and Alternative Dispute Resolution Process.*” He has also spoken in-house at several solicitors as part of their CPD programme. Andrew was invited to be a panel speaker at *London Constructing Excellence Club*, debating *Mediation vs. Adjudication in Construction Disputes*.

Andrew has published the following articles on Mediation:

- *Is the Court of Appeal sending out mixed messages about Mediation? – Lawyer Monthly (August 2017)*
- *Mediation – is it any longer and Alternative Dispute Resolution Process Litigation & Dispute Resolution 2017 Expert Guide - Corporate LiveWire (October 2017)*
- *Mediation in Cross Border Disputes – A natural choice... but not for all – UK Mediation Journal (January 2018)*

**Memberships**

- Fellow of the Chartered Institute of Arbitrators
- Technology & Construction Bar Association (TECBAR)
- Professional Negligence Bar Association (PNBA)
- COMBAR Commercial Bar and Common Law Association



Better conflicts, Better outcomes, Better world

- LCLCBA
- Western Circuit



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