



Andrew Miller KC – “KC Mediator”

CEDR Accreditation:	2014
CEDR Panel:	2018
NMA Civil & Commercial Mediator of the year 2020-2022:	2020
Distinguished Fellow of the International Academy of Mediators (USA):	2022
Languages:	English
Location:	United Kingdom

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Solicitor Partner Mediation Legal Representative

Overview

Andrew Miller KC practices as a full-time mediator 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 10 years and became a full-time mediator 6 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. Andrew continues to be based at 2TG (2Temple Gardens), a leading civil/commercial set of chambers. Andrew also practices as a single and Panel Arbitrator and is a Fellow of the Chartered Institute of Arbitrators (FCI Arb). Andrew has been a trustee of the Chartered Institute of Arbitrators since January 2019.

Professional Background

Andrew's practice 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 include commercial, company, construction, energy, insolvency, insurance and reinsurance, landlord and tenant, partnership disputes, property, property damage, professional negligence and shareholder disputes.

Andrew stands out for his progressive and passionate approach, advocating 'Early-Stage' Mediation and a provides balanced combination of facilitative and evaluative mediation. Andrew has been involved in the mediation of disputes since 1995. He has experience of over 350 mediations across a wide range of

disputes. Andrew has acted as lead mediator in commercial disputes valued from £10,000 to over £500 million.

Mediation Career Highlights & International Recognition

Andrew has mediated disputes with parties and lawyers based in the UK, Australia, Azerbaijan, Bahrain, Brazil, Bulgaria, Canada, Dubai, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, Jersey, Lithuania, Maldives, Montenegro, New Zealand, Philippines, Serbia, South Africa, Singapore, Spain, Switzerland, Turkey and the USA.

Andrew was awarded the prestigious NMA Civil & Commercial Mediator of the Year for 2020-2022. In 2022, Andrew was recognised and made a Distinguished Fellow of the International Academy of Mediators (IAM). A rare honour for a UK mediator by the USA based institution. Andrew is also one of 15 mediators appointed to the Royal Institute of Chartered Surveyors' President's Panel of Mediators

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.

Andrew regularly speaks and lectures about mediation in the UK and internationally. Over the last six years he has been involved with a series of prestigious international workshops and seminars throughout the UK and in Cambodia, Dubai, Greece, India, Philippines and Singapore. In September 2018 he spoke at the Singapore International Mediation Centre and at the Singapore Mediation Convention Week in September 2023 as part of the Chartered Institute of Arbitrators (Ciarb) event. In September 2024 he was one of the principal guest speakers at the ADR Hellenic Hub Mediation Festival held in Thessaloniki, Greece.

Andrew is particularly well known in India, throughout the legal and judicial profession. Andrew has been involved in the judging of several of the prestigious Mediation and Negotiation competitions held in the Indian universities and colleges of law and in particular the RMLNLU/2TG mediation competition which is sponsored by his Chambers. In January 2020 he was invited to speak at the Supreme Court of India on Mediation and its relationship with Litigation and the relationship between mediators and litigators. He returned to India in April 2023 when he again addressed the Nivaaran Mediators of the Supreme Court of India in person in Delhi and in April 2024 he was invited to address the judiciary and senior advocates at the Bombay High Court in Mumbai.

Legal Directories

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.

<https://chambers.com/legal-rankings/mediators-uk-wide-1:79:11805:1>

<https://chambers.com/legal-rankings/mediators-all-circuits-14:79:11840:2>

Expertise

- Commercial Contracts
- Insurance/Reinsurance
- Property Damage
- Construction & Engineering
- Professional Negligence
- Sales of goods & services
- Employment & Workplace
- Property
- Shareholder Disputes
- Energy & Natural Resources

Dispute Experience

Commercial Contracts

Andrew has over 35 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:

- US\$500m: Delay, disruption and defects claim arising out of one the football stadiums build in Qatar for the 2022 World Cup. (Mediation)
- US\$250m construction/property damage (fire) claim brought by owners of a fertilizer plant in the Philippines against their (12) insurers following repudiation of insurance claim post. (AMKC as Arbitrator – 22-day hearing in Manila)
- \$46m claim arising out of delay, disruption and defective constructions works and substantial delays to the works undertaken in India for a USA main contractor by Indian and Kazakhstan sub-contractors. Claim made to enforce the terms of a Parent Company Guarantee recover Main Contractor's costs and damages incurred to perform construction works on behalf of contractors in respect of a Regasification Project.(Mediation)
- £30m claim for losses arising from alleged contractors breach of the terms of a subcontract for the design and construction of the roof at the major media outlet company Central Building at their main campus. Multiple claims brought by owner/employer against main contractor. (Mediation)
- £10.5m claim in respect of works forming part of a high-profile and sensitive construction of a UK Power plant. The major project included provision of a secure high voltage connection for the new energy generation in the Southwest of the UK. Claims made under the contract for the works at the substation for compensation events and extension of times. (Mediation)
- £24m claim in respect of defective cladding and fire stopping of London High Rise Tower. Claim against builder and various insurers providing defective building coverage. Issues over whether a Building Liability Order could be made against the contractor under the Building Safety Act. (Mediation)
- £48m defective cladding claim. Professional negligence claim brought by contractor in respect of the alleged negligence provided by the Architect in its inspection and/or supervisory role. Contractor had had to pay out £48m to the owner of the property in respect of defective cladding and fire stopping.
- £35m – 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 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)

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 largescale 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.

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 it's 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.

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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/KC (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**

"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**

Professional Career

- 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 (2022 King's Counsel)
- 2014: CEDR Accredited Mediator
- 2016: Workplace and Employment Accredited Mediator
- 2018: CEDR Panel Admission
- 2020: RICS President's Panel of Mediator
- 2020: NMA Civil & Commercial Mediator of the Year for 2020-2022
- 2022: Distinguished Fellow of the International Academy of Mediators (USA)

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 several articles including 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).