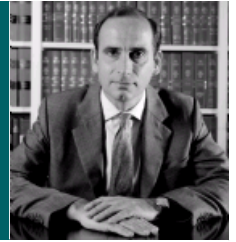


## Andrew Clutterbuck

Called: 1992



### Summary

Andrew Clutterbuck has an extensive litigation practice covering wide areas of commercial and company activity. He has recently been particularly active in the fields of commercial trusts, shareholder disputes and advising on and obtaining judicial directions for office holders (trustees, administrators, etc.) in a commercial context.

Andrew also advises and acts generally in the commercial and company law area (including insolvency), with a particular additional specialism in financial services. In addition to more formal instructions, he welcomes informal adhoc requests for telephone advice.

### Cases of Interest

#### Commercial

*Concord v Law Debenture* [2005] 1 WLR 1591: House of Lords. Corporate Bonds, position of bond trustee in bondholder-lender dispute;

*Law Debenture v Elektrim*

- (1) [2005] 2 Lloyd's Rep 755: stay of arbitration, court's jurisdiction
- (2) [2005] EWHC 1999: summary judgment on bond acceleration, costs under indemnity
- (3) [2006] EWHC 1305: Saunders v Vautier in a commercial trust context
- (4) [2007] EWHC 1380: chargor's right to redeem, trustee's right to retain security & trust property;
- (5) [2009] EWHC 1801: complex share-stake valuation, equity kicker

*Law Debenture v Vivendi* [2009] 1 Lloyds' Rep 59: anti-suit injunction

*Re Chinachem, the Estate of Nina Wang*: Hong Kong administrator's duties in relation to HK\$multi-billion corporate group

*Geniki v Ellis* [2008] 1 BCLC 662: Stockbroker's authority to deal

*Koonmen v Bender* [2002] JLR N 45: \$100 million US/Anguillian/Jersey trust issues

*Equant v Ives* [2002] EWHC 1992: Senior employees of listed company faced with proceedings and prosecution for fraud

*Temple Trust v Barclays*: Bank's liability for forged cheques (Turks & Caicos Islands)

*Standard Star*: Vicarious liability for fraudulent off shore trust officer (Turks & Caicos Islands)

*Shahar v Privatbank* [2004] EWHC 2659: The Times. November 30 2004: Setting aside service out for want of jurisdiction and nondisclosure.

#### Company law

*O'Donnell v Shanahan* [2009] 1 BCLC 328 (Ch); [2009] EWCA Civ 751; *The Times*, August 21 2009 (CA): S.994 Petition, directors' duties

*Roe v Doughty Hanson* [2008] 1 BCLC 404 & *Davenport v Cream Holdings* [2009] BCC 183: Expert determination of share value under provisions in articles

*Re Flying Colours*: S.459 Petition. Claim by management shareholders in a successful venture capital vehicle

*Re a Company (No 004415 of 1996)* [1997] 2 BCLC 479: s.459 & J&E winding up, strike out

*Coleman Taymar v Oakes* [2001] 2 BCLC 749: Corporate claim against director for breach of duty

*Capital Corporation*: Corporate claims against director and senior employees for breach of duty and conspiracy s.459/994 Petitions for shareholders in software and electronic industries, security industry, ship chartering, sports clubs etc.

#### Insolvency

*New Hampshire v Magellan Ins* [2009] UKPC 33: Privy Council. Winding-up petition against reinsurer; creditor's locus standi.

*Re Griffin Trading* [2000] BPIR 256: Provisional Liquidation and winding up of an insolvent LIFFE and EUREX futures broker;

### Areas of Practice

- Company Law and Shareholder Disputes
- Commercial litigation
- Corporate Fraud and Asset Recovery
- Financial Services regulation
- Corporate and Personal Insolvency

*Re Guardian Bank*: Extensive litigation and advisory work arising out of financial authorities' closure of bank (Cayman Islands);

*Commerzbank v Arvind Mills*: UK stay of proceedings pending Indian insolvency process;

### Financial Services

*Standard Life v Aon*. Total loss claim by major endowment mortgage provider against broker over non-responsive PI Policy. Review of misselling compensation

Advising major endowment mortgage provider on strategic treatment of misselling claims and specific cases.

Advising large family trust on regulatory impact on investment policy and practice.

Advising on review of FSA decision refusing authorisation

### Other Areas

Andrew Clutterbuck also practices in the field of mining and quarrying rights and has appeared for large estates and local authorities in the Court of Appeal, the High Court, Lands Tribunal and in arbitral proceedings.

### Publications

Atkins Court Forms: Vol 27 Mines & Quarries.

### Overseas Qualifications

Called to the Cayman Islands Bar. Called to the Turks & Caicos Islands Bar for specific cases

### Professional

Member of the Commercial Bar Association and the Chancery Bar Association.



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