

## Andrew de Mestre

Called: 1998



### Areas of Practice

Insolvency, corporate fraud and asset recovery, banking, financial services and regulatory law, company law, bankruptcy and general commercial litigation. Andrew is recommended by Chambers & Partners as one of the leading juniors in Chancery: Commercial and by both Chambers & Partners and the Legal 500 in Insolvency/Corporate Recovery.

#### Insolvency

Andrew has extensive experience of advising and acting in litigation for both office-holders and defendants in proceedings under the Insolvency Act 1986. This included long-running instructions in BCCI-related litigation, *Morris v Bank of America* between 2000 and 2003. He is currently acting in substantial proceedings against the former administrators of an automotive supply company for breach of duty and in the insolvency aspects of substantial Commercial Court proceedings arising from the various failed tax mitigation schemes. Chambers & Partners say in the Insolvency "Andrew de Mestre focuses on commercial litigation, insolvency, company and commercial chancery work. He, too, enjoys the full backing of the market"

#### Company law

Andrew's company law experience includes advising on issues relating to financial assistance in the purchase of shares, drafting petitions under s.994 of the Companies Act 2006 (and the equivalent provisions in Hong Kong) and the just and equitable jurisdiction of the Court (both in England and the Bahamas), and acting for and against directors in relation to breaches of duty and disqualification proceedings. In 2009 Andrew was instructed on a substantial contested takeover of a property catastrophe insurer in Bermuda. Andrew is a contributor to the sections in OUP's Annotated Companies Acts on meetings, company secretaries and community interest companies.

#### Banking

In 2005-2006 Andrew acted for Lloyds TSB Bank Plc in its successful defence of claims brought against it in respect of the operation of various accounts in Switzerland. In 2006-2007 he was instructed by an investment bank in defending claims arising from the listing of an investment trust on the London Stock Exchange. Andrew has recently been instructed to advise a major investment bank and several large corporate trustees in relation to the construction and effect of a range of securitisation documents and other capital market transactions including issues arising from the credit crunch.

#### Financial services and regulatory law

Between 2007 and August 2009 (when the remaining aspects of the proceedings were settled) Andrew was instructed by the Jersey Financial Services Commission in relation to winding up proceedings in the Royal Court concerning three Eastern European property investment schemes. Andrew has also appeared in proceedings before the Disciplinary Tribunals of the SFA and the ICAEW. He has advised on various aspects of the Financial Services and Markets Act 2000, the London Stock Exchange Listing Rules and the Broker Membership Rules of the Cayman Islands Stock Exchange.

#### General commercial litigation and advice

A significant part of Andrew's caseload is general commercial litigation and advice. Chambers & Partners 2009 describe Andrew in the Commercial: Chancery section as "Charming, and consequently good with the clients" and with a "gift for assimilating vast quantities of documents and drawing out the salient points" [which] serves him well in what are increasingly busy times for him." Between October 2007 and December 2008 he was instructed by a FTSE-100 listed company in breach of warranty proceedings which until settled were due to come to trial in January 2009. Other recent instructions include;

- Acting for the claimant in a claim to enforce the exit provisions in a joint venture agreement relating to a substantial overseas property development;
- Acting for the claimant in a €12 million fraud claim;
- Acting for the defendant to a breach of warranty claim arising from a share sale agreement.

### Recent Cases

*Re Charit-Email Technology Partnership LLP [2009] EWHC 1901 (Ch)* (permission to commence proceedings against an LLP in liquidation)

*Chart-Email Technology Partnership LLP v Vermillion International Investments Ltd [2009] EWHC 388* (locus standi of an alleged contributory to appear on the hearing of petition)

### Areas of Practice

- Insolvency
- Corporate Fraud & Asset Recovery
- Banking
- Financial Services & Regulatory Law
- Company Law
- Bankruptcy
- Commercial Litigation

Reid v The Capita Group Plc & Ors [2008] ECHC 2722 (Ch) (adjournment of a trial date, ordering of concurrent trials);

*Mahme Trust Reg & Ors v Lloyds TSB Bank Plc* [2006] EWHC 1782 (indemnity costs)

*Mahme Trust Reg & Ors v Lloyds TSB Bank Plc* [2006] EWHC 1321 (scope of the duty of a banker to account, assessment of damages);

*The Commissioners for Customs & Excise v The Arena Corporation Limited* [2004] EWCA Civ 371, [2003] EWHC (Ch) 3032 (winding-up petition in the context of assessments for excise duty and VAT; EC directive on excise duty);

*The Arena Corporation Limited v Peter James Schroeder* [2003] EWHC 1089 (interim freezing injunctions; discharge for material non-disclosure);

*Morris v Bank of America National Trust & Savings Association & Ors* [2002] EWCA Civ, 425 (amendment of statements of case);

*Secretary of State for Trade & Industry v Delfin International* [2000] 1 BCLC 71 (public interest winding-up petition; Fair Trading Act 1973 and pyramid-selling scheme).

## Publications

Contributor to OUP's Annotated Companies Acts

## Academic

MA (Hons) Magdalene College, Cambridge. Queen Mother Scholar of Middle Temple

## Professional

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



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