

Andrew Post KC

Call: 1988 | Silk: 2012



Overview

Andrew undertakes clinical negligence, healthcare and disciplinary cases, and has particular expertise in dealing with technically complex medical issues. He acts and advises in major costs litigation, particularly where points of principle arise and on appeal. He is ranked as a leading silk by *Chambers UK* and *The Legal 500* in both Costs and Clinical Negligence and has been praised for his advocacy, tenacity, and intellect.

Chambers UK 2022 describe him as “Experienced, calm and genuinely interested.” *Legal 500 2022* describes Andrew as “brilliant at everything”. *Chambers UK 2021* state he is “someone that you would always want to have on your side if you had a complicated case.” *Chambers UK 2020* describe him as “a hard-working, intelligent and highly skilled advocate who fights until the very end” and “unflappable”. The 2019 edition called him “a brilliant advocate who is very personable and extremely knowledgeable. He is a joy to work with” and “a skilled negotiator and a brilliant tactician”. *The Legal 500 2019* describes him as a “fiercely competitive advocate who will not let you down”.

Many of Andrew’s cases are, of course, resolved by negotiation. He has very broad experience of alternative dispute resolution in all its forms, and he is regularly involved in round table meetings, mediations and arbitrations, as a participant, arbitrator or expert.

Medical law

Andrew is ranked both by *Chambers UK* and by the *Legal 500* as a leading silk in clinical negligence. He was shortlisted for Clinical Negligence and Personal Injury Silk of the Year in the 2015 *Legal 500* Awards. He acts for claimants and defendants, and undertakes high value and/or significant cases involving a wide range of clinical situations. He has extensive experience of cases arising out of birth injury, wrongful

birth claims and cases concerning neurosurgery. He tends to undertake cases involving complex breach of duty and causation issues.

He has dealt with cases concerning almost every medical specialism, and is often instructed in cases in which difficult and complex breach of duty and/or causation issues arise. He is acknowledged to have a particular expertise in expert cross-examination.

Andrew considers that the key to successful medical negligence litigation is usually a thorough understanding of the relevant medicine; an essential part of case preparation is a carefully conducted multi-expert consultation, and Andrew's expertise in conducting these is widely acknowledged. Once the mechanism of injury is properly understood the party can decide how to advance or resist a claim.

He conducts high profile inquests and medically related cases involving public law, ethical and consent issues. He also has an academic interest in the legal and ethical ramifications of AI for medicine and healthcare, including the regulation of AI for medicine.

Costs

Andrew has been ranked in the top tier of costs specialists since Costs litigation first appeared as a specialism in the directories. He regularly appears before the Court of Appeal, High Court Judges and County Court Judges on costs appeals. He undertakes cases concerning points of principle in the Senior Courts Costs Office and in District Registries. He advises and acts in party and party and solicitor and own client disputes. He advises in relation to terms of settlement, terms of retainer, Conditional Fee Agreements and disputes in relation to the indemnity principle and the scope of public funding. He has been involved in cases concerning almost every aspect of costs law.

Andrew combines knowledge of the intricacies of the law relating to costs, with the ability to explain these arcana to clients and non-specialist judges in clear and comprehensible terms. He understands the commercial dimension of much costs litigation, and will strive to secure the most favourable solution for his clients whether by way of proceedings, negotiation or alternative dispute resolution.

Regulatory and disciplinary

Andrew undertakes disciplinary and regulatory cases before the General Medical Council, the General Optical Council, the Health and Care Professions Council, the Health, Education and Social Care Chamber of the First Tier Tribunal and the Solicitors' Disciplinary Tribunal. He undertakes cases involving issues of conduct, and these have encompassed allegations such as research fraud, misappropriation of funds, lying to supervisors and forging of results. Capability cases have included

issues such as surgical and clinical competence, duties of supervisors, disputes as to retainability and the effects of mental health difficulties and addiction.

Andrew acted in the longest ever case before the General Optical Council, representing the only registrant found not guilty of misconduct.

Andrew brings to his disciplinary and regulatory cases his wide experience of healthcare and technical issues and his expertise in handling expert witnesses, as well as a flair and enthusiasm for arguing points of law when required.

Notable cases

Thorley v Sandwell and Dudley [2021] EWHC 2604 (QB). Acted for Defendant in claim arising out of a stroke that occurred after the Claimant's anti-coagulation was stopped for an angiogram. Claim dismissed at trial. Significant issues as to the relationship between guidelines and the Bolam/Bolitho tests and as to whether material contribution can apply where there is a single alleged tortfeasor and an indivisible injury.

XBYH v Hull and East Yorkshire Hospitals NHS Trust QBD 2021. Acted for Claimant in high value brain injury case arising out of injury at birth. Highly contested issues as to the extent of care needs, life expectancy and therapies. Settled for retained sum of £8.165 million plus periodical payments of £245,000 pa. The grossed-up value of the settlement was just over £20 million.

EFG v Pennine Acute NHS Trust QBD 2020. Acted for Claimant in kernicterus case complicated by the Claimant suffering from a rare genetic condition for which the Defendant was not responsible. Difficult issues as to distinguishing needs in any event from needs consequent on the brain damage, and as to life expectancy. Settled for retained sums of £5.45 million plus periodical payments rising from £220,000 pa to £283,500 pa.

GEHC v Winros [2020] 8 WLUK 247. Acted for the solicitors, jointly with another silk in large scale and important case concerning validity of CFAs, success fees, and the repudiation and termination of retainers. Costs involved some £12 million. Case currently under appeal.

ABC v Stockport NHS FT QBD 2020. Acted for Claimant who was born prematurely and suffered retinopathy of prematurity that was missed (the Claimant said negligently) in spite of weekly screening. Settled for full value of claim shortly before trial of breach of duty and causation. The Defendant had strongly contested the issue of provisional damages throughout, but then conceded this at settlement.

EC v Royal Devon and Exeter 2019 QB. Acting in unusual case for Claimant who had suffered above knee amputations of both legs following the birth of her child. Post-partum bleeding had been treated with embolisation, and this had led to blockage of the blood supply to the legs. The Claimant alleged negligence in the conduct of the obstetric surgery and post-operative care. Complex causation issues, but liability

settle on terms that Defendant pay 85% of damages to be assessed.

EMR v Cardiff & Vale UHB 2019 QB. Acted for Defendant in claim for cerebral palsy arising out of uterine rupture following previous caesarean section. Advised Defendant to contest breach and causation and make no offers. Claimant discontinued a month before trial.

Hislop v Perde/Kaur v Committee of Ramgarhia [2018] EWCA Civ 1726. Acted for successful Appellant in important case determining the proper approach to costs orders following the late acceptance of a Claimant's Part 36 offer. This was an important case both as regards the fixed costs regime and as regards Part 36 offers generally.

OTI v Guy's & St Thomas' 2018 QBD. Acted for Defendant in relation to claim by patient who had suffered brain damage following open heart surgery. Issues as to acceptable surgical and anaesthetic practice, including "bloodless cardiac surgery". Case settled on considerable liability discount.

Corin Metal-on-Metal hip replacement GLO 2017 QBD. Costs budgeting of large scale GLO involving costs budget of some £9 million. Successfully reduced opponent's budget by some £2.5 million.

Sugar Hut Group Ltd v Aj Insurance [2016] EWCA (Civ) 46 Acted for Appellant on Appeal to Court of Appeal against costs order at end of trial. Court of Appeal allowed the appeal and clarified the status of figures on which Part 36 offers are based: offerors cannot rely on them as if they were offers capable of acceptance.

MW and NW v (1) Dr Thomas (2) North West Strategic HA QBD 2016 Acted for Claimants in highly complex CP case arising out of birth and neonatal treatment of premature twins who both suffered brain damage but by two different mechanisms; settled on eve of liability trial on terms that one twin recovered more or less in full and the other recovered 75%. Recovered award with grossed up value of some £13 million.

B v Sherwood Forest Hospitals NHS Trust QBD 2016. Acted for Claimant in cerebral palsy claim arising out of mismanagement of the delivery of a second twin. The Defendant contested the claim on the ground of causation, contending that the brain damage was caused by neonatal thrombo-emboli. The causation defence was abandoned on the eve of trial, leading to judgment for damages to be assessed.

Bryant v St George's Healthcare NHS Trust QBD 2015 Instructed for Defendant in clinical negligence claim arising out of spinal surgery to repair a dural arterio-venous fistula. The Claimant discontinued on the eve of trial and paid the Defendant's costs.

Forster v North Cumbria University Hospitals NHS Trust QBD 2015. Instructed for a Claimant who had developed devastating chronic regional pain syndrome following the mismanagement of treatment of an ankle fracture with a Taylor Spatial Frame. The Claimant underwent amputation of the leg, but the pain persisted in her phantom limb and spread to the other leg and to the viscera. Settled shortly before quantum trial for PPs and retained sum worth some £4.4 million.

R v Zinga CA 2014 Intervened on behalf of BPI and FACT in Court of Criminal Appeal case as to costs recoverable by private prosecutors in IP and similar prosecutions.

Flack v Basildon and Thurrock QBD 2014 Acted for Defendant on brachial plexus injury case. Claim discontinued on eve of trial.

Rogers v Dr Woodhead and Central Manchester NHS Trust QBD 2013 Acted for Claimant in claim against GP and hospital for delay in diagnosis of Hinman's syndrome ("non-neuropathic neuropathic bladder"). Recovered in full against both Defendants at pre-issue RTM.

Hague and Hague v DLA SCCO 2013. Acting for solicitor on solicitor client dispute as to whether client was entitled to assessment of costs of £1.8 million. Successfully limited assessment to handful of bills amounting to £250,000.

Sheridan v Basildon & Thurrock NHS Trust QBD 2013. Acted for Defendant in defence of shoulder dystocia claim. Allegations of failure to obtain consent and of mismanagement of emergency. Claimant discontinued on eve of trial.

K v Maidstone and Tunbridge Wells NHS Foundation Trust QBD 2012: Acted for Claimant in CP case arising out of error by midwives who had been monitoring the maternal heart instead of the fetal heart. The central issue in the litigation was whether the clinicians should have become aware of the error in sufficient time for the Claimant to avoid injury. Settled shortly before trial on terms that Defendants paid around 75% of the full value of the claim.

XY v AB NHS Trust QBD 2012: Acted for Defendant in high value Fatal Accidents Claim where deceased's widower was successful screenwriter and actor and his career had been affected. Complex, difficult and sensitive negotiation. Settled on terms satisfactory to all parties.

S v Poole Hospitals NHS Trust QBD 2012: Acting for Claimant in brain damage case arising out of mismanagement of apnoeic episodes. Issues as to life expectancy, care regime and accommodation. Settled on basis of PPO and retained sum equivalent to lump sum award of £5.4 million.

Hodgerts-Jones v Ceredigion QBD 2011: Acting for Defendant in complex brain damage case arising out of subarachnoid haemorrhage following assault. Uncertainties whether independent care regime would succeed. Innovative settlement involving reverse indemnities.

Sherwood v Sherwood Forest [2011] EWHC 3104 (QB), Wilkie J, Acting for Claimant in CP case arising out of management of mother with diabetes, hypertension and other health problems. Causation issues as to effect of planned induction. Judgment for Claimant following trials on breach of duty and causation.

Foster v Clarke-Williams and Ball QBD 2011: acted for Claimant who had suffered sub-arachnoid haemorrhage which had not been diagnosed owing to intercurrent infection. Settled on basis of favorable liability split shortly before trial.

Emmett v Portsmouth Hospitals NHS Trust QBD 2011: acted for Claimant in claim arising out of delay in diagnosis of cranioma causing blindness. Complex issues of interrelation between pre-existing disabilities and effects of blindness. Settlement in sum of £1.25 million.

Al Badie v SJ Berwin SCCO 2011. Solicitor client dispute; client alleged significant work undertaken without authority. Issues as to difficulty of underlying litigation and client's failures to co-operate.

HMRC v Blue Sphere Global [2010] EWCA Civ 1448. Important Court of Appeal decision as to application of Part 36 offers to test cases and cases where clarification of law is in the public interest. Obtained first ever order giving effect to Claimant's part 36 offer in Revenue case.

General Optical Council v Boots, Burgess, Simmons 2009. The longest case ever conducted by the GOC. Issues as to training and supervision. Represented Richard Simmons who was the only Respondent found not guilty of misconduct.

Roach v Home Office [2009] EWHC 312 (QB): test case successfully establishing recoverability of costs of inquest in subsequent civil proceedings.

C v W [2008] EWCA 1459: determination by Court of Appeal of approach to setting of success fee in circumstances where liability has been admitted; dealing with the way in which the Part 36 risk should be taken into account.

Lord Chancellor v Rees [2008] EWHC 3168: determination of fees due to criminal barristers for massive VAT frauds under ex post facto assessment.

What others say

"Andrew Post has an outstanding ability to analyse complex information in a way that incorporates both considered legal analysis and commercial awareness." *Chambers UK, 2024*

"Andrew has an ability to see straight to the point of complex matters and to address them" *Chambers UK, 2024*

"He provides counter schedules that are realistic and that the clients are able to stand by at settlement meetings. He is also very user friendly which is helpful when dealing with complex cases." *Chambers UK, 2024*

"Andrew is highly knowledgeable, calm under pressure and provides excellent advice considering both the complex legal issues and the commercial aspects." *Chambers UK, 2024*

"A natural advocate - forensic and persuasive." *Legal 500, 2024*

"What comes across very clearly with Andrew is not just his expert knowledge on costs, which is a given, but how his broader practice provides insight and

balance." *Legal 500, 2024*

"Andrew's advice is spot on and right to the point." *Chambers UK, 2023*

"He is very knowledgeable and down to earth." *Chambers UK, 2023*

"He provides an excellent service." *Chambers UK, 2023*

"Andrew is an outstanding barrister and a joy to work with in complex and challenging cases. He is patient and thorough in his approach and supportive towards clients. He advises clearly and thoroughly and is always approachable." *Legal 500, 2023*

"Calm, knowledgeable, down to earth and with an easy going manner." *Legal 500, 2023*

"Experienced, calm and genuinely interested." "The best thing about Andrew is that he's direct." *Chambers UK, 2022*

"He's great with clients, smart and knowledgeable." *Chambers UK, 2022*

"His grasp of quantum is amazing." *Chambers UK, 2022*

"An excellent clinical negligence silk who has a knack for simplifying complex matters." *Chambers UK, 2022*

"An excellent advocate with no weaknesses." *Legal 500, 2022*

"He is brilliant at everything." *Legal 500, 2022*

"Meticulous analysis and calm delivery. An impressive performer in court." *Legal 500, 2021*

"A great barrister who always goes the extra mile and puts clients at ease." *Legal 500, 2021*

"A man of considerable intellect, experience and ability - he instils enormous confidence in his clients." *Chambers UK, 2021*

"Offers very concise advice and is extremely well prepared. He's well versed in all the various cases in this field and provides thoroughly detailed explanations of complex costs scenarios." *Chambers UK, 2021*

"A very user-friendly barrister who goes the extra mile for his clients." "Very forensic with great attention to detail." *Chambers UK, 2021*

"A good team player and someone that you would always want to have on your side if you had a complicated case." *Chambers UK, 2021*

"He's very thorough, detailed and doesn't leave any stone unturned." *Chambers UK, 2020*

"Very good at handling difficult clients." *Chambers UK, 2020*

"A hard-working, intelligent and highly skilled advocate who fights until the very end." *Chambers UK, 2020*

"He's unflappable and has a nice manner." *Chambers UK, 2020*

"His quiet demeanour disguises a fiercely competitive advocate who will not let you down" *Legal 500, 2020*

"He provides good strategic and realistic advice" *Legal 500, 2020*

"He is very knowledgeable and explains very complex cost arrangements very clearly, getting to the nub of the issue" *Chambers UK, 2019*

"A brilliant advocate who is very personable and extremely knowledgeable. He is a joy to work with" *Chambers UK, 2019*

"He is a great counsel with a keen eye for detail, fantastic number work and an excellent manner with clients" *Legal 500, 2019*

"Recommended for costs litigation" *Legal 500, 2019*

"A hard-working, intelligent and highly skilled advocate who fights until the very end for his clients. He is a ferocious opponent who clients feel very comfortable with" *Chambers UK, 2018*

"A seasoned and established practitioner" *Legal 500, 2017*

"Andrew has an exceptional ability to dissect and analyse complex legal issues. He is very professional, compassionate with the clients and a tough, determined negotiator." "Andrew marries a wealth of expertise and experience with an approachable manner. He gives shrewd and commercial advice." *Chambers UK, 2017*

"He is not afraid to nail his colours to the mast in his advice." "A leading silk in costs litigation." *Legal 500, 2016*

"A hardworking, intelligent and highly skilled advocate." *Legal 500, 2015*

"Extremely clever and excellent with clients." *Legal 500, 2015*

"He is great and one of those very clever people who gets to the nub very quickly"

"He's very personable, explains things well and has a nice manner with clients." *Chambers UK, 2015*

"An extremely bright barrister with first rate attention to detail and excellent advocacy." *Legal 500, 2014*

"Andrew is "very strong in this specialist field of costs." *Legal 500, 2014*

"Andrew is a superb advocate-you want him with you when the chips are down. Top

notch." *Chambers UK, 2014*

"Andrew "has particular prowess in cases involving difficult medical issues relating to breach of duty and causation." *Chambers UK, 2014*

"Singled out by peers as an extremely strong costs barrister." "Very eloquent, feisty and a real fighter. You know you're in safe hands." *Chambers UK, 2014*

Further information

Education: Trinity College, Cambridge: MA History (entrance scholar); City University: PGDL (distinction); ICSL: Bar Finals (placed second overall); Astbury Scholarship, various awards and prizes.

Appointments: Assessor for High Court costs cases

Other Legal experience: April-June 2003: volunteer international human rights lawyer in Palestine, working for a Palestinian NGO in East Jerusalem. Andrew worked, inter alia, on the LAW/PCATI application to the Israeli Supreme Court seeking a declaration that the Israeli Government's assassinations policy was illegal.

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