

# Andrew Bershadski

Call 2010



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Andrew Bershadski specialises in international group claims, personal injury, clinical negligence and employment work.

He is involved in a number of business and human rights international group actions in these areas and has extensive experience of litigation involving Africa and extractive industries.

“A real asset to have on board for your cases” – Legal 500 (Clinical Negligence, 2021)

“A conscientious barrister with a very good work ethic” – Legal 500 (Personal Injury, 2021)

Andrew’s business and human rights work includes continuing to act on behalf of the defendant in the *Kadie Kalma v African Minerals* case, a personal injury claim by 142 residents of north-eastern Sierra Leone against a large iron ore mine. Andrew appeared in both the High Court in 2018 and the Court of Appeal in 2020. The Court of Appeal’s judgment is now a seminal decision in the areas of common design and duty of care for acts of third parties in tort. Andrew acted on behalf of the defendant in the *Gemfields litigation*, a human rights claim involving the operation of a ruby mine in Mozambique, and is currently instructed in *Wambura v Barrick TZ Ltd*, which involves the operation of a gold mine in Tanzania. He has acted on behalf of over 4,000 claimants in their successful professional negligence action against a firm of solicitors following the loss of compensation monies paid out under a settlement of litigation relating to the dumping of toxic waste in the Ivory Coast (*Agouman v Leigh Day* [2016] EWHC 1324 (QB)). He has also represented Nigerian litigants in an action against *Chevron Corporation* before the courts of San Francisco.

Andrew undertakes a large amount of clinical negligence and personal injury work, in which he is instructed both as sole counsel and is regularly led. He acted on behalf of the defendant at trial in a case involving alleged unnecessary and unconsented-for surgery for pancreatic cancer (*Sarah Pepper v Royal Free London NHS Foundation Trust* [2020] EWHC 310), and a number of claimants in the *JJML Pelvic Organ Prolapse vaginal mesh litigation*. His appellate work includes acting for the defendant in *Kamal Williams v*

*Bermuda Hospitals Board* [2016] AC 888, in which he made submissions to the Board on the law of material contribution causation in the commonwealth.

Andrew is a member of the Attorney General's C Panel of Counsel and is a native Russian speaker.

## Expertise

### International Group Claims / Business & Human Rights

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Andrew has an extensive practice in the fast-growing field of international business and human rights cases.

#### Notable International Group Claims / Business & Human Rights cases

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Wambura v Barrick TZ Ltd

Acting for the defendants in a High Court action in relation to injuries at a Tanzanian gold mine (ongoing).

Gemfields

Acting for the defendants in a case brought by 273 Mozambicans alleging human rights violations around a ruby mine (case settled).

Kadie Kalma v African Minerals Ltd

Acting for the defendant in a group action brought by 142 Sierra Leoneans against companies involved in an iron ore mine. Successfully represented the Defendant in the High Court ([2020] EWHC 310 (QB)) and in the Court of Appeal ([2020] EWCA Civ 144) (with Neil Moody QC and Robert Cumming). The Court of Appeal judgment is now a leading authority on common design and duty of care in negligence for the acts of third parties.

Agouman v Leigh Day

Acting for over 4,000 successful claimants in an action arising from toxic waste dumping in the Ivory Coast ([2016] EWHC 1324 (QB)).

### Clinical Negligence

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Andrew is regularly instructed in all aspects of clinical negligence work. He acts for both defendants and claimants, and has fought many trials in the High Court and the county court, including as sole counsel against a QC. He has been instructed in vaginal mesh claims on behalf of claimants and has experience of

regulatory and disciplinary work.

## Notable Clinical Negligence cases

S v Homerton University Hospital NHS Foundation Trust [2020]

Representing the defendant (led by Ben Browne QC) in a birth injury case involving cross-border issues, with the claimant residing in Canada.

Sarah Pepper v Royal Free London NHS Foundation Trust [2020] EWHC 310

Acted as sole counsel in 5-day trial for the defendant, successfully, in a case alleging that the defendant's HPB surgeon had failed adequately to consent the claimant for a pancreaticoduodenectomy (Whipple procedure), and that the surgery had been carried out unnecessarily.

A & C v Leicestershire Partnership NHS Trust [2019]

Acted for the defendant in 3-day trial, successfully, where it was alleged that the defendant's decision to discharge a patient from detention under section 2 of the Mental Health Act 1983 was negligent and caused her to commit suicide.

Jean North v Royal Free London NHS Foundation Trust [2019]

Acted for the defendant in a 2-day trial, successfully, where it was alleged that surgery was negligently not offered for a radial wrist fracture.

JJML Pelvic Organ Prolapse litigation [2019]

Acted for the claimants in a multi-party group action claim relating to vaginal mesh products.

Gyorgy Rakoczy [2020]

Represented, pro bono, a paediatric surgeon in a review hearing before the Medical Practitioners Tribunal Service.

Kamal Williams v Bermuda Hospitals Board [2016] AC 888

Appeared in the Privy Council, as junior to Caroline Harrison QC, in what has now become one of the leading judgments on the doctrine of material contribution in causation.

## Personal Injury

Andrew is regularly instructed as sole counsel, and led, in high-value personal injury actions. He acted both

in the High Court and the Court of Appeal in the seminal case of *Kalma v African Minerals*. He has also undertaken work on a number of cases for the Government of St Helena.

## Notable Personal Injury cases

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### *Kadie Kalma v African Minerals Ltd*

Acting for the defendant in a group action brought by 142 Sierra Leoneans against companies involved in an iron ore mine. Successfully represented the Defendant in the High Court ([2020] EWHC 310 (QB)) and in the Court of Appeal ([2020] EWCA Civ 144) (with Neil Moody QC and Robert Cumming). The Court of Appeal judgment is now a leading authority on common design and duty of care in negligence for the acts of third parties.

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### *BB v Attorney General of St Helena [2020]*

Acting as sole counsel on behalf of the defendant in relation to a public authority's alleged failure to protect the claimant from familial sexual abuse. Andrew has appeared alone, against a junior and QC, before the Court of Appeal of St Helena (sitting in the United Kingdom).

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### *Camilla Bonsor v Bio Collectors Ltd [2020]*

Acting on behalf of the defendant in a catastrophic injury case where the claimant suffered an amputation following a road traffic accident in Kensington (ongoing).

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### *Burgess v Tina Hutchinson [2020]*

Acting on behalf of the defendant in a catastrophic brain injury case following road traffic accident in 2017 (ongoing).

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## Employment

Andrew regularly appears before the employment tribunals on behalf of both claimants and respondents, and has undertaken investigations on behalf of employers.

## Notable Employment cases

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### *Cubbin v College of Policing [2020]*

Representing the respondent in a disability discrimination claim brought by an unsuccessful applicant for a marketing job.

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### *Underdown v Kent Community Health Foundation NHS Trust [2020]*

Represented the respondent, successfully, in 3-day unfair constructive dismissal claim brought by a senior

sexual health nurse.

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Earnshaw & Bentley v Advisory, Conciliation & Arbitration Service (ACAS) [2019]

Represented the respondent in a gender and age discrimination claim.

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Melendez v Kepler Cheuvreux [2019]

Acted for the respondent in relation to an unfair dismissal claim brought by a former banker.

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## Appointments

- Attorney General's C Panel of Counsel

## Awards

- Winner, 5RB Media Law Moot, Inner Temple
- Runner-up, Lawson Moot, Inner Temple
- Winner, Inter-Varsity Moot, Inner Temple
- 'Best Advocate', Henderson Chambers EU Moot at Sidney Sussex College
- Internship Award, Inner Temple
- Exhibition, Inner Temple
- Peta Fordham Scholarship Benefactor's Award, Inner Temple
- Duke of Edinburgh Entrance Scholarship, Inner Temple

## Education

- BA Law & History, Sidney Sussex College, Cambridge University

## Languages

- Russian

# Recommendations

*“Andrew is extremely responsive and very astute in the way he approaches problems.” “He is very responsive and he produces very clear and incisive work, including pleadings and general advice.” “He is very focused and commercial.” “Andrew is brilliantly intellectual and very user-friendly.” “He has good attention to detail with ability to focus in on the heart of the case.” “His drafting in complex cases is impressive.” “He is very approachable and has a good manner with clients.”*

**Chambers UK 2024**

*“Highly intelligent and very hard working. He is a forceful and persuasive advocate including in the Supreme Court.” “Highly intelligent, well organised and very hard working. Andrew is a forceful advocate and is very good with clients.”*

**Legal 500 2024**

*“Andrew is formidably bright, hardworking and always very well-prepared. He has a high reputation as an advocate.” “Andrew is an insightful barrister who uses his intellect to find innovative solutions to tricky legal problems. Whilst he is an excellent adversarial advocate and an incisive cross-examiner he is equally capable of getting results with charm and persuasiveness. An excellent all-rounder.”*

**Legal 500 2023**

*“His significant expertise and insight in the subject area are invaluable, as is his ability to work according to different jurisdictions.” “He has a keen eye for detail and an encouraging willingness to consider all possible avenues of a claim.” “He is articulate and understands the issues at heart.”*

**Chambers UK 2023**

*“He is a very intelligent barrister, who is quick to analyse and evaluate and easy to work with.” “He is calm under pressure and very skilled.”*

**Chambers UK 2022**

*“Andrew is highly intelligent and highly organised. An excellent advocate.”*

**Legal 500 2022**

*“A real asset to have on board for your cases” “A conscientious barrister with a very good work ethic”*

**Legal 500 2021**