



Sahana Jayakumar



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Sahana joined Crown Office Chambers in 2021 and has broad practice encompassing construction disputes, corporate and personal insolvency, property damage and commercial litigation and arbitration. Sahana has particular experience of advising on and acting in proceedings for the enforcement of contractual and judgment debts and prides herself on giving practical, commercial advice at all stages of a case. Sahana regularly appears as sole counsel in the County Court and High Court, and is also comfortable being led as a junior on more complex matters.

Sahana has experience of advising on jurisdictional issues and working on matters with a cross-border element, both in litigation and international arbitration disputes. She has experience of working in Dubai and Paris, and has rights of audience in the Astana International Finance Centre Courts in Nur-Sultan, Kazakhstan. She is currently working towards an LLM in International Dispute Resolution awarded by the School of International Arbitration at Queen Mary University, London.

Commercial

Sahana acts in a variety of commercial cases involving sale of goods, supply of services, the enforcement of guarantees, financial agreements, and company matters. Sahana has particular experience of the enforcement of commercial debts and obtaining charging orders, orders for sale and possession of property on behalf of lenders.

Selected Cases

- Acting as junior counsel and drafting a defence to a £14 million claim in deceit, negligent misrepresentation breach of warranty in relation to the sale of a company.
- Acting on behalf of a variety of businesses in claims for unpaid fees in consumer and business contracts.
- Acting for lenders in disputes arising out of factoring agreements, bridging finance agreements, and contracts of guarantee.
- Acting on behalf of a Claimant in a claim for breach of a contractual obligation of good faith and

fidelity and breaches of fiduciary duty towards an employer.

- Advising on a potential defence of undue influence in relation to an unlimited contract of guarantee.
- Acting in relation to a shareholders' dispute concerning whether shares held by a director were held on trust for his brother and mother.
- Advising on the merits of a claim for breach of contract against a bailee, in circumstances where the bailee was said to have improperly appropriated payments by the bailor towards particular debts.
- Acting on behalf of a lender in relation to a claim under s.75 Consumer Credit Act 1974 involving allegations of fraud and misrepresentation against a company purporting to offer the claimants a time share in Spain.
- Advising on whether the cashing of a cheque accompanying an offer to settle a claim constituted binding acceptance of the settlement offer, or whether the cheque could be accepted as part payment for the full sum claimed.
- Acting in a two-day trial for the recovery of sums due under a loan agreement in circumstances where it was alleged that the sums had already been repaid as part of a compromise agreement in separate TLATA 1996 proceedings.
- Advising on an application for an injunction and the appointment of an equitable receiver to prevent a judgment debtor from dissipating sums in breach of a final charging order.

International Arbitration

Sahana is developing an international arbitration practice to complement her commercial experience. Prior to coming to the Bar, Sahana worked as a *stagiaire* in the International Arbitration team of an international law firm in Paris, assisting with filings in a multi-billion dollar ICC Arbitration. In 2018, Sahana spent time working for a renowned Middle-Eastern law firm in the Dubai International Finance Centre and working in the Registry of the DIFC Courts. Sahana is also currently working towards an LLM in International Dispute Resolution awarded by the School of International Arbitration at Queen Mary University of London.

Selected Cases

- X v Y and Z (ICC) (ongoing) – acting as junior counsel (led by Roger ter Haar QC) defending a multi-million dollar claim for damages following termination of a contract for construction works in the Middle East.
- A v B (LCIA) – Acting as junior counsel in a USD 5 million arbitration regarding a contract for services in Saudi Arabia.
- Advising on issues relating to the jurisdiction of an arbitrator and conflicting dispute resolution clauses in successive commercial contracts.
- Drafting an application and supporting evidence to set aside an arbitral award in the DIFC Courts on the grounds of public policy.

Insolvency

Sahana has experience of a wide range of corporate and personal insolvency matters, including applications to set aside statutory demands, transactions at an undervalue and/or transactions to defraud



creditors, validation order applications and private examinations. Sahana is comfortable advising clients on whether the presentation of a winding-up petition or bankruptcy petition is a suitable means of recovering commercial debts, and regularly attends hearings in the County Court and the High Court Insolvency and Companies List on behalf of creditors and debtors.

Selected Cases

- *Lynch v Cadwallader and Anor* [2021] EWHC 328 (Ch) – acting as junior counsel in a six-day s.303 Insolvency Act 1986 application challenging a proof of debt pursuant to a contract of guarantee worth over £1 million.
- Acting for trustees in bankruptcy in relation to an application to challenge a declaration of trust as a sham or potential transaction at an undervalue pursuant to s.339 Insolvency Act 1986.
- Acting in an application to set aside a statutory demand in bankruptcy concerning issues of agency and the equitable duty owed by a receiver towards a mortgagor and mortgagee.
- Acting in an application for a validation order on behalf of a bankrupt in circumstances where the court had to consider the property rights of the bankrupt's ex-wife pursuant to an order of the Family Court.
- Acting in a preliminary hearing to determine whether or not the coronavirus conditions in Sch 10 CIGA 2020 had been satisfied prior to the presentation of a winding-up petition. The case also involved advising the client on breaches of directors' duties.
- Acting in an application to set aside a statutory demand in bankruptcy concerning the issue of whether a potential fraud perpetrated by a company was sufficient grounds to set aside a statutory demand presented against the company's guarantor.

Construction & Engineering

Sahana has experience of construction disputes covering adjudications, litigation and arbitration.

Prior to coming to the Bar, Sahana worked in the International Arbitration and Construction and Engineering teams of a renowned international law firm, spending time in the firm's London and Paris offices as a legal assistant and a *stagiaire*. During this time she also contributed to *Studies in European Construction Law (2015)*, published by the European Society of Construction Law.

Selected Cases

- Acting as junior counsel defending a £14 million claim for deceit and/or negligent misrepresentation arising out of the sale of a company specialising in groundworks and soil treatment.
 - Drafting pleadings and appearing on behalf of a defendant in a building works dispute involving issues of unjust enrichment and agency.
 - Drafting pleadings and acting in a multi-track claim on behalf of a company accused of failing to properly install windows in residential premises.
 - Acting in a trial for unpaid invoices pursuant to a contract for the renovation of a family property.
 - Acting on behalf of a lender following the assignment of a debt for the supply of windows, doors and conservatories to a contractor. The claim was defended on the basis of an entitlement to set-off under contractual warranties given by the supplier.
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- Acting in an adjudication concerning the determination of the applicable dayworks rate under a JCT contract, in circumstances where it was alleged that the adjudication was an abuse of process because litigation covering the same subject matter had previously been struck out in the County Court.
- Advising on the merits of a claim by a contractor for damages under a JCT subcontract for disruption, as well as claims for payment for variations and additional work.

Property Damage

Sahana has experience of advising and acting in property damage claims arising out of breaches of contractual obligations, negligence and breach of statutory duties. Prior to joining Crown Office Chambers, Sahana gained experience of advising local authority landlords on issues of disrepair in residential properties and breaches of repair obligations in leasehold disputes.

Selected Cases

- Acting in a claim under s.1 of the Defective Premises Act 1972 in relation to an alleged leak caused by the allegedly defective construction of an eco-roof on a residential building.
- Acting against the builder and seller of a residential property in a claim for damage caused by subsidence involving breaches of the DPA 1972, negligence and allegations of fraudulent and/or negligent misrepresentation prior to the sale of the property.
- Advising on the merits of a claim for damage caused by a fire at a holiday home in Scotland.
- Acting in claims for damage and business interruption arising out of the escape of water at commercial premises.
- Advising on the prospects of recovery for damage caused by the presence of tree roots and inadequately constructed foundations.

Qualifications

- LLM International Dispute Resolution, Queen Mary University of London (ongoing)
- MA Law with French Law, Christ Church, University of Oxford.
- Certificat Supérieur de Droit Français et Européen (ERASMUS Scholar), Université Paris II (Panthéon-Assas)
- BPTC, BPP University

Languages

- Professional working French
- Intermediate spoken Kannada
- Basic Spanish
- Basic Hindi



Memberships

- COMBAR
- LCIA Young International Arbitration Group
- TECBAR
- Society of Construction Law
- LCLCBA