



Sahana Jayakumar



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Sahana Jayakumar joined Crown Office Chambers in 2021 and has a practice encompassing construction disputes, 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, including advising on issues of corporate and personal insolvency, and prides herself on giving practical, commercial advice at all stages of a case.

In addition to her busy domestic practice, Sahana has experience of acting in international arbitrations and advising on jurisdictional issues in matters with a cross-border element. She has spent time in law firms in the DIFC in Dubai and in Paris, and has rights of audience in the Astana International Finance Centre Courts in Nur-Sultan, Kazakhstan.

Construction

Sahana has experience of construction disputes covering adjudications, litigation and arbitration. Sahana is regularly instructed in relation to short-notice adjudication proceedings and has experience of applying for summary judgment to enforce decisions and of acting in Part 8 claims for declaratory relief.

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.

Sahana is the editor of the chapter on Third Party Rights in Emden's *Construction Law* by Crown Office Chambers. In 2023, Sahana also recorded a CPD webinar entitled "Collateral Warranties and Third Party Rights" for Lexis Nexis.

Selected Cases

- *A Housing Association v A Main Contractor* – Advised and drafted submissions responding to an adjudication in which the referring party claimed £5.5 million for alleged fire safety defects in a

residential block. The matter was withdrawn from adjudication following receipt of the response and a robust jurisdictional challenge.

- *Shaylor Group Limited (in administration) v Valescure Property Limited (in liquidation)* [2024] EWHC 750 (TCC) – Acting on behalf of a company in administration in an unusual Part 8 claim brought by the successful party following an adjudication. The case provides guidance on the interpretation of the Employer’s obligations under clause 8.7.4.3 of the JCT Design and Build terms and a detailed analysis of when a court will exercise its discretion to grant declaratory relief.
- *Dunelm Geotechnical & Environmental Limited v Bray Cranes Limited* [2023] EWHC 2661 (Comm) – Acting as sole counsel in a three-day trial concerning the incorporation of Construction Plant-Hire Association Standard Terms into a contract for crane hire and a lift.
- *Giant Trading Company (in liquidation) v Z&K Partners Limited* (11 September 2023, Central London CC) – Acting on behalf of a Claimant company in liquidation seeking to enforce an adjudication award in its favour. Sahana was successful in obtaining summary judgment on behalf of the Claimant despite its insolvent status and the difficulty of enforcing adjudication awards in such circumstances since *John Doyle v Erith*.
- *Abbey Healthcare (Mill Hill) Ltd v Simply Construct (UK) LLP* [2022] EWCA Civ 823 (led by Michele De Gregorio) – Acting as junior counsel for the Respondent in a significant case concerning whether a collateral warranty was a construction contract within the meaning of s.104 of the Housing, Grants, Construction and Regeneration Act 1996.
- *G&D Brickwork Contractors Limited v Marbank Construction Limited* [2021] EWHC 3009 (TCC) – Sahana acted for the responding party in the underlying adjudication, in which the response was served without prejudice to the primary case that the adjudicator had no jurisdiction in the matter. Dermot Woolgar appeared in the High Court in relation to the Part 8 Claim in which enforcement of the adjudicator’s award was refused on the grounds of abuse of process.
- *A Company v A Heating Systems Installer* – Acting for the defendant in a claim regarding the allegedly defective installation of biomass combined heat and power systems on a farm. The claim involved allegations of misrepresentation and a detailed analysis of the operation of the Renewable Heat Incentive Scheme Regulations 2011.
- *A Main Contractor v A Specialist Electrical Subcontractor* – Drafting a defence to a claim worth £700,000 concerning the allegedly defective installation of busbar for the supply of electricity in a large commercial office block.
- *2 Homeowners v (1) A Contractor and (2) an Architect* – Drafting pleadings on behalf of a contractor in a claim for allegedly defective construction works at a residential property.
- *A Commercial Lender v Supplier* – 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.
- *A Homeowner v A Contractor* – Advising and drafting pleadings in a claim against the builder and seller of a residential property relating to damage caused by subsidence and involving breaches of the DPA 1972, negligence and allegations of fraudulent and/or negligent misrepresentation prior to the sale of the property.

International Arbitration

Sahana has acted as junior counsel in a number of international arbitrations in the Middle East and is familiar with both institutional and ad-hoc proceedings. 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 as a Pegasus scholar working for a



renowned Middle-Eastern law firm in the Dubai International Finance Centre and working in the Registry of the DIFC Courts.

In 2023, Sahana was awarded a distinction in her LLM in International Dispute Resolution from Queen Mary University of London's School of International Arbitration. Sahana was awarded a distinction for her dissertation entitled "Arbitral Awards and Third Parties: Towards a Principled Approach to Preclusive Effect?".

Selected Cases

- *C v D* (Ad-Hoc)– Acting as junior counsel (led by Anna Laney KC) bringing a multi-million OMR claim for extensions of time and damages for out-of-scope work carried out under a contract for the construction of a hotel in Oman.
- *X v Y and Z* (ICC) (ongoing) – Acting as junior counsel (led by Roger ter Haar KC) 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 IT 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.

Commercial

Sahana acts in a variety of commercial cases involving contracts for the supply of goods and services, the enforcement of guarantees, financial agreements (including factoring and invoice discounting facilities), and company matters. Sahana has advised and acted in many cases involving the enforcement of commercial debts and obtaining charging orders, orders for sale and possession of property on behalf of lenders.

In 2018, Sahana was awarded a Pegasus Trust Scholarship to spend three months working in Dubai in the DIFC litigation department of a leading law firm and the registry of the DIFC Courts. During this time, Sahana carried out work including:

- Drafting detailed research notes on the recoverability of consequential damages and company ownership under UAE law.
- Drafting requests to produce and reviewing document production in a complex insurance claim governed by UAE law and subject to the rules of the DIFC Courts.
- Drafting an application and supporting evidence to set aside an arbitral award in the DIFC Courts on the grounds of public policy.

Selected Cases

- *Dunelm Geotechnical & Environmental Limited v Bray Cranes Limited* [2023] EWHC 2661 (Comm) – Acting as sole counsel in a three-day trial concerning the incorporation of Construction Plant-Hire
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Association Standard Terms into a contract for crane hire and a lift.

- *Lynch v Cadwallader and Anor [2021] EWHC 328 (Ch)* – Acting as junior counsel in a six-day trial concerning issues of allegedly forged signatures in a contract of guarantee worth over £1 million.
- *A Private Equity Fund LP v Directors of a Firm* – Acting as junior counsel and drafting a defence to a £14 million claim in deceit, negligent misrepresentation and breach of warranty in relation to the sale of a company.
- *Re a Dental Practice* – Advising on the merits of a claim for breach of a share purchase agreement and in relation to the merits of resisting an application for an injunction to restrain the presentation of a winding-up petition.
- *A Company v (1) A Former Employee (2) A Company* – Acting for a supplier of plywood and timber products in a claim against a former employee and said employee’s new company alleging breaches of obligations of good faith and fidelity, dishonest assistance and knowing receipt arising out of sales and clients that were diverted from the supplier. The case involved a detailed analysis of the claimant’s losses and a number of issues around disclosure as it was alleged that the first defendant had attempted to destroy or conceal documents to hide the true extent of the supplier’s losses. The matter settled before trial.
- *A Company v 4 Former Employees and Others* – Acting as junior counsel, led by Isabel Hitching KC, advising and drafting particulars of claim on behalf of a company alleging breaches of duties of good faith and fidelity and unjust enrichment against 4 former employees.
- *2 Individuals v (1) Sole trader (2) National Supplier of Building Materials* – Acting on behalf of a supplier of building materials in a summary judgment application dealing with issues of agency and contracts on behalf of disclosed and undisclosed principals.
- *Re a Property Development Consultant* – Advising on the merits of a claim for unpaid consultancy fees on a £12 million construction project.
- *Re a Commercial Lender* – 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.
- *Re a Building Contractor* – 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.
- *An Individual v A National High Street Bank* – 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.

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

- *A homeowner v (1) Seller and (2) Manufacturer* – Acting in an application for specific disclosure and advising on settlement in relation to a claim following an escape of water from a faulty residential boiler.



- *A Company v A Contractor* – Drafting pleadings in a claim for damages and business interruption following an escape from water in commercial premises.
- *A Company v A Vendor* – Drafting pleadings and advising in a claim for damage following a fire caused by an electrical component within a refrigerator.
- *A Homeowner v A Utility Company* – Drafting pleadings in a claim for damage following an escape of water from a broken water pipe.
- 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.

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 appears 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.
- *Re a Bankrupt* – 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.
- *Re a Debtor* – 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.
- *Re a Bankrupt* – 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.
- *Re a Company* – 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.
- *Re a Debtor* – 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.
- *Re a Company* – Acting on behalf of a petitioner resisting an application to restrain presentation of a winding-up petition.

Qualifications

- LLM International Dispute Resolution, Queen Mary University of London
- MA (Hons) Law with French Law, Christ Church, University of Oxford.



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- 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