



Shaman Kapoor

Year of Call: 1999

Practice Areas

- Civil Fraud
- Commercial
- Costs
- Credit Hire
- Insurance
- Personal Injury
- Professional Discipline

Mediator

Qualified Mediator

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Awards

Experience

Shaman's practice covers several fields of commercial and common law with his costs practice bridging over both fields. He is regularly in the High Court and SCCO and continues to seek opportunities to expand his practice both domestically and internationally. He is a regular speaker at seminars for membership organisations as well as for clients in-house and Chambers seminar programme.

His commercial law experience includes international arbitration and domestic and international commercial disputes including contractual arrangements associated with financial investments, construction projects, high net worth individuals, oil and gas, software developers and global corporations. He has experience of contractual interpretation, promissory note disputes and shareholder disputes. He is motivated to develop his international practice and has sought opportunities in recent years in Dubai, Dublin, Munich and Singapore.

Since 2005, his costs practice has grown with vigour and he is well-known amongst practitioners and the judiciary. He enjoys the technical points and the diversity of practice areas to which costs work applies and is regularly involved in costs budgeting, enforceability arguments, assessments and advisory and drafting work on retainers.

His common law experience is broad and has developed



through the fields of serious personal injury, coroner's inquests, credit hire, insurance fraud and employment law.

He was a contributing editor to Greenslade on Costs (looseleaf practitioner text from Sweet & Maxwell) 31/01/2009 - 31/01/2017, and is the Editor of the TGC Costs Newsletter.

Directories

He is ranked in Chambers & Partners for costs where he is described: "Has the right mindset to be able to compromise with the other side on commercial terms; if not able to settle, he is, however, a robust advocate who stands up for the cause." "He is concise and easily understandable." (2018) "Absolutely brilliant with the client". (2017) "His attention to detail and ability to cut to the chase is pretty invaluable. He's able to come out with facts on the case rather than just knowledge of the law, which really helps to hammer home the issues to the judge." "He's an efficient junior with a good eye for figures." (2016)

He is ranked in Legal 500 as a leading Junior and is "recommended for costs budgeting" (2018), noted for being "up and coming" (2017), "enthusiastic, clear in his advice and his advocacy is excellent" (2016), "tough and always fights hard for his clients" (2015), a "pragmatic and forceful advocate" (2014) and for his "ability to manage clients' expectations from the very earliest stage, and for his confidence in court" (2013).

Education

University College London (LLM); City University ICSL (BVC); Manchester Metropolitan University (LLB.Hons) Law with French

Memberships

PIBA
Lincoln's Inn Advocacy Tutor

Languages

Punjabi
French

Cases

BE IN v GOOGLE

22/02/2018

Barristers involved: Shaman Kapoor

Working as junior counsel in the preparation and issue of a claim in the Commercial Court against Google for breach of a non-disclosure agreement and duty of confidence.

ROBINSON v EMW LAW LLP

22/02/2018

Barristers involved: Shaman Kapoor

A hotly contested detailed assessment requiring Shaman's input on the preliminary points of the enforceability and scope of the retainer, and the recoverability of consultancy fees for a solicitor who was a party in the substantive litigation. Shaman's client won the legal arguments at first instance before Master James and Shaman continues to act in the Appeal listed in April 2018.

RBoS SHAREHOLDERS ACTION GROUP LIMITED v FLADGATE LLP

22/02/2018

Barristers involved: Shaman Kapoor

Recognised by The Lawyer's Top 20 Cases of 2017, this litigation arises out of RBoS's 2008 shareholder rights issue intended to generate £12bn, but which left shareholders with a wiped-out valuation after RBoS's nationalisation. Shareholders brought claims for mis-selling amongst other losses and the litigation is the subject of a group litigation order. Shaman has been instructed to advise on inter-partes and between the parties costs.

COVENTRY & ORS V LAWRENCE & ORS - Supreme Court

14/07/16, 13/10/16

Barristers involved: Shaman Kapoor

Instructed to deal with the detailed assessment of the costs in the Supreme Court proceedings where, amongst other issues, the recoverability of additional liabilities was asserted by the opposing party as being incompatible with the ECHR.

New Proportionality And Additional Liabilities : Murrells v Cambridge University NHS Foundation Trust

20/01/2017

Barristers involved: Shaman Kapoor

Shaman Kapoor successfully represented the Claimant in this case before Master Brown who was sitting as a judge of the County Court, albeit in the SCCO. The case arose out of a claim for clinical negligence that settled shortly after the defence for a sum of £9,650 plus costs on the standard basis.

The case involved the application of both the old and the new proportionality tests, and when it came to the application of the new test, it raised issues about the application of 'new proportionality' to the additional liabilities.

The costs claimed were £140,000 odd net of VAT. Part 1 (to which the old test applied) claimed £59,000 odd, and Part 2 (to which the new test applied) claimed £81,000 odd (which included the staged premium of £22,737).

The CFA was entered into on 04/09/12 with the benefit of an ATE policy taken out on 11/09/12. Thus the additional liabilities were all pre-LASPO.

Part 1 base costs (£32,000) were deemed to be disproportionate and the Court allowed £16,000 odd. Part 2 base costs were also reduced to £20,000 odd following the line-by-line assessment.

The success fee was assessed at 82% (instead of 100% claimed). The premium had not been separately challenged in the PoDs,

and was attacked only through the overall submission that the new proportionality test should apply to Part 2 and to additional liabilities following Master Gordon-Saker's judgment in *BNM v MGN Ltd* [2016] EWHC B13.

After the Court's application of proportionality to Part 1, determination of the preliminary points (hourly rate, success fee etc.) and the line-by-line assessment, the Court arrived at the total figure of £94,000 odd on the bill. In considering the application of 'new proportionality' to Part 2 and the additional liabilities, the Court was referred to *BNM* and Master Rowley's judgment in *King v Basildon & Thurrock University Hospitals NHS Foundation Trust* (30/11/16).

Master Brown agreed with Master Rowley (thus disagreeing with the decision of Master Gordon-Saker) in finding that additional liabilities are not subject to the new proportionality test, and that even if they were, that they should not be aggregated with the Claimant's base costs for the purposes of applying that test.

In his analysis of the treatment of additional liabilities historically, Master Brown took heed of the approach in *Coventry v Lawrence* [2015] AC 106; *Atack v Lee* [2005] 1 WLR 2643 (success fees); and *Rogers v Merthyr Tydfil* [2007] 1 WLR 808 (ATE premiums). From those cases he found that the approach had always been to consider the proportionality of additional liabilities separately in any case. He noted also the change in the definition of "costs" under the new rules (as had Master Rowley in *King*) and concurred that costs in new CPR 43 should not encompass additional liabilities. He concluded that it was the intention of Parliament to preserve the rules which related to the recovery of additional liabilities. If that were not the case, there would be considerable prejudice upon litigants and lawyers who entered into such arrangements in the reasonable expectation that the additional liabilities would continue to be recoverable as they were pre-LASPO.

On the question of the application of the new proportionality test more generally, Master Brown was taken to *Kazakhstan Kagazy Plc v Zhunus* [2015] EWHC 404; *Hobbs v Guy's & St Thomas's NHS Foundation Trust* (02/11/15), Master O'Hare; *May v Wyvell Group* [2016] EWHC B16, Master Rowley; and the rule on proportionality itself. Upon reflection, after the line-by-line assessment on Part 2, the Part 2 figure was not held to be disproportionate and no further reduction was made.

Permission to appeal has been granted.

Judgment handed down on 17/01/17 - Master Brown.

Al Khorafi & Ors V (1) Bank Sarasin-Alpen (ME) Limited (2) Bank Sarasin & Co. Limited

Dubai International Finance Centre Court - CFI 026/2009
2015

Barristers involved: Shaman Kapoor

The substantive litigation concerned the mis-selling of financial investment products to the Claimants. The investments concerned a total sum of USD \$230M. Judgment has been obtained and quantum assessed at USD \$75M. The substantive litigation is the subject of appeal, however, Shaman has been instructed to advise the Claimants in the first instance on the issue of costs..

A v A firm of solicitors

2015

Barristers involved: Shaman Kapoor

The Claimant brought a claim for damages arising out of professional negligence in drafting an agreement as between it and a Russian oil exploration service provider, in which the Claimant was to have secured certain fees for brokering deals in India. The case settled.

A Firm of Solicitors (Assigning CFAs to an incorporated entity)

22/04/2014

Barristers involved: Shaman Kapoor

Advising on the relatively uncharted territory of assigning CFAs from one firm of solicitors to another entity, with the potential for far reaching consequences given the book value.

ICC Arbitration - Software Provider v Global Telecoms Giant

2014

Barristers involved: Shaman Kapoor

The dispute focused on the interpretation of contractual terms as between the parties in respect of the Claimant contractor providing open source software services. The case turned on whether a minimum commitment amount of USD \$14M was payable to the Claimant. The case resolved at a mediation a few weeks before a final arbitration hearing.

Burton v Delta Whiskey Group

14/12/2013

Barristers involved: Shaman Kapoor

An early example post-Mitchell of relief being granted over a failure to serve a N251 notice of funding.

Publications

TGC Costs Newsletter Vol IV

04/06/2019

Authors: Richard Wilkinson Shaman Kapoor Lionel Stride Anthony Johnson Richard Boyle Matthew Waszak Ellen Robertson James Yapp Juliet Wells Harriet Wakeman Olivia Rosenstrom

Please see link below to the latest update from the TGC Costs Team.

You can view the publication on our website <http://tgchambers.com>

TGC Costs Newsletter Vol III

10/12/2018

Authors: Simon Browne QC Shaman Kapoor Mark James Richard Wilkinson Paul McGrath Richard Boyle Lionel Stride Ellen Robertson James Yapp Robert Riddell Matthew Waszak

Please see link below to the latest update from the TGC Costs Team.

You can view the publication on our website <http://tgchambers.com>

TGC Costs Newsletter

17/05/2018

Authors: James Laughland James Arney Paul McGrath Shaman Kapoor Lionel Stride Sian Reeves Richard Boyle Matthew Waszak Ellen Robertson

Please see link below to the latest TGC Costs Newsletter.

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Partners in Costs Magazine

21/02/2017

Authors: Simon Browne QC Shaman Kapoor

Simon Browne QC and Shaman Kapoor are contributors to the Spring Edition of the PIC Magazine. The Pitfalls of Refusing ADR by [Simon Browne QC](#). The Heat is On by [Shaman Kapoor](#).

Age Discrimination

18/02/2006

Authors: David Barr QC Shaman Kapoor Angus Edwards, Benjamin Hay and Alison Hewitt
A guide to the Employment Equality (Age) Regulations 2006

News

TGC Costs Newsletter

04/06/2019

Barristers involved: Richard Wilkinson Shaman Kapoor Lionel Stride Anthony Johnson Matthew Waszak Ellen Robertson James Yapp Richard Boyle Juliet Wells Harriet Wakeman Olivia Rosenstrom
Please see link below for the 4th edition of the the TGC Costs Newsletter.

You can view the publication on our website <http://tgchambers.com>

Edward Hutchin and Shaman Kapoor appointed as Deputy District Judges

13/03/2019

Barristers involved: Edward Hutchin Shaman Kapoor
Temple Gardens Chambers congratulates Edward Hutchin and Shaman Kapoor on their appointment today by the Lord Chief Justice as a Deputy District Judge on the South Eastern Circuit.

Welcome to the new Electronic Bill of Costs

12/03/2019

Barristers involved: James Laughland Shaman Kapoor Matthew Waszak
Please come and say hello. Details of the event can be found at the link below.

You can view the publication at <https://www.liverpoollawsociety.org.uk/training-courses/civil-litigation/2019-costs-conference/>

TGC Costs Newsletter

10/12/2018

Barristers involved: Simon Browne QC Shaman Kapoor Mark James Richard Wilkinson Paul McGrath Richard Boyle Lionel Stride Ellen Robertson James Yapp Robert Riddell Matthew Waszak
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Association of Personal Injury Lawyers' (APIL) Costs Conference 2018

20/11/2018

Barristers involved: Shaman Kapoor Matthew Waszak
Shaman Kapoor and Matt Waszak are demonstrating a mock detailed assessment with the new electronic bill of costs with Master James and Deputy Master Campbell at the APIL Costs Conference 2018 in London. Details of the programme can be found [here](#).

TGC Costs Newsletter

17/05/2018

Barristers involved: Shaman Kapoor Paul McGrath Richard Boyle James Arney James Laughland Sian Reeves Matthew Waszak Lionel Stride Ellen Robertson

Please see link below to the latest TGC Costs Newsletter.

You can view the publication on our website <http://tgchambers.com>

TGC Costs Newsletter

04/07/2017

Barristers involved: Simon Browne QC Shaman Kapoor Paul McGrath Lionel Stride Sian Reeves Richard Boyle Matthew Waszak Piers Taylor Robert Riddell

2017 has already proved to be an extremely exciting year. We launched our sell-out one day costs conference in February which was attended by more than 250 delegates and presented on a number of critical topics: retainers, assignment, ATE premiums, proportionality, budgeting, Part 36, QOCS, fixed costs and assessment. We were particularly honoured to have speakers from the Court of Appeal, the SCCO, and the QBD. In case you missed it, the materials can still be found on our website at <http://tgchambers.com/news-and-resources/seminars/retainer-recovery-journey-modern-litigation/>.

We have had significant instructions in a high number of cases that continue to shape the future for the costs world. This newsletter aims to bring you the latest news (at the time of print) on the hottest topics including: how to hack through Article 10 and blag about additional liabilities (Flood/Miller/Frost), a review of New P in anticipation of BNM, substance not form on CFA retainers post-legal aid funding, a club-like search for logic in fixed costs, the Ps & Qs of QOCS, extension of pre-LASPO CFA and ATE to a post-LASPO appeal and assignment-lite (Plevin), the surviving power of set-off even in QOCS cases and, not least, the budget vs assessment battle (Harrison). In for a penny, in for a pound.

On the horizon is, of course, the long awaited Court of Appeal decision in BNM. I have prepared a skeleton argument in a parallel appellate case (Murrells) albeit at Circuit Judge level, but having had the paper fight, the parties have agreed to await the outcome of BNM. At the same time, the Court of Appeal shall be giving judgment on assignment of CFAs in Budana. No doubt those decisions will mark the trigger for our next publication.

Finally, I should take this opportunity to thank all of the contributors for their hard work, and my Associate Editors for all of their help and without whom this newsletter would not have taken off. Happy reading!

You can view the publication on our website <http://tgchambers.com>

New Proportionality And Additional Liabilities : Murrells v Cambridge University NHS Foundation Trust

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