



## Shaman Kapoor

Year of call: 1999

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*"A razor-sharp advocate, effortless in his delivery of the most complex points." Chambers and Partners*

Shaman specialises in costs and litigation funding together with a broader practice in commercial and common law litigation and group action work. He appears regularly in the High Court and the Senior Courts Costs Office, often involved in appellate work or complex points of principle and injunctive relief. His recent involvement in group action work includes the claims against the regulatory bodies in the sport of rugby in the concussion litigation and the civil claims arising out of the Grenfell tower tragedy. He has experience of representing professional sports players in anti-doping proceedings and has contributed to the editorial work towards the regulation of British Wrestling. He is a Fellow of the Chartered Institute of Arbitrators, having specialised in international arbitration, and receives instructions domestically and internationally. He is a frequent speaker at key seminars on the costs and funding calendar and a contributing editor to Thomson Reuters' "Costs & Funding following the Civil Justice Reforms: Questions & Answers", The White Book. He is a Lead Advocacy Tutor for Lincoln's Inn and has been ranked by the Directories as a leading junior for many years. He is the editor of our bi-annual Costs Newsletter (3+9 = Costs) and is joint-head of Chambers' Costs Group. He is appointed as a member of Chambers' Management Board and separately appointed as a school Governor. He is a qualified Mediator and is an appointed Deputy District Judge.

## Areas of expertise

Alternative Dispute Resolution

Clinical Negligence and Personal Injury

Commercial

Construction

Costs and Litigation Funding

Arbitration

## Costs and Litigation Funding

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*"Down to earth and does not mince his words. He embraces technology and has a good drafting style."*

*"Shaman goes above and beyond."*

*"One of the best costs juniors out there."*

Shaman's costs practice has grown with vigour and he is well-known amongst practitioners and the judiciary. Shaman 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 (Senior Courts Costs Office and Supreme Court) and advisory and drafting work on retainers (especially Conditional Fee Agreements and Damages Based Agreements).

He is regularly in the High Court and Senior Courts Costs Office and receives instructions domestically and internationally. He is highly regarded for strategy and is often instructed behind-the-scenes in significant substantive litigation.

### Cases of note

- ***Dr. Craig Wright v The Person or Persons Responsible for the Operation and Publication of the Website [www.bitcoin.org](http://www.bitcoin.org) (including the person or persons using the pseudonym "Cøbra")*** [September 2023], the Honourable Mr. Justice Richard Smith - The case raised practical, procedural and legal questions around the extent to which "persons unknown" could take positive action in proceedings whilst doing nothing more to reveal their identity. It raised arguments about natural justice, open justice, publicity, fair trials and explored the possible tension between a party being subjected to the court's jurisdiction and that party's right to be heard. The substantive proceedings concerned the claimant's claim for infringement of copyright in a literary work entitled "Bitcoin: a Peer-to-Peer Electronic Cash System" which had become known as "the White Paper", and which the defendant made available on the website. The pseudonym Cøbra was used on the website to describe the domain owner. The White Paper was itself released under a pseudonym of 'Satoshi Nakamoto' and the author of the White Paper is widely thought to be the creator of Bitcoin. Since at least 2016 the Claimant has maintained that he did create Bitcoin and was the author of the White Paper. Having been successful at first instance in obtaining an order barring the further participation of the "persons unknown" in the absence of disclosure of their identity, Shaman was again successful in resisting the Appeal.
- ***Patel v Karmakar*** [January 2023], DJ Lumb, Regional Costs Judge, Oxford County Court dealt with "an important preliminary issue...commonly misunderstood by members of the legal profession including some of the judiciary". The case concerned the extent to which a solicitor acting for himself in litigation in which he himself or his firm was a party, could recover costs on a commercial hourly rate basis of the claimed £500 per hour, rather than the prescribed hourly rate or financial loss formula for a litigant in person. Shaman successfully argued that the absence of a firm being on the record for the receiving party prevented operation of the exception set out in CPR 46.5(6)(b).
- ***Dr. Craig Wright v The Person or Persons Responsible for the Operation and Publication of the Website [www.bitcoin.org](http://www.bitcoin.org) (including the person or persons using the pseudonym "Cøbra")*** [October 2022], Costs Judge Rowley – The case raised practical, procedural and legal questions around the extent to which "persons unknown" could take positive action in proceedings whilst doing nothing more to reveal their identity. It raised arguments about natural justice, open justice, publicity, fair trials and explored the possible tension between a party being subjected to the court's jurisdiction and that party's right to be heard. The substantive proceedings concerned the claimant's claim for infringement of copyright in a literary work entitled "Bitcoin: a Peer-to-Peer Electronic Cash System" which had become known as "the White Paper", and which the defendant made available on the website. The pseudonym Cøbra was used on the website to describe the domain owner. The White Paper was itself released under a pseudonym of 'Satoshi Nakamoto' and the author of the White Paper is widely thought to be the creator of Bitcoin. Since at least 2016 the Claimant has maintained that he did create Bitcoin and was the author of the White Paper. Shaman was successful in obtaining an order barring the further participation of the "persons unknown" in the absence of disclosure of their identity.
- ***Mr. Mark Hallsworth v EUI Limited*** [2022], DJ Woodburn, Regional Costs Judge, Bristol County Court – instructed on the preliminary issue of whether the threshold of "exceptional circumstances"

was met pursuant to CPR 45.29J so as to enable the court to consider costs in excess of fixed recoverable costs. Success in a rare example of the threshold being met.

- ***Ibiyinka Macaulay v (1) Dr Abdul Karim (2) Croydon Health Services NHS Trust [2022]***, Senior Costs Judge Gordon-Saker – the claimant had the benefit of legal aid throughout the proceedings. Following a split trial on liability, the claim against D1 was dismissed; but judgment against D2 was entered with damages to be assessed. The claimant was ordered to pay D1's costs; D2 settled the claim in a Tomlin Order. Acting for the successful claimant, the Court held that QOCS protection could and did apply even in the case of a legally aided claimant who had protection under s.11 of the Access to Justice Act 1999. Damages pursuant to the Tomlin Order were not "damages awarded" per Cartwright. And interim damages were neither an award for damages against which QOCS would permit an order for costs to be enforced.
- ***Farrer & Co. v Yerteyeva [2021]***, Costs Judge Leonard – representing Farrer & Co, in a solicitor-client dispute, the client was a high profile and successful businesswoman and lawyer in Kazakhstan, as well as a former board member at a Bank. Her points of dispute claimed that she had not consented to the hourly rates claimed or the work to be done amongst other things. In a resounding victory for Farrers, the client's evidence was found to be plainly misleading in parts and that in every aspect of the informed consent allegation Farrers had discharged the initial burden upon themselves and the client failed to discharge the consequential burden. The client's state of distress at the time of signing the retainer did not mean that she was incapable of making informed decisions. The firm's charges were found to be characteristic of specialist central London firms representing high-net worth individuals
- ***EJC v East North Hertfordshire NHS Trust*** - The defendant's hospital negligently supervised and managed the claimant in her neonatal period, which included a failure to diagnose hypoglycaemia, causing her to suffer hypoglycaemic brain injury with microcephaly, developmental delay and cortical visual motor impairments. An award of £5.25m was made, with periodic payments of £165,000 per annum for life. Costs amounted to £350,000, however, the case remains notable because it dealt with the question of what constitutes "a good reason to depart from the budget".
- Among the issues at stake were the consequences of the change in discounted rate which was introduced in 2017. This change, the first such alteration since 2001, caused a significant impact on the calculation of damages, and as a result, on the work reasonably required with consequential cost.
- ***Halifax Bank of Scotland Reading Branch Fraud Case*** - Between 2002 and 2007, small business owners were transferred to HBOS's corporate division, headquartered at its Reading branch, which in turn referred them to Quayside Corporate Services (QCS), a consultancy. QCS pressurised business owners to take on inflated debt burdens, and then siphoned off money by invoicing the owners for very large fees. Their HBOS contacts received hundreds of thousands of pounds in cash, holidays, luxury goods, drugs and prostitutes. Many of the businesses were then asset stripped by QCS and either made bankrupt or sold for nominal amounts to companies often associated with the directors of QCS. The scheme drained the bank and small businesses of around £245m and left hundreds of people in severe financial difficulties. The protagonists were convicted of fraud in 2017. Lloyds Banking Group, which acquired HBOS in 2009, set up a £100m compensation scheme for customers who had been defrauded. Compensation packages have ranged from £100k to £5m with each party's costs running to hundreds of thousands of pounds. Shaman was instructed on behalf of a group of claimants on the issue of costs.
- ***Robinson v EMW Law LLP [2018] EWHC 1751 (Ch.)*** - 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. The matter was appealed from a Senior Courts Costs Office (SCCO) master to a High Court judge assisted by another SCCO master.

- ***RBOS Shareholders Action Group Limited v Fladgate LLP*** - Recognised by The Lawyer's Top 20 Cases of 2017, this litigation arose 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 was the subject of a group litigation order. Shaman advised on own-client and between-the-parties costs.
- ***Coventry & Ors v Lawrence & Ors – Supreme Court*** - In this landmark case, Shaman was 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 European Convention on Human Rights (ECHR).
- ***Murrells v Cambridge University NHS Foundation Trust [2017] EWHC B2 (Costs)*** - Shaman successfully represented the claimant in a case arising out of a claim for clinical negligence that settled shortly after the defence. The case involved the operation of the concept of proportionality and distinguished *BNM v MGN Ltd* [2016] EWHC B13 on the basis of pre- and post-Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) additional liabilities.

## Recommendations

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- *"Absolutely at the cutting edge, solid, reliable and innovative."* (Chambers and Partners 2023)
- *"Down to earth and does not mince his words. He embraces technology and has a good drafting style." "Shaman goes above and beyond."* (Chambers and Partners 2022)
- *"Has a broad range of knowledge, and is adept at dealing with all manner of knotty problems thrown up during costs hearings." "Absolutely at the cutting edge." "Solid, reliable and innovative, he offers good-quality advice in a timely fashion."* (Chambers and Partners 2021)
- *"A fighter for the client who has got an encyclopaedic knowledge when it comes to costs. He is able to act for individual clients as well as commercial ones, and can explain things well to them. He knows this area of law inside out and presents his cases with sophistication."* (Chambers and Partners 2020)
- *"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."* (Chambers and Partners 2019)
- *"Shaman is truly an expert in the costs arena."* (The Legal 500 2022)
- *"One of the most commercially savvy barristers one can find and a very formidable advocate."* (The Legal 500 2021)
- *"Clear, to the point and his advice is always solution focused."* (The Legal 500 2020)

## Memberships

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- The Collective Redress Lawyers Association (CORLA)
- The Commercial Bar Association (combar)
- London Common Law & Commercial Bar Association (LCLLCBA)
- Professional Negligence Bar Association (PNBA)
- Personal Injury Bar Association (PIBA)

## Qualifications

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### Education

- University College London, LLM
- Inns of Court School of Law & City University, Bar Vocation Course, Pgdl
- Manchester Metropolitan University, LLB.Hons Law with French
- Sciences Po, Universite de Lille II, Lille, France, Certificat d'Etudes Politiques

## Scholarships and Prizes

- Fox Scholar, Middle Temple
- Hardwicke Scholar, Lincoln's Inn

## Additional information

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### Appointments

- 2023 – Fellow of the Chartered Institute of Arbitrators
- 2019 – onwards: Deputy District Judge
- 2015 – onwards: Mediator
- 2012 – onwards: Lead Advocacy Tutor, Lincoln's Inn

### Languages

- Punjabi
- French

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