Radcliffe Chambers



Shantanu Majumdar KC

Silk: 2020 | Call: 1992

King's Counsel

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"Intellectually way ahead of the crowd and a superb written advocate" Shantanu Majumdar KC was called to the Bar of England and Wales in 1992 and appointed as King's Counsel in 2020 (then Queen's Counsel).

"His court room style is impressive. An excellent trial lawyer and cunning cross-examiner. Clients love him."

He specialises in commercial dispute resolution in the following fields:

- **Agency**
- **Arbitration** (including LCIA, ICC, SCC, DIAC, SIAC, HKIAC, AAA/ICDR & *ad hoc*)
- **Aviation**
- **Banking & Finance** (including guarantees and indemnities, capital markets and derivatives, syndicated loan agreements, commercial trust structures, credit and security, documentary credits, demand guarantees, repurchase agreements and factoring.
- **Company** including:
    - Share purchase agreements and
    - Other shareholder claims (including unfair prejudice)
    - Director's duties
- **Civil Fraud & Asset tracing**
- **Economic torts**
- **Energy and natural resources**
- **Engineering**
- **Injunctions and other urgent relief**
- **Insolvency**
- **Insurance & reinsurance**
- **Jurisdiction and Conflict of Laws**
- **Partnership and other joint venture disputes**
- **Professional Negligence and Liability**
- **Sanctions**
- **Sale of goods & supply of services**

Shantanu is recognised as a Leading Silk in Energy & Professional Negligence.

Most of his cases involve international parties and questions of foreign law and procedure and in many there are proceedings in other jurisdictions. He is frequently instructed direct by foreign lawyers.

In addition to his disputes and advisory practice, Shantanu is:

- a founder and director of the London Sanctions Advisors Association (LSAA).
- the consultant editor of "***Sale of Goods and Supply of Services***" (2024) – Volume 91 of Halsbury's Laws of England.
- the editor of "*Void Dispositions and Validation Orders*" in ***Insolvency Litigation Guide: A Practical Guide*** (Sweet & Maxwell, 3rd Ed)

and in the past has written widely on the limitation of actions including editing chapters in *The Law of Limitation* (Bloomsbury) and *The Civil Court Practice* (Lexis Nexis).

COMMERCIAL DISPUTES

Commercial litigation and arbitration is Shantanu's predominant area of practice and covers a wide range.

He also advises and prepares pleadings, written arguments and (where English law is in issue) expert evidence in relation to litigation in foreign jurisdictions and international arbitration.

Recent and notable cases include:

- ***A v B*** – *DIAC Arbitration No 240195* (2024) – **energy – sale of goods –** acting for the claimant seller (DAP) of a cargo of diesel oil to a Brazilian purchaser where an issue of title is alleged to arise.
- ***A v B & A v C –*** *ICC Arbitrations 28118 & 28560* (2024) – **life sciences – pharmaceuticals –** consolidated arbitrations relating to a dispute about delay in the obtaining of regulatory approval for the manufacture of a generic cancer treatment.
- ***X v Y –*** *LCIA Arbitration No 246319* – (2024) – **Share Purchase Agreement** – a dispute relating to the balance of the consideration under an SPA where the seller is alleged to have breached non-compete obligations. Other issues include corporate veil and the joinder of a non-signatory of the arbitration agreement.
- ***A v B*** (2024) – **arbitration – anti-suit** – **sanctions –** acted (with Zachary Kell) for the claimant Dutch bank in anti-suit proceedings in the English Commercial Court.
- ***Barclays Bank v VEB-RF*** – [2024] EWHC 1074 Comm – **arbitration – anti-suit** – **sanctions –** acted for the defendant Russian bank in anti-suit proceedings in the English Commercial Court.
- ***X v Y*** (English Commercial Court) (2023) – **arbitration – energy** – challenging the jurisdiction of a PCA arbitration (London seat) on behalf of a Baltic state energy company in a dispute with a Singapore-incorporated counterparty
- ***X v Y*** – *LCIA Arbitration No. No. 235926* – (2022-24) – **sanctions – shareholders** – **energy** – acting for claimant (with an EU-sanctioned UBO) in an LCIA arbitration against a Western oil major in an energy joint venture dispute with parallel company law proceedings in Amsterdam and Ukraine.
- ***Re X*** (2023) – **arbitration – confidentiality**. Advising a major international bank on the prospects of preventing the disclosure of an ICC arbitration award
- ***In the matter of KTA Group Limited*** (2022-24) – **shareholders** – unfair prejudice trial [2022] EWHC 1880 (Ch) and appeal [2023] EWHC 3080 (Ch).
- ***A & others v B & others*** **(2022) – arbitration – serious irregularity**. Acting for a major international bank in its defence of an English Commercial Court "serious irregularity" challenge to a US$300m arbitration award in its favour in relation to a loan agreement and associated guarantees and pledges.
- ***Re Y*** (2023) – **conflict of laws – enforcement of foreign judgment –** Advising a Russian company on the enforceability of a judgment of the

Moscow Arbitrazh Court in England and Wales arising out of a US$150m loan facility and associated cross-collateral and guarantee agreements

- ***Lazuli v Bhundia*** [2022] EWHC 758 (Ch) – **agency – real property** – **joint venture** – an agent's liability to account where he was in breach of fiduciary and other duties in the management of various property owned by Seychelles-registered companies.
- ***Rogachev v Goryainov*** (2022-4) – **partnership/corporate joint venture** – English High Court partnership/corporate joint venture dispute between Russian businessmen relating to markets in Moscow.
- ***Various Claimants v AIG Europe Limited*** (2021-23) – **insurance and reinsurance** – coverage dispute where the question of indemnity turned on whether the insurer was entitled to aggregate claims under a solicitors' indemnity policy.
- ***Titanium v Hughes*** **(**2020-24) – **breach of fiduciary duty – dishonest assistance – knowing receipt – economic tort – conspiracy**. Acting for defendants in multi-party claims, counterclaims & additional claims arising from a partnership formed to sell lateral flow tests to the public and private sector here and abroad.
- ***Re Z*** (2022-) – **engineering – energy – arbitration**. Variously advising a state energy company in relation to a US$20bn EPC nuclear energy project subject to an arbitration clause.
- ***Various Claimants v Giambrone & Law & others*** (2010 -2020) – Acting for c. 100 claimants in a claim (**negligence, breach of trust and fiduciary duty**) against Italian lawyers in relation to advice to buyers at an off-plan property development in Southern Italy in the High Court ([2015] EWHC 1946 (QB); [2015] EWHC 3315 (QB)) and the Court of Appeal [2017] EWCA Civ 1193, [2018] PNLR 2
- ***Aurum Capital Investments AB v PJSC National Bank Trust*** (2021-22) – **loan and guarantee** – Acting for a Swedish investment company in English High Court proceedings against a major Russian bank relating to the meaning and effect of loan and guarantee agreements
- ***A v B*** – **loan and security – foreign proceedings** (2021 –) Advising an Indian bank in an English High Court claim to recover a US$100m loan and realise associated securities and guarantees from third parties. Related proceedings in India (Bombay High Court) and Mauritius
- ***X v Y*** (2022) – AAA/IDRC arbitration – **derivatives, negligence,** misrepresentation – advising a Dubai commodities trader in a New York (AAA) arbitration brought by a US derivatives broker including claims in relation to misrepresentation and implied terms
- ***A v B & C*** – *ICC Arbitration ICC 22675/FS* – **loan and guarantee** – Acted for US and BVI companies in an ICC arbitration (Zurich seat & Liechtenstein law)) relating to loan and guarantee agreements of a total value of US$100m.
- ***X v Y*** – *SCC Arbitration No. F 2020/049* **– sale of goods –** Acted for a Russian purchaser of heavy road construction vehicles under a series of long-term contracts with a Chinese manufacturer in a Stockholm CC arbitration (with a 2-week evidential hearing) – unpaid debts, amendment, wrongful termination, implied terms
- ***A v B & C*** & ***X v Y & Z –*** *LCIA Arbitrations 173638 & 163503* – **loan, guarantee, international asset recovery** – acting for BVI companies (UBO US-domiciled CIS national) enforcing loan agreements made to Cyprus companies in relation to seed oil processing in Moldova including:
    - Freezing injunctions in Cyprus and
    - Ancillary proceedings in Hungary and the US (from an asset recovery perspective).
    - Anti-arbitration injunction *vs* a Paris arbitration brought by the other side.
- ***Re Z*** (2022) – **Investment Arbitration – enforcement –** Advised a bank – majority-owned by a foreign state – as to the liability of its assets to enforcement (as an alleged state "instrumentality") of a US$1bn+ investment treaty arbitration award against that foreign state
- ***Various Claimants v AIG Europe Limited*** [2019] EWHC 34 (QB) [2019]

4 WLR 7 – **professional negligence – insurance –** costs. Obtaining s. 51 (non-party) costs order against the liability insurers of the defendants in professional negligence claims

- ***Optaglio Ltd v Tethal*** [2019] EWHC 151 (Ch) – **directors' duties – intellectual property** – **security for costs**. Grant of security for costs just 18 days before trial.
- ***X v Y & Z*** (2018-19) – Acting in a dispute (subject to a Stockholm CC arbitration clause) between parties to a complex settlement agreement worth in excess of $150 million between various CIS entities including the effect of US sanctions on the performance of payment obligations.
- ***MI Drilling Fluids UK Ltd v Various (***2015-2017) – **SPA – energy –** Acting for claimant drilling company in an English Commercial Court dispute about the allocation of rights and obligations under a share purchase agreement relating to technology supplied to a Russian arctic oilfield.
- ***Polypearl Limited v Building Research Establishment*** (2016) – Mercantile Court, Manchester – **contractual interpretation – confidential information – limitation of liability** – breach of contract/breach of confidence claim in relation to the testing of the claimant's innovative building material; it ultimately turned on the reasonableness of a limitation clause in the defendant's standard terms.
- ***X v Y*** – *LCIA Arbitrations Nos 122159, 122160, 122161* – **Aviation** – Acting for the defendant Russian airline in claims under 3 aircraft leases
- ***Philip Hanby Limited v Andrew Clarke*** [2013] EWCA Civ 647 Court of Appeal – **arbitration – Arbitration Act 1996 – appeals**. Acting in an appeal against partnership arbitration award on the grounds of error of law under s 69 Arbitration Act 1996. The applicant sought to invoke the Court of Appeal's residual jurisdiction under s 16 Senior Courts Act 1981
- ***ASES Havacilik Servis Ve Destek Hizmetleri A.S. v Delkor UK Limited*** – **engineering – arbitration – jurisdiction – fraud – documentary credits**. A dispute about the construction of boric acid filter plant on the Sea of Marmara:
    - [2012] EWHC 3518 (Comm), [2013] 1 Lloyd's Rep 254 – Successfully challenging the jurisdiction of English arbitrator under s 67, Arbitration Act 1996
    - [2012] EWHC 3667 (Comm) – Service of a claim form for an injunction under s 44 Arbitration Act out of jurisdiction where there was no *in personam* jurisdiction over defendant
    - [2014] EWHC 1473 (Comm) – locus of High Court to interpret its earlier injunction order under s 44 AA 96 where Swiss tribunal was alleged to have misunderstood it

- ***FBME Bank v Elwes & Aspin*** [2012] EWHC 2209 (QB) – **guarantee & indemnity** -A dispute over the interpretation of the payment terms of a guarantee.
- ***DCD Factors plc v Ramada Trading Limited*** (2009-2015) – **factoring – fraud – asset recovery**. Acting for claimants in multi-million fraud and guarantee claim by trade financiers/factors, involving worldwide freezing injunctions and over 18 hearings and concluding with judgment for over £20 million
- ***Crastvell Trading Limited v Bozel SA*** [2010] EWHC 0166 (Comm) – **loan agreements –** $15 million summary judgment in complex multi-jurisdictional loan litigation involving England, BVI, Luxembourg and Florida
- ***VFS Financial Services Ltd v Euro Auctions & Hennellys Ltd*** – [2007] EWHC 1492 (QB) – **conversion – restitutionary remedies – contribution**. A financier's measure of loss in conversion, successive convertors and whether liable in respect of "same damage" under the Civil Liability (Contribution) Act 1978
- ***Hidrostal Limited v Opperman Mastergears Limited*** – *London Mercantile Court* [2006] – **engineering**. Dispute about the failure of gears for pumps supplied to a pumping station operated by Welsh Water.
- ***Peekay Intermark Limited v Australia and New Zealand Banking Group Ltd*** [2006] 2 Lloyd's Rep 511 (Court of Appeal), [2005] PNLR 42,

Times June 10, 2005 (Comm Court) – **derivatives – misrepresentation**. A case concerning derivatives (Russian GKOs), emerging market investments and misrepresentation, which first established the modern ambit of the doctrine of contractual estoppel.

- ***Inter-Tel Inc v OCIS plc*** [2004] EWHC 2269 (QB), [2004] All ER (D) 142 (Oct) – **Injunctions – conflict of laws – *forum non conveniens* – choice of law in tort**.
- ***Eurodale v Ecclesiastical Insurance Office plc*** [2003] Lloyd's LR (Insurance and Reinsurance) 444, Court of Appeal – **insurance** – whether transit insurance/cover attaches prior to inception of physical transit and whether typed voyages clause override printed Institute Cargo Clauses.

BANKING AND FINANCIAL SERVICES

A significant part of Shantanu's commercial litigation practice comprises banking and financial services work including guarantees and indemnities, capital markets and derivatives, complex loan agreements, commercial trust structures, documentary credits, demand guarantees and performance bonds.

He also has many years' experience of factoring and other asset-based lending (ABL) including acting for (and occasionally against) the invoice finance arms of most of the UK's banks and other asset based lenders in claims against factoring clients and their customers as well as against guarantors.

Recent cases of note include:

- Advised a bank – majority-owned by a foreign state – as to the liability of its assets to enforcement (as an alleged state "instrumentality") of a US$1bn+ investment treaty arbitration award against that foreign state
- Acting for a major international bank in its defence of an English High Court "serious irregularity" challenge to a US$300m arbitration award in its favour in relation to a loan agreement and associated guarantees and pledges including claims in economic tort
- *X v Y & Z* (2018) – Acting in a dispute (subject to a Stockholm CC arbitration clause) between parties to a complex settlement agreement worth in excess of $150 million between various CIS entities including the effect of US sanctions on the performance of payment obligations
- ICC Arbitration 22675/FS (2017-18) – Zurich seat – Liechtenstein law – Acting in a $100 million claim by the investment arm of a (very) well known international company against two offshore entities who invested this sum on the claimant's behalf, where there are parallel injunction proceedings in Liechtenstein
- *FBME Bank v Elwes & Aspin* [2012] EWHC 2209 (QB) – Successfully resisting the claimant bank's interpretation of the payment terms of a guarantee
- *DCD Factors plc v Ramada Trading Limited* (2009-2015) – Acting for claimants in a long-running multi-million fraud and guarantee claim by trade financiers/factors, involving worldwide freezing injunctions and over 18 hearings and concluding with judgment for over £20 million
- *Crastvell Trading Limited v Bozel SA* [2010] EWHC 0166 (Comm) – Obtaining a $15 million summary judgment in complex multi-jurisdictional loan litigation involving England, BVI, Luxembourg and Florida
- *Peekay Intermark Limited v Australia and New Zealand Banking Group Ltd* [2006] 2 Lloyd's Rep 511 (Court of Appeal), [2005] PNLR 42, Times June 10, 2005 (Comm Court) – Acting in a case concerning derivatives (Russian GKOs), emerging market investments and misrepresentation, which first established the modern ambit of the doctrine of contractual estoppel.

PROFESSIONAL LIABILITY

Shantanu acts for and against solicitors, barristers, insurance brokers, financial advisers, accountants, insolvency practitioners, surveyors and engineers and has a particular expertise in associated questions of limitation.

He is ranked as a leading junior in professional negligence in The Legal 500 UK Bar 2019, which describes him as producing “very persuasive oral advocacy”.

His recent work includes the following:

- *Various Claimants v AIG* (English High Court)– coverage claim against professional indemnity insurers depending on the application of an aggregation clause
- *Various Claimants v AIG Europe Limited* [2019] EWHC 34 (QB) – Obtaining s 51 (non-party) costs order against the liability insurers of the defendants in professional negligence claims
- *Bateson v Fruhman Davies Livingston & Another* – Acting on the instructions of Bar Mutual, defending senior chancery counsel against a complicated claim by a former client for allegedly negligent advice in relation to an unfair prejudice petition under s 459 of the Companies Act 2006
- *Various Claimants v Giambrone & Law & others* (2010 onwards) – Acting for 100 claimants in a claim (negligence, breach of trust and fiduciary duty) against Italian lawyers in relation to their advice to buyers at an off-plan property development in Southern Italy in the High Court ([2015] EWHC 1946 (QB); [2015] EWHC 3315 (QB)) and the Court of Appeal [2017] EWCA Civ 1193, [2018] PNLR 2

SANCTIONS

Shantanu has expertise in the law relating to UK sanctions as well as experience in EU and US sanctions. He is a founder and director of the London Sanctions Advisors’ Association (LSAA)

Recent work includes:

- Sanctions: numerous opinions for Russian (and other foreign court proceedings) on English law and procedure especially in relation to contracts affected by current Western sanctions including:
    - Eurobond redemption claims
    - EPC contracts
    - Syndicated loan agreements
    - ISDA contracts
    - Software licensing agreements
    - Repurchase Agreements (GMRA 2000)

- ***A v B*** (2024) – **sanctions/anti-suit** – acted (with Zachary Kell) for the claimant Dutch bank in anti-suit proceedings in the English Commercial Court.
- ***Barclays Bank v VEB-RF*** – [2024] EWHC 1074 Comm – **sanctions/anti-suit** – acted for the defendant Russian bank in anti-suit proceedings in the English Commercial Court.
- ***X v Y*** – *SCC Arbitration No. V2022/104* (2023) – sanctions – acted for a European petrochemicals company in a debt claim where the only issue was the sanctions status of the client (as well as the s 44 SAMLA defence).
- ***X v Y*** – *LCIA Arbitration No. No. 235926* – (2022-24) – **sanctions – shareholders** – **energy** – acting for claimant (with an EU-sanctioned UBO) in an LCIA arbitration against a Western oil major in an energy joint venture dispute with parallel company law proceedings in Amsterdam and Ukraine.
- Acting for a Russian national in a challenge to his designation under the UK sanctions regime
- ***Re Z*** (2022-23) – Advising a Eurobond issuer in relation to its rights and liabilities under a US$3bn loan participation scheme affected by EU sanctions
- ***X v Y –*** *ICC Arbitration No. 26815* **–** Acting for an Iranian company in an ICC arbitration (London seat) against a Singapore counterparty relating to the meaning and effect of sanctions provisions in a settlement agreement in the context of US Secondary Sanctions.

- ***X v Y & Z*** (2018-19) – Acting in a dispute (subject to a Stockholm CC arbitration clause) between parties to a complex settlement agreement worth in excess of $150 million between various CIS entities including the effect of US sanctions on the performance of payment obligations.

RECOGNITION

- *"Intellectually way ahead of the crowd and a superb written advocate. His court room style is equally impressive. An excellent trial lawyer and cunning cross-examiner. Clients love him."* (Professional Negligence, *Legal 500 UK Bar 2024*)
- *"Shantanu is a wonderfully smooth advocate with an excellent legal brain"* (Professional Negligence, *Legal 500 UK Bar 2023*)
- *"Very experienced and persuasive trial advocate – comfortable at all levels of tribunal."* (Commercial Litigation, *Legal 500 UK Bar 2021*)
- *"A strategic thinker, hard-working and collaborative – a superb trial lawyer and cross-examiner."* (Fraud: Civil, *Legal 500 UK Bar 2021*)
- "*He is extremely thoughtful and creative.*" (Professional Negligence, *Legal 500 UK Bar 2021*)
- *"A very strong advocate."* (Commercial Litigation, *The Legal 500 UK Bar 2020*)
- *"Highly praised for civil fraud work."* (Fraud: Civil, *The Legal 500 UK Bar 2020*)
- "His main strength is his easy to listen to courtroom advocacy." (Professional Negligence, *The Legal 500 UK Bar 2020*)
- *"Gives sensible and pragmatic advice." "Highly persuasive."* (Chancery: Commercial, *Chambers UK Bar 2019*)
- "*Highly praised for his forensic talents and ability to handle the most challenging clients."* (Commercial Litigation, *The Legal 500 UK Bar 2019*) *"Produces very persuasive oral advocacy."* (Professional Negligence, *The Legal 500 UK Bar 2019*)
- *"An excellent advocate, very intelligent and great at drafting."* (Fraud: Civil, *The Legal 500 UK Bar 2019*)
- *"He's hands-on and a great tactician." "Very good with difficult clients."* (Commercial Dispute Resolution, *Chambers UK Bar 2018*) *"Great to work with and a go-to barrister for complex chancery work."* (Chancery: Commercial, *Chambers UK Bar 2018*)
- *"A highly intelligent lawyer, who is excellent in court."* (Commercial Litigation, *The Legal 500 UK Bar 2017*)
- *"He's hands-on and a great tactician when handling class actions"* (Commercial Dispute Resolution, *Chambers UK Bar 2017*)
- *"He's got a really nice courtroom manner, and always comes across unruffled."* (Chancery: Commercial, *Chambers UK Bar 2017*)
- *"He is great to work with and a go-to barrister for complex chancery work. He is extremely good with difficult clients."* (*Commercial Dispute Resolution*, Chambers UK Bar 2016)
- *"Very suave and confident, he expertly outmanoeuvres his opponents and always appears to have the upper hand."* (Chancery: Commercial, *Chambers UK Bar 2016*)

PUBLICATIONS AND SPEAKING

Shantanu regularly speaks and writes on his areas of expertise.

His books include:

- A chapter in the Radcliffe Chambers book "Insolvency Litigation: A Practical Guide" (Thomson Reuters)
- The Law of Limitation (Bloomsbury) – former editor of the chapters on (1) Contract, (2) Professional Negligence (3) Latent Damage and (4) Fraud, Deliberate Concealment & Mistake.
- Civil Court Practice ("the Green Book") published by Lexis Nexis Butterworths – former member of the editorial board and editor of the

chapter on limitation.

He is also a member of the editorial boards of Lexis PSL Commercial and the author of the Lexis PSL practice notes on limitation and professional negligence.

His articles include:

- An impossible position: fraud claims, solicitors and their fees in Butterworths Journal of International Banking and Financial Law (May 2015)
- The Revised LCIA Arbitration Rules 2014 with Georg Scherpf of Luther Rechtsanwaltgesellschaft mbH in Zeitschrift für Schiedsverfahren (SchiedsVZ) – German Arbitration Journal (German Arb. J.). SchiedsVZ 2014, 227. C.H. Beck Verlag.
- Entire agreement, non-reliance clauses & contractual estoppel – what do they prevent and how? Hanby v Clarke: The Court of Appeal's "residual" arbitration appeals jurisdiction under s 16 of the Senior Courts Act 1981.
- Aluminium, fish and some unusual collateral: the pitfalls of lending on the security of your own shares – Butterworths Journal of International Banking and Financial Law – July/August 2011 – Robert Tchenguiz's unusual loan arrangements with his Icelandic bankers.
- Trust Me – Commercial Litigation Journal, October 2010 – a review of the law relating to limitation and fiduciaries.
- To have & have not – New Law Journal (2010) 160 NLJ 348 – Axa Insurance Ltd v Akther: limitation and professional negligence – the date of occurrence of actual loss. (Cited in Charlesworth & Percy on Negligence 12th Ed)
- Insolvency set-off and security: anomaly or principled exception? – Journal of International Banking and Financial law (2009) 11 JIBFL 652.
- Reverse Gear – Part 1 and Part 2 – New Law Journal (2009) 159 NLJ 1015 and 159 NLJ 1053 – Paulin v Paulin & Cativo Ltd: a judge's jurisdiction to change his mind between judgment and order – the test on an application to annul a bankruptcy on the debtor's own petition.
- A matter of some interest – New Law Journal NLJ (2008) 158 NLJ 435 – the requirement of insurable interest in non-indemnity insurance.
- "Agnew and others v Lansforsakringsbolagens AB – the last word on reinsurance and the Lugano/Brussels conventions?" International Journal of Insurance Law [2000] IJIL 345 (LLP)
- "Contracts of reasonably good faith" Economides v Commercial Assurance; good faith and implied representations in insurance proposals. International Journal of Insurance Law, Oct 1998 ([1998] IJIL 294-99) (LLP). Cited in Clarke The Law of Insurance Contracts (LLP).

POLICIES AND OTHER DETAILS

Read Shantanu's Privacy Notice, Data Protection Policy and Disposal Policy