

# Samir Amin

Call: 2015

"Samir considers the case carefully and explains the position well. He is thorough with detail. At mediation, he presents clients' cases well and provides clear advice."



Samir has an established commercial, commercial Chancery and traditional Chancery practice. He regularly appears in the High Court and County Court in trials, appeals and applications.

Samir's areas of specialism include commercial litigation; company and partnership; insolvency; property and trusts; landlord and tenant; and wills and probate.

Samir is dedicated to his clients and meticulous in the preparation of his cases. He is proactive, brings a forensic approach to the analysis of evidence and he has been commended for his legal research skills, attention to detail and outstanding grasp of civil procedure.

As well as conducting cases in his own right, Samir is currently being led, in separate cases, by Mark Anderson KC, Mohammed Zaman KC and Philip Rule KC.

Prior to joining the Bar, Samir paralegalled in a City firm working closely with both junior and leading counsel in professional negligence, employment and partnership litigation in the High Court, Court of Appeal, Employment Tribunal and Employment Appeal Tribunal. As such, Samir is able to understand well both the practical needs of, and demands on, his professional clients; and the wider commercial considerations which impact on his lay clients' decision-making. Samir continues to represent various solicitors in professional negligence cases.

Samir's recent reported cases include:

- Amathus Drinks Plc v EAGK LLP [2023] EWHC 2312 (Ch)
- Krishna Holdco Ltd v Gowrie Holdings Ltd [2023] EWHC 1538 (Ch)
- Krishna Holdco Ltd v Gowrie Holdings Ltd [2023] EWHC 1943 (Ch)
- Mohammad v Sharma [2021] 9 WLUK 614
- Hurdle v Dartnaill and Thompson [2019] EWHC 2271 (Ch)

## Expertise

### Birmingham

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## Business & Property

### Notable Cases

Amathus Drinks Plc v EAGK LLP [2023] EWHC 2312 (Ch)

Krishna Holdco Ltd v Gowrie Holdings Ltd [2023] EWHC 1538 (Ch)

Krishna Holdco Ltd v Gowrie Holdings Ltd [2023] EWHC 1943 (Ch)

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### Company & Partnership

- Led by Mark Anderson KC in a six week High Court trial acting for seven respondents to an unfair prejudice petition in relation to a company worth £150m+. Significant issues included misrepresentation, breach of trust, reflective loss, good faith clauses and the availability of relief where shareholders are alleged to have acted in a fraudulent manner towards each other and third parties.
- Led by Mohammed Zaman KC, acting in a family run company/partnership dispute defending a claim for a vesting order of shares and an account; and counterclaiming for a declaration as to beneficial ownership based on constructive trust, partnership and estoppel.
- Acting for the respondent to an unfair prejudice petition alleged to have diverted business opportunities having been excluded from management.
- Acting for the petitioner to an unfair prejudice petition in a large property focussed quasi- partnership where the fellow shareholder and director had ceased to contribute at all to management and had misappropriated company assets.
- Advising in relation to an exclusion from management and breach of a shareholders agreement in a quasi-partnership.
- Advising a company in relation to breaches of director's duties committed by a former director in exploiting a corporate opportunity for himself and unlawfully interfering with the company's trade via deceit of the company's business contacts.
- Advising on the validity (both internal and external) of the actions of a director acting in breach of a company's articles and without a quorate board. Also advising in a related attempt to pierce the corporate veil and a claim by a third party in relation to a contract purportedly entered into by the company pre-incorporation.
- Acting in applications for restoration to/rectification of the Register, extensions of time and other matters under the Companies Act 2006

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## Commercial Disputes, Contract, Tort & Agency

- Acting for a company and the purchasers of it allegedly defrauded by the previous shareholders and directors; and bringing a parallel claim against former auditors who failed to detect the fraud.
- Acting on behalf of two companies and two individuals claiming breach of lease, unlawful eviction, trespass to goods, conversion, trespass to land, harassment and accessorial liability; and defending against a counterclaim alleging deceit and conversion.
- Acting on behalf of a London Borough Council co-defending against allegations of breach of statutory duty, negligence, conspiracy and procuring a breach of contract.
- Acting on behalf of a person, stationed abroad by her employer, accused of being negligent resulting in her dog biting another person. Involving consideration of the French Civil Code, the Rome II Regulation, negligence (English law), the Animals Act 1971, trespass (English law), the Limitation Act 1980, vicarious liability and an indemnity claim against an insurer denying liability.
- Defending an individual against a claim seeking rectification of a contract on the grounds of unilateral mistake and/or mutual misunderstanding.
- Acting for and against businesses and institutions – such as manufacturers, retailers, farmers, universities and colleges – on contractual matters, including sales of goods and services, misrepresentation, penalty clauses, unfair terms and franchise agreements.
- Acting for two law firms co-defending against a summary judgment application in respect of unpaid expert fees. At the hearing, reverse summary judgment was granted and an indemnity costs order made against the claimant.
- Advising and acting on behalf of various professionals and firms claiming in respect of unpaid fees (often involving issues under the Solicitors Act 1974) and facing a defence based on professional negligence and a lack of contractual liability to pay.
- Acting and advising in claims involving questions over the construction and breach of consumer and commercial contracts, including exclusion of liability, estoppel, misrepresentation and unfair terms.
- Acting both for and against money lenders seeking to recover debts (involving issues of consumer credit, security, duties under the FSMA 2000, undue influence, duress and unconscionable bargains).
- Acting both for and against construction firms and contractors in relation to unpaid invoices, unjust enrichment, misrepresentation and negligence.

## Equity & Trusts

- Advising and acting in various claims – on behalf of both legal/beneficial owners and third party creditors – involving a declaration of beneficial interest (in both the sole and joint ownership, domestic and non-domestic context), proprietary estoppel, promissory estoppel and questions over severance and survivorship.
- Acting for both claimants and defendants in disputes over property rights and ownership arising from agency, joint venture and proprietary estoppel.
- Acting in proceedings brought pursuant to TOLATA seeking the sale of co-owned land.
- Advising a trustee on relieving themselves of their duties as trustee.
- Advising and acting on behalf of a claimant seeking to establish a resulting and/or constructive trust and secure the return of trust property.
- Advising and acting for a claimant seeking to establish unjust enrichment and obtain subrogation in relation to a formerly mortgaged property.
- Advising and acting on behalf of the beneficiaries of an express trust where trust property was alleged to have been misappropriated and dissipated by numerous trustees over a number of years.
- Advising and acting on behalf of a principal whose agent had acted in breach of his fiduciary duties in making secret profits.

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- Acting and advising various clients, including solicitors and third parties, in relation to knowing receipt and dishonest assistance claims, often arising out of actual or intended property transactions or the distribution of misappropriated assets.
- Acting in claims involving money paid by one party to another alleged to have been a loan or repayable by way of a resulting trust or a claim in unjust enrichment, as opposed to having been a gift.

## Insolvency

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- Acting at first instance and twice on appeal as to when a non-specialist insolvency County Court has jurisdiction to hear and decide a disputed bankruptcy petition.
- Acting in winding up and bankruptcy petitions and associated applications including adjournment, statutory demand set-aside, restraining of presentation/advertisement, alternative service orders and validation orders.
- Acting in Directors' Disqualification proceedings.
- Acting in antecedent transaction proceedings brought pursuant to the Insolvency Act 1986 – including transactions at an undervalue, preferences, transactions defrauding creditors and void dispositions.
- Acting in a bankruptcy petition where the debtor, resident abroad, was denying that the English courts had jurisdiction.
- Acting for companies and creditors in disputes over a company's centre of main interests.
- Acting for creditors and trustees/liquidators/administrators regarding disputed debts and acceptance/rejection of proofs of debt.
- Acting on behalf of two debtors where the supervisor in a PVA/IVA was refusing to return surplus funds pending payment of costs yet was refusing to provide a breakdown of costs.
- Advising on the viability and obtaining of an insolvency administration order in order to undo the effect of survivorship on an insolvent estate.
- Advising on insolvency provisions related to companies, such as wrongful trading and phoenix companies.

## Wills & Probate

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- Actions related to wills and claims under the Inheritance (Provision for Family and Dependants) Act 1975.
- Acting in various contested probate actions, raising issues including formal invalidity, undue influence, lack of capacity and want of knowledge and approval.
- Acting in relation to a claim alleging misfeasance, breach of trust and breach of fiduciary duties against the executors and trustees of a will.
- Advising on the interpretation of a will and the need for rectification in circumstances where it purported to bequeath a property that, on a strict reading of the will, did not exist.
- Acting in examination of persons pursuant to section 122 of the Senior Courts Act 1981.
- Acting in the removal, appointment and substitution of personal representatives.

## Real Property / Landlord & Tenant

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- Advising vendors, purchasers and developers as to the existence, interpretation and enforcement of leasehold and freehold property rights, including rights to light, other easements and restrictive covenants.
- Acting for major banks and other significant third party creditors seeking to defend or challenge charges and other legal property rights, such as when fraud, duress or undue influence are alleged.
- Acting for the vendor of a property made the subject of a misrepresentation and breach of contract claim regarding the sale.

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- Acting in possession order, charging order, order for sale and relief from forfeiture applications (both commercial and residential).
- Advising in claims based on equitable rights including proprietary estoppel, equitable mortgages and equitable leases.
- Advising a developer on their riparian rights and rights to drainage.
- Acting in relation to leasehold extensions and 1954 Act lease renewals.

## Enforcement

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- Acted in enforcement disputes, including obtaining/setting aside/staying warrants/writs, payment orders and orders for sale, including on an emergency interim basis and via injunctive relief.
- Acted for claimants and defendants to contempt proceedings, including contempt proceedings based on breach of an order, contempt in the face of the court and interference with the due administration of justice; and associated issues such as obtaining permission to serve outside of the jurisdiction and bench warrants in case of a failure to attend court.
- Acted for clients seeking to enforce injunctions against social media companies, other websites and defendants based outside of the jurisdiction.

## Injunctive Relief

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- Injunctions restraining trespass, entry into a defined perimeter, interference with easements, communication with certain individuals, acts of harassment and breach of privacy.
- Injunction restraining the sale of a property, under a mortgagee's power of sale, from being sold at auction.
- Injunction restraining a firm of solicitors, in possession of confidential information belonging to a former client, from acting for a third party against that former client.
- Injunction ordering the delivery up of a vehicle (followed by contempt proceedings).
- Injunction mandating the removal of advertisements/notices from the windows and structure of a property.
- Injunction mandating the removal of a fence interfering with a right of way.
- Injunctive relief pursuant to the Defamation Act 2013.

## Professional Negligence

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Samir regularly acts for and against a wide spectrum of professionals, including barristers, solicitors, auditors, valuers and property agents.

Recently, Samir was successful in resisting the trike out of a claim against auditors despite the presence of a Bannerman clause – *Amathus Drinks Plc v EAGK LLP* [2023] EWHC 2312 (Ch).

## Awards

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## Accreditations

- Major Scholarship, Inner Temple
- Duke of Edinburgh Scholarship, Inner Temple

## Appointments

- Visiting Lecturer, BPP University

## Qualifications

- BPTC, BPP University, London
- LLB (Hons), Queen Mary, University of London

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