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Eesvan Krishnan

"He brings endless energy and positivity."
– LEGAL 500, 2021



Year of call: **2013**
Degree: **LLB and BCom (First Class Honours) (Auckland); BCL (Dist.) and DPhil in Law (Oxon) (Rhodes Scholar)**

Eesvan is an experienced and versatile barrister with core strengths in public law & human rights, commercial law, and EU & competition law. He tends to work on novel and complex issues at the intersection of those areas of law; latterly, this is often in the context of group litigation. His cases typically raise questions of foreign law or public international law (in particular the doctrines of State Immunity and Foreign Act of State).

Recent examples of Eesvan's work include: advising on human rights standards applicable to social media companies during times of armed conflict (2022); advising on the prospects of a claim against a leading technology company for breach of data protection and competition law (2023); and his current work as part of the counsel team for the Elliott Claimants in R (Elliott) v London Metals Exchange, one of The Lawyer's Top 20 cases of 2023.

EXPERIENCE

Public & Regulatory

Eesvan has acted in and advised on public law and regulatory matters as diverse as the use of post-offer undertakings under the Takeover Code, the issuing of mining licenses, and questions of legal professional privilege in the context of a corporate self-report to the Serious Fraud Office (in one of The Lawyer's Top 20 Cases of 2017 and 2018, SFO v ENRC).

At present, Eesvan is part of the counsel team acting for the Elliott Claimants in R (Elliott) v London Metals Exchange, one of The Lawyer's Top 20 Cases of 2023.

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Cases

R (Elliott) v London Metals Exchange [2023] EWHC 2969 (Admin)

Ongoing

Led by Monica Carss-Frisk KC and Iain Steele, Eesvan is acting for the claimant in a judicial review of an unprecedented decision by the London Metals Exchange to cancel transactions in the nickel market.

Novartis v NHS Darlington CCG & Others

[2020] EWCA Civ 449

Acted for Novartis in an EU law challenge to the use of unlicensed medicines within the NHS in place of licensed alternatives (led by Tom de la Mare QC).

Martin v Minister of National Security (Bermuda)

[2019] SC (Bda) 46 Civ (31 July 2019)

Acted for the claimant in a landmark JR in Bermuda concerning an application by a non-Bermudian for a licence to acquire land (led by Michael Fordham QC).

The Director of the Serious Fraud Office v Eurasian Natural Resources Corporation Ltd

[2019] 1 WLR 791

Acted for the Serious Fraud Office in the landmark case concerning legal professional privilege in the context of a corporate 'self-report' (led by Jonathan Fisher QC and James Segan).

Takeover Panel - post-offer undertakings

2018-2019

Advised the Panel on Takeovers and Mergers on various questions arising from the giving of post-offer undertakings under the Takeover Code (with Michael Fordham QC).

Re: the Oil and Gas Authority

2018-2019

Assisted a firm re representations to the Oil & Gas Authority on the grant of a methane drainage licence (with Michael Fordham QC)

R (Association of British Insurers) v The Lord Chancellor

[2017] QBD Admin (20 January 2017)

Acted for the Lord Chancellor in resisting permission to judicially review the process of setting the personal injury discount rate under the Damages Act 1996 (with Timothy Otty QC).

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R (Drax Power Ltd) v HMRC

[2016] 2 CMLR 33

Acted for the claimants in a judicial review of the removal of the exemption for renewable source electricity from the Climate Change Levy (with Michael Fordham QC and Jason Pobjoy).

Civil Liberties & Human Rights

Eesvan has a long-standing interest in civil liberties and human rights, having lectured, researched, and volunteered in the field.

As a law student, Eesvan assisted counsel for the detainee in Zaoui v Attorney General [2005] 1 NZLR 666; [2006] 1 NZLR 289 (SC), New Zealand's first case of detention on the grounds of national security.

Eesvan co-founded student pro bono programmes at the two universities in which he studied. In 2005, he co-founded The Equal Justice Project, the first such programme at the University of Auckland. In 2009, he co-founded Oxford Legal Assistance, the first undergraduate pro bono law clinic at the University of Oxford.

Cases

Coventry v United Kingdom

App. No. 6016/16

Led by Tom Weisselberg KC and Jason Pobjoy, Eesvan represented the UK in a request for a referral to the Grand Chamber.

Advice on human rights standards applicable to social media during armed conflict

2022

Led by Shaheed Fatima KC, Eesvan advised a leading technology company on human rights standards applicable to social media during times of armed conflict.

Friends of Antique Cultural Treasures v Secretary of State for the Environment, Food & Rural Affairs

[2020] EWCA Civ 649

Acted for a group of antique dealers/collectors in a challenge to the proportionality of the ban in the Ivory Act 2018 on trade in antique ivory (led by Tom de la Mare QC). The case raised issues including the threshold for deployment of the precautionary principle and whether, as a matter of EU law, a greater margin of appreciation applied because the relevant decision was taken by Parliament.

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R (Siddiqui) v Lord Chancellor

[2019] EWCA Civ 1040

Acted for the Lord Chancellor in defending a challenge under Art 6 ECHR / common law to the removal of the right to an oral hearing when seeking permission to appeal to the Court of Appeal (led by Shaheed Fatima QC). Permission for JR successfully resisted.

Lamb v Secretary of State for Justice

2019-2020

Acted (with Philip Havers QC, Adam Straw, and Adam Sandell) for the claimant in a novel JR seeking to challenge the ban on assisted suicide.

R (Help Refugees) v SSHD

[2018] 4 WLR 168 (CA)

Acted for a refugee charity challenging the consultation process by which the SSHD fixed the number of unaccompanied asylum-seeking children to be relocated from Calais to the UK (with Nathalie Lieven QC and Laura Dubinsky).

Metropolitan Police advice

(2015)

Advised the Metropolitan Police on legal questions arising from an investigation into phone hacking (with Michael Beloff QC).

Commercial

Eesvan has acted in a wide range of commercial matters, with a particular emphasis on disputes with an international dimension.

Led by Shaheed Fatima KC, he recently acted in landmark Commercial Court litigation concerning the chairmanship of the Libyan sovereign wealth fund.

Led by Tom Weisselberg KC and David Lowe, Eesvan has acted for an international hotel chain in a substantial international arbitration; and is currently acting for the same chain in another substantial arbitration.

Prior to joining Chambers, Eesvan practised as a barrister at Shortland Chambers, New Zealand, appearing in and assisting other counsel with a broad range of contractual, employment, agency, planning disputes before the New Zealand High Court, Court of Appeal, and Supreme Court.

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Cases

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X v Y (2023 - present)

Led by Shaheed Fatima KC, Eesvan is acting for a leading sporting organisation in a jurisdictional challenge to a group claim on the grounds of Foreign Act of State.

Hotel arbitration II

2022-2023

Acted for an international hotel chain in an ICC arbitration (London seat) in a challenge under ss.67 and 68 Arbitration Act 1996 to an arbitral award concerning allegations of misrepresentation and fraud. Led by Tom Weisselberg KC and David Lowe.

Hotel arbitration

(2020-2021)

Acted for an international hotel chain in an LCIA arbitration (London seat) against a franchisor. The claim raised issues of contractual interpretation, implication of terms, breach, causation, and quantification of damages. Led by Tom Weisselberg KC and David Lowe.

Re: prospective group litigation against a mining company

2020-2021

Led by Shaheed Fatima KC, Eesvan advised on procedural options available to a mining company in the context of a prospective group litigation claim. This involved consideration of both English civil procedure and substantive legal issues arising under a foreign law.

Mahmoud v Breish et al

[2019] EWHC 306 (Comm); [2019] EWHC 786 (Comm); [2020] EWCA Civ 637

Acted (with Shaheed Fatima QC) for one of the Respondents in a dispute as to the Chairmanship of the Libyan Investment Authority. The case raised various novel issues, including the scope/effect of the 'one voice' doctrine regarding the recognition of foreign governments. In March 2020, the Commercial Court gave judgment on various Libyan law issues after a one-week trial: [2020] EWHC 696 (Comm). In May 2020, the Court of Appeal gave judgment on the 'one voice' point: [2020] EWCA Civ 637.

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Public International Law

Eesvan has significant experience of advising and representing clients in disputes raising novel issues of public international law, in particular the issues at the cutting edge of the doctrines of State Immunity and Foreign Act of State. Recent examples include the Libyan Investment Authority litigation (2019-2020) and his present work on jurisdictional challenge to a group claim on the grounds of Foreign Act of State.

Cases

X v Y (2023 - present)

Led by Shaheed Fatima KC, Eesvan is acting for a leading sporting organisation in a jurisdictional challenge to a group claim on the grounds of Foreign Act of State.

Advice on human rights standards applicable to social media during armed conflict

2022

Led by Shaheed Fatima KC, Eesvan advised a leading technology company on human rights standards applicable to social media during times of armed conflict.

Mahmoud v Breish et al

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Re State Immunity and Foreign Act of State

2020

Led by Shaheed Fatima QC, Eesvan recently advised a senior state official on issues concerning foreign act of state and state immunity arising in ongoing proceedings in the English courts.

Group Litigation

In recent years, Eesvan has acted on a number of significant examples of group litigation in a variety of contexts, including competition, data protection and alleged mass torts. In addition to often novel questions of procedure, these cases have typically involved consideration of foreign law, European law, and/or public international law.

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Cases

X v Y (2023 - present)

Led by Shaheed Fatima KC, Eesvan is acting for a leading sporting organisation in a jurisdictional challenge to a group claim on the grounds of Foreign Act of State.

Advice on claim against technology company for breach of data protection and competition law

Led by Tom de la Mare KC, Eesvan advised on the prospects of a claim against a leading technology company for breach of data protection and competition law, arising from allegations of the unlawful harvesting of user data.

Re: prospective group litigation against a mining company

2020-2021

Led by Shaheed Fatima KC, Eesvan advised on procedural options available to a mining company in the context of a prospective group litigation claim. This involved consideration of both English civil procedure and substantive legal issues arising under a foreign law.

Competition

Eesvan acted for the claimants in a substantial follow-on damages claim in the Chancery Division arising from the setting of interchange fees by MasterCard (with Kieron Beal QC and Tristan Jones). The substantive claim was settled, after judgments on various issues in the Chancery Division ([2015] EWHC 3749 (Ch)), the Competition Appeal Tribunal ([2017] CAT 14; [2017] Bus LR 63], and the Court of Appeal ([2017] EWCA Civ 272).

Eesvan has also conducted training in EU competition law.

Having studied and taught economics, Eesvan has a good working knowledge of the economics of competition law.

On EU law more generally, Eesvan recently acted (with Tom de la Mare KC) for Novartis in a challenge to an NHS policy on the grounds of compatibility with the EU Medicines regime (see Novartis v Darlington CCG et al, above). He has also advised on the prospects of a claim against a leading technology company for breach of competition and data protection law.

Cases

Novartis v NHS Darlington CCG & Others

[2020] EWCA Civ 449

Acted for Novartis in an EU law challenge to the use of unlicensed medicines within the NHS in place of licensed alternatives (led by Tom de la Mare QC).

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Advice on claim against technology company for breach of data protection and competition law

Led by Tom de la Mare KC, Eesvan advised on the prospects of a claim against a leading technology company for breach of data protection and competition law, arising from allegations of the unlawful harvesting of user data.

Deutsche Bahn & Ors v MasterCard Inc & Ors

See above.

Financial Services & Banking

Eesvan has a keen interest in financial services law and has acted in a number of financial services disputes, including (led by Andrew George QC) one of the first proceedings for compensation under s.90 FSMA (compensation for statements in listing particulars of prospectus). He has also advised on a wide range of financial services matters, such as the approved persons regime, the scope of the Conduct of Business sourcebook, responsibilities in relation to appointed representatives, pensions regulations, and the jurisdiction of the Financial Ombudsman Service.

Eesvan also advised the Qatar Financial Centre Regulatory Authority on an investigation into the conduct of an insurance intermediary.

Eesvan recently advised the FCA on a dispute arising concerning the interepretation of its FEES handbook.

In 2014-2015, Eesvan was seconded to the Financial Conduct Authority for five months, where he worked in the General Counsel's Division. Eesvan's primary responsibility was to draft an FCA rules instrument amending the FCA Handbook to implement part of the Mortgage Credit Directive 2014/17/EU. Eesvan also advised on a variety of other matters such as the supervision of firms and the scope of the FCA's regulatory responsibilities.

Cases

Re: the Quincecare duty

2018-2019

Advised and acted for an entity re a claim against a bank for breach of the Quincecare duty (with Tony Peto QC). Eesvan represented the entity at a mediation, following which the claim settled.

Qatar Financial Centre Regulatory Authority investigation

Advised the Qatar Financial Centre Regulatory Authority with an investigation into the conduct of an insurance intermediary.

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Standard Life v Corr et al

2015-2016

Acted for a Defendant in a claim under s.90 FSMA (with Andrew George QC). The case settled shortly before trial.

Negligence claim

(2016)

Advised an individual on a proposed claim in negligence and for breach of the FCA Conduct of Business Sourcebook for losses incurred in commodities trading.

Collective investment scheme claim

(2016)

Advised on the merits of a proposed claim under the FCA Conduct of Business Sourcebook and at common law in relation to anticipated losses under a collective investment scheme. Also advised as to the scope of the jurisdiction of the Financial Ombudsman Service.

Approved persons regime advice

(2015)

Advised a firm on compliance obligations under the FCA approved persons regime arising from its purchase of an insurance broking business.

FCA Handbook advice

Advised the FCA on consequential changes to the FCA Handbook arising from the implementation of the Mortgage Credit Directive 2014/17/EU.

FCA – Secondment – General Counsel's Division

(2014–2015)

See above.

ACHIEVEMENTS

Education

LLB and BCom (First Class Honours) (Auckland); BCL (Dist.) and DPhil in Law (Oxon)

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Prizes & Scholarships

- Rhodes Scholarship, 2007–2010
- Merton College Prize Scholarship, 2010
- Modern Law Review Scholarship, 2009–2011
- Member of winning team, Global Business Challenge, Seattle, 2004
- A.G. Davis and Sir Alexander Johnstone Scholarships in Law, University of Auckland, 2004
- Prizes, Economics and International Business, University of Auckland, 2004

Publications

- "Decolonising the Common Law: Reflections on Meaning and Method" [2020] Auckland U. L. Rev 37
- “Private Speculations and the Public Interest: N. C. Kelkar’s Land Acquisition Bill” [2013] Socio-Legal Review 127
- “Assessing the Value of Contract Economics” [2005] Auckland U. L. Rev 116

VAT registration number: 194286081

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