

Brian M. W. Wong

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Call: 2006 (HK)

Qualifications

BSc (Hons) Statistics, Computing, Operational Research & Economics (University College London)

LL.B (Hons) (City University of London)

PCLL (University of Hong Kong)

CEDR Accredited Mediator

HKMAAL Accredited Mediator

Practice Profile

Litigation

Brian has a broad civil practice and he has been instructed as the sole counsel in various civil trials both in the District Court and the High Court. Further, he has extensive experience in making as well as resisting various applications such as interlocutory injunction, summary judgment and security for costs. He also undertakes advisory and drafting work.

More specifically, his civil practice includes land, conveyancing, landlord and tenant, trusts, wills and probate, defamation, intellectual property and company issues such as winding up petitions. Brian also undertakes work in relation to general contractual and commercial disputes, and tortious matters such as personal injuries and professional negligence claims.

His criminal practice involves applications in the High Court such as bail applications and magistracy appeals as well as conducting trials in the Magistrates' Courts on a regular basis.

Mediation

In 2008, Brian became a CEDR Accredited Mediator and he has been appointed as the mediator in a wide range of disputes on a regular basis. As of 2017, Brian has been appointed as the mediator in over 800 cases, of which around 600 are employees' compensation and/or personal injury claims.

In February 2015, Brian was interviewed as a specialist advocate on mediation by the Lawyer Monthly Magazine. Further, Brian was interviewed by the RTHK in September 2016 on personal injury mediation.

Selected Cases

Trials, Appeals & Petitions

- Court of Appeal – Successfully struck out the Plaintiff's medical negligence claim for want of prosecution on the ground of abuse. Appeal by the Plaintiff dismissed - *Kwan Yuen Mei v Lau Sui Yuen & Others*, CACV 15 & 16/2016, 17.8.2017;
- High Court trial (9 days) - Contractual dispute and the law on fiduciary duties in relation to the design & construction of a vessel over HK\$12m Successfully argued for an entitlement of a "credit" to be given being the value or sale proceeds of the vessel - *Leung Wan Kee Shipyard Ltd v Dragon Pearl Night Club Restaurant Ltd* [2016] 1 HKLRD 657;
- High Court trial (9 days) – Family dispute on the law of common intention constructive trust and the Personal Data (Privacy) Ordinance (Cap.486) [2015] 4 HKLRD 268;
- High Court trial in Chinese (8 days) - Successfully obtained judgment for the Plaintiff regarding a claim on constructive trust & contracts executed under duress - *Yau King Kau v Andy Tsang*, HCA 1419/2009, 6.11.2015;
- District Court trial - Successfully obtained judgment for the Plaintiff for the repayment of a loan made under an oral agreement for the resumption of a listed company in the UK - *Foelan Wong v Wong Tse Kin*, DCCJ 2650/2011, 16.5.2014;
- District Court trial - Successfully obtained judgment for the Plaintiff in a shipping dispute on switched bill of lading and multimodal transport document - *Joyspeed Global Cargo (China) Ltd v Multitex Limited*, DCCJ 344/2010, 28.4.2014;
- District Court trial - Successfully obtained judgment for Plaintiff for unpaid warehousing charges. Application for leave to appeal was refused by both the

District Court and the Court of Appeal with costs to the Plaintiff - *Ever Harvest Tobacco & Liquor Bonded Warehouse Ltd v Force 8 Cellars Ltd*, DCCJ 1945/2007; HCMP 743/2009; HCMP 914/2009, 16.6.2009;

- Personal injury trial conducted in Chinese – Acted for the 2nd Defendant & successfully established contributory negligence against the Plaintiff - *Lau Yuet Ming v Wong Ping Hang & Others*, DCPI 115/2010, 22.2.2012;
- The law on substitution of a supporting creditor in a winding up petition under Rule 33 of the Companies (Winding-Up) Rules, *Re Sanmenxia Tianyuan Aluminium Co Ltd* [2013] 1 HKLRD 393;
- Petition for reduction of share capital of DHC Hong Kong Limited, a leading international company in cosmetics. Successfully reduced its authorised share capital from HK\$60m to HK\$2 (HCMP 189/2010);
- Petition for reduction of share capital of a company. Successfully reduced authorised share capital from HK\$6.25m to HK\$4.75m (HCMP 1190/2009, 6.8.2009);
- Magistracy Appeal for the Respondent, Hospital Authority (HCMA 951/2006, 30.3.2007). Appeal dismissed.

Interlocutory Applications

- Acted for the Defendant in a case on constructive trust in the sum of HK\$135 million and damages for unlawful intimidation. Successfully opposed to an application for discovery in aid of a Mareva injunction pending reply from the Department of Justice on privilege against self-incrimination - *Hui Chi Ming v Koon Wing Yee*, HCA 1479/2009, 25.9.2009 (led by Mr. Ronny Wong SC);
- Successfully resisted an application for summary judgment for the vendor regarding its duty to deliver the title deeds to the purchaser's solicitors 7 working days before the completion date - *Tai Da Trading (HK) Co Ltd v Chan Wai Kuen & Anor*, HCA 812/2012, 3.5.2013;
- Successfully applied for a restrictive application order against the Plaintiff - *Kwan Yuen Mei v Lau Sui Yuen & Others*, HCPI Nos.569&570/2009, 9.10.2012;
- Successfully applied for an interlocutory injunction with costs in relation to a case of constructive trust - *Kam Chung Tung v Ma Wai Kin, personal representative of the Estate of Law Yin Chun*, HCA 184/2008;

- Successfully applied for an *ex parte* interlocutory injunction - *Qiu Xiao Feng v Big Power Holdings Ltd & Others*, HCA 367 of 2008;
- Successfully applied for a Mareva injunction against the Defendants for breach of fiduciary duties - *Fujiden (Hong Kong) Ltd & Anor v Wong Wai Sum & Anor*, HCA 2163 of 2007;
- Successfully struck out the Notice of Appeal and Summons for stay of execution pending appeal - *The Cheong Shing Investment Loan & Exchange Co Ltd v Ho Wan Cheung & Anor*, CACV 395 of 2006, 17.10.2007;
- Successfully opposed to the application for the admission of Mr. Michael Flesch QC (HCMP 279 of 2007, 16.2.2007). Appeared for the Hong Kong Bar Association (led by Mr. Edward Chan SC);
- Successfully sought for a short extension period of 2 years in relation to the automatic discharge of the bankrupt pursuant to sections 30A(1) and 2(a) of the Bankruptcy Ordinance (Cap.6) – *Re Lo Man*, HCB No.11786/2002, 18.10.2007.

Advisory Work

- Advice on the legal consequences that may arise from various non-compliances with the Companies Ordinance for the purpose of listing in HK;
- Advice on the potential liability of a mini-storage provider for the purpose of listing in HK arising from the storage of dangerous, prohibited or illegal goods by its customers in both criminal and civil aspects.

Language

Fluent in English and Cantonese. Conversational Mandarin and obtained Grade A in G.C.S.E. French.