

丘扬万 大律师

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法律深造文凭[P.g.D.L.]
法学专业证书

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Year Of Call:

2005 (香港)

Practice Areas: 行政法与公法, 仲裁, 调解, 衡平法, 商事法, 公司法, 雇佣及反歧视法, 家事法, 土地法与规划法, 证券法,



丘扬万大律师在加入大律师行业之前曾于渣打银行工作。他的执业主要包括高价值的国际性商业、公司、清盘案件, 以及对于衡平法济助和属宣布性质的济助的申索。丘大律师被《钱伯斯指南》认为是一位“十分踏实”的“大有前途的大律师”, “对于清盘事宜十分了解”并且“善于处理公司法业务”。

在2013年, 丘大律师协助祁志资深大律师与叶天慧大律师在被强制清盘的 Akai Holdings Ltd. 对其前董事James Ting提起的接近100万美元的衡平法赔偿诉讼中代表James Ting进行辩护 (**Akai Holdings Ltd. (in compulsory Liquidation) v Everwin Dynasty Ltd., & ors. (No. 2) [2016] 3 HKC 307**) 此外, 丘大律师还在一宗有关中国地产公司的案件中成功申请紧急禁制令以及价值近5.95亿美元的仲裁裁决, 同时针对该案中“第三位妻子”以及“女儿”提起藐视法庭聆讯 (**Arboit v Koo Siu Ying (No. 2) [2016] 3 HKLRD 154** 以及 **Arboit v Koo Siu Ying and [2015] 3 HKLRD 319**)

丘大律师在行政法和公法领域亦经验丰富。他曾参与过许多对于商业和基本权利有着重大影响案件, 在其中既代表过政府, 也代表过反对政府决定的当事人。

丘大律师曾参与关于香港教育学院的指控的研讯, 随后更在起因于该研讯的司法复核中, 代表律政司司长参与聆讯。在近期的其他关于移民及人权事务的司法复核案件中, 丘大律师也代表过入境事务处处长或保安局局长, 例如 **Re FAR [2017] 2 HKLRD 1166**

此外, 丘大律师亦在处理信托、婚姻、建筑、证券、专业疏忽、人身伤亡和雇佣等领域的事务中有着相当丰富的经验。

Directory Quotes:

德辅大律师事务所的丘扬万大律师的执业领域十分广泛, 包括商事法以及司法复核, 丘大律师近期逐渐在家事法领域提供法律意见, 并且以其在清盘领域的专业知识闻名。一位评论者还认为他「具有理解难懂的事务以及复杂文件的能力, 并且能够在短时间内提供敏锐的法律意见。」

《钱伯斯指南（亚太）》（2018）

德辅大律师事务所的丘扬万大律师在行政法及公法领域具有丰富的经验，并且正逐步更积极地参与商事法及公司法领域的案件。他近期的执业重点包括一系列的清盘相关案件，包括 *Akai Holdings (in compulsory liquidation) v Everwin Dynasty and Others*。评论者们认为他是一位「优秀的大律师」，「知识渊博」。

《钱伯斯指南（亚太）》（2017）

德辅大律师事务所的丘扬万大律师是一位「受到大家好评的大律师」。他专注于行政法与公法案件，并且因其会计技能及加入大律师行业前于投资银行的工作经验得到称赞。

《钱伯斯指南（亚太）》（2016）

Expertise:

职务及任命

- 香港国际仲裁中心认可的一般调解员
- 上诉审裁团（建筑物）主席
- 香港大律师公会法律教育及专业进修常委会成员
- 香港大律师公会海外大律师资格认许常委会成员
- 香港大学法律专业学系讲师
- 香港会计师公会清盘专业证书讲师

重要案件

Company & Insolvency

- *Arboit v Koo Siu Ying (No. 2)* [2016] 3 HKLRD 154. Yang (leading Kaiser Leung) continued to act for the liquidators in the finale to these proceedings where Queeny Au-Yeung J., having earlier found the Defendants guilty of contempt in [2016] HKEC 556, thoroughly reviewed the authorities on and the approach to be adopted by the courts in imposing punishment for civil contempt.
- *Arboit v Koo Siu Ying* [2015] 3 HKLRD 319. Yang (led by Mark Strachan Q.C., S.C.) successfully refuted accusations of abuse of process and oppression that had been levelled against a liquidator who had brought contempt proceedings arising out of orders made under s. 221 of the previous Companies Ordinance (CAP. 32).
- *Re Hang Heung Cake Shop Co Ltd* [2013] HKEC 163. Yang obtained leave for the shareholders of 2 companies to proceed with a statutory derivative action for abuse of confidence, undue influence, and unconscionable conduct against, inter alia, the companies' former solicitors. The

Judgment of Le Pichon DHCJ. is instructive as regards locus standi to bring such applications.

- Max Regent Garments Co Ltd. v Direct Fashion Sourcing Ltd. [2012] HKEC 1368. The Court refused applications by a creditor for invalidation of various resolutions or the removal of the Liquidators (who were represented by Yang). Barma J.'s judgment is the leading decision on the appropriate form of resolutions for voluntary liquidations, as well as on requirements that have to be met in order for a document or information to be "laid before" a meeting.
- Akai Holdings Ltd. (in compul liq) v Everwin Dynasty Ltd. & ors. [2012] 4 HKLRD 248; [2012] 3 HKC 485. Yang (led by Mark Strachan) appeared for James Ting in this case which concerned the correct approach to take where an application to amend pleadings which might prejudice a potential limitation defence. This was the first time the Court of Appeal considered and contrasted the approach espoused by the Hong Kong Court of Appeal in Extramoney Ltd. v Chan, Lai, Pang & Co. [1992] 1 HKLR 244), with that subsequently set out by the English Court of Appeal in Welsh Development Agency v Redpath Dorman Long Ltd. [1994] 1 WLR 1409.
- Re Legend International Resorts Ltd. [2011] HKEC 221. The liquidators of the company applied for security for costs in relation to an application for directions as to the conduct of the liquidation, including their removal. Yang acted on behalf of a creditor and contributory in opposing the said application, which was the first of its kind in Hong Kong.
- Re Legend International Resorts Ltd. [2011] HKEC 317. Appeared (led by Anson Wong) on behalf of a creditor and contributory applying for directions as to the conduct of this liquidation, which was subject to a regulating order. An important case on post-regulating order directions, and the only case to consider whether a regulating order can be varied or discharged.
- Re Wickson Holdings Ltd. [2011] 2 HKLRD 373. Appeared for a group of shareholders to seek directions regarding the disposal of the company's major assets. The Court had regard to the commercial reality of the situation and granted the desired directions in spite of the application being fiercely contested by a rival camp of shareholders.
- GDH Ltd. v CreditorCo Ltd. [2010] HKEC 1238 (CFA), [2010] HKEC 818 (CA), [2008] 5 HKLRD 895 (CFI). Appeared (led by Chua Guan-Hock S.C.) at all levels of these proceedings, which arose out of a US\$4.9 billion debt restructuring scheme, the main concern being who would receive payment of US\$23 million worth of assets. The leading case on whether and how far good faith applies in relation to debt restructuring agreements, and also an important case on service out of the jurisdiction.

Employment

- AXA China Region Insurance Co Ltd. v Lin Kwai Ying Katie [2012] 2 HKLRD 1139. Chung J. granted the Defendant's (represented by Yang) application to strike out a defective Statement of Claim in this employment dispute. The Judgment contains useful observations on pleading the tort of causing loss by unlawful means and examined pressing issues relating to the extent of the Labour Tribunal's jurisdiction.

Administrative/Public Law

- Re FAR [2017] 2 HKLRD 1166. Albert Wong J. rejected the Applicant's application for judicial

review of the decisions of the Director of Immigration (represented by Yang) and of the Torture Claims Appeals Board under the Unified Screening System. The judgment is an instructive example of how the Courts approach the question of alleged mental suffering, as well as the concept of extended state acquiescence given the test set out by the Court of Appeal in *AM v Director of Immigration* [2014] 1 HKC 416.

- *Secretary for Justice v Commission of Inquiry on Allegations relating to the Hong Kong Institute of Education* [2009] 4 HKLRD 11, [2009] 3 HKC 102. Appeared (led by Michael Beloff Q.C. and Johnny Mok S.C.) on behalf of the Secretary of Justice, the former Secretary for Education and Manpower, and the former Permanent Secretary for Education and Manpower, in this leading case which examined and defined the relationship between academic freedom and the freedom of expression, with a particular emphasis on the rights and responsibilities of senior government officials when dealing with academics.
- *Inquiry on Allegations relating to the Hong Kong Institute of Education*. Yang was led by Johnny Mok S.C., Lisa Wong S.C., and Thomas Au (now Au J.) in this high-profile 35-day inquiry which arose out of allegations that the Secretary for Education and Manpower, and the then-Permanent Secretary for Education and Manpower, had interfered with the academic freedom and institutional autonomy of higher education institutions. The report led to subsequent groundbreaking judicial review proceedings in which Yang was also involved.

奖学金及奖项

- Bar Scholarship (2004)
- Charles Ching Scholarship (2005)
- Middle Temple Society of Hong Kong Scholarship (2004)

出版物及讲座

著作

作为特约编辑参与编写的书籍

- 《香港公司法案例汇编》特约编辑（2008-2019）— 由德辅Des Voeux Chambers和威科集团于2020年共同发行
- 《香港民事司法程序》（2007年起）
- 《香港合同法》[Butterworths Hong Kong Contract Law Handbook]第4版，2019年）
- 《香港公司法案件汇编》（2019年再版）
- 《电子交易条例（注释版）》（第553章）（2018年再版）
- 《香港建筑法》[Hong Kong Construction Law (LexisNexisButterworths) 2007年至2012年）
- 《“良好且可辩驳的理据”的测试标准是否适用于依据《高等法院条例》第21M条作出的资产冻结令申请》 [2009] 17 CIRA
- 德辅通讯第二期《法庭指示是否倾向于鼓励传统孝道？》
- 德辅通讯第三期《管辖权条款如何影响清盘呈请及股东呈请？》

演说/讲座

- 跨国重组计划、临时济助以及检阅文件（与陈佩霖大律师共同发表演说）
- 股东的权利及济助（与王凯琦大律师共同发表演说）
- 司法复核的界限（与莫树联资深大律师共同发表演说）
- 公司的前任董事在公司的清盘程序中应当注意的问题（与鲍毅龙资深大律师和卓元畅大律师共同发表演说）
- 不当售卖和相关问题：解释金融顾问的责任和义务（与霍金路伟律师事务所[Hogan Lovells]的林文杰律师和邓伟德、戴源恒律师行[Tanner de Witt]的邓伟德律师共同发表演说）

工作语言

英语；广东话；普通话