

Brian Fan

BCL (Oxon) (Distinction)
LLB (HKU) (First Class Honours)

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Year Of Call:
2020

Practice Areas: Administrative and Public Law, Arbitration, Chancery, Commercial Law, Company Law and Insolvency, Competition Law, Construction Law, Criminal Law, Employment and Anti-Discrimination, Family Law, Intellectual Property, International Trade, Land & Planning Law, Mediation, Securities Law, Tax Law,



Brian is a Bar Scholar. He joined Chambers upon completion of his pupillage with William Wong SC, Tony Li (now Tony Li SC), Christopher Chain and Jason Yu. He is currently developing a broad civil and commercial practice, and has appeared in all levels of Court.

Brian is involved in cases concerning a wide range of areas, including general commercial, insolvency, director's duties, shareholders' disputes, professional disciplinary proceedings, trust, arbitration, construction, shipping, matrimonial, land matters, and judicial review. He regularly appears as sole trial counsel, and represented the plaintiff in ***Triunion (H.K.) Cereal & Oil Company Limited v APAC Investment Holdings Limited*** [2022] HKCFI 3326 where judgment of over HK\$108 million was awarded against all defendants for breach of contract, tort of inducing breach of contract and unlawful means conspiracy. He recently represented the appellant-petitioner in the landmark case of ***Re Guy Kwok Hung Lam*** [2023] HKCFA 9 (led by Jose Maurellet SC, with Nick Luxton), where the Court of Final Appeal laid down the approach to insolvency petitions that engage an exclusive jurisdiction clause. Brian has also been instructed in arbitration and arbitration-related court proceedings.

Prior to joining the bar, Brian graduated first in class with his LLB from the University of Hong Kong, and further obtained his BCL with distinctions in all subjects from the University of Oxford as a Jockey Club Scholar.

Expertise:

Selected cases

Civil trials / Commercial disputes

- ***Fung Yim v China Industrial Securities International Brokerage Ltd*** [2023] HKCFI 957: Application for summary judgment in respect of margin account deficit, and striking out of claims of allegations of forgery and misuse of margin account (led by Jose Maurellet SC)
- ***Hung Wai Kuen and Others v Cheng Shun Ping*** [2023] HKCFI 949: Sole trial counsel, contractual disputes for breach of development agreement of land, admissibility of unstamped sale and purchase agreements of land where not specifically performed
- ***Triunion (H.K.) Cereal & Oil Company Limited v APAC Investment Holdings Limited*** [2022] HKCFI 3326: Sole trial counsel, contractual disputes for breach of share transfer agreement for damages over HK\$108 million, contractual estoppel, tort inducing breach of contract and unlawful means conspiracy
- ***Atlantic Link Limited v Incorporated Owners of Yen Ying Building*** [2022] HKDC 825: Sole trial counsel, breach of DMC and nuisance, principles on compellability of expert witnesses to testify for opposing party and the instructing party's right to cross-examination
- ***Lee Man Fai v Yip Pak Keung*** [2021] HKCFI 2264: Sole trial counsel, contract and illegality defence (case settled on the second day of trial)
- ***Choy Shok Chun v Yu Hon Keung*** [2022] HKDC 671: Sole trial counsel, breach of DMC and nuisance
- ***Pacific Bulk Supramax Co Ltd v Bintan Mining Corporation*** [2021] HKCFI 680: Application for continuing Mareva injunction for US\$8 million arising from charterparty disputes (led by Victor Joffe QC SC, with Christopher Chain)
- ***Ng Kwok Piu Philip v To Pui Kui*** [2021] HKCA 106: Resisting leave to appeal to the Court of Final Appeal on the basis of the Duomatic Principle (led by William Wong SC, with Adrian Lai)
- ***Jin Jiang Investment Ltd & Anor. v. 深圳市威廉金融控股有限公司 & 32 Ors*** [2022] HKCFI 378: Application for a Mareva injunction up to the value of HK\$1,029 million for a claim of commercial fraud and resisting application for variation of the injunction (with Patrick Chong and Michael Ng)
- ***Dmitry Yanishevskiy v Maxim Moskalev*** [2022] HKCFI 1452: Principles on academic

appeals (led by Abraham Chan SC, with Tom Ng)

Company / Corporate Insolvency

- **Re Guy Kwok Hung Lam** [2023] HKCFA 9 (led by Jose Maurellet SC, with Nick Luxton): Approach to insolvency petitions where the underlying petition debt is subject to an exclusive jurisdiction clause
- **Re Progetto Jewellery Company Limited** [2022] HKCFI 364: Principles on rescission of winding up order
- **Kiu Hung International Holdings v Li Pik Ha** (HCMP 933/2021): Application for injunction restraining presentation of winding up petition based on promissory notes of HK\$18 million (led by Paul Shieh SC, undertaking given by the Defendant on the eve of hearing)
- **Sanju Environmental Protection (Hong Kong) Ltd v Wang Lishan** [2022] HKCFI 1503: Injunction restraining directors from acting in breach of duties (led by Laurence Li SC)
- **Universal Entertainment Corporation v Kazuo Okada** [2020] HKCFI 1406 (affirmed by the Court of Appeal in [2020] HKCA 995): Resisting a Mareva injunction for US\$620 million against a former director and founder of a Japanese listed company (led by William Wong SC)

Land

- **Hung Wai Kuen and Others v Cheng Shun Ping** [2023] HKCFI 949: Sole trial counsel, contractual disputes for breach of development agreement of land, admissibility of unstamped sale and purchase agreements of land where not specifically performed
- **Rich Trend Ltd v Kingfair International Enterprise Ltd** [2022] HKCFI 3319: Vacation of attempted registration of lien with the Land Registry, limitation period applicable to equitable lien
- **Lam Chok Lai v The Official Receiver and Trustee in Bankruptcy of Lam Chok Wai, a Bankrupt** [2021] 1 HKLRD 1185: Principles on variation of order for sale of land under the Partition Ordinance (Cap. 352) (with Patrick Chong)
- **Fook Lee Holdings Ltd v the Secretary for Transport and Housing** [2021] HKLdT 36: Trial counsel, determination of the amount of compensation payable for temporary occupation of land under the Roads (Works, Use and Compensation) Ordinance (Cap. 370) (with Christopher Chain)

Arbitration and related court applications

- ***L v MN*** [2021] HKCFI 3206: Case management stay pending resolution of arbitration (led by Jose Maurellet SC)
- ***Roth v Orlov*** [2021] HKCA 639: Approach to construing arbitration clauses, relevance of Fiona Trust presumption in transactions involving multi-contracts (with Christopher Chain)
- ***Commercial Arbitration (HKIAC Rules)***: Chinese contractual dispute in relation to sale and purchase of shares for RMB 600 million, contractual interpretation under PRC law (led by William Wong SC)
- ***Commercial Arbitration (HKIAC Rules)***: Guarantee disputes for claims over US\$20 million, contractual interpretation (led by William Wong SC, with Connie Lee)

Judicial review

- ***Siu Yat Fung Anthony v the Council of the Law Society of Hong Kong*** [2022] 3 HKLRD 443: Amenability of the decisions Joint Tribunal of the Council of the Hong Kong Bar Association and the Council of the Law Society to judicial review, proper respondent to judicial review (led by William Wong SC)
- ***Siu Yat Fung Anthony v the Council of the Law Society of Hong Kong*** [2022] HKCFI 2199: Tameside Duty and duty to give reasons (led by William Wong SC)

Memberships & Appointments

- Part-time Lecturer (Non-Clinical), Department of Law, The University of Hong Kong (effective from September 2020)

Scholarships and Awards

- Bar Scholarship (2019)
- Sir Oswald Cheung Memorial Fund PCLL Scholarship (2018)
- Hong Kong Jockey Club Graduate Scholarship (2017)
- Gallant Ho Prize in Law (2017)
- Herbert Smith Freehills International Competition Law Moot Champion and Oralist Award (2017)
- Joint University Mooting Festival Champion and Best Speaker Award (2015)
- International Oxford IP Moot Quarter-finalist and Best Written Submissions Award (2015)
- Basic Law Moot Champion and Best Speaker Award (2014)
- 20 other academic scholarships or awards

Publications, Lectures and Talks

- Contributing Editor to Hong Kong Company Law Cases (2008 - 2019) - published in 2020 by DVC in collaboration with Kluwer