

Clifford Smith, SC

MA, University College, Oxford

Year Of Call:

1974 (England and Wales)

1982 (Hong Kong)

2001 (Hong Kong Inner Bar)

Practice Areas: Administrative and Public Law,
Commercial Law, Company Law and Insolvency, Chancery,
Tax Law, International Trade,



Clifford Smith SC has a broadly based commercial practice and has been involved in some of Hong Kong's heaviest civil cases, including **ADS v. Wheelock Marden** and the recent Akai litigation. Since taking silk in 2001 his field of practice has broadened even further to include tax, telecommunications and broadcasting law.

He is consistently ranked as a leading Silk in Chambers & Partners (Asia-Pacific) where he has recently been commended for his "impressive thoroughness," for being "a very active thinker" and for his "outstanding advocacy skills" and his "intelligent technical analysis" as well as his standout ability to "present a powerful argument."

Well over 200 of his cases have been reported in the law reports.

Directory Quotes:

Clifford "wins recognition for the breadth of his commercial practice, which includes particular strengths in insolvency issues, company law and cases arising in the technology, telecoms and financial services sectors. Admired by peers as a "quiet, but cerebral practitioner," he is a popular choice among instructing solicitors. "If we need a creative silk he is invariably our first port of call."

Chambers & Partners Greater China Region (2022)

'One of the most user-friendly members of the Bar. Incredibly bright.'

'He is a tenacious and very experienced advocate.'

Clifford Smith is acknowledged as a Leading Silk for Commercial Disputes and Shipping & Aviation

Legal 500 Asia Pacific HK Bar (2022)

Clifford Smith SC comes “highly recommended” as an “incredibly bright” Senior Counsel and “one of the most user-friendly members of the Bar.” He wins recognition for the breadth of his commercial practice, which includes particular strengths in insolvency issues, company law and cases arising in the technology, telecoms and financial services sectors. Known widely as a “very experienced advocate who is well known to the judges,” he is also praised as “super hands-on.” “Often SCs rely on the junior to do a lot of the work, but he really takes care of everything and is a very reliable person, good for clients to work with.”

Chambers & Partners Asia Pacific (2021)

“First-class and tenacious, he is a very experienced advocate and well-known to the judges. Counsel of choice in shipping disputes, whenever there is a difficult and novel point of law. The “very experienced” Clifford Smith SC also has a track record of the jurisdiction's key shipping cases.” Clifford Smith is acknowledged as a Leading Silk for Commercial Disputes and Shipping.

Legal 500 Asia Pacific HK Bar (2021)

Clifford Smith SC is credited as a Leading Senior Counsel in the [Doyles Guide 2021 for Maritime, Shipping & Transport Law for Barristers in Hong Kong](#)

Doyles Guide (2021)

Clifford Smith SC of Des Voeux Chambers is commended extensively by interviewees who typically characterise him as “an eloquent, hard-working and very fair advocate who doesn't take bad points” and is “always on top of his material.” References to his consistently “proper and polite” demeanour in court are, however, accompanied by others reporting his ability to “stand his ground relentlessly” when necessary, and the warning: “Don't underestimate him.” His wide-ranging practice is rich in experience of company law, insolvency, taxation and international trade issues as well as general commercial ones.

Chambers & Partners Asia Pacific (2020)

Clifford Smith SC is credited as a Leading Senior Counsel in the Doyles Guide 2020 for Maritime, Shipping & Transport Law for Barristers in Hong Kong

Doyles Guide (2020)

Clifford Smith SC of Des Voeux Chambers is particularly noted for his combination of “very impressive thoroughness” in preparation and a “patient and non-aggressive” presentational style, well calculated to “persuade the people in the courtroom in such a way that no one will be offended.” His broad commercial practice embraces noted niche strengths in the telecommunications and broadcasting spheres. Also an experienced handler of insolvency cases, he acted for the provisional liquidators in the High Court’s consideration of *Re China Solar Energy Holdings*, a matter concerning the circumstances under which liquidators are appointed and the extent of their restructuring powers.

Chambers & Partners Asia Pacific (2019)

Clifford Smith SC of Des Voeux Chambers is the recipient of spontaneous recommendations by solicitors and viewed by peers as a “very fair, very hard-working” silk whose popularity makes him “very busy all the time.” He is also described as a “very active thinker” and “very persuasive to judges.” Noted for the breadth of his practice, he has lately been prominently engaged in, among others, cases involving banking, insolvency and trading disputes.

Chambers & Partners Asia Pacific (2018)

“Clifford Smith SC of Des Voeux Chambers is described by one source as “incredibly bright, highly recommended and one of the most user-friendly members of the Bar” and by another as “very experienced and fair,” whatever the nature of the case. He is known for his ability to handle “pretty much anything” in the commercial sphere, including financial services and media matters. He recently represented the University of Hong Kong in widely reported High Court proceedings concerning a press freedom issue.”

Chambers & Partners Asia Pacific (2017)

“Clifford Smith SC of Des Voeux Chambers enjoys a noteworthy reputation in commercial law, market commentators attributing much of his strength in the sector to his extensive experience. He is further described as “hands-on and reliable.”

Chambers & Partners Asia Pacific (2016)

“He is noted for having built up a solid reputation representing leading financial institutions... A talented barrister with outstanding advocacy skills who is also very pleasant to work with.”

Chambers & Partners Asia Pacific (2011)

“His strengths lie in his intelligent, technical analysis and ability to present a powerful argument.”

Chambers & Partners Asia Pacific (2008)

Expertise:

Selected Cases

- ***Perfekta Enterprises v. Commissioner of Inland Revenue*** [2019] HKCFA 25 Profits tax; CFA considers test for change of intention from holding capital asset to trading (with Justin Lam)
- ***Win More Shipping v. Director of Marine*** [2019] HKCKI 1137 Application for judicial review of alleged decision to de-register a ship in context of sanctions imposed on North Korea; legal effect of UN Security Council Resolutions (with Adrian Lai)
- ***Rafaat Imam v. Life (China) Co Ltd*** [2018] 4 HKLRD 152 Whether court should give pre-approval for litigation funding (with Sabrina Ho and Tommy Cheung) and ***Re A*** [2020] HKCFI 493 (with Sabrina Ho) involving the same issue re litigation funding.
- ***China Solar Energy Holdings (No 2)*** [2018] 2 HKLRD 338 Role of provisional liquidators with restructuring powers (with Alexander Tang). This case resulted in Des Voeux Chambers being awarded by Global Restructuring Review the prize, on 26 June 2018 in London, for the most significant insolvency or restructuring related litigation.
- ***T v. A*** [2018] 3 HKLRD 730 Authority to commence arbitration proceedings (with Jason Yu)
- ***Luen Ford*** [2018] 3 HKLRD 718 Winding up petition based on dishonoured cheques given to pay solicitor’s fees (with Edward Tang)
- ***University of Hong Kong v. HK Broadcasting*** [2016] 4 HKLRD 113 Breach of confidence; injunction to restrain disclosure of audio recordings (with Martin Kok) LDK Solar [2015] 1

HKLRD 458 Scheme of arrangement involving larger cross-border restructuring (with Kerby Lau)

- ***The Almojil 61*** [2015] 3 HKLRD 598 Whether agreement to pay part of purchase price created a loan or an acquisition of part ownership under an express trust
- ***The Alas*** [2014] 4 HKLRD 160 Whether unsatisfied foreign arbitral award was a bar to an in rem action based on the underlying claim for unpaid charter hire
- ***Akai v. Ernst & Young*** [2009] 5 HKLRD 804 (CFA). No jurisdiction to order security for costs of a claim brought by an insolvent overseas company with a place of business in Hong Kong.
- ***Pacific Electric Wire & Cable v. Harmutty*** [2009] 3 HKLRD 94 and FAMV 28/2009 (Court of Appeal and CFA). Whether summary judgment is available or appropriate where the underlying claim is based on allegations of fraud.
- ***Hebei Enterprises v. Livasiri*** (2008) HKCFAR 321 (CFA). Professional negligence; whether solicitors held money as stakeholder or trustee; duty to advise client of risk of transferring money to another firm.
- ***Commissioner of Inland Revenue v. Tai Hing Cotton Mill (Development) Ltd*** [2008] 2 HKLRD 40 (CFA). Effect of anti avoidance provision on tax liability of subsidiary company developing land bought from parent at price referable to share of redevelopment profits.
- ***World Fuel Services v. Florens Container Inc*** (2007) 10 HKCFAR 256 (CFA). Jurisdiction to order costs to be paid by an interested non party who funds an action brought by the liquidators of an insolvent company.
- ***Official Receiver v. Trustee in Bankruptcy of Chan Wing Hing*** (2006) HKCFAR 545 (CFA). Provisions of Bankruptcy Ordinance obliging bankrupt to notify trustee in bankruptcy of travel plans are unconstitutional as restricting Basic Law right of freedom to travel.