

Jonathan Chan

BA in Economics (Distinction), University of California,
Berkeley
JD (First Class Honours), University of Hong Kong
LLM, University of Cambridge

Email Address:

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Year Of Call:

2015

Practice Areas: Arbitration , Mediation, Chancery,
Company Law and Insolvency, Commercial Law,
Competition Law, Construction Law, Land & Planning Law,
Securities Law,



Jonathan joined Des Voeux Chambers in 2015. He has a broad civil and commercial practice, with an emphasis on construction, company, insolvency, bankruptcy, competition, trusts and land matters. He regularly appears in the Court of First Instance and the Court of Appeal, both in his own right and as junior counsel, and routinely receives instructions for advisory work.

Recent highlights of Jonathan's work include: acting as junior counsel in *Re L & A International Holdings Ltd* [2020] 4 HKLRD 544, the landmark Court of Appeal decision on the jurisdictional limits under sections 728-730 of the Companies Ordinance (Cap. 622); appearing as junior counsel in *Re China Solar Energy Holdings Ltd (No. 2)* [2018] 2 HKLRD 338, the leading authority on provisional liquidators' restructuring powers; and representing the defendant as junior counsel in *Taching Petroleum Co Ltd v Meyer Aluminium Ltd* [2018] 2 HKLRD 1284, the first decision of the Hong Kong Court dealing with contravention of a competition conduct rule being raised as a defence to a civil claim.

Jonathan also has a growing construction practice in court proceedings and arbitration. He has been instructed in disputes arising out of major infrastructure, high-value residential property development as well as domestic building projects, and has gained experiences in claims relating to defective design, workmanship issues, variations, termination, delay and liquidated damages. His recent notable cases include acting as junior counsel in *The Commission of Inquiry into the Construction Works at and near the Hung Hom Station Extension under the Shatin to Central Link Project*, a high-profile public inquiry which is expected to have a profound impact on the construction industry in Hong Kong.

Jonathan obtained his JD degree with First Class Honours from the University of Hong Kong and his LLM degree from the University of Cambridge. Prior to reading law, he studied Economics at the University of California, Berkeley, and graduated with Distinction.

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

Expertise:

Selected Cases

COMPANY & INSOLVENCY

- ***Re L & A International Holdings Ltd*** [2020] 4 HKLRD 544 - landmark decision by the Court of Appeal to clarify the scope and application of sections 728-730 of the Companies Ordinance (Cap. 622) and the boundaries between the various remedies available to shareholders under Part 14 of the CO (with Mr Justin Lam)
- ***Ge Qingfu & Ors v L & A International Holdings Ltd & Ors*** [2018] HKCFI 2742; HCMP 2222/2016 - 8-day trial of an originating summons seeking relief under sections 728-730 of the Companies Ordinance (Cap. 622); breach of directors' duties in relation to the grant of share options in a listed company (with Mr Justin Lam)
- ***Re China Solar Energy Holdings Ltd*** (No. 2) [2018] 2 HKLRD 338 - leading authority on whether provisional liquidators can be appointed for the purpose of pursuing a corporate debt restructuring; whether listing status was an asset (led by Mr José-Antonio Maurellet SC and with Mr John Hui)
- ***Re China Solar Energy Holdings Ltd*** [2017] 2 HKLRD 1074 - role of provisional liquidator, approval of documents relating to restructuring (led by Mr José-Antonio Maurellet SC)
- ***Guang Sheng Investment Development Group Ltd v China Investment Fund Co Ltd*** HCA 1847/2016 - discharging an ex parte injunction order; chairman's power to adjourn general meeting (led by Dr William Wong SC, JP)
- ***L v X Ltd*** HCMP 1002/2017 - application for leave to commence statutory derivative action under Sections 732 and 733 of the Companies Ordinance (Cap. 622) (as sole counsel)
- ***Securities and Futures Commission v Tse On Kin*** HCMP 210/2017 - director's disqualification proceedings under Section 214 of the Securities and Futures Ordinance (Cap. 571) (led by Mr Douglas Lam SC)
- ***Yao Zhixiang & Anor v China Investment Fund Co Ltd*** HCMP 1449/2016 - access to the company's documents for inspection (led by Dr William Wong SC, JP)
- ***Re China Solar Energy Holdings Ltd*** [2020] HKCFI 481; HCCW 108/2015 - acted for the petitioner in winding up proceedings (led by Mr José-Antonio Maurellet SC and with Mr John Hui)
- ***Re Offmax Ltd*** HCCW 250/2018 - unfair prejudice petition / just and equitable winding-up petition (as sole counsel)
- ***Xiao Zhiyong v Asia Equity Value Ltd*** HCSD 46/2016 - setting aside a statutory demand based on contravention of the Money Lenders Ordinance (Cap. 163); whether loans were exempted loans; whether loan agreements were illegal for charging excessive interest rates (with Mr John Hui)

- ***Leung So Hung Siem v Carson Wen*** [2019] HKCA 678; CACV 357/2018 - acted for the creditor to oppose the debtor's appeal against a decision dismissing an application to set aside a statutory demand (as sole counsel)
- ***Re Carl Cheung*** HCB 6679/2015 - bankruptcy petition (as sole counsel)
- ***Re Xiao Zhiyong*** [2018] HKCFI 522; HCB 873/2017 - bankruptcy petition; service of statutory demand (with Mr John Hui)
- Advising and acting for companies / directors in a number of proceedings involving allegations of breach of fiduciary duties and claims for account of profits and equitable compensation

CONSTRUCTION

- ***The Commission of Inquiry into the Construction Works at and near the Hung Hom Station Extension under the Shatin to Central Link Project*** (as junior counsel)
- Acting for a property developer in a high-value arbitration against its main contractor in disputes relating to a prestigious residential property development project (as junior counsel)
- ***W v P*** HCCT 55/2015 - opposed an application to set aside an arbitral award made by the arbitral tribunal in an arbitration subject to the HKIAC Rules (led by Mr Douglas Lam SC)
- ***Cyber On-Air (Asia) Limited v China Comservice (Hong Kong) Limited*** HCA 379/2015 - acted for the contractor in disputes concerning outstanding payment, variation, delay and liquidated damages (as sole counsel)
- ***Yu Hing Air-conditioning Engineering Limited v Lam Wai Hung and Lam Shi Yin*** HCA 2119/2014 - acted for the main contractor against its sub-contractor in disputes concerning outstanding payment and alleged workmanship and design issues (as sole counsel)
- Acting for a contractor in disputes in respect of wrongful termination/repudiation of contract, alleged workmanship issues, delay and liquidated damages arising out of a building project (as sole counsel)

CIVIL & COMMERCIAL

- ***Taching Petroleum Co Ltd v Meyer Aluminium Ltd*** [2018] 2 HKLRD 1284 - leading authority as regards setting up breach of competition law as a defence in civil proceedings and the relevant procedures under section 113 of the Competition Ordinance (Cap. 619); alleged price collusion in breach of the first conduct rule in section 6(1) of the Competition Ordinance (Cap. 619) (with Mr John Hui)
- ***BMS Group International Ltd v Justin Lim & Ors*** [2020] HKCFI 3088; HCA 22/2017 - authority for the application of O. 65 r. 9 of the Rules of High Court (Cap. 4A); represented the plaintiff in opposing the defendant's striking out application (as sole counsel)
- ***Resorts World At Sentosa Ltd v Sze Siu Hung*** [2018] HKCFI 1646; HCMP 1167/2017 - registration of foreign judgment in Hong Kong; proper construction of Section 6(1)(a)(iii) of the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319) (led by Mr Anson Wong SC and with Mr John Hui)
- ***Leung So Hung Siem v Carson Wen & Ors*** [2018] HKCFI 1918; HCA 121/2017 - acted for the defendants to strike out the plaintiff's claims (as sole counsel)

- ***Cheung Kwok Leung v Chen Dah Ren, George*** HCA 2127/2015 - acted for the plaintiffs in interlocutory steps in disputes arising out of a series of commercial agreements
- ***Chu Kwok Fai v Tang Fai*** DCCJ 3768/2015 - 4-day trial conducted in Chinese; a claim based on breach of contract and unjust enrichment (as sole counsel); [2018] HKDC 92 - leave to appeal and stay of execution (as sole counsel)
- ***Siberian Mining Group Ltd v Cheung Keng Ching & Ors*** [2017] 2 HKC 512 - authority for principles concerning amendment of pleadings made outside limitation period; a claim based on alleged fraud and fraudulent breach of trust (with Mr John Hui)
- ***Guangdong Silk Group Fortune Co. Ltd v Centopercento Ltd*** HCA 1990/2012 - acted for the defendant in interlocutory steps in disputes relating to goods allegedly sold and delivered and settlement of commercial invoices
- ***Chen Tek Yee & Ors v Chan Moon Shing & Anor*** [2015] 3 HKC 622; HCA 954/2010 - sanctioned offer; whether a term as to costs in the offer should be taken into account (as sole counsel)
- ***北京橙天嘉禾影視製作有限公司 v 張承勳*** HCA 2481/2013 - setting aside default judgment; whether condition should be imposed (as sole counsel); HCMP 2666/2016 - leave to appeal application before the Court of Appeal (as sole counsel)
- ***Ardis International Kindergarten Limited v Tang Kai Ming Kenneth & Ors*** DCCJ 4649/2015 - security for costs under section 905 of the Companies Ordinance (Cap. 622) (as sole counsel)

LAND & TRUSTS

- ***Ng Po Yu & Anor v Lam Kai On, the executor of the estate of Wong Mui*** [2018] HKCFI 1618; HCA 77/2014 - 4-day trial involving claims of common intention constructive trust, proprietary estoppel and reimbursement (with Mr Gary Lam)
- ***Lam Sai Wai v Minloy Ltd*** HCA 31/2014 - acted for the defendant in interlocutory disputes in an adverse possession claim (as sole counsel)
- ***Kar Lok Investment Company Limited v Siu Pui To*** DCCJ 4139/2015 - vacation possession of premises; recovery of arrears of rent (as sole counsel)
- Advised and acted for a tenant in respect of a claim based on misrepresentation and breach of tenancy agreement; also appeared before the Lands Tribunal in respect of a possession claim (as sole counsel)
- Advising and acting for landlords in respect of claims for outstanding rent, forfeiture of deposits and recovery of possession

OTHER NOTABLE CASES

- ***A Solicitor v The Law Society of Hong Kong*** CACV 182/2014 - an substantive appeal against sentence and costs order in disciplinary proceedings (as sole counsel)

Scholarships & Awards

- Charles Ching Memorial Scholarship
- British Council Chevening Postgraduate Scholarship
- Distinction in General Scholarship (University of California, Berkeley)
- Dean's Honours List (University of California, Berkeley)

Publications, Lectures and Talks

- Contributing Editor to Hong Kong Company Law Cases (2008 - 2019) - published in 2020 by DVC in collaboration with Kluwer
- CPD Seminar: "The 'Unfair Prejudice' regime under Section 214 of the Securities and Futures Ordinance (Cap. 571)" (with Mr Gary Lam)
- CPD Seminar: "Relief for Market Misconduct and Other Wrongs - Proceedings and Available Remedies under Sections 213 and 214 of the Securities and Futures Ordinance (Cap. 571)" (with Mr John Hui)
- CPD Seminar: "An Encounter between Trust and Family Law: Discussion on recent landmark decisions" (with Mr Kaiser Leung)