

Simon Westbrook SC

Newcastle-upon-Tyne University (LL.B.) (Hons)
FCIArb

Email Address:

snwest@netvigator.com

Year Of Call:

1973 (England & Wales)
1979-1981 (Hong Kong AGC)
1981 (Hong Kong)
2001 (Hong Kong Inner Bar)

Practice Areas: Administrative and Public Law, Arbitration, Mediation, Commercial Law, Construction Law, Criminal Law, Employment and Anti-Discrimination, Family Law, Securities Law, Professional Negligence, Statutory Tribunals



Simon Westbrook S.C. has been in continuous practice at the Bar for over 40 years, both in England and Hong Kong, taking silk in 2001. He has handled a wide variety of cases, mostly civil, and appeared in all levels of Courts up to and including the UK Privy Council and the Court of Final Appeal. He appears in over 300 cases reported on the Hong Kong Judiciary website.

His areas of specialty include construction and arbitration, securities and regulatory cases, judicial review, professional negligence and commercial litigation. He also handles a wide variety of cases in general practice including criminal law, family work and statutory tribunals and inquests.

He has been consistently recommended in Chambers & Partners Asia Pacific legal guide. His latest entry (2012) reads "Simon Westbrook S.C. is best known for his solid civil and criminal law practice, and for his construction law expertise. Peers recognize him as "a superb cross-examiner"."

He occasionally works as an arbitrator and has sat as a Deputy Judge in the District Court (1990) and the High Court (2009) where he delivered judgment in **W. HING CONSTRUCTION CO LTD v. BOOST INVESTMENTS LTD** : reported in [2009] 2 HKLRD 501

In the construction field he has handled cases involving performance bonds, re-rating BQ items, defective piling works, claims involving extensions of time, liquidated damages and prolongation costs . Arbitration work includes applications for leave to appeal to the courts, removal of an arbitrator for misconduct and 2 major ICC arbitrations in Singapore.

Securities and regulatory work has involved claims for "grey market" trading, SFC action for and against IPO sponsors, insider dealing, share re-purchase and option schemes, SFC action under section 213 of the SFO and cases before the Securities and Futures Tribunal and the Market

Misconduct Tribunal.

Commercial cases include defending a \$2 billion claim by a publicly listed company for alleged fraud by its directors, claims for professional negligence involving lawyers, engineers, doctors and valuers, and a well-publicised case where a leading private banker successfully sued her dance instructors for the return of large pre-payments for dance tuition.

Tribunal work includes acting for a major party at the Public Enquiry in 1999 into the opening of Chek Lap Kok Airport and acting as leading counsel for the tribunal enquiring into Hong Kong's only fatal air accident. Other tribunal work includes disciplinary tribunals for doctors, lawyers and civil servants and death inquests and Judicial Review of such decisions.

Directory Quotes:

The “very thorough” Simon Westbrook SC maintains a versatile commercial dispute resolution practice, with a particularly high profile for representing private entities and the Securities and Futures Commission in financial services regulatory disputes. He draws on almost four decades of legal practice at the Hong Kong Bar, which also covers experience handling construction and professional negligence matters.

Chambers & Partners Asia Pacific (2021)

‘Excellent on his feet, he does not unnecessarily over-complicate matters. Razor-sharp and user friendly.’ Simon Westbrook is acknowledged as a Leading Silk for Commercial Disputes and Construction.

Legal 500 Asia Pacific HK Bar (2021)

Simon Westbrook SC of Des Voeux Chambers is recognised by interviewees as a barrister who combines the range of a true commercial generalist with a particularly high level of experience in the handling of “regulatory and quasi-criminal matters,” a quality which frequently secures him briefs from the SFC. He is further cited for his careful preparation, excellent presentational and cross-examination skills and as “a very robust performer who will fight every corner for the client.”

Chambers & Partners Asia Pacific (2020)

Of Simon Westbrook SC of Des Voeux Chambers, one interviewee asserts: “Everyone in town knows him as one of the best advocates in Hong Kong, hes a smart and quick thinker and extremely good on his feet.” Sources also note his versatile ability to “practise in all common law areas with style and confidence,” his excellent cross-examination skills and ability to deal with “complex financial issues” attracting further praise. He is particularly well known for his handling of construction, securities-related and professional negligence cases.

Chambers & Partners Asia Pacific (2019)

Simon Westbrook SC has been identified by Doyles as a Recommended Senior Counsel for Hong Kong Family, Divorce and Matrimonial matters in 2018.

Doyles 2018

Simon Westbrook SC of Des Voeux Chambers is especially well known for his representation of both private parties and the Securities and Futures Commission in securities-related and other financial services disputes, peers identifying him as a “good cross-examiner with a very persuasive style of advocacy” who is not only “very knowledgeable in that area” but also has “the really thick skin you sometimes need” there. He also acts extensively on construction disputes and alleged instances of professional negligence.

Chambers & Partners Asia Pacific (2018)

“Simon Westbrook SC of Des Voeux Chambers is singled out by more than one interviewee as a barrister who is “excellent in cross-examination and puts a lot of pressure on the other side,” and stands out for his handling of matters involving the SFC or other financial services-related issues. Other areas of noted specialisation include construction and professional negligence. His recent work includes successfully representing a business charged with having operated as a money lender without a licence, a matter heard in both the Court of Appeal and Court of Final Appeal.”

Chambers & Partners Asia Pacific (2017)

“Simon Westbrook SC of Des Voeux Chambers is “very experienced, able to think quickly on his feet and highly effective at cross-examinations.” His expertise in contentious matters is

renowned and he frequently handles construction and professional negligence issues.”

Chambers & Partners Asia Pacific (2016)

“Simon Westbrook S.C. is best known for his solid civil and criminal law practice, and for his construction law expertise. Peers recognize him as “a superb cross-examiner”.

Chambers & Partners Asia Pacific (2012)

Expertise:

Memberships and Appointments

- Deputy Judge in the District Court (1990) and the High Court (2009)

Selected Cases

Court of Final Appeal

- **COMMISSIONER OF CUSTOMS & EXCISE v. CHANDIRAMI** FACV 8 of 2002. Court of Appeal reversed. Unmanifested cargo was rightly subject to and liable to forfeiture by C & E Department.
- **AQUA - LEISURE INC v. AQUA SPLASH** CACV 175 of 2002. Application for leave to appeal by 2 directors found in contempt of Court in a passing off action.
- **DESMOND YIU v. WILLIAM CHOW and OTHERS** FACV 18 of 2004. Solicitor cleared of professional negligence; nor was there any assumption of responsibility under the Hedley Byrne principle.
- **SFC v. TO SHU FAI** FAMC 11 of 2008. Defendant convicted of providing false or misleading information to the SFC in a company’s Public Announcement. Appeals dismissed.
- **KOON WING YEE v. SFC** FAMV 53 of 2008. The applicant is not entitled to invoke the privilege against self - incrimination and then refuse to answer questions put by the SFC under its SFO powers.
- **PACIFIC ELECTRIC WIRE & CABLE CO. LTD. v. HARMUTTY and OTHERS** FAMV 28 of 2009. Order 14 Summary Judgment inappropriate where fraud is a live issue.
- **KULEMESIN YURIY v. HKSAR** FAMC 72 of 2011. Prosecution of ship’s captain for endangering life at sea by colliding with a bulk carrier, where 18 crew members drowned. Conviction upheld .
- **WANG RUIYUN v. GEM GLOBAL LTD.** FAMV 42 of 2011. Leave granted to appeal Court of Appeal decision on whether damages to be assessed at the date of breach.
- **KWOK CHIN WING v. 21 HOLDINGS LTD.** FACV 9 of 2012. Claim by director to recover

inter - company loans.

- **MAEDA JV v. HKSAR** FAMV 8 of 2013. Correct approach to re - rating items in the Bill of Quantities ; whether a change in quantities renders the original BQ price unreasonable or inapplicable.