

Tommy Cheung

BCL (Distinction), Magdalen College, University of Oxford
PCLL (Distinction), University of Hong Kong
LLB & BBA(Law) (First Class Honours, First in Year),
University of Hong Kong
Bar Scholar (2016)

Email Address:

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Year Of Call:

2017 (Hong Kong)

Practice Areas: Administrative and Public Law, Arbitration, Mediation, Chancery, Commercial Law, Company Law and Insolvency, Competition Law, Construction Law, Employment and Anti-Discrimination, Family Law, Intellectual Property, International Trade, Land & Planning Law, Securities Law, Banking and Finance, Bankruptcy, Defamation, Regulatory, Wills, Probate and Administration



Tommy Cheung is a Bar Scholar. Prior to joining Des Voeux Chambers, he obtained his BCL (Distinction) from the University of Oxford, ranking first in corporate insolvency law. He also received First Class Honours in his LLB and BBA(Law) (Majoring in Accounting) from the University of Hong Kong, ranking first in his year for both degrees.

Tommy is developing a broad civil and commercial practice. He has appeared as sole advocate and as led junior in trials and at various Court levels, including as sole advocate before the Court of Appeal and the Appeal Committee of the Court of Final Appeal: **WFC Holding Limited v New Castle Investments Limited** [2020] HKCA 931; [2021] HKCFA 5 (landlord and tenant dispute). He is also regularly instructed to appear in interlocutory applications, including applications for urgent injunctions and orders as sole advocate.

Tommy has handled cases concerning a wide range of areas, including land, trusts, probate, family, intellectual property, competition, employment, company, insolvency, bankruptcy, banking, money lender and general commercial matters. He has also rendered Chinese opinions on Hong Kong laws for use in the People's Courts in Mainland China.

Tommy's notable cases include two milestone decisions in insolvency law: **Re CW Advanced Technologies Ltd** [2018] 3 HKLRD 552 (as *amicus curiae*, on issues to consider for common law recognition and assistance of a moratorium granted by a foreign Court, led by Dr William Wong SC) and **Re CEFC Shanghai International Group Ltd** [2020] 1 HKLRD 676 (the first application to Hong Kong Court for recognition of liquidation in Mainland China and cross-border insolvency

assistance at common law, with Mr Look-Chan Ho). Further, he represented one of the parties in a 4-week trial before the Competition Tribunal: ***Competition Commission v W Hing Construction Co Ltd and Others*** [2020] 2 HKLRD 1229; [2019] 3 HKLRD 46; [2018] 5 HKLRD 437 (the pioneering case on market sharing, price fixing and determination of penalty in Hong Kong, with Ms Connie Lee).

Alongside his practice, Tommy routinely gives seminars on recent developments in civil and commercial laws. He is also a part-time lecturer at the University of Hong Kong, and his teaching in land law, conveyancing, commercial law and legal research & writing was recognised by the Faculty of Law's Outstanding Teaching Award in 2020.

Selected Cases

Company and Insolvency

- *Re CW Advanced Technologies Limited* [2018] 3 HKLRD 552 - Appeared as *amicus curiae* to assist the Court in determining the relevant issues for common law recognition and assistance of a moratorium granted by a foreign Court of a jurisdiction not being the company's place of incorporation (led by Dr William Wong SC)
- *Re CEFC Shanghai International Group Limited* [2020] 1 HKLRD 676 - Appeared for the joint and several liquidators of the company in the first application to Hong Kong Court for recognition of liquidation in Mainland China and cross-border insolvency assistance at common law (with Mr Look-Chan Ho)
- *Re Prosperous GlobalChina Holding Limited* HCCW 279/2018 & HCMP 1374/2018 - Winding up petition on the ground of inability to pay debt in the sum of around GBP 7.5 million; unfair prejudice and just and equitable winding up petition (with Mr Gary Lam)
- *Geng Hua Zhong and Another v Li Shu Hon and Another* HCCW 403/2017 - Opposing the 1st Respondent's application to strike out the winding up relief (with Mr John Hui)
- *Re China City Construction (International) Co Limited* [2019] 3 HKLRD 491 - Opposing the Petitioner's application to convert a creditors' voluntary liquidation into a compulsory liquidation (sole advocate)
- *Re UIL Hong Kong Limited* HCCW 205/2019 - Opposing the Petitioner's applications for the appointment of provisional liquidators and for a winding up of the company (sole advocate)
- *Re Hsin Chong Construction Company Limited* HCCW 239/2018 - Opposing the application by the provisional liquidators of the company for a regulating order (led by Mr Daniel Fung SC)
- *Wong Ho Kwan and Another v Hsin Kuang Restaurant (Holdings) Limited* HCMP 481/2019 - Application for leave to commence statutory derivative action on behalf of Hsin Kuang Restaurant (Holdings) Limited (led by Mr Douglas Lam SC and with Ms Sabrina Ho)
- *Re Asia Today Limited* HCCW 76/2020 - Application for the appointment of provisional liquidators (with Mr Look-Chan Ho)
- Various petitions against private and/or public companies, involving **(1)** inability to pay debts, **(2)** unfair prejudice, **(3)** just and equitable winding up, **(4)** restructuring and/or **(5)** validation

orders

Land, Trust and Probate

- *Wong Tak Man Stephen v Chang Ching Wai and Another* [2017] 5 HKLRD 758 - Application for a declaration that co-owners shall be jointly and severally liable under S34 of the Building Management Ordinance (Cap 344) for all the debts and liabilities of the incorporated owners in the sum of around HKD 3.6 million upon its winding up (led by Dr William Wong SC)
- *Wong Tin Chee Tinly and Others v Wong To Yick and Another* HCMP 1316/2018 - Application by the beneficiaries to collapse a trust for sale under the rule in *Saunders v Vautier* (with Ms Sabrina Ho)
- *Lee Goo Lynette Siu Yin and Others v Cheung Wai Ming Daisy in her capacity as executor of the estate of Li Sing Kui and Others* HCMP 1836/2017 - Opposing application for removal of executor (led by Mr Douglas Lam SC and with Ms Jacqueline Law)
- *Tsang Yee Kam v Yip Kwun Lun, the executor of the estate of Yip Shing, Deceased* HCA 608/2014 - Application for a declaration that certain properties were trust assets held by the Deceased for the benefit of the Plaintiff, and therefore do not form part of the estate of the Deceased administered by the Defendant (with Mr Richard Leung)
- *Sunterly Limited v The Incorporated Owners of Far East Mansion* HCA 1049/2019 - Opposing the Plaintiff's application for injunction to restrain the Incorporated Owners from carrying out building and construction works of and relating to an escalator at the common parts of the building (sole advocate)
- *Mak Kam Chiu v The Incorporated Owners of Fu Ming Court* CAMP 196/2019; LDBM 204/2017 - Opposing the Incorporated Owners' strike-out applications on the grounds that there was neither abuse of process nor *res judicata* despite the concluded proceedings in the Small Claims Tribunal (sole advocate)
- Various land, property and/or building management cases, involving **(1)** constructive and resulting trusts, **(2)** adverse possession, **(3)** landlord and tenant disputes, **(4)** construction of DMCs and/or **(5)** orders for partition and/or sale under the Partition Ordinance (Cap 352)

Civil and Commercial

- *Raafat Imam v Life (China) Company Limited and Others* [2018] 4 HKLRD 152 - Opposing on jurisdictional and procedural grounds the Plaintiff's application for a declaration that a civil action funding agreement does not offend the law prohibiting maintenance and champerty and/or falls within the recognised exception relating to access to justice (led by Mr Clifford Smith SC and with Ms Sabrina Ho)
- *Citibank NA v Hunter Socks & Apparel International Limited and Others* HCMP 2063/2016 - Represented Citibank NA for resisting an application for stay of proceedings and enforcing a mortgage for the sum of around HKD 6.8 million (with Mr John Hui)
- *Chief Holdings (HK) Limited and Another v He Chenguang and Others; Beijing Shen Tong*

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- Cultural Club Limited v Chau Chung Kai and Another* HCA 2415/2014 & HCA 414/2015 - Application for orders that the Hong Kong proceedings concerning the return of HKD 270 million be stayed, pending the determination of the Beijing proceedings (led by Dr William Wong SC)
- *Million Decade Limited v Tung Fai; Top Ample Limited v Tung Fai; Tung Fai v Wei Dong* HCA 1062, 1063 & 1660/2013 - Opposing strike-out applications on the grounds that there was neither abuse of process nor *res judicata* despite the concluded proceedings in the BVI (with Ms Connie Lee)
 - *Li Kuen Kwai Jay and Leung Wing Tung Lilian v Lok Chun Cheong and Chung Kit Chu* DCCJ 1922/2016 - Acting for the Defendants in a water leakage trial (with Mr Kaiser Leung)
 - *Siu Nai Ying and Another v Octagon Workshop Limited and Others* HCA 375/2019 - Application to strike out various parts of the amended statement of claim against the director of the company (led by Mr Simon Westbrook SC)
 - *Chan Yeuk Ping v Wang Wei Ming* HCMP 1744/2016 - Opposing the Defendant's application to set aside a Court order on irregularity of service (with Mr Richard Leung)

Injunctive Relief

- *Tang Jialin v Sinopac Securities (Asia) Limited and Others* HCA 90/2018 - Opposing a co-defendant's application for Mareva injunction based on alternative causes of action that it will rely upon if and when its defences to the Plaintiff's claims fail (led by Ms Rachel Lam SC)
- *Hiromi Okada v Tomohiro Okada and Another* HCMP 2446/2017 - Application for interim proprietary injunction to restrain Tomohiro Okada from disposing of or otherwise dealing with the disputed shares valued at around HKD 1.38 billion in Okada Holdings Limited (led by Mr Charles Sussex SC and with Mr Justin Lam)
- *ADL Express Limited v A&B Logistics Limited and Others* HCA 3033/2017 - Application for *ex parte* domestic Mareva injunction in the sum of around HKD 23 million (with Mr John Hui); application for *ex parte* worldwide Mareva injunction (sole advocate); opposing application for variation of the worldwide Mareva injunction (sole advocate)
- *Sensing Technology Investment Limited v Liu Haitao and Others* HCMP 812/2018 - Application for *ex parte* interlocutory injunction to restrain unauthorised individuals from holding out as having the authority of the company (with Mr John Hui)
- *Wang Linping and Another v Huang Keqin and Others* HCMP 632/2012 & HCA 373/2014 - Opposing the 1st Defendant's applications for interlocutory injunction and withdrawal of part of his undertakings given in 2012 (sole advocate)
- *Hong Kong Hans Grayson Engineering and Equipment Co Limited v Liu Jiang and Another* DCCJ 3327/2019 - Applications for Mareva and proprietary injunctions in the sum of around HKD 2.4 million (sole advocate)
- *Chan Chee Tseng Christopher and Another v Chan Hon Tai Jason* DCCJ 6578/2019 - Application for injunction to restrain the Defendant from committing acts of nuisance, intimidation and harassment against the Plaintiffs (sole advocate)
- Various asset recovery and/or civil fraud cases, involving applications for **(1)** Mareva and/or

proprietary injunctions, **(2)** disclosure orders, **(3)** gagging orders and/or **(4)** anonymity orders

Matrimonial

- *CCYL v CCSR* FCMC 15718/2018 - Opposing the Wife's applications for maintenance pending suit and legal costs provision (sole advocate); opposing the Wife's application for leave to release the Husband's documents filed in the family proceedings for use in the bankruptcy proceedings (sole advocate); representing the Husband at the Children's Dispute Resolution hearing (sole advocate)
- *L v W* FCMC 5026/2015 - Application for an immediate taxation of the 1st Intervener's costs (sole advocate)

Employment

- *Law Ting Pong Secondary School v Chen Wai Wah* [2021] 3 HKLRD 185; HCLA 22/2018 - Opposing the teacher's refusal to make payment in lieu of notice on the grounds that the payment in lieu of notice clause relied upon by the school had been incorporated into the employment agreement and was not an unenforceable penalty clause (sole advocate)
- *Wong Lan v Yung Kit Ping and Others* HCA 1020/2019 - Application for variation of undertakings on the ground that the 1st to 5th Defendants have resigned from the company (led by Mr Douglas Lam SC and with Ms Sabrina Ho)

Competition

- *Competition Commission v W Hing Construction Co Ltd and Others* [2020] 2 HKLRD 1229; [2019] 3 HKLRD 46; [2018] 5 HKLRD 437 - Acting for one of the parties in the Competition Commission's enforcement action for alleged contravention of the first conduct rule by price fixing and market sharing agreements (with Ms Connie Lee)

Enforcement of Judgments

- *Li Ping Chun v Liang Tonghua and Others* HCA 745/2011 & HCA 2239/2017 - Applications for post-judgment Mareva and proprietary injunctions in the sum of around HKD 15 million; applications for ancillary disclosure orders and continuation of post-judgment Mareva and proprietary injunctions (sole advocate)
- *China CITIC Bank Corporation Limited (Quanzhou Branch) v Li Kwai Chun and Others* HCMP 1408/2017 & HCMP 1439/2017 - Application for stay of execution pending appeal (sole advocate)
- *Agorai Pte Ltd v Hongkong Yinxan Limited and Another* HCA 2099/2018 - Application for garnishee order to enforce a money judgment of around HKD 3.3 million (sole advocate)

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- *Tang Siu Ha v CN Medical Group Limited and Another* DCMP 1892/2016 - Applications for substituted service and examination of director under O48 r1 of the Rules of the District Court (Cap 336H) (sole advocate)

Expertise:

Scholarships and Awards

- Bar Scholarship
- Charles Ching Memorial Scholarship
- Des Voeux Chambers Scholarship
- Magdalen College Prize for Distinction in BCL
- Magdalen Hong Kong Scholarship for Postgraduate Studies in BCL
- South Square Prize for Corporate Insolvency Law
- Baker & McKenzie Prize in Commercial Law
- The Minvie Leung Prize for Property Litigation
- Society of Construction Law Hong Kong Scholarship
- LexisNexis Book Prize for Legal Research Skills
- Law Society of Hong Kong/ Bloomsbury Books Prizes
- Association of China-Appointed Attesting Officers Scholarship
- HKSAR Government Scholarship
- HSBC Overseas Scholarship
- Bank of China (Hong Kong) Scholarship
- The Bank of East Asia Scholarship
- Dah Sing Bank Scholarship
- Hong Kong Securities Institute Scholarship
- The Chartered Institute of Management Accountants Prize
- Dean's Honours List
- 15 other scholarships and awards by HKU

Memberships and Appointments

- Part-time Lecturer, Department of Law, University of Hong Kong (teaching Land Law and Commercial Law; formerly also Conveyancing and Legal Research & Writing for three academic years) (2017 - Present)
- Part-time Lecturer, HKU SPACE (teaching Preparatory Courses for PCLL Admission Conversion Examination) (2018)
- Part-time Coach/ Assessor, Department of Law, University of Hong Kong (teaching the Mooting and Dispute Resolution Programme) (2018 - Present)
- Committee Member, Committee on Land, Trust and Probate, Hong Kong Bar Association (2020 - Present)
- Committee Member, Committee on Competition Law, Hong Kong Bar Association (2019 - Present)

Present)

- Committee Member, Committee on Construction Law, Hong Kong Bar Association (2019 - 2021)

Publications, Seminars and Talks

Publications

- Hong Kong Civil Procedure (White Book) (contributing editor)
- Bullen & Leake & Jacob's Hong Kong Precedents of Pleadings - Property (Sweet & Maxwell) (with Mr Alan Kwong)
- Bullen & Leake & Jacob's Hong Kong Precedents of Pleadings - Defamation (Sweet & Maxwell) (with Mr John Hui)
- Lexis Practice Guidance - Dispute Resolution (contributing author)
- Liability for Antitrust Law Infringements & Protection of IP Rights in Distribution - Hong Kong (2019, Springer) (with Ms Catrina Lam and Ms Cherry Xu)
- International Arbitration: Issues, Perspectives and Practice: Liber Amicorum Neil Kaplan - The Mayers Decision (2019, Wolters Kluwer) (with Mr John Scott SC, QC)

Seminars and Talks

- Seminars and talks were delivered in Hong Kong and/or Mainland China for professional bodies and/or practitioners on, among others, the following legal topics:

- (1) Land, trusts and estoppels (2018, 2019)
- (2) Adverse possession (2018, 2020, 2021)
- (3) Building management (2018)
- (4) Directors' duties (2018, 2020, 2021)
- (5) Minority shareholders' rights (2018, 2020, 2021)
- (6) Creditors' winding up petitions (2020, 2021)
- (7) Injunctions (2018, 2019)
- (8) Competition law (2018, 2019, 2020, 2021)
- (9) Interim measures in international arbitration (2017)
- (10) Recognition and enforcement of judgments and arbitral awards (2019)

(11) Costs (2018)

Spoken Language

Fluent in English, Mandarin and Cantonese