

Esmond Wong



Call

2019 (Hong Kong)

Areas of Practice

Arbitration
Commercial & Banking Law
Companies
Criminal Law
Defamation
Employment
Equity & Trusts
Family & Matrimonial Law
Injunction & Contempt
Insolvency
Medical Negligence & Personal Injury
Mental Health
Probate & Succession
Property & Land
Public Law & Judicial Review
Unjust Enrichment

Contact

Email: ewong@bernacchichambers.com

Secretary: Ms. Karen Leung

karenleung@bernacchichambers.com

Practice Profile

Esmond focuses on civil and commercial litigation, with particular experience in banking and financial disputes, contract claims, trusts and probate, arbitration, company disputes and insolvency (corporate and personal). He regularly appears in and advises on a broad spectrum of multi-jurisdictional disputes and cross-border liquidation matters.

His substantial practice in asset recovery and injunctive application encompasses breach of fiduciary duty, restitution and civil fraud. Esmond has also been instructed in a wide range of matrimonial proceedings, and cases covering personal injuries, judicial review, building management and defamation.

Esmond has acted for state-owned enterprises, local and foreign licensed banks, statutory body, property developer, listed companies, liquidators, licensed moneylenders, SFC-licensed entities and celebrities. He has particular interest in competition law and public international law.

For his criminal practice, Esmond advises and appears for the defence at both trial and appellate levels, which spans commercial fraud, money laundering, ICAC matters and other general crimes.

Education

- LL.M., The London School of Economics and Political Science (Distinction in Corporate Crime)
- P.C.LL., City University of Hong Kong
- LL.B., City University of Hong Kong (Dean's List: 2016)
- Queen's College, Hong Kong

Professional Qualifications

- Associate of the Chartered Institute of Arbitrators (ACI Arb) (2019)

Selected Cases

Civil Fraud & Asset Recovery

- *Leader Screws Manufacturing Company Limited v Huang Shunkui* (CAMP 553/2021) – successful application for leave to appeal out of time against judgment concerning the alleged embezzlement by an employee (with Mr. Jason Wong)
- *Lesnina H. D.O.O. v Wave Shipping Trade Co Ltd and Others* [2022] 2 HKLRD 727; [2022] HKCFI 1070 – denial of summary determination of whether foreign illegality (alleged circumvention of foreign currency exchange controls under PRC laws) bars restitutionary defences; obtained unconditional leave to defend the proprietary and personal claims in unjust enrichment and knowing receipt (sole advocate)
- *The Incorporated Management Committee of Leung Shek Chee College v Chiang Yi Hing* (HCA 1046/2023) – acted for an employer in its successful restitutionary and proprietary claims against a former employee for embezzlement and deception (sole advocate)
- *Elevate Hong Kong Holdings Limited v Jaja Limited & Others* (HCA 2192/2020) – acted for the plaintiff in tracing claims against the first to third-tier recipients (sole advocate)
- *Yip Wai Hung v Shanghai Business Information Limited* [2023] HKDC 401 – acted for a fraud victim at trial in successful restitutionary claim against an alleged receiving agent of a licensed money service operator; defences of ministerial receipt and change of position (sole advocate)
- *Chau Lai Bing v Li Rongqiang & Others* [2022] HKDC 1389 – defence of *bona fide* change of position and *bona fide* purchaser of cryptocurrency without notice for cryptocurrency transactions (sole advocate)
- *Kwong Wai Wah v Deng Dehao & Others* (DCCJ 3710/2022, DCCJ 2676/2022) – acted for a successful

restitutionary and proprietary claimant; intervention of garnishee proceedings of a competing judgment creditor over the beneficial ownership of balance of a mixed account held by a constructive trustee (sole advocate)

- Appeared in numerous injunction applications involving civil fraud/asset recovery

Commercial, Securities & Banking

- *CS Credit Limited v Tsui Chi Kin* (HCMP 506/2023) – enforceability of the loan agreement and mortgage allegedly in contravention of sections 22 and 27 of the Money Lenders Ordinance, Cap. 163
- *Dah Sing Bank, Limited v Chan Kai Yin Alan* (DCCJ 689/2021) – successful claim for loan recovery against the principal debtor and resistance of defence of the alleged debts restructuring (sole advocate)
- *Dah Sing Bank, Limited v HMS Limited & Other* (DCCJ 453/2020) – successful claim for loan recovery against the principal debtor and guarantor (sole advocate)
- *Dah Sing Bank, Limited v One Concept Group Limited & Others* (DCCJ 6254/2019) – successful claim for loan recovery against the principal debtor and guarantors, and resistance of defence of the alleged misrepresentation (sole advocate)
- Acting for a securities firm in its application to vary a restraint order obtained by the Secretary for Justice pursuant to the Organised and Serious Crimes Ordinance, Cap. 455 to satisfy its judgment debt (HCMP 524/2022) (sole advocate)
- Advising a PRC national commercial bank listed on Shanghai Stock Exchange and Main Board of the HKEx on its priority under the mortgage of an office building of a wound-up property developer group in relation to a HK\$760 million syndicated loan
- Acting for assignees to claim over USD 198 million pursuant to facility agreements
- Advising a state-owned financial service provider on actions concerning breach of terms of debenture secured upon securities valued at USD 75 million
- Acting for a judgment creditor to enforce a Mainland judgment on loan recovery pursuant to Mainland Judgments (Reciprocal Enforcement) Ordinance, Cap. 597
- Advised Hong Kong branch of a listed PRC bank on the applicability of deposit protection scheme to its margin accounts under Deposit Protection Scheme Ordinance, Cap. 581 and its representation rules
- Advised on the wrongful freezing of accounts by a local licensed bank

Company & Insolvency

- *Re PepsiCo International Hong Kong Limited* (HCMP 2144/2021) – successful application under section 42 of the Companies Ordinance, Cap.622 (sole advocate)
- *Re POEM Concept Limited* (HCMP 408/2020) – successful application under section 765 of the Companies Ordinance, Cap.622 (sole advocate)
- *Re Megalink Resource (Hong Kong) Holding Corporation Limited* (HCMP 68/2023) – acting for the directors in their inspection application pursuant to sections 373-378 of the Companies Ordinance (sole advocate)
- Acted for foreign joint liquidators of a company listed on the Main Board of the HKEx and wound up in Bermuda on application for the recognition order in Hong Kong (sole advocate)

- Advised liquidators of a local company on resisting claims of its director *cum* shareholder
- Advised a SFC-licensed company on cross-border investment project concerning Electronic Transactions Ordinance, Cap. 553
- Advised on the share acquisition of a limited company
- Advising on and acting for petitioners and debtors in relation to various winding-up and bankruptcy proceedings

Property & Building

- *Happy Mortgage Services Limited v Ho Yin Sang & Anor* (HCMP 1736/2017) - valuation on the partition of the land lot in New Territories
- *So Ho Yee v Hui Mamie* [2023] HKDC 1847 - acted for the plaintiff at trial in successful claims of beneficial ownership of a landed property and monies held on *Quistclose* trust (with Mr. Cyrus Lau)
- 羅小玲及另二人 對 鄭慧玲及另一人 [2022] HKLdT 34 - acted for applicants at trial in their successful applications to set aside owners' resolutions passed in the general meeting of unlawfully convened by the management committee of incorporated owners of a building (sole advocate)
- *Lai Lai Yin v Chow Kam Chuen & Another* (DCCJ 954/2022) - successful claim for deposit under agreement for sale and purchase of the landed property against the purchaser and resistance of the allegation of the improper appointment of executrixship of the vendor
- *Octagon Development Limited v Sennex Limited* (LDPE 758/2023) - acted for a property developer in its claim of outstanding rent and charges and possession of premises (sole advocate)
- Advising and acting for numerous parties on property disputes arising from relationship breakdown

Civil Procedure

- *Leader Screws Manufacturing Company Limited v Huang Shunkui* [2023] HKCA 1193 - successful resistance of the application for security for costs of the appeal; denial that the claim amount exceeds the defendant's known assets to be a relevant factor for the proof of impecuniosity (with Mr. Jason Wong)
- *Ng Kam Cheung v Chu Koon Fat David* [2023] HKCFI 716 - application to strike out the claim on the limitation period (with Mr. Jason Wong)
- *Jumani & Others v Air 1 Travel Hong Kong Limited & Others* (DCCJ 3531/2023) - acting for a statutory body in its application to strike out a claim on the basis of the alleged breach of duty of care in consideration of licence renewal application
- *K Cash Express Limited v Ng Ka Tung & Anor* (DCCJ 4035/2022) - successful application for an attachment order against the defendant's share of a landed property pursuant to Order 44A rules 7-9.
- *Or Yam Ming v Leung Kim Hung* (DCPI 226/2020) - application to strike out the personal injury claim against the owner as opposed to the driver of a vehicle

Probate & Family

- *Yau Chi Wai Lawrence & Anor v Chau Kit* (HCMP 998/2021) - acted for the plaintiffs at trial in their

application for removal of the executrix of an estate and proper account (with Mr. Jason Wong)

- *PYK v CCLA* [2023] HKFC 11 – acted for the petitioner in resisting the interim maintenance application (sole advocate)
- *LX v CWC, the Administratrix of the Estate of WTFP* [2021] HKFC 58 – acted for the respondent in her successful application for security for costs in the financial provision application under the Inheritance (Provision for Family and Dependents) Ordinance, Cap. 481 (sole advocate)
- *TTYE v TWWM* (FCMC 11418/2019) – acted for the petitioner in her successful application for a relocation order to permanently remove a family child out from Hong Kong (sole advocate)
- Acting for an applicant to register a Mainland Judgment pursuant to Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance, Cap. 639

Arbitration

- *Lin Chien Hsiung v Lin Hsiu Fen* [2022] 4 HKC 590, [2022] HKCFI 340, [2022] HKCFI 1270 – application to set aside the enforcement order to enforce an arbitral award issued by the Shanghai Arbitration Commission
- HKIAC arbitration – claim in respect of the breach of joint venture agreements concerning the establishment of foreign-branded automotive manufacturing base in the amount of over RMB 998 million
- SIAC arbitration – advised on applicable Hong Kong laws on the “estate costs rule” for security for costs application

Mental Health & Tort

- *Wan Ho Lun Louis & Others v Chen Joe* (HCPI 46/2020) – acted for the 3rd plaintiff for her personal injury claim on assault and battery inflicted by the defendant
- *Tsoi Yuet Hung v Ching Suk Man Bow* (DCCJ 2720/2019) – acted for the defendant in her successful application to set aside a regular judgment and obtain unconditional leave to defend the water seepage claim (sole advocate)
- Acting for a plaintiff in the appeal against the guardianship order made by the Director of Social Welfare (HCMC 99/2023) (sole advocate)
- Advised a finance service company on its anti-discrimination policies
- Appeared for the subject before the Guardianship Board to resist guardianship application pursuant to section 59M(1) of the Mental Health Ordinance, Cap. 136 (sole advocate)

Criminal

- *HKSAR v Chiu* [2022] HKCFI 2925, HCCC 144/2021 – Acquittal of a charge of trafficking in 2.77 kilograms of cocaine (with Mr. Adonis Cheung)
- *HKSAR v Chan* (WKCC 207/2022) – Acquittal of a charge of theft
- *HKSAR v Chan* (WKCC 2540/2020) – Acquittal of a charge of unlawful assembly
- *HKSAR v Chan* (KTCC 663/2020) – Acquittal of two charges of obstructing police officer in due

execution of duty

- *HKSAR v Choi* (WKCC 1176/2020) – Acquittal of a charge of possession of an instrument fit for unlawful purposes
- *HKSAR v Cheung* (ESCC 1190/2020) – Acquittal of a charge of possession of articles with intent to destroy/damage property
- *HKSAR v He* (FLCC 5590/2019) – Acquittal of a charge of unlawful assembly
- *HKSAR v Ho* (FLCC 2069/2020) – Acquittal of a charge of criminal intimidation
- *HKSAR v Liu* (KCCC 659/2020) – Acquittal of a charge of possession of articles with intent to destroy/damage property
- *HKSAR v Ma* (ESCC 1830/2020) – Acquittal of a charge of theft
- *HKSAR v Ma* (ESS 41028/2021) – Acquittal of a summons for organising a prohibited group gathering under Cap. 599G (with Mr. Jay Koon)
- *HKSAR v Tam* (KCCC 1024/2023) – Acquittal of two charges of common assault
- *HKSAR v Tsang* (WKCC 897/2020) – Acquittal of a charge of possession of articles with intent to destroy/damage property
- Acted for numerous applicants for bail and bail pending appeal at the Court of First Instance

Languages

- English
- Cantonese
- Mandarin