

## 李 焕 文

### 大 律 师

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Thomas Lee is a highly regarded advocate, arbitrator and adviser. He works across a broad range of commercial disputes, principally in construction, fraud and asset tracing, professional negligence and employment.

He is usually sole advocate in difficult matters. He is also comfortable as a senior junior working in a team on heavy cases. He is highly accessible for formal and informal advice as well as representation.

He is a Chartered Arbitrator. He has been appointed (solely and as panel member) in several ad hoc references and in appointments under the HKIAC and ICC rules (domestic and international). He practises as a commercial mediator and has sat as a Deputy District Judge.

Having been a partner in the HK office of a London law firm, he is highly attuned to the needs and demands of solicitors as well as their clients.

He was born in Kuala Lumpur, educated in Australia, and has lived and worked in HK for over 30 years.

He serves extensively on professional bodies: the Arbitration Committee of the HK Bar Association; the Construction Committee of the HKBA; and the Council of the Society of Construction Law Hong Kong, since 2003 (Chairman in 2007). He is a panel member of the Barristers' Disciplinary Tribunal.

Thomas is ranked as a leading commercial disputes junior (Tier 1) by Legal 500 (2022, 2023, 2024) and by Chambers & Partners (2024). He is also ranked as leading construction junior (Tier 1) by Legal 500 (2022, 2023, 2024) and is recommended by Doyle's Guide in construction (2017, 2020, 2021, 2022).

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## 近期案例精选

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- *AI & ors v LGII & anr* [2023] 4 HKC 135: acted for applicants in setting aside proceedings following a US\$500 million arbitral award, based on: scope of submission; adequacy of reasons; ability to present case; and public policy.
- Insurance regulatory: acted for directors and shareholder in HK insurance regulatory proceedings (2023).
- Construction arbitration: acting for a public sector client defending a claim arising from the termination of a major infrastructure design services contract (2023).
- *Marasinghe v Director-General of Civil Aviation* [2022] HKCFI 2483: acting in an ongoing judicial review. Leave granted on actual and apparent bias grounds. Document disclosure and cross-examination being argued.
- *ZPMC-Red Box Energy Services Ltd v Philip Geoffrey Adkins* [2021] HKCFI 3501: acted for corporate defendants in a dispute arising out of a failed joint venture, seeking a stay to arbitration in a multi-party and multi-contract dispute.
- *China Medical Technologies Inc (in liquidation) v Wu* [2021] HKCFI 286: acted for the liquidators in opposing the bank's application to discharge a banker's books order.

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## 其他精选案例

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### Arbitration

Recent or notable assignments:

## As tribunal

- Sole arbitrator in a construction arbitration between an Australian contractor and an HK sub-contractor – HKIAC Domestic Arbitration Rules.
- Sole arbitrator in a dispute arising from a failed investment in Iceland between a BVI / US party and a PRC party – HKIAC Administered Arbitration.
- Sole arbitrator in a sale of goods dispute between a UK party and an HK party – ICC Arbitration.
- Sole arbitrator in two related domestic HK construction disputes – ad hoc.
- Tribunal member in consolidated arbitrations between a Swiss corporation and an HK individual – HKIAC Administered Arbitration.
- Sole arbitrator in a domestic HK construction dispute – UNCITRAL Rules.
- Sole arbitrator in an HK building management dispute – HKIAC Administered Arbitration.
- Sole arbitrator in a sale of goods dispute between an Indian party and a Japanese party – ICC Arbitration.
- Tribunal member in an arbitration involving emissions trading between a PRC corporation and a German corporation – HKIAC Administered Arbitration.
- Sole arbitrator in a construction arbitration between an HK contractor and an Australian sub-contractor – HKIAC Domestic Arbitration Rules.
- Sole arbitrator in an arbitration involving a sales contract between a Polish corporation and an HK corporation – HKIAC Administered Arbitration.
- Sole arbitrator in an HK building management dispute – HKIAC Domestic Arbitration Rules.

## As other neutral

- Conducted about 20 mediations in commercial, banking and construction disputes.

- Often appointed by the court as examiner for depositions in HK, most recently for high-value litigation in Australia (Victoria), Canada (British Columbia) and the United States (Delaware, New York).

#### As counsel

- Counsel in an arbitration between a developer and a main contractor on an HK commercial development.
- Counsel in an arbitration for a public sector client defending a claim arising from the termination of a major infrastructure design services contract.
- Counsel in potential arbitration proceedings between shareholders in an HK investment advisory business.
- Counsel in an arbitration between a sub-contractor and a main contractor on a Macau casino development.
- Counsel in an arbitration between a U.S. talent agency and a Mainland PRC golf and property developer.
- Counsel in an arbitration between an Australian IT company and a Mainland PRC bank.
- Counsel in several arbitrations, and in an adjudication, between HK contractors and an HK public sector developer.
- Counsel in arbitral award enforcement proceedings between a U.S. energy company and an HK-based mining company.
- Counsel in arbitral award enforcement proceedings between a Mainland PRC developer and an HK-based developer.
- Counsel in an arbitration between an HK-based contractor and a project insurer.

#### Selected cases:

- AI & ors v LGII & anr [2023] 4 HKC 135 (arbitration; setting aside; scope of submission; adequacy of reasons; ability to present case; and public policy).
- ZPMC-Red Box Energy Services Ltd v Philip Geoffrey Adkins [2021] HKCFI 3501 (Commercial; joint venture; multi-party dispute; stay to arbitration).
- Post-judgment/award injunctions: listed US oil company (HCCT 3/2013), Xiamen Xinjingdi (HCCL 13/2011) (post-judgment/award injunctions).

## Construction

In the construction sector:

- Advised and/or represented developers, contractors, sub-contractors, consultants, insurers & liquidators on the full range of multi-tier delay/disruption, defects, termination, quantum, insurance, collateral security & JV disputes and on associated stay/enforcement/appeal proceedings.
- Experience covers public & private sector civil engineering and commercial & residential building claims (adjudication, arbitration, CFI, CA).
- Since 2007, advised and appeared in 15+ substantial construction arbitrations or adjudications, in both the private and public sectors.
- Very active at the intersection of the construction sector and pure construction disputes with commercial litigation, arbitration and mediation; restructuring, insolvency and companies work; public and environmental law; and professional negligence and insurance.

Recent or notable construction engagements:

- Advice, submissions and representation for a public sector client defending a claim arising from the termination of a major infrastructure design services contract (arbitration).
- Advice on construction sector legislation for a public sector client.
- Advice and representation for a private developer on claims arising from termination, delay, defects and valuation (arbitration).
- Advice and pleadings for a fire safety contractor in respect of a claim following a major fire at a marine facility (litigation).
- Advising a European public sector client on procurement from HK under the WTO Government Procurement Agreement.
- Advising a public sector client on rights and obligations following the insolvency of a main contractor (litigation).
- Advising a private developer on an architectural services agreement for a building project.
- Advice, pleadings and representation for a specialist sub-contractor on a large Macau building project (arbitration).

- Advising a specialist contractor on completion obligations under a major public sector transport contract.
- Advising a sub-contractor on litigation proceedings under a major public sector transport contract.
- Advising a public sector client on contractual delay recovery provisions on infrastructure mega projects.
- Advice and pleadings for a public sector client on a highways dispute (arbitration).
- Advice, pleadings and submissions for a public sector client in a highways dispute (arbitration).
- Advice and representation for a public sector client in a civil engineering dispute (adjudication).
- Advice, pleadings and representation for a contractor on a public sector foundations work dispute (arbitration).
- Advice and representation for a developer on a private building dispute (litigation).
- Advice and representation for a public sector client in a building dispute (arbitration).
- Advice and representation for a contractor in a major building dispute (arbitration).
- Advice and representation for a public sector client on a major building dispute (adjudication).

#### Selected cases:

- Golden Way Engineering Development Ltd v GWP Engineering Ltd [2024] HKDC 32 (Stay to arbitration; construction).
- Xiamen Xinjingdi Group Ltd v Eton Properties Ltd [2012] HKCA 528, [2012] HKCFI 1759 (Post-trial injunction; construction; private international law; arbitration).
- Lead Traders Ltd v Lucky Land Enterprise Ltd [2012] HKCA 498, [2012] 4 HKLRD 612 (Appeal; compulsory acquisition).
- UDL Contracting Ltd v Apple Daily Printing Ltd [2008] 2 HKC 534 (Service of writ; default judgment; construction).
- Penta Ocean Construction Co. Ltd v CWF Piling & Engineering [2007] HKLRD 233 (Appeal; arbitration; construction).

- Hsin Chong Construction (Asia) Ltd v Henble Ltd (HCCT 23/2005) (Construction).
- Shiu Wing Steel Ltd v DoEP (2006) 9 HKCFAR 478 (CFA) (Judicial review; environmental law).
- United India Insce Co. Ltd v Hyundai Engineering & Construction Co. Ltd (HCCT 2/2005) (Appeal; arbitration; insurance; construction).
- Cosmic Insurance Co. Ltd v Prosperity Construction Co. Ltd (HCCT 39/2003) (Construction).
- Secan Ltd v Wong Ping Wai (HCCT 93/1999) (Trial; construction; professional negligence).
- Heerim Architects & Engineers Co. Ltd v Tom Ip & Partners (HCCT 73/2002) (Summary judgment; construction).
- Schindler Lifts (HK) Ltd v Ocean Joy Investments Ltd [2003] 1 HKC 438 (Summary judgment; construction),
- Malayan Banking Bhd v China Insurance Co. Ltd [2002] HKCFI 211 (Construction; further discovery).
- Wing Mou Construction Co. Ltd v Cosmic Insurance Co. Ltd (HCCT 48/1999) (Joinder of parties; liquidation; construction).
- Tridant Engineering Co. Ltd v Mansion Holdings Ltd [2001] 1 HKLRD 783 (Appeal; construction).
- SKK (HK) Co. Ltd v Ip Kin Keung (HCCT 22/2001) (Default judgment; construction)

## Fraud and asset tracing

Recent or notable assignments:

- Sino Forest Corporation Litigation Trust v Chan (HCA 1696/2020, HCA 709/201 – claim value > C\$3b);
- China Medical Technologies (HCA 3391/2016 – claim value > HK\$4b);
- HK Zexin (HCA 3243/2016 – claim value > HK\$1b);
- VTB Bank (HCMP 914/2014 – Russia, cross-border);
- China NTG (HCMP 1967/2012 – BVI, cross-border).

Selected cases:

- Transasia Private Capital Ltd v Cheng Yu [2022] HKCFI 1295 (Lis alibi pendens; setting aside default judgment).
- Amadeaus Investment Ltd v Lin Kao Kun [2019] 2 HKLRD 647 (Extension of writ; service out of jurisdiction).
- LoanDepot LLC v Yingcai Tech Ltd [2018] HKCFI 2172 (Trial; email fraud; bona fide purchaser for value without notice).
- Zhejiang Provincial Railway Investment International Trade Co., Ltd v HK Zexin Resources Co., Ltd [2017] HKCFI 1621 (Injunction; banker's books application).
- Chan Su Chun v Dr Kung Yang Sum [2017] HKCFI 881 (Amendment; striking out; breach of statutory duty; conspiracy to defraud).
- Pacific King Shipping Holdings Pte Ltd v Huang [2015] 1 HKLRD 830 (Appeal; injunction; ancillary disclosure order).
- Yasmine (HCMP 1329/2014) (Criminal restraint order).
- Gold Access (HCMP 3142/2013) (Criminal restraint order).
- Kabushiki Kaisha Proje Holdings v King Power Group (HK) Ltd (HCA 350/2010) (Trial; breach of contract; investment consultancy agreement).
- Toggenburger v Luu (CACV 218/2012, HCA 815/2009) (Appeal; breach of contract; misrepresentation).

## Employment

In employment disputes:

- Appeared in a wide range of employment cases (team moves, restrictive covenants, confidentiality), often arising from applications for urgent interlocutory relief.
- Clients include: Ashton Hawks, Richemont, HJ Innoxcell, McLarens, Rothschild, TFS Derivatives, Vistra, BTG.

Selected cases:

- Lam Siu Wai v Equal Opportunities Commission [2021] 5 HKLRD 30 (Employment; termination; implied duty of good faith).



- Ashton Hawks Ltd v Chan [2021] HKCFI 681, [2020] HKCFI 2769 (Employment; springboard injunction).
- McLarens HK Ltd v Poon Chi Fai Corey [2019] 3 HKLRD 403 (Employment; springboard injunction).
- Tang Yi v Edmond de Rothschild Asset Management HK Ltd [2018] HKCFI 1050 (Letters rogatory).
- Wilson International Trading Private Ltd v Cariappa (HCA 1798/2010) (Injunction; employment).
- New York Life Insurance Worldwide Ltd v Ho (DCCJ 3370/2005) (Summary judgment; employment).
- Hill v Ontarget Advisory Services Ltd (HCA 56/2007 and HCMP 2461/2006) (Legal professional privilege; costs).

### Professional negligence

- First Asia Finance International Ltd v Tso Au Yim & Yeung [2017] 5 HKLRD 746 (Trial; professional negligence).
- Chan Shu Chun v Dr Kung Yan Sum (HCA 832/2014) (Amendment; striking out; breach of statutory duty; conspiracy to defraud).
- Grand Field Group Holdings Ltd v Tsang (No. 2) [2010] 4 HKLRD 487 (Solicitors' liability for costs).
- Secan Ltd v Wong Ping Wai (HCCT 93/1999) (Trial; construction; professional negligence).

### Regulatory, judicial review and planning

- Insurance regulatory: acted for directors and shareholder in HK insurance regulatory proceedings (2023).
- Marasinghe v Director-General of Civil Aviation [2022] HKCFI 2483 (Judicial review; leave; actual bias; apparent bias) [2019] 5 HKLRD 661 (Rolled up hearing).
- Lead Traders Ltd v Lucky Land Enterprise Ltd [2012] 4 HKLRD 612 (Appeal; compulsory acquisition).
- Woomera Co. Ltd v Commissioner for Transport (HCAL 146/2008) (Judicial review).
- Shiu Wing Steel Ltd v DoEP (2006) 9 HKCFAR 478 (CFA) (Judicial review; environmental law).

## Companies, insolvency and bankruptcy

- Companies: HK Zexin (HCCW 348/2017), Dragon Spirits (HCCW 161/2017), Shrenuj (HCMP 1302/2016 – appointment of receiver), Primlaks (HCMP 1652/2015 – derivative action; rectification of register), Renco (HCCW 418/2011 – misfeasance).
- Bankruptcy: Chan Tung Yeung (HCSD 32/2014 – statutory demand by auction house), Lo Po Tong (HCA 431/2013 – transaction at undervalue), Eugene Kim (HCB 6290/2012 – joint venture dispute).
- Litigation funding: Sunlink (HCMP 91/2015), Berman (HCMP 1321/2010).
- Director' s disqualification, permission to work: CA Pacific (HCMP 203/2002).
- Schemes of arrangement: Wah Nam, Seapower Resources, I-China, Hung Mau, HK Pharmaceutical.

## DIRECTORY QUOTATIONS

- "A highly-regarded senior junior, he is a good advocate and always very well-prepared."
- "He is great with clients" and "very personable" .
- "Thomas is a responsive and seasoned arbitrator with extensive experience in construction disputes." Thomas is "a thoughtful and considered arbitrator" .
- "Bright, practical and user-friendly, he rolls his sleeves up and gets stuck into, and masters, the detail. A pleasure to work with, and good with clients."
- "Thomas is an able and impressive advocate as well as a hardworking and knowledgeable junior counsel."
- "His vast experience is what sets him apart; he is an ideal "one-stop shop" for sizeable construction companies."
- "An excellent and determined advocate, who presents his case in measured yet very clear terms."
- "Thomas is very client focused, modern, and approachable."
- "Thomas conducts meticulous oral advocacy and will not miss any points."
- "In terms of client service and delivery rates, he' s extremely strong. With his modern service and ability to get on with clients and tribunals, he does very well."

- “Thomas is versatile and intelligent: our go-to advocate in both complex commercial disputes and large-scale construction cases.”
- “He has the respect of the court here. He’s very good, very steady, very polished and very pragmatic on fees” .

## APPOINTMENTS AND MEMBERSHIPS

- Chartered Arbitrator, FCI Arb and FHK Arb.
- Hong Kong International Arbitration Centre (Member, Panel of Arbitrators) (Member, Appointments Committee).
- International Chamber of Commerce (Member, ICC-HK Standing Committee on Arbitration and ADR).
- Hong Kong Mediation Council (Member and accredited HKMAAL mediator).
- Deputy District Judge (June 2011).
- Hong Kong Bar Association Committees on International Practice, Arbitration and Construction (current); Direct Professional Access and Higher Rights of Audience (2006-2009).
- Council Member and Honorary Legal Advisor, Oxfam Hong Kong (2004-2006).
- Solicitor, England & Wales (non-practising).
- Solicitor, Queensland, Australia (non-practising).

## PUBLICATIONS & SPEAKING ENGAGEMENTS

- Thomas edited the chapter on contractors’ completion obligations in Emden’s Construction Law (HK ed.) and wrote the chapter on progress and completion obligations in Construction Law Essentials (HKU Press).

- Thomas often speaks on international arbitration. Recently presented on hybrid med-arb procedures (LawAsia Bengaluru 2023); reconsidering factual witness evidence (SCLHK International Conference); presentation of expert evidence (CIOB Masterclass); reciprocal enforcement of judgments and awards between Hong Kong and the Mainland PRC (several forums, including APBA and HKIAC). Forthcoming presentation on recent HK and Singapore decisions setting aside arbitral awards. Forthcoming paper on rethinking the duties of party-appointed tribunal members.
- Thomas has delivered lectures or tutorials on construction law for the HKBA; the CI Arb EAB; and the CUHK Architecture Faculty.

## LINKEDIN

<https://www.linkedin.com/in/thomaswmlee/>

## EDUCATION

- LLB, University of Queensland, Australia
- BA (Hons), University of Queensland, Australia (Thomas Morrow Prize; Lions O' Grady Memorial Scholarship)