

# JUSTIN ISMAIL

## BARRISTER

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Justin is developing a broad practice spanning all of Chambers' main practice areas, with particular interests in company, insolvency and commercial disputes, property matters encompassing land, building, building management, town planning and landlord and tenant disputes, trusts, charities, and civil fraud.

Justin regularly appears across all levels of the High Court, including as sole counsel in the Court of Appeal. He has also appeared as led junior in the Court of Final Appeal on a number of occasions. He appears frequently in the Lands Tribunal and has conducted appeals in his own right in the Buildings Appeal Tribunal and the Town Planning Appeal Board. His practice also involves a wide range of advisory work.

Justin has been recognised as a "Rising Star" in the area of commercial disputes by The Legal 500 (Asia-Pacific) 2024. He is described as having "*time and again proven himself to be a strong, articulate, natural and eloquent advocate in court*" who is "*able to hold his own as a sole advocate*" and is "*effective when making submissions in court, especially when compared with other barristers of similar seniority*". Justin's written legal submissions have also been described as being "*of high quality.*"

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## RECENT HIGHLIGHTS

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Highlights of Justin's recent or notable work include:

- ***Ng Yuk Pui Kelly v Ng Lai Ling Winnie (as the executor of the estate of Dung Wai Man, Deceased) and ors*** [2021] HKCFA 40 (reported in (2021) 24 HKCFAR 401). Instructed as junior counsel for the plaintiff in the Court of Final Appeal, in an important case which examines the scope and application of the doctrine of contractual estoppel (with Anthony Ismail). Also instructed as junior counsel in the substantive appeal in the Court of Appeal [2021] HKCA 724 (reported in [2021] 5 HKC 1); sole counsel in the Court of Appeal resisting the application for stay pending appeal and for leave to amend the appeal notice [2021] HKCA 134 (reported in [2021] 1 HKLRD 1037); and junior counsel in the 21-day trial in the Court of First Instance [2019] HKCFI 210.
- ***Lam Kin Chung v Soka Gakkai International of Hong Kong Ltd***[2022] HKCA 480 (reported in [2022] 4 HKC 202). Instructed as junior counsel for the company in the Court of Appeal, in the first appellate case to determine whether a member of a charitable company has standing to bring a derivative action under ss 732-734 of the Companies Ordinance (Cap. 622) in respect of wrongs done to it, and the first to hold that a member of a charitable company in Hong Kong must exercise his voting rights consistently with his fiduciary duty owed to the charitable objects of the company, following the UK Supreme Court's decision of ***Lehtimaki and others v Cooper*** [2020] UKSC 33 (commonly known as "the Children's Investment Foundation Fund (UK) ( "CIFF" ) case" ) (led by Ambrose Ho S.C. and Michael Yin). Also instructed as junior counsel in the Court of First Instance [2018] HKCFI 747 (reported in [2018] 2 HKLRD 769 and [2018] 4 HKC 489).
- ***Fook Lee Holdings Limited v The Secretary for Transport and Housing***[2022] HKCA 1855 (reported in [2023] 1 HKLRD 845). Instructed as junior counsel for the company in the Court of Appeal, in an application for leave to appeal against the Lands Tribunal's interpretation of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) as regards to an applicant's right to compensation from the Government for loss of temporary occupation of land (with Anthony Ismail).
- ***Tai Shing Lee Victor (trading as Lucky Reminbi Exchange Foreign Currency Co.) v Wu Ka Yu Jennie*** [2023] HKCA 960. Instructed as sole counsel for the appellant in the Court of Appeal in a case concerning the breach of a services contract between foreign currency exchange operators.
- ***Leung Wai Ling Isewesg v Success Base Engineering Limited***[2021] HKCA 310 (reported in [2021] 4 HKC 80). Instructed as sole counsel for the plaintiff landlord in the Court of Appeal to resist an appeal concerning the scope of a landlord's obligations under a tenancy agreement. Also instructed in the Court of First Instance [2020] HKCFI 163.

- ***Emperor UA Cinemas Limited v Lark China Cinemas Investments Limited***[2022] HKCFI 2316 (reported in [2022] HKCLC 969). Instructed as sole counsel for the plaintiff company in the Court of First Instance, in a successful application for an injunction to restrain the defendant from presenting a winding-up petition based on a statutory demand. The case was recently cited in a lecture delivered by the The Honourable Madam Justice Linda Chan (the Companies Judge).
- ***Asia Shahid t/a International Business Point (Hong Kong) v China Ping An Insurance (Hong Kong) Company Limited*** [2023] HKCFI 1296 (reported in [2023] 4 HKC 35). Instructed as sole counsel for the plaintiff insured in the Court of First Instance, in an appeal against a master' s decision to strike out the insured' s claim on grounds of limitation.
- ***Maxim's Caterers Limited v Max Joy Asia Limited***[2024] HKDC 660. Instructed as sole counsel for the plaintiff in the District Court in a trial concerning the breach of a services contract.
- **黎偉雄 v 信和物業管理有限公司 (*Sino Estates Management Company Limited*) & anor**[2022] HKLdT 68. Instructed as sole counsel for the respondent building manager in a 5-day bilingual trial in the Lands Tribunal concerning the construction of a Deed of Mutual Covenant and alleged breach of manager' s duties. Also instructed as sole counsel to resist the application for leave to appeal to the Court of Appeal [2023] HKLdT 23.
- ***Town Planning Appeal No. 7 of 2021*** (decision dated 28.02.2023). Instructed as sole counsel for the developer in a 3-day appeal before the Town Planning Appeal Board, in an appeal against the Town Planning Board' s decision to refuse planning permission to construct a house on a site in Ngau Chi Wan Village.
- ***In the matter of appeals under s 44 of the Buildings Ordinance (Cap. 123) by the appellants in Appeal Case Nos. 19-23*** (decision dated 26.09.2023). Instructed as sole counsel for the appellants in a preliminary hearing before the Buildings Appeal Tribunal appealing against the Building Authority' s orders for demolition of certain alleged unauthorised building works.

Justin read law at the University of Oxford and went on to receive his postgraduate degrees from the University of Hong Kong. He took a Distinction in the Master of Laws and was awarded the Woo Po Shing Medal in Law for civil and criminal advocacy. He later received the Middle Temple Advocacy Scholarship.

Prior to joining the Bar, Justin worked for a top silk at a top-tier chambers in London. On his return to Hong Kong, he successfully completed his pupillage under the supervision of Ambrose Ho S.C., Abraham Chan (now Abraham Chan S.C.), Edwin Choy (now Edwin Choy S.C.) and Andrew Mak. He commenced full practice in 2017 and has served as a part-time civil advocacy tutor at HKU since 2021.

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## OTHER NOTABLE CASES

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## Building

- Advised on a question of interpretation arising out of ss B12.7 of the Code of Practice for Fire Safety in Buildings 2011 (led by Benjamin Yu S.C.).

## Building management

- ***The Incorporated Owners of Wah Chun Industrial Centre & anor v Coca Investment Company Limited*** HCA 2064/2023 (ongoing). Instructed as junior counsel for the respondent in an action concerning the status of certain carparks in an industrial building owned by the respondent developer (led by Jenkin Suen SC).
- Advised the manager of a private luxury housing estate on the validity of an owners' resolution resolving to set up a "special fund" understood within the meaning of Paragraph 4, Schedule 7 of the Building Management Ordinance (Cap. 344).

## Companies / Winding Up

- ***Re Jetlag Limited*** HCMP 766/2018 (ongoing). Instructed as junior counsel for the applicant in the Companies Court seeking relief under an unfair prejudice petition (with Joyce Leung). Also instructed as junior counsel in the related actions of HCA 834/2020 and HCA 835/2020 (with Joyce Leung).
- Advised the subsidiary company of a global conglomerate on a proposed application to invalidate a winding-up commenced under s 228A of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32).
- ***Re Lee Yang, Shiu Chuen Joyce*** [2021] HKCFI 2468 (reported in [2021] 4 HKLRD 252 and [2021] 6 HKC 515). Instructed as sole counsel for the applicant in the Court of First Instance, in a case concerning the grant of vesting orders for shares in a company previously held on trust by nominal companies that have been dissolved. The decision is of considerable interest and practical importance in light of its clarification of the law and procedure as regards joining the Secretary for Justice (or Attorney-General in a foreign jurisdiction) as a respondent before property can be properly vested in a beneficiary under s 52(1)(b)(iii) of the Trustee Ordinance (Cap. 29).

## Civil fraud

- ***Zief Incorporated v Tekchandani Ajai Mohan and ors*** [2021] HKCFI 38 (reported in [2021] 3 HKC 69). Instructed as junior counsel for the plaintiff in a 3-day trial in the Court of First Instance, in a case concerning the restitution of funds mistakenly remitted to a third party recipient as a result of fraud (with Joyce Leung).
- ***Chow Pui Chu Betty v Ever Bridge Hong Kong International Limited*** DCCJ 3736/2021. Instructed as sole counsel for the plaintiff in the District Court to obtain summary judgment against a defendant for the return of funds mistakenly remitted to it as a result of fraud.

## Commercial disputes

- ***Goldteam Group Ltd v Qin Hui*** [2021] HKCFI 2422 (reported in [2021] HKC 708). Instructed as junior counsel for the plaintiff in the Court of First Instance, in a case concerning the recovery of a loan debt of over HK\$150 million (led by CY Li S.C.). The decision clarifies a vitally important point of procedural law, namely whether service of a writ within jurisdiction is valid where a defendant, who is not within jurisdiction at the time a writ is delivered, nonetheless acquires knowledge of it at the time and subsequently returns to jurisdiction prior to its expiry.
- ***To Yuk Fung v Wu Pun Yan*** [2020] HKCFI 400. Instructed as junior counsel for the defendant in the Court of First Instance concerning an appeal against a master's decision on costs (led by Paul Lam S.C.).

## Insurance

- ***Lo Siu Wa v Employees Compensation Assistance Fund Board and anor***[2018] HKCFA 3 (reported in (2018) 21 HKCFAR 8 and [2018] 2 HKC 40). Instructed as junior counsel for a major insurance company in the Court of Final Appeal, in a case concerning the breadth of coverage of an insurance agreement understood in the context of the compulsory insurance scheme under Part IV of the Employees' Compensation Ordinance (Cap. 282) (with Anthony Ismail).

## Landlord and tenant

- ***Re UA Cinemas Circuit Limited***HCCW 99/2021. Instructed as sole counsel for the applicant landlord in the Companies Court seeking (1) leave to commence proceedings against the respondent tenant company (formerly a well-known company running a chain of cinemas in Hong Kong) upon its presentation of a winding-up petition and (2) an order for immediate possession of premises.
- ***Jade Mate Limited v Chickeeduck Retail (Hong Kong) Limited***HCA 1344/2020. Instructed as junior counsel for the plaintiff landlord in the Court of First Instance seeking an injunction to remove an unauthorised article from the defendant tenant's shop premises (led by CY Li S.C.).
- **勤學樂園 對 黎嘉年及另一人** [2024] HKDC 585. Instructed as counsel for the 1<sup>st</sup> Defendant in an application to strike out the Plaintiff's claim for want of a reasonable cause of action. Proceedings were conducted in Chinese.

## Personal Injuries

- Advised on the quantum of damages to be awarded to a person falling within the "Disaster" category of personal injuries (assisting Alice Mok, S.C.).
- Advised on the prospects of a claim for tort against the person arising out of an incident during the period of social unrest in 2019 (assisting Alice Mok, S.C.).

## Probate and administration

- ***In re the estate of Herman Hendrik Alberts*** [2019] HKCFI 2900. Instructed as sole counsel for the applicant in the Court of First Instance in a 2-day trial to resist the invalidation of a purported will and to obtain a grant of letters of administration.

## Public law / judicial review

- ***Chao Wei Ting Ronna v Appeal Tribunal (Buildings) (interested party: Building Authority)***[2019] HKCFI 2950 (reported in [2020] 1 HKLRD 467). Instructed as junior counsel for the interested parties in the Court of First Instance in a judicial review of a decision of the Appeal Tribunal (Buildings) (with Anthony Ismail).
- ***Building Authority v Appeal Tribunal (Buildings) (interested parties: Freedom Pacific Limited, Wave Treasure Investment Limited)***[2018] HKCFI 2761 (reported in [2019] 1 HKLRD 513). Instructed as junior counsel for the interested parties in the Court of First Instance to resist a judicial review of a decision of the Appeal Tribunal (Buildings) (with Anthony Ismail). Also instructed as sole counsel to vary a costs order nisi [2020] HKCFI 1245.
- ***Leelan Rukesh Marasinghe v Director-General of Civil Aviation***[2022] HKCFI 2843. Instructed as junior counsel for the applicant in the Court of First Instance, in an application for leave to apply for judicial review of the Director's decision to suspend the applicant's medical certificate thereby rendering him unable to perform his licensed functions as a commercial pilot (led by Robert Whitehead S.C. and Thomas Lee).

## Town planning

- ***Town Planning Board v Town Planning Appeal Board*** FACV 8/2016 (unrep., 16.02.2017) (reported in (2017) 20 HKCFAR 196 and [2017] 2 HKC 372). Instructed as junior counsel for the interested parties in the Court of Final Appeal, in a case concerning whether the Town Planning Board has jurisdiction under s 17 of the Town Planning Ordinance (Cap. 131) to review its own decisions on the fulfilment of conditions imposed when granting planning permission (led by Anthony Neoh S.C. and Anthony Ismail).

## Other

- Advised a major U.S. corporation on the consumer protection regime in Hong Kong as well as the interrelationship between representative proceedings brought under RHC O.15, r.12 and the class action regime brought under U.S. law (assisting Ambrose Ho S.C.).

## EDUCATION

- BA in Jurisprudence (now MA), University of Oxford
- LLM, University of Hong Kong (Distinction)
- PCLL, University of Hong Kong

## SCHOLARSHIPS AND PRIZES

- The Middle Temple Advocacy Scholarship
- The Woo Po Shing Medal in Law (for best performance in criminal and civil advocacy)
- Runner-up, Oxford Hong Kong Mooting Competition 2011 and 2012

## APPOINTMENTS AND MEMBERSHIPS

- Lecturer (part-time) (non-clinical) in Civil Advocacy, Department of Professional Legal Education, University of Hong Kong (2021-)
- Member, Committee on Companies Law, The Hong Kong Bar Association (2023-)
- Member, Committee on Land, Trust and Probate, The Hong Kong Bar Association (2023-)

## DIRECTORY RANKINGS

- ***“Justin is eloquent and effective. His delivery is precise and persuasive. Backed with thorough research, he is always able to present a case at its best.”*** – The Legal 500 (Asia-Pacific) 2023 (Commercial Disputes – Rising Star)

## SEMINARS

- **“Recent SFC Enforcement Actions in Ramp and Dump Cases”**, CPD lecture (given at Messrs. Haldanes) (with Norman Nip S.C., Adrian C.K. Wong and Roger Phang)
- **“Judicial review against decisions of the Building Authority”**, Law Lectures for Practitioners 2019 (held by the Faculty of Law, University of Hong Kong) (with Anthony Ismail)
- **“Plugging the Expectation Gap: The Future of Charities Regulation in Hong Kong”**, CPD lecture (held by the Legislative Council of Hong Kong) (with Ambrose Ho S.C.)

## LANGUAGES

- English, Cantonese, Putonghua, French and Spanish (working knowledge)