



Loo Peh Fern
Partner

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Peh Fern's areas of practice are in insurance and reinsurance, medical negligence and malpractice, and banking and finance disputes.

She also has experience in commercial litigation and arbitration matters. She has conducted trials at High Court and appeared both as Counsel and Co-Counsel at the Court of Appeal and Federal Court.

Areas of Practice

Insurance and Reinsurance Disputes
Professional Negligence
Medical Negligence
Banking and Finance Litigation
Commercial Litigation and Arbitration
Tenancy Disputes

Selected Experience

Insurance and Reinsurance Disputes

- ❖ Advised an international reinsurer on its liability under reinsurance where there had been non-disclosure and delay in disclosure by the original insured. The amount involved is approximately RM85million.
- ❖ Advised a multinational insurer with regards local laws on non-admitted insurance and doing business with an intermediary in Malaysia.
- ❖ Acted for and advised a leading reinsurance operator/the world's first Shariah compliant in a reinsurance dispute involving a claim in excess of RM22million and a counterclaim in the region of RM400,000.
- ❖ Defended a leading reinsurance company in a reinsurance dispute involving a disputed debt of RM20.5 million.

- ❖ Acted for a reinsurance company in a dispute valued at about USD8 million concerning Quota Share Treaty Contracts against European retrocessionaires.
- ❖ Acted for a reinsurance company in a dispute involving over 100 reinsurance claims worth about RM18million.
- ❖ Advised and acted for a major and leading reinsurance company in a reinsurance dispute involving Facultative Reinsurance Agreements and Original Policy. An issue arose as to whether the Facultative Reinsurance Agreements contain an arbitration clause which refers all disputes between the parties, including those concerning the amount of any loss or damage arising from the Facultative Reinsurance Agreements to arbitration.
- ❖ Advised and acted for a reinsurance company in a reinsurance dispute involving Retrocession Contract. The disputed debt is in excess of USD5.8 million.
- ❖ Advised and acted for a leading reinsurance organisation in Malaysia in a reinsurance dispute against an Indian insurer arising out of the 2011 Thailand floods. Advised and acted for a leading reinsurance company in Malaysia against an insurance company in Thailand over a retrocession treaty dispute involving a sum of USD274,219.00 arising out of the 2011 Thailand floods.
- ❖ Advised insurance and re-insurance companies in various aspects/issues pertaining to policy contracts/agreements.
- ❖ Advised and acted for a leading Insurer in Malaysia which is ranked no. 1 in combined Insurance and Takaful business for both Life/Family and General.
- ❖ Advised a leading global loss adjusting and claim management company.
- ❖ Acted as Co-Counsel for the Appellant in a landmark case of *Best Re (L) Limited v Ace Jerneh Insurance Berhad (formerly known as Jerneh Insurance Bhd) [2015] 5 MLJ 513* where the Court of Appeal held that a mere general reference to the original contract constituted effective incorporation of an arbitration clause into a reinsurance contract.
- ❖ Advised on the duty of an insured company and the duty owed by an insurance broker to an insured in the event of a failure to advise on the possibility of non-coverage of insurance.

- ❖ Acted for a foreign insurance company in a contested interpleader application involving dispute on submission of beneficiary nomination forms.
- ❖ Advised a life insurance company on its contractual right to revise or reduce bonuses in various plans.
- ❖ Advised a takaful provider on its potential liability in respect of discrepancies between the sales illustration used during sales process and the sales illustration attached in the takaful certificates.
- ❖ Advised an insurance and takaful provider on liability to pay in respect of insurance policies and takaful certificates which were issued as a result of fraud.
- ❖ Advised a foreign insurance brokerage firm on the legality of certain types of broker remuneration in Malaysia.
- ❖ Advised a takaful provider on issues relating to bancatakaful arrangements.
- ❖ Advised an insurance company on termination of insurance policies in respect of individuals affiliated and/or employed by entities under the U.S Department of the Treasury Office of Foreign Assets Control Specially Designated Nationals List.
- ❖ Acted for an insurance company where coverage under a group term life insurance policy was disputed.
- ❖ Advised and assisted settlement between nominees under an insurance policy and the insurer.
- ❖ Advised on redrafting of various terms on behalf of several insurers such as sanction clause and commencement clause.
- ❖ Acted for an international insurer in staying proceedings in Malaysia brought by a former Labuan underwriting manager for alleged outstanding commission and agent fees.
- ❖ Advised foreign liquidators on the liquidation and winding-up of an insurer-reinsurer in Labuan.
- ❖ Advised a local insurer on its potential liability in respect of claims made under an offshore construction insurance policy revolving issues such as extensions subject to conditions, endorsements, payment of premium, notification of claim and

breach of marine survey warranty.

- ❖ Advised an international-affiliated company on termination of insurance-broking services.
- ❖ Advised an international insurer on the Malaysian regulatory landscape in respect of insurance intermediary arrangements and activities concerning marketing and sale of insurance products by way of collaboration between an insurer and non-insurer partner.
- ❖ Advised an international insurer on the issue of insurability of civil fines and pecuniary penalties imposed by the Securities Commission of Malaysia.
- ❖ Advised insurers on the issues of subrogation, retrospective coverage, consent to salvage, annuity bonus revision, and interpretation of specific insurance policies.
- ❖ Advised an international law firm based in Singapore regarding a directors and officers liability insurance policy taken out by an industrial group specialised in naval and commercial shipbuilding with a licensed insurer.
- ❖ Advised a strategic oil and gas joint-venture concerning a claim made under a specialized policy available to oil and gas well operators.
- ❖ Advised a garment manufacturer/exporter on a fire insurance claim made by an insured to a licensed insurer under two fire insurance policies.
- ❖ Advised an international travel insurance company on the maximum percentage of risk which can be ceded outside of Malaysia and the remuneration of a partner for additional/non-distribution services.
- ❖ Advised a global insurance law firm on, amongst others, the threshold of an insured's duty of disclosure and misrepresentation and breach of warranty under a marine insurance in respect of a claim made under a marine insurance policy.
- ❖ Advised an international re-insurance company on the applicable limitation period and the potential strategies for extending the limitation period, as well as queries relating to subrogation and arbitration.

- ❖ Advised a local takaful operator on the interpretation of the takaful certificate and the relevant limitation in the event the policyholder refiles a claim.
- ❖ Advised an international re-insurance company on the potential regulatory and operational framework for establishing an online insurance aggregator business in Malaysia.
- ❖ Advised a global insurance company on the issues relating to potential re-insurance litigation in Malaysia.

Professional Negligence

- ❖ Listed as one of the Panel Solicitors for the Malaysian Bar Professional Indemnity Insurance [PII] Scheme.
- ❖ Acted and appeared as leading Counsel in a highly contested trial involving allegation of fraud and solicitor's negligence in respect of a dispute against a reputable member of the legal profession.
- ❖ Appeared as Co-Counsel to defend an advocate and solicitor who was being sued for conspiracy to defraud in the High Court case of *Liew Chum Wah & Ors v Liew Chee Seng & Ors [2008] MLJU 80*.
- ❖ Acted for members of the legal profession in defending civil suits involving allegations of professional negligence such as failure to advise client, failure to present the client's best case and breach of a stakeholding arrangement.
- ❖ Acted as lead Counsel for a law firm sued for negligence in a highly contested trial involving impersonation fraud via emails and fictitious email domain.
- ❖ Acted as lead Counsel to defend a solicitor's negligence suit involving file mismanagement.
- ❖ Acted as lead Counsel for a law firm sued for negligence in failing to attest to the signing of a memorandum of transfer.
- ❖ Acted as lead Counsel for a law firm sued for negligence involving collusion and/or conspiracy to act fraudulently in respect of an unlawful transfer of land.

Medical Negligence

- ❖ Acted for and advised medical practitioners / doctors / specialists in relation to complaints lodged by patients, medical negligence actions, medical malpractice and other ancillary issues.
- ❖ Represented medical professionals in inquiries before the Malaysian Medical Council.
- ❖ Advised on consultancy agreements between medical practitioners and hospitals / health centres.
- ❖ Advised on service agreements relating to provision of healthcare centres, facilities and services.

Banking and Finance Litigation

- ❖ Advised and acted for major banks (both in Malaysia and Singapore) in loan agreement disputes.
- ❖ Appeared both as Counsel and Co-Counsel in High Court and Court of Appeal for a major bank in Malaysia in a heavily contested case against a borrower for breach of loan facilities. The bank obtained an Order for Sale for a prime piece of land located at Ulu Kelang. Despite the Order for Sale, the borrower filed numerous suits and applications (including stay and injunction) against the bank to delay and frustrate the auction. Some of these cases were reported in the law journals (*Perwira Affin Bank Bhd v. Tan Ah Tong* [2003] 5 MLJ 193).
- ❖ Appeared as Counsel for a foreign bank in the High Court case of *Re: Chan Teik Huat; Ex-Parte : Oversea-Chinese Banking* [2007] MLJU 446 which involved novel issue of whether the bank has failed to convert the Judgment sum (which is in foreign currency) into Ringgit Malaysia at the date of the issuance of the Bankruptcy Notice. The judgment debtor, dissatisfied with the High Court's decision which was granted in favour of the bank, filed an appeal to the Court of Appeal. Recently, the Court of Appeal affirmed the High Court's decision.

Commercial Litigation and Arbitration

- ❖ Advised and acted for several public listed companies in Malaysia in commercial litigation.

- ❖ Advised and acted as Counsel for a plaintiff who is a leading developer (and the principal shareholder is a Malaysian conglomerate with diverse local and international businesses that include forest management, wood products, plantations and property development) in a heavily contested injunction hearing which involved novel issues of whether the defendant had wrongly trespassed onto the plaintiff's development site and whether the defendant should be restrained from connecting and/or tapping into any of the plaintiff's water pipes.
- ❖ Acted for a Singapore company in a minority shareholders' oppression disputes with its Malaysian joint venture partner over the management of three 5-star hotels in Malaysia, namely, 'The Residence' of Kuala Lumpur, 'Pangkor Laut Resorts' at Pangkor Laut, Perak and 'The Hendrick' in Kuala Lumpur.
- ❖ Advised and acted for an international technology development and engineering company providing engineering and turnkey services in respect of proprietary technologies and process systems in the oil and gas and related industries in an action to recover approximately RM2.8million for work done and costs incurred in completing a low pressure skid system.

Tenancy Disputes

- ❖ Acted for individuals against developers in the High Court in claiming for outstanding liquidated damages and guaranteed rentals arising under sale and purchase and tenancy agreements.
- ❖ Acted for numerous clients / landlords against tenants in claiming for outstanding rentals, double rentals, outstanding utilities arising under tenancy agreements.
- ❖ Advised on right to claim for refund of booking fees and legal fees paid in respect of tenancy of provisional unit in Empire City.

Qualifications & Professional Affiliations

Qualifications:

Advocate and Solicitor, High Court of Malaya (1998)
 Barrister-at-Law (Lincoln's Inn) (1997)
 LL.B (Hons), University of Warwick (1996)

Publications & Talks

Authored in the following articles:

- Co-Author, “The Importance of Purchasing Insurance Cover for Liability to Passengers”, Skrine Insights / Alerts, 3 July 2025 (republished on Lexology).
- Co-Author, “Court of Appeal: Insurers must pay Settlement Sum to Plaintiff/Claimant”, Skrine Insights / Alerts, 30 May 2025 (republished on Lexology).
- Co-Author, “Federal Court: Parties Not Prohibited from Entering into Conditional Agreement to Acquire 5% Interest in Shares of Licensed Insurer”, Skrine Insights / Alerts, 21 March 2025 (republished on Lexology).
- Co-Author, “Insurance 101: 10 Key Things to Know Before You Buy an Insurance Policy”, Skrine Insights / Alerts, 15 November 2024 (republished on Lexology).
- Co-Author, “Will the Contra Proferentem Rule Remain Relevant for Insurance Contracts in Malaysia?”, Skrine Insights / Alerts, 22 April 2024 (republished on Lexology).
- Co-Author, “Revisiting the Doctrine of Non-Delegable Duty of Care in Malaysian Medical Negligence Cases”, Skrine Insights / Alerts, 5 April 2024 (republished on Lexology).
- Author, “RM8 million award in medical negligence case – excessive or proportionate?”, Skrine Insights / Alerts, 11 January 2024 (republished on Lexology).
- Co-Author, “My Name or Yours? Court of Appeal interprets effect of a Claim Discharge Receipt and Indemnity Form”, Skrine Insights / Alerts, 28 February 2023 (republished on Lexology).
- Author, “Should I be treated at a public or private hospital?”, Skrine Insights / Alerts, 28 July 2022 (republished on Lexology on 1 August 2022).
- Co-Author, “Deliberating the meaning of deliberate”, Skrine Insights / Alerts, May 2021 (republished on Lexology and Mondaq).
- Co-Author, “Covid-19 Business Interruption Insurance – Takeaways from the UK Financial Conduct Authority Tests Case”, Skrine’s Insights / Alerts, October 2020 (republished on Lexology, on Mondaq in January 2021).
- Co-Author, “The Waiting Game”, Skrine’s Legal Insights, Issue 3/2019, September 2019 (republished on Mondaq in March 2020).
- Contributing Author, Getting the Deal Through – Insurance Litigation: Malaysian Chapter, 2016, 2017 and 2018.
- Co-Author, “Doctor Knows Best? Case commentary on Singapore Court of Appeal, *Hii Chii Kok v. Ooi Peng Jin London Lucien [2017] SGCA 38*”, Skrine’s Legal Insights Issue 2/2017, June 2017.

- Co-Author, “Don’t Cover Up, It’ll Blow Your Cover!”, Skrine’s Legal Insights Issue 4/2016, December 2016.
- Co-Author, “Incorporation by Way of Reference – *Best Re (L) Limited v ACE Jerneh Insurance Berhad [2015] MLJU 0256*”, Skrine’s Legal Insights Issue 3/2015, September 2015.
- Author, Case Commentary on *Federal Court Case of Score Options Sdn Bhd v Mexaland Development Sdn Bhd [2012] 7 CLJ 802* – Skrine’s Legal Insights Issue 1/13, 1 March 2013.
- Sat as Presiding Judge in Help Institute / Skrine Moot Competition, 15 June 2012.
- Author, Case Commentary on *Ho Ken Seng v Progressive Insurance Sdn Bhd [2012] 1 MLJ 297*, Court of Appeal, Skrine’s Legal Insights, 1 June 2012.
- Author, Summary: Malaysia Legal System – Multi Jurisdiction Litigation Brochure, 1 June 2011.
- Co-Author, “Civil Actions Against Rulers”, Skrine’s Legal Insights, Issue 4/2008, December 2008.
- Author, “Are Receivers & Managers Appointed by Danaharta Protected Under Section 72 of The Danaharta Act?”, Skrine’s Legal Insights, Issue 2/2008, June 2008.
- Author, “Case commentary on *SCBMB v. Hew Hai Woon [2007] 7 CLJ 454* – pitfalls for a charge who signs a charge-in-substitution on behalf of a chargor”, – Skrine’s Legal Insights, Issue 2/2007, July 2007.

Delivered the following presentations:

- Presenter, “Insurance Law”, at seminars organised by the Department of Mathematical Sciences, University of Malaya, 2008, 2009, 2010, 2011, 2012, 2014, 2015 and 2017.
- Presenter, “Submissions–Written and Oral Submissions”, an in-house presentation, 1 April 2016.
- Presenter, “Introduction to Insurance Law & Specific Insurance” (Life Assurance & Motor Insurance), an in-house presentation on, 14 June 2011.
- Presenter, “Law of Contract – Breach of Contract & Remedies”, organised by Sime Darby Berhad, 21 May 2010.
- Presenter, “National Land Code – Caveats”, organised by PricewaterhouseCoopers, 23 April 2010.
- Presenter, “Foreclosure”, an in-house presentation, 2009.

Accolades

- Featured as Recommended Global Leaders in Insurance & Reinsurance in Who’s Who Legal for 2017-2019.
- Featured and received good review and recommendations for her insurance practice, Legal 500 Asia Pacific 2014.