



Siew Ka Yan
Senior Associate

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Ka Yan is an associate in the Litigation and Arbitration practice.

Practice Areas

Civil and Commercial Litigation
Insurance Disputes and Advisory
Banking and Finance Litigation
Compliance and Advisory

Selected Experience

Civil and Commercial Litigation

- ❖ Acted for a white knight in enforcing certain option agreements and exercise of call option in the acquisition of companies in the business of oil palm and refinery.
- ❖ Acted for a local company in defending an action for misrepresentation and breach of terms of sale and purchase agreement for agricultural lands.
- ❖ Acted for a logistics company in an action against its former director for breach of director's duties.
- ❖ Acted for a shareholder in the exit from the operations and business of running an international school.
- ❖ Acted for individuals in an appeal in respect of a claim of unlicensed moneylending and breach of the Moneylenders Act 1951.
- ❖ Acted for the landlord in a claim for breach of tenancy agreement concerning unauthorised and unlawful construction of structures within the tenanted premises.
- ❖ Assisted in acting for members of the 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.

- ❖ Assisted in acting for an airport operator in respect of a defamation claim brought against an airline.
- ❖ Assisted in acting for a housing developer in respect of various disputes, including alleged common property and parcel defects, election of members of joint management committee and meetings and by-laws.
- ❖ Assisted in acting for an investment management firm in respect of a debtor's protracted attempt at restructuring through a scheme of arrangement.
- ❖ Assisted in advising a management committee member with regards alleged defamatory statements circulated within the committee members, and the application of qualified privilege.
- ❖ Assisted in acting and advising medical practitioners in relation to complaints lodged by patients, medical negligence actions and other ancillary issues, such as agreements between medical practitioners and hospitals / health centres and obligation by medical practitioners to provide medical / expert opinion.
- ❖ Conducted enforcement proceedings from registration of foreign judgment to bankruptcy proceedings, garnishee proceedings and winding-up proceedings.
- ❖ Assisted in defending a foreign casino operator in an application by a judgment debtor to set aside registration of the foreign judgment in Malaysia.
- ❖ Advised on right to claim for refund of booking fees and legal fees paid in respect of tenancy of provisional unit in Empire City.

Insurance Disputes and Advisory

- ❖ Assisted in acting for a foreign insurance company in a contested interpleader application involving dispute on submission of beneficiary nomination forms.
- ❖ Assisted in defending a pre-action application for discovery commenced by an insurance and takaful agent against the insurance company and takaful provider.
- ❖ Acted for an international insurer in staying proceedings in

Malaysia brought by a former Labuan underwriting manager for alleged outstanding commission and agent fees.

- ❖ Assisted in acting for a local insurer against a state government agency to recover outstanding unpaid premium and service tax.
- ❖ 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.
- ❖ Advised a life insurance company on its contractual right to revise or reduce bonuses in various plans.
- ❖ Advised a life insurance company on “no lapse benefit” clauses and the impact of change of cost of insurance on the same.
- ❖ Advised an international insurer on the legality of reinsurance cut-through clauses or endorsements in Malaysia.
- ❖ 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 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.
- ❖ Assisted in acting 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 an international software company on its exposure to potential liability for the act of its employee who submitted fraudulent insurance claims under a group health insurance policy.
- ❖ Assisted in redrafting of various terms on behalf of several insurers such as sanction clause and commencement clause.

Banking and Finance Litigation

- ❖ Advised a foreign bank in respect of the obligations and liabilities of its debtor under, *inter alia*, contract of guarantee and indemnity and letters of undertaking while a restraining order is in effect.
- ❖ Acted for a local bank in respect of debt-recovery matters.
- ❖ Acted for a local bank in defending an application for pre-action discovery commenced by a former customer / accountholder.
- ❖ Advised a development financial institution on the evidentiary status of audio recordings of board meetings and the confirmed and signed minutes of board meetings.
- ❖ Advised a Japanese manufacturer on potential negligence on the part of a bank for wrongful transfer of funds and acted in respect of mediation of the matter.

Compliance and Advisory

- ❖ Assisted in due diligence exercises, internal investigations and in advising various multi-national companies on anti-corruption compliance.
- ❖ Advised a public-listed company on the potential legal and regulatory exposures arising from divestment of foreign subsidiaries.
- ❖ Advised a public-listed company on the potential legal risks and exposure arising from the outsourcing of a COVID-19 testing service by way of direct appointment when another service provider providing similar service has been appointed by way of tender.
- ❖ Advised an auctioneer on various claims brought by dissatisfied bidders / purchasers.
- ❖ Advised a multinational oil and gas company on local advertising and consumer laws in relation to the running of certain promotions, campaigns and rewards scheme.
- ❖ Advised a public-listed company on compelling the opening and operation of common infrastructure and facilities when buildings in the development are not at full occupancy.
- ❖ Advised a U.S. based multi-level marketing company on the solicitation and receipt of donations by a charity not registered in Malaysia.
- ❖ Advised a Japanese trucks manufacturer on its right to discontinue supply under a distribution agreement.
- ❖ Advised various foreign casino operators on Malaysian gaming laws.
- ❖ Advised on service agreements relating to provision of healthcare centres, facilities and services.

Qualifications & Professional Affiliations

Qualifications:

Advocate and Solicitor, High Court of Malaya (2018)
Certificate of Legal Practice (2017)
LLB (Hons), University of Liverpool (2016)

Publications

- Co-Author, “Does the House Always Win? An analysis of civil forfeiture of property for the offence of “online gambling””, Skrine Insights / Alerts, May 2022 (republished on Lexology)
- Co-Author, “Recent Cases on Civil Forfeiture of Property under Malaysia’s Anti-Money Laundering Law”, Skrine Insights / Alerts, July 2021 (republished on Lexology).
- Co-Author, “Deliberating the meaning of deliberate”, Skrine Insights / Alerts, May 2021 (republished on Lexology and Mondaq).
- External Contributor, Herbert Smith Freehills Guide to Dispute Resolution in Asia Pacific 2021, A Multijurisdictional Guide, 11th Edition – Malaysia”, 2021.
- Author, “Wynn Wins – Federal Court Dismisses Punter’s Application for Leave to Appeal”, Skrine Insights / Alerts, January 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).