



ABRAHAM CHAN SC 陳樂信資深大律師

Call: 2000 (HK); 2000 (England & Wales)

Start of Practice: 2004

Inner Bar: 2017

CEDR Accredited Mediator: 2010

PROFILE

Abraham Chan SC advises and acts as counsel and advocate in commercial, constitutional and administrative law litigation. His practice extends to regulatory fields with both private and public law elements, including securities, telecommunications, land administration and competition (anti-trust) law.

Abraham has acted as advocate for a wide range of individuals and institutions at all levels of court in Hong Kong including the Court of Final Appeal, where he has also acted as *amicus curiae* (independent counsel appointed by the court) and for the Secretary for Justice intervening in the public interest.

Abraham has been cited across various editions of the Chambers & Partners guides (Global/Asia Pacific) as “a very intelligent and articulate barrister” with “an excellent brain and exceptional presentation skills” who “commands the court’s respect”.

CONTACT

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SECRETARY

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PRACTICE AREAS

- Commercial
- Public Law / Judicial Review
- Banking / Finance
- Building / Construction
- Commission of Inquiry / Inquest
- Company
- Competition
- Confidentiality / Privacy
- Conflict of Laws
- Family / Matrimonial
- Insolvency
- Insurance
- Planning
- Probate / Succession
- Professional Liability
- Property & Conveyancing

- Securities & Regulation
- Telecommunications

APPOINTMENTS AND PUBLIC OFFICE

- Financial Reporting Review Panel, 2018-present
- Examiner, Higher Rights Assessment Board, 2018-present
- Panel of Counsel to the Competition Commission, 2016-present
- Panel of Counsel to the Hong Kong Monetary Authority, 2014-present
- Council Member, The Bar Council, 2015-2017; 2005-2006
- Special Committee on Constitutional Affairs and Human Rights, Hong Kong Bar Association 2016-present
- Lecturer and Board of Examiners, Juris Doctor (JD) Programme, Faculty of Law, University of Hong Kong 2014-present
- Consultant to the School of Law (PCLL programme), Chinese University, 2007
- Editorial Committee, Oxford University Commonwealth Law Journal, 2001-2002

EDUCATION

MPhil in Law, Oxford University

Bachelor of Civil Law, Oxford University

Bachelor of Laws, University of London

Chinese International School

PUBLICATIONS AND ARTICLES

- Securities & Futures Ordinance: Commentary & Annotations (Sweet & Maxwell 2016) - contributor
- Abraham was formerly an Associate Editor of the Oxford University Commonwealth Law Journal.

SCHOLARSHIP AND PRIZES

Hong Kong Bar Scholarship

Hong Kong Middle Temple Society Advocacy Scholarship

SELECTED CASES

COMMERCIAL

- Abraham is cited in the Commercial Dispute Resolution section of the 2018 Chambers & Partners guide as “one of the leading junior silks at the Bar”, the same source going on to describe him as “very bright, user-friendly and responsive - increasingly our first choice for complex disputes.”
- *Lau Suk Ching Peggy v Ma Hing Lam v Ors* (2010) 13 HKCFAR 226 (Court of Final Appeal; appearing as amicus curiae). Construction of option agreement and issues on specific performance.
- *Altogether Land Co Ltd v LC Finance Ltd & Ors* [2017] HKCU 3088. Acting for plaintiff in obtaining freezing injunction over assets up to HK\$362m and ancillary disclosure orders.

- *Active Profit Ltd v Nissho Iwai Hong Kong* (2006) 9 HKCFAR 653 (Court of Final Appeal). Breach of trust and fiduciary duties claim following failed real estate joint venture. Led by Geoffrey Vos QC (now Vos JA) and Jat Sew-Tong SC.
- *Excelsior Capital Asia (HK) Ltd v Zhang Hengshun* HCCL 14/2016. Acted on behalf of private equity firm in application to set aside leave to serve writ out of jurisdiction.
- *Tsai Eng-meng v Cha Mou Sing Payson & Ors* HCA 773/2010. Dispute over sale of interests in Asia Television Limited (ATV).
- *Polyever Holdings Ltd v Savills (Hong Kong) Limited* [2014] 5 HKC 588 Misrepresentation claim against property agents; principles on withdraw of sanctioned payment.
- *Mayar Ltd v Sayal* HCCL 4/2007. Commercial List trial on disputed profit sharing arrangements within the timber industry.
- *Daimler AG (formerly Mercedes-Benz AG) v Leiduck* HCA 4089/1994, 8.4.10.
- Advised a Hong Kong listed company jointly with Jonathan Sumption QC (now Lord Sumption JSC), Ronny Tong SC and Yvonne Cheng SC on issues concerning the proper rate of interest on a recovered deposit.

PUBLIC LAW / JUDICIAL REVIEW

- Abraham has been engaged as counsel in close to 200 judicial review actions, more than a dozen of which have reached the Court of Final Appeal on the statutory “great general or public importance” ground.

Abraham acts for both respondent authorities (including the Chief Executive of the HKSAR, the President of the Legislative Council, the Financial Secretary, the Chief Secretary for Administration, the Director of Lands, the Hospital Authority, the Permanent Secretary for Security and the Law Society) and claimants/ interveners (including NGOs and legally aided claimants).

His public law practice includes disputes concerning constitutionality, human rights, elections, immigration control, disciplinary proceedings, licensing, broadcasting regulation, public health provision, environmental and housing policy, public security and policing.

- *Ku Chun Hin Zlato v Secretary for Justice* [2019] 1 HKLRD 292. On constitutionality of immigration and customs arrangements at the Guangzhou-Shenzhen-Hong Kong Express Rail Link Station, the largest underground railway station in the world.
- *Designing Hong Kong Ltd v Town Planning Board* [2018] HKCFA 16 (Court of Final Appeal). On the Protective Costs Order jurisdiction in Hong Kong. Acting for the Secretary for Justice as Intervenor, led by Wong Yan Lung SC.
- *Fok Chun Wa v Hospital Authority* (2012) 15 HKCFAR 409 (Court of Final Appeal). Judicial review action on the constitutionality of differential obstetric charges. Led by Lord Pannick QC and Adrian Huggins SC.
- *Leung Chun Ying v Ho Chun Yan Albert* (2013) 16 HKCFAR 735 (Court of Final Appeal). On scope of Article 35 of the Basic Law in the CE election dispute context. Led by Johnny Mok SC.
- *Hysan Development Co Ltd v Town Planning Board* (2016) 19 HKCFAR 372 (Court of Final Appeal). Leading case on private property rights under the Basic Law, the proportionality test and judicial review of town planning measures. Led by Lord Pannick QC and Jat Sew-Tong SC.
- *Albert Ho v CY Leung* (2012) 15 HKCFAR 686 (Court of Final Appeal). Judicial review and election petition litigation concerning the 2012 Chief Executive Election (allegations of false statements in election).
- *Chau Cheuk Yiu v Poon Kit Sang* (2012) 15 HKCFAR 460 (Court of Final Appeal). Elucidation of principles on leave to appeal out of time and finality in judicial review; disciplinary proceedings. Acting for the Commissioner of Police. Led by Anderson Chow SC (now Chow J).
- *Kong Yunming v Director of Social Welfare* (2013) 16 HKCFAR 950 (Court of Final Appeal) Constitutional challenge concerning Hong Kong’s social welfare system. Led by Joseph Fok SC (now Fok PJ) at first instance and Lord Pannick QC on appeal.
- *Safder Tehseen v Permanent Secretary for Security* (2014) 17 HKCFAR 567 (Court of Final Appeal). Judicial review challenge to deportation order made on security and public order grounds.
- *T v Commissioner of Police* (2014) 17 HKCFAR 593 (Court of Final Appeal). Dispute over true meaning of “place of public entertainment” in the context of the Places of Public Entertainment Ordinance. Led by Johnny Mok SC.
- *Hong Kong Telecommunications (HKT) Ltd v Secretary for Commerce and Economic Development and The Communications Authority* [2019] 1 HKLRD 833 (Court of Appeal). On duty of candour of respondents in judicial review.
- *Comilang v Director of Immigration* [2018] 2 HKLRD 534 (Court of Appeal). On family and related rights in the immigration context.
- *Kwok Cheuk Kin v Leung Chun Ying* [2018] 4 HKC 440 (Court of Appeal). On jurisdiction of Court of Appeal to hear appeals against refusals of extension of time to apply for judicial review.

- *Chan Ho Tin v Lo Ying Ki Alan* [2018] 2 HKC 213. Election petition challenge to legality of allegiance requirement for nomination to run in LegCo elections.
- *Lubiano Nancy Almorin v Director of Immigration* [2018] 1 HKLRD 1141. Judicial review of “live-in” restriction for foreign domestic helpers.
- *Li Fung Kei v Council of the University of Hong Kong* [2018] 4 HKC 231
- *Zhu Li v Law Society of Hong Kong* [2017] 3 HKLRD 513. Challenge arising out of Law Society disciplinary investigation.
- *Cheung Yick Hung v Law Society of Hong Kong* [2017] 1 HKC 97
- *Deng Suet Yan v Hong Kong Housing Authority* [2017] 4 HKLRD 73
- *Leung Sze Ho Albert v Bar Council* [2016] 5 HKLRD 542 (Court of Appeal). On scope of the right to freedom of choice of occupation under Article 33 of the Basic Law.
- *Lister Assets Ltd v Chief Executive in Council* CACV 172/2012, 25.4.13 (Court of Appeal). Judicial review concerning the Chief Executive in Council’s duty to give reasons for its decisions. Led by Benjamin Yu SC for the CE in C.
- *Kwok Cheuk Kin v Chief Executive of the HKSAR & The Government of the HKSAR* HCAL 103/2014, 25.6.15. Challenge to the lawfulness of public consultation and CE’s report to NPC on 2017 CE and LegCo election processes.
- *Hong Kong Mobile Television Network Ltd v Office of the Communications Authority* [2016] 2 HKC 44. On scope of the licensing regime under the Broadcasting Ordinance (Cap 562).
- *BI v Director of Immigration* [2016] 2 HKLRD 520 (Court of Appeal). On nature of requirements under the Government’s dependant visa policy.
- *Lam Tat Ming v Chief Executive of the HKSAR* [2012] 1 HKLRD 801 (Court of Appeal). Challenge to the constitutionality of section 27(2)(b) of the Pensions Benefits Ordinance.
- *Television Broadcasts Ltd v Communications Authority and Chief Executive in Council* [2013] 5 HKC 593 Judicial review brought by TVB in respect of new domestic broadcasting licence applications. Acting for the Communications Authority.
- *A Solicitor v The Law Society of Hong Kong* [2013] 4 HKC 198 (Court of Appeal). Disciplinary appeal involving the privilege against self-incrimination. Acting for the Law Society.
- *Fine Tower Associates v Town Planning Board* [2008] 1 HKLRD 553 (Court of Appeal); FAMV 20/2008 (Court of Final Appeal). A leading case concerning the constitutional right to property and compensation for property deprivation.
- *Raboy v Commissioner of Registration* [2011] 6 HKC 532. Immigration challenge involving issues as to the meaning and scope of “ordinary residence”.
- *Ng Man Yin v Registration of Persons Tribunal* [2014] 1 HKLRD 1188. Application of Article 10 of the Hong Kong Bill of Rights to ROPT proceedings.
- *Popular Signs Ltd v Radiation Board* HCAL 53/2008, 12.1.10. Judicial review proceedings involving complex issues and evidence as to radiation safety.
- *Wong Fuk Tim v HKSAR Government and Ors* HCA 1008/2011, 12.10.11. Challenge to major MTR extension works. Acting for the Secretary for Transport and Housing and the Secretary for Financial Services and Treasury.

BANKING / FINANCE

- *Zhang Hong Li v DBS Bank (Hong Kong) Ltd* [2017] 5 HKLRD 629 (Court of Appeal). Large scale investment mis-selling dispute with foreign trusts element. 5 week trial at first instance.
- *Lai Sai Sang v UBS AG* HCA 97/2010. Banking dispute.
- *HSBC Private Bank v Mission Bridge* HCA 406/2008. Banking and investment dispute.
- *Lun Man Kin v Citibank NA* HCA 989/2009. Banking and investment dispute
- Abraham has also acted for a variety of investment funds, private equity firms and investors in relation to investment and finance disputes.

BUILDING / CONSTRUCTION

- *Hui Hing Sang v Chief Executive in Council* HCAL 99/2015, 15.3.16. Challenge to legality of financing process for the HK\$149bn+ expansion and redevelopment of Hong Kong International Airport.
- *Building Authority v Appeal Tribunal (Buildings) & Anor* [2015] 5 HKLRD 108
- *Lai Siu-Kin Rembert v Building Authority* [2013] 4 HKLRD 74
- *Fairbo Investment Ltd v Appeal Tribunal (Buildings)* [2014] 3 HKLRD 99

- *Building Authority v Appeal Tribunal (Buildings)* [2013] 4 HKLRD 52. Case stated to Court of Appeal on scope of power under section 16(1)(i) of the Buildings Ordinance.
- *Ko Siu Luen v Appeal Tribunal (Buildings)* [2012] 1 HKLRD 149
- *Ashley 121 Ltd v Appeal Tribunal (Buildings)* [2011] 2 HKLRD 728
- Abraham has also appeared as counsel in proceedings before the Buildings Appeal Tribunal.

COMMISSION OF INQUIRY / INQUEST

- Advised the HKSAR Government on legal issues arising out of the report of the Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012.
- Appeared in public inquiry regarding an application by Jetstar Hong Kong Airways Limited for a licence to operate scheduled air services under the Air Transport (Licensing of Air Services) Regulations.
- Appeared in 5 month public inquiry on behalf of the HKSAR Government before the Commission of Inquiry into Excess Lead Found in Drinking Water.

COMPANY

- *Kazuo Okada v The Registrar of Companies* [2019] 1 HKLRD 483. On power of Companies Registrar to withhold registration of disputed company information.
- *Chen Hongqing v Mi Jingtian* [2018] HKCU 1775. Acted on behalf of Taiwanese listed company in application for discharge of receivers over shares.
- *Walter Kwok v Sun Hung Kai Properties Ltd & Ors* [2009] 2 HKLRD 11 (Court of Appeal). Dispute over the management of Sun Hung Kai Properties Ltd.
- *Re Asia Television Ltd* HCMP 2840/2012. Interim relief pending hearing of unfair prejudice petition under s.168A of the Companies Ordinance.

COMPETITION

- *Competition Commission v. W. Hing Construction Limited & Ors* [2018] 5 HKLRD 437. Preliminary procedural issues in first ever enforcement action in Hong Kong against an alleged market sharing and price-fixing cartel under the First Conduct Rule of the Competition Ordinance, followed by 4 week trial before the Competition Tribunal. Instructed by the Competition Commission.
- *Hong Kong Telecommunications (HKT) Limited v Communications Authority* CACV 144/2014, 7.8.15 (Court of Appeal); and before the Telecommunications (Competition Provisions) Appeal Board). On extent of the Telecommunications (Competition Provisions) Appeal Board's powers over Communication Authority investigations. Complaint regarding Apple iPhone distribution arrangements.

CONFIDENTIALITY / PRIVACY

- *Tong Bing Lun v Privacy Commissioner for Personal Data*, AAB 12/2017. Administrative appeal; data protection principles.
- *HSBC v Privacy Commissioner for Personal Data*, AAB 39/2008
- *Hong Kong Telecommunications (HKT) Ltd v Secretary for Commerce and Economic Development and The Communications Authority* [2019] 1 HKLRD 833 (Court of Appeal). (Court of Appeal). On Communications Authority's entitlement to redact information within a technical consultation report on grounds of commercial confidentiality.
- *Poben Consultants Ltd v Clearwater Bay Golf & Country Club* [2019] 1 HKLRD 1110 (Court of Appeal). Application to expunge document from court on grounds of without prejudice privilege.
- *L v Privacy Commissioner for Personal Data*, AAB 27/2003. Administrative appeal; data protection principles.
- *Hong Kong Jockey Club v Privacy Commissioner for Personal Data*, AAB 13/2007 Administrative appeal; data protection principles.

CONFLICT OF LAWS

- *Hiromi Okada v Tomohiro Okada & Anor* (HCMP 2446/2017). Application to stay proceedings in favour of Tokyo District Court and to discharge interim relief.
- *L v L (Child Removal – PRC)* - [2017] HKFLR 588 (Court of Appeal). On arrangements on reciprocal recognition and enforcement of civil judgements in matrimonial and family cases by the courts of the Mainland and of the Hong Kong Special Administrative Region, acting for the Secretary for Justice as intervener in the public interest.
- *Duan Qi Gui v Upper Like Investments Ltd* [2007] 4 HKLRD 576 (upheld on appeal CACV 320/2007). Stay of proceedings and forum non conveniens
- *Excelsior Capital Asia (HK) Ltd v Zhang Hengshun* HCCL 14/2016. Acted on behalf of private equity firm in application to set aside leave to serve writ out of jurisdiction.

- *LN v SCCM* [2013] HKFLR 358. Matrimonial dispute; forum non conveniens.

PLANNING

- *Hysan Development Co Ltd v Town Planning Board* (2016) 19 HKCFAR 372 (Court of Final Appeal). Leading case on private property rights under the Basic Law, the proportionality test and judicial review of town planning measures. Led by Lord Pannick QC and Jat Sew-Tong SC.
- *Real Estate Developers Association v Town Planning Board* [2018] 3 HKLRD 352
- *Oriental Generation Ltd v TPB* [2013] 6 HKC 364 (Court of Appeal). Wide ranging issues in relation to legality of building height and related restrictions and extent of Town Planning Board's duties of inquiry and consideration of representations.
- *The Real Estate Developers Association v Town Planning Board* [2015] 2 HKC 327. Systemic challenge to legality of Town Planning Board procedures.
- *Re Thomas Lai* [2014] 6 HKC 1. Challenge to country park designation decision.
- *Hero Limited v Director of Planning* CACV 231/2011, 17.7.12 (Court of Appeal). Consideration of the meaning of the word "shrine" in a rural planning context. Acting for the Director of Planning.
- *Chan Ka Lam v Country and Marine Parks Authority* HCAL 54 of 2014, 27 April 2017. On scope of duties of the Country and Marine Parks Authority in designation of land for country park status.
- *Fine Tower Associates v Town Planning Board* [2008] 1 HKLRD 553 (Court of Appeal). A leading case concerning the constitutional right to property and protection against zoning expropriation.
- *Wong Fuk Tim v HKSAR Government and Ors* HCA 1008/2011, 12.10.11. Action for declaratory and other relief in respect of major MTR extension works. Acting for the Secretary for Transport and Housing and the Secretary for Financial Services and Treasury.

FAMILY / MATRIMONIAL

- *L v L (Child Removal – PRC)* - [2017] HKFLR 588 (Court of Appeal). On arrangements on reciprocal recognition and enforcement of civil judgements in matrimonial and family cases by the courts of the Mainland and of the Hong Kong Special Administrative Region, acting for the Secretary for Justice as intervener in the public interest.
- *LCJWY v LCKS* [2015] 6 HKC 65. Trial of preliminary issue - beneficial ownership of assets.
- *WYSL v FHCBA* [2018] HKCU 2811. Trial of issues on dispositions of property.
- *Hung Wong Mimi Kar Kee v Severn Villa Ltd* [2012] 5 HKC 80.
- *LN v SCCM* [2013] HKFLR 358. Forum non conveniens.

INSOLVENCY

- Engaged over several years in litigation arising from Hong Kong's largest ever corporate insolvency (Akai Group), led by Richard Snowden QC (now Snowden J) and Godfrey Lam SC (now G Lam J).
- Instructed for claimants in series of long-running "Lehman" related actions.

INSURANCE

- *Ugland Shipping A/S v Intermare Transport GMBH*, CACV 393/2007 (Court of Appeal). Shipping insurance and cargo dispute.
- Advising and acting for a range of insurers and insurance associations and federations, as well as policyholders, in both non-contentious and contentious (including arbitral) proceedings.

PROBATE / SUCCESSION

- *Fok Chun Yue Benjamin v Fok Chun Wan Ian & Ors* HCA 2155/2010. Dispute over the administration of the estate of the late Mr Henry Fok Ying Tung.

PROFESSIONAL LIABILITY

- Instructed to advise and act in a large-scale professional negligence action against a firm of auditors, with Michael Brindle QC and Jat Sew-Tong SC. Settled before scheduled 6 month trial of action.

PROPERTY & CONVEYANCING

- *Splendid Resources Inc v Secretary for Justice* [2017] 2 HKC 570. Government lease re-entry action. For the Secretary for Justice on behalf of the Director of Lands.
- *United Bright Limited v Secretary for Justice* [2015] 2 HKLRD 633 (Court of Appeal). Effect of lease modification letter and admissibility of private correspondence in interpretation of documents registered with Land Registry. Led by Eugene Fung SC.

- *Regal Shining Ltd v Secretary of Justice (on behalf of the Director of Lands)* [2014] 6 HKC 265. Construction of restrictive covenant in old Government lease. Led by Audrey Eu SC.
- *Hong Kong Canadian International Hospital Foundation v Secretary for Justice* HCAL 131/2006, 4.5.07. Judicial review challenge to Government re-entry. Acting for the Secretary for Justice. Led by Joseph Fok SC (now Fok PJ).

SECURITIES & REGULATION

- *Kayden Ltd v Securities and Futures Commission* (2010) 13 HKCFAR 696 (Court of Final Appeal). Leading case on the extent of the SFC's ability to obtain injunctions against overseas parties. Acting for the appellant.
- *AA v Securities and Futures Commission* [2017] 1 HKLRD 1018. On extent of the SFC's powers to provide compelled materials to overseas regulators. Acting for the Secretary for Justice as intervener in the public interest.
- *Securities and Futures Commission v Tsoi Bun* [2014] 2 HKLRD 1. On scope of court's power to make restorative orders under section 213(2)(b) of the Securities and Futures Ordinance. Acting for the SFC.
- *Re Sham Sze Wai Miranda* SFAT 1/2015. Revocation of status of Responsible Officer under the Securities and Futures Ordinance regime.
- *Lau v Insider Dealing Tribunal* (2009) 12 HKCFAR 955 (Court of Final Appeal).
- Abraham is regularly instructed both for and against the SFC in civil proceedings involving alleged breaches of provisions of the Securities and Futures Ordinance.
- He is a contributor to *Securities & Futures Ordinance: Commentary & Annotations* (Sweet & Maxwell 2016)

TELECOMMUNICATIONS

- *Hong Kong Mobile Television Network Ltd v Office of the Communications Authority* [2016] 2 HKC 44. On scope of the licensing regime under the Broadcasting Ordinance (Cap 562) in relation to mobile streaming services.
- *Hong Kong Telecommunications (HKT) Ltd v Secretary for Commerce and Economic Development and The Communications Authority* HCAL 448/2018. 5-day judicial review hearing of multi-ground challenge to spectrum assignment decision.
- *Hong Kong Telecommunications (HKT) Limited v Communications Authority* CACV 144/2014, 7.8.15 (Court of Appeal); and before the Telecommunications (Competition Provisions) Appeal Board). On extent of the Telecommunications (Competition Provisions) Appeal Board's powers over Communication Authority investigations. Complaint regarding Apple iPhone distribution arrangements.
- Abraham has advised both the regulators and mobile network operators on a variety of legal issues in the telecommunications field.