



## STEWART K M WONG SC 黃繼明資深大律師

Call: 1987 (HK); 1992 (New South Wales); 1996 (Queensland); 1996 (Australian Capital Territory)  
Inner Bar: 2011

Accredited as a mediator by CEDR and HKMAAL  
Member of the Chartered Institute of Arbitrators

### PROFILE

Stewart Wong 's practice encompasses all areas of civil law as well as tax and public law.

### CONTACT

Email: [skmwong@templechambers.com](mailto:skmwong@templechambers.com)

Tel: [\(+852\) 2523 2003](tel:+85225232003)

### SECRETARY

Name: Amanda Li

Email: [ali@templechambers.com](mailto:ali@templechambers.com)

Tel: [\(+852\) 2248 1882](tel:+85222481882)

### PRACTICE AREAS

- Tax / Revenue
- Public Law / Judicial Review
- Intellectual Property
- Confidentiality / Privacy
- Discrimination
- Employment
- Disciplinary
- Professional Liability
- Defamation / Media
- Commercial
- Banking / Finance
- Arbitration
- Company
- Insolvency
- Securities & Regulation
- Injunction / Contempt
- Property & Conveyancing
- Equity / Trust
- Probate / Succession
- Restitution / Unjust Enrichment
- Insurance

- Civil Fraud / Asset Recovery
- Conflict of Laws
- Planning
- Technology, Media and Telecommunications
- Charity
- Admiralty
- Personal Injury / Medical Negligence
- Mental Health
- Family / Matrimonial

## APPOINTMENTS AND PUBLIC OFFICE

- Recorder of the Court of First Instance of the High Court (from January 2015)
- Member of the Court of Final Appeal Rules Committee (from July 2018)
- Honorary Secretary and Treasurer of the Hong Kong Bar Association (January 2010 – January 2012)
- Deputy Honorary Secretary of the Hong Kong Bar Association (January 2008 – January 2010)
- Bar Council Member (January 2007 - January 2012 and January 2017 – January 2020)
- Chairman of the Public Interest Entities Auditors Review Tribunal (from October 2019)
- Chairman of the Mandatory Provident Fund Schemes Appeal Board (November 2016 to October 2020)
- Chairman of the Pharmacy and Poisons Appeal Tribunal (from June 2017)
- Vice-Chairman of the Municipal Services Appeals Board (June 2017 - May 2020)
- Temporary Deputy Registrar, High Court (March – April 2002)
- External Examiner in Revenue Law, P.C.LL., University of Hong Kong and City University of Hong Kong (September 1999 - June 2004)
- Associate External Academic Advisor in Revenue Law, LL.B., City University of Hong Kong (September 2004 - June 2005)
- Member of the High Court Rules Committee (July 2012 – July 2018)
- Member of the Executive Committee of the Hong Kong Advocacy Training Council (from 2012)
- Member of the Executive Committee of the International Advocacy Training Council (from 2012)
- Member of the Inter-departmental Working Group on Gender Recognition (from January 2014)
- Deputy High Court Judge (May – June 2013; February – March 2014)

## EDUCATION

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|------|--|
| 1986 | LL.B. (Hons), University of Hong Kong                          |
| 1987 | P.C.LL., University of Hong Kong                               |
| 1988 | LL.M. (Merit), University College London, University of London |

## PUBLICATIONS AND ARTICLES

- Member of the Editorial Board of *Hong Kong Cases* (from July 2020)
- Contributing Editor, *Hong Kong Civil Procedure* 2001 - 2012
- Co-Editor, *Halsbury's Laws of Hong Kong*, Vol 15(2) (Registered Designs and Patents) and Vol 15(3) (Trade Marks) (original volumes)

- Contributing Author, *Intellectual Property Rights: Hong Kong SAR and People's Republic of China* (March 2003 - January 2008)

## SCHOLARSHIP AND PRIZES

- 1984 Bernard Downey Book Prize, University of Hong Kong  
 1986 Baker & McKenzie Prize in Business Associations, University of Hong Kong

## SELECTED CASES

### TAX / REVENUE

- *CIR v Poon Cho Ming John* [2019] HKCFA 38; (2019) 22 HKCFAR 344 [CFA: salaries tax: chargeability of payments and benefits at termination]
- *Aviation Fuel Supply Co v CIR* (2014) 17 HKCFAR 872 [CFA: appeals and objections: jurisdiction and discretion to tax on new grounds after six-year limit] (with Michael Furness QC)
- *Nice Cheer Investment Ltd v CIR* (2013) 16 HKCFAR 813 [CFA: chargeability of unrealised book profits] (with David Goldberg QC)
- *Shui On Credit Co Ltd v CIR* (2009) 12 HKCFAR 392 [CFA: tax avoidance scheme; principles of deductibility of interest expenses] (led by David Bloom QC and Barrie Barlow SC)
- *Real Estate Investments (NT) Ltd v CIR* (2008) 11 HKCFAR 433 [CFA: trading vs capital income for developer; discharge of burden in tax appeals] (led by Johnny Mok SC)
- *CIR v HIT Finance Ltd* (2007) 10 HKCFAR 717 [CFA: tax avoidance scheme] (led by David Goldberg QC)
- *Kim Eng Securities (Hong Kong) Ltd v CIR* (2007) 10 HKCFAR 213 [CFA: source of profits: commission income for stockbrokers] (led by Robert Kotewall SC)
- *Zeta Estates Ltd v CIR* (2007) 10 HKCFAR 196 [CFA: deductibility of interest expense for loan raised to pay dividend] (led by Ambrose Ho SC)
- *Kwong Mile Services Ltd v CIR* (2004) 7 HKCFAR 275 [CFA: source of profits: profits from sale of PRC property in HK underwritten by taxpayer; appeal on questions of law: principles] (led by John Griffiths SC and Ambrose Ho SC)
- *Ngai Sau Ying v Collector of Stamp Revenue* [2019] HKCA 1104; [2019] 5 HKC 547 [CA: principles for ascertaining chargeability to stamp duty of instruments; whether separate assignments are an exchange: appearing as amicus curiae]
- *Koo Ming Kwon v CIR* [2018] HKCFI 2593 [CFI: additional tax assessments: liability of directors for incorrect returns of company: finality effect of assessments on company]
- *Dairyfarm Establishment v CIR* [2018] HKCFI 2245; [2018] 5 HKLRD 179; CACV 544/2018 [CFI and CA: judicial review: multiple tax assessments]
- *China Mobile Hong Kong Co Ltd v CIR* [2018] HKCFI 373; [2018] 2 HKLRD 146 [CFI: form of questions of law for leave to appeal under new statutory procedure]; [2020] HKCFI 1649 [CFI: deductibility of spectrum utilization fees paid by mobile network operators] (with Ronny Wong SC)
- *Turner Entertainment Networks Asia Inc v CIR* [2015] 3 HKLRD 295 [CA: chargeability of royalty income for use of copyright works aboard]
- *Canray International Ltd v CIR* [2012] 4 HKLRD 792 [CFI: challenge to correctness of tax assessments by judicial review; double or multiple taxation]
- *CIR v Li & Fung (Trading) Ltd* [2012] 3 HKLRD 8 [CA: source of profits of sourcing agent business] (with David Goldberg QC)
- *Chan Chun Chuen v CIR* [2012] 2 HKLRD 379; FAMV 23/2012 [CA and Appeal Committee of CFA: duty of CIR to serve notices on taxpayers and method of service]
- *CIR v Nam Tai Trading Co Ltd* [2010] 3 HKC 1 [DC: whether provision of IRO requiring payment of tax pending objections/appeal unconstitutional]
- *Yau Wah Yau v CIR* [2006] 3 HKLRD 586 [CA: taxability of payments made by employer in relation to living quarters; burden of proof in tax appeals]

- *CIR v National Mutual Centre (HK) Ltd* [1998] 2 HKLRD 599 [CA: interest tax: timing of incurring of interest expenses] (led by Robert Kotewall SC)
- *Wharf Properties Ltd v CIR* [1995] 2 HKLR 552 [CA: deductibility of interest expense: whether expenses of capital nature] (led by John Gardiner QC)

#### PUBLIC LAW / JUDICIAL REVIEW

- *HKSAR v Lai Chee Ying* [2021] HKCFA 3; [2021] 1 HKC 670 [CFA: bail under the National Security Law]
- *Leung Kwok Hung (Long Hair) v Commissioner of Correctional Services* [2020] HKCFA 37; (2020) 23 HKCFAR 456 [CFA: prison policy of requiring male prisoners to cut hair: whether discriminatory]
- *ZN v Secretary for Justice* [2019] HKCFA 53; (2020) 23 HKCFAR 15 [CFA: human trafficking and forced labour] (with Lord Pannick QC)
- *Leung Chun Kwong v Secretary for Civil Service* [2019] HKCFA 19; (2019) 22 HKCFAR 127 [CFA: non-recognition of foreign same-sex marriage for civil service benefits and tax assessment: whether discriminatory] (with Lord Pannick QC)
- *QT v Director of Immigration* [2018] HKCFA 28; (2018) 21 HKCFAR 324 [CFA: dependant visa policy; same-sex couple; discrimination] (with Lord Pannick QC)
- *Sin Chung Yin Ronald v Dental Council of Hong Kong* (2016) 19 HKCFAR 528 [CFA: professional duties of dentists regarding dental companies]
- *Leung Kwok Hung v President of the Legislative Council (No 1)* (2014) 17 HKCFAR 689 [CFA: separation of powers between the legislature and the judiciary; doctrine of legislative privilege]
- *Leung Kwok Hung v President of the Legislative Council (No 2)* (2014) 17 HKCFAR 841 [CFA: definitive judgment on costs in contested application for leave to apply for judicial review at CFI, CA and CFA levels]
- *Leung Chun Ying v Ho Chun Yan Albert* (2013) 16 HKCFAR 735 [CFA: Chief Executive election petition: constitutionality of 7-day time limit for lodging election petitions; procedure and grounds for challenging Chief Executive elections] (with Michael Thomas SC)
- *W v Registrar of Marriages* (2013) 16 HKCFAR 112 [CFA: judicial review: right of marriage of post-operative transsexuals] (with Monica Carss-Frisk QC and Lisa Wong SC)
- *Sham Tsz Kit v Secretary for Justice* [2020] HKCFI 2411; [2020] 4 HKLRD 930 [CFI: constitutionality of non-recognition of foreign same-sex marriage in Hong Kong]
- *Lui Chi Hang Hendrick v Independent Police Complaints Council* [2020] HKCFI 614; [2020] 2 HKLRD 911 [CFI: power of IPCC to conduct fact-finding study]
- *Chan Yan Cheong v Research Grants Council of the University Grants Committee* [2020] HKCFI 459; [2020] 2 HKLRD 247 [CFI: judicial review: academic judgement]
- *MK v Government of HKSAR* [2019] HKCFI 2518; [2019] 5 HKLRD 259 [CFI: constitutionality of non-recognition of same-sex relationship by marriage or alternative forms]
- *Q v Commissioner of Registration* [2019] HKCFI 295; [2019] 1 HKLRD 1244 [CFI: judicial review: right of pre-operative transsexuals to recognition in chosen gender]
- *Dr U v Preliminary Investigation Committee of the Medical Council of Hong Kong* CACV 151/2016 [CA: power of PIC of Medical Council to reconsider complaint after dismissal]
- *Re Mahesh J Roy (Intervener: Secretary for Justice) (No 2)* [2017] 5 HKLRD 830 [CA: contempt in face of court: procedural safeguards: costs]
- *Arjun Singh v Secretary for Justice* DCEO 9/2011 [DC: race discrimination and wrongful arrest: meaning of "service" under the Race Discrimination Ordinance; whether necessity test for arrest: first trial in Hong Kong under the Race Discrimination Ordinance]
- *ZN v Secretary for Justice* [2016] 1 HKLRD 174 [CFI: application for recusal by judge on ground of apparent bias]
- *Designing Hong Kong Ltd v Town Planning Board* [2015] 3 HKC 525 [CFI: acting as *amicus curiae* in the first case where an application for a protective costs order was substantially argued before the CFI in Hong Kong]
- *Hong Kong Medical Association v Medical Council of Hong Kong* [2014] 3 HKLRD 664 [CFI: power of review by Medical Council in disciplinary matters]
- *Dr Q v Health Committee of the Medical Council of Hong Kong* [2014] 2 HKLRD 57 [CFI: contempt of court application against statutory body]
- *X v Education and Accreditation Committee, Medical Council of Hong Kong* [2013] 1 HKLRD 167 [CA: Medical Council proceedings: apparent bias: necessity principle]

- *Chan Yeuk Ming v Hong Kong Housing Authority* HCAL 25/2012 [CFI: discrimination: legality of Housing Authority's Divorced Couples Policy]
- *Kwok Cheuk Kin v Commissioner for Transport* HCAL 41/2011 [CFI: legitimate expectation: ferry service fare differentials]
- *CIR v Shelcore Hong Kong Ltd* DCTC 5209/2009 [DC: whether provision of IRO requiring payment of tax pending objections / appeal unconstitutional]
- *Wise Union Industries Co Ltd v Hong Kong Science and Technology Corporation* [2009] 5 HKLRD 620 [CFI: judicial review: statutory corporation fettering its discretion] (led by John Bleach SC)
- *Tong Wai Ting v Secretary for Education* HCAL 73/2009 [CFI: judicial review and disability discrimination: school leaving arrangements for intellectually disabled students] (led by Lisa Wong SC)
- *CIR v Nam Tai Trading Co Ltd* [2010] 3 HKC 1 [DC: whether provision of IRO requiring payment of tax pending objections/appeal constitutionally valid]
- *D17/08* (2008) 23 IRBRD 301 [BoR: whether penalty tax system constitutionally valid] (led by David Pannick QC)

#### INTELLECTUAL PROPERTY

- *Canon Kabushiki Kaisha v Green Cartridge Co (Hong Kong) Ltd* [1997] AC 728 [PC: copyright: spare parts and repair defence] (led by Simon Thorley QC)
- *SNE Engineering Co Ltd v Hsin Chong Construction Co Ltd* [2015] 4 HKLRD 517 [CA: patents: validity of short term patent: novelty and insufficiency: burden of proof of validity of short term patent in enforcement proceedings]
- *Re Alldressedup International Pte Ltd* [2009] 4 HKLRD 363 [CFI: trade mark: registrability of neologism word mark]
- *California Red Ltd v Music Link Ltd* CT 3/2008 [CT: first contested case in Copyright Tribunal: grant of compulsory licence for karaokes] (led by John Yan SC)
- *Octopus Cards Ltd v ODD HK Ltd* HCMP 104/2007 [CFI: validity of short term patents for electronic purse and chip protection case]
- *Koninklijke Philips Electronics NV v Orient Power Holdings Ltd* HCA 945/2005 [CFI: patents: CD and DVD machines: infringement: conspiracy: inducing breach of contract] (led by Peter Garland SC)
- *Brands Inc Ltd v Kabushiki Kaisha Regal Corp* [2007] 2 HKC 110 [CFI: whether "use" of trade mark in Hong Kong for goods imported and then re-exported; nature of "genuine use"]
- *Re Wing Yick Bamboo Scaffolders Ltd* [2004] 2 HKLRD 28 [CFI: patents: See v Scott Paine order]
- *AXA China Region Insurance Co Ltd v Pacific Century Insurance Co Ltd* [2003] 3 HKC 1 [CFI: breach of confidence and trade secrets: insurance agents] (led by Robert Kotewall SC)
- *La Chemise Lacoste SA v Crocodile Garments Ltd* [2000] 4 HKC 317 [CA: trade mark agreement: interpretation and breach]
- *Lau Tak Wah Andy v Hang Seng Bank Ltd* [2000] 1 HKC 280 [CFI: passing off: character merchandising: interlocutory injunction] (led by Clive Grossman SC)
- *Tanashin Denki Co Ltd v King Long Industrial Ltd* [1997] 4 HKC 217 [CFI: patents: infringement and validity: cassette tape recorder] (led by Peter Garland SC)
- *Canon Kabushiki Kaisha v Green Cartridge Co (Hong Kong) Ltd* [1996] 1 HKLR 69 [CA: patents: infringement and validity: toner cartridges: personal liability of director for company's tort] (led by Simon Thorley QC)

#### COMMERCIAL

- *Takahashi v Cheng Zhen Shu* (2011) 14 HKCFAR 558 [CFA: restitution of payments made under mistake for investment project in PRC] (led by Benjamin Yu SC)
- *Bewise Motors Co Ltd v Hoi Kong Container Services Ltd* (1998) 1 HKCFAR 256 [CFA: freight forwarder: bailment: sub-bailment on terms: Himalaya clause] (led by Michael Thomas SC)
- *Convoy Collateral Ltd v Cho Kwai Chee* [2020] HKCA 537; [2020] 6 HKC 81 [CA: proper approach of assessing risk of dissipation in Mareva injunction applications]
- *Kwok Ping Sheung Walter v Sun Hung Kai Properties Ltd* [2009] 2 HKLRD 11 [CFI and CA: injunction prohibiting board from considering resolution to remove chairman; internal management of company]
- *Waddington Ltd v Chan Chun Hoo* [2006] 2 HKLRD 896 [CA: no reflective loss principle; whether multiple derivative action exists] (led by Victor Joffe QC)
- *AXA China Region Insurance Co Ltd v Pacific Century Insurance Co Ltd* [2003] 3 HKC 1 [CFI: insurance agents: inducing breach of contract] (led by Robert Kotewall SC)

## OTHERS

- *Re Simpson QC* [2021] HKCA 22; [2021] 1 HKLRD 715 [CA: ad hoc admission of overseas silk without instructions of local barrister] (with Gladys Li SC)
- *Secretary for Justice v Yuen Oi Yee Lisa* HCMP 2390/2008 [CFI: contempt of court: abuse of process of court: commencement of proceedings by deceptive means: abusive and offensive letters and phone calls to judges and clerks]
- *Jerry Chen v Whirlpool (Hong Kong) Ltd* (2007) 10 HKCFAR 619 [CFA: tort: vicarious liability] (led by John Bleach SC)
- *AXA China Region Insurance Co Ltd v Li Yu Ping Ellen* [2003] 3 HKC 339 [CA: contempt of court: court practice on no strict compliance with procedural requirements; waiver of procedural requirements] (led by Simon Westbrook SC)
- *Kay Kam Yu v AIE Co Ltd* [1996] 1 HKC 239 [CA: property: specific performance: requisitions: risk of unregistered encumbrance; unpaid management fees]