

## JERN-FEI NG QC

Year of call 2002    Silk 2018



Experienced counsel specialising in commercial litigation and arbitration, with 18 years' experience appearing before courts and tribunals and sitting as arbitrator in different jurisdictions, including England, Hong Kong, Singapore, Malaysia, Cayman Islands and Luxembourg.

Acted as counsel in over 100 commercial disputes and as arbitrator in some 30 cases (as presiding, sole and co-arbitrator) pursuant to, amongst others, ICC, HKIAC, LCIA, LMAA, SIAC, PCA and UNCITRAL Rules. Was one of the youngest Queen's Counsel to be appointed in 2018.

Described in the legal directories as "an absolutely brilliant advocate!"; a "highly skilled strategist and terrific advocate" with "first-class advocacy skills" that is both "smooth and persuasive". "A star of the future"; "one of the most talented counsel I have worked with on issues of strategy, where he is always several steps ahead of the current state of proceedings". He is "a very talented silk" who is "already in the zone of a leader in international arbitration" and who has an ability to "present practical legal solutions that not only win you the battles, but also the war."

"Extremely intelligent and tactically astute, he is one of a kind and is highly sought after." "He shows tenacity in fighting his client's corner and has the ability to swiftly produce forceful oral rebuttals"; "will fight like a gladiator to win the case"; "very proactive and, once instructed, takes control of a case and pushes it forward to the advantage of the client"; "super intelligent, very knowledgeable".

Described as having a "blue-chip practice"; litigation experience that is "top-class", with "an encyclopaedic knowledge of the law"; "superb lawyer and strategist" who "can master complex facts quickly". He "can eat documents for breakfast" and has a "formidable reputation in Asia Pacific as an arbitrator and counsel".

### WHAT OTHERS SAY

Recommended by The Legal 500 UK as a leading practitioner in five areas: Commodities; Energy; International Arbitration; Offshore; Tax.

- Recommended by The Legal 500 Asia-Pacific as a leading practitioner in two areas: Commercial;

Shipping and Commodities.

- Recommended by Chambers UK as a leading practitioner in Energy and Natural Resources.
- Recommended by Chambers Asia as a leading practitioner in International Arbitration: The English Bar in the Asia-Pacific Region; International Arbitration: The English Bar in Singapore

Named by Legal Week as one of ten Stars at the Bar for 2012, following research involving more than 200 solicitors, barristers and senior clerks.

Featured in the Tax Journal's 40 under 40: Ones to watch in tax (2011/12 edition), a guide of the 40 leading tax practitioners under the age of 40, following research involving more than 600 interviewees.

## LANGUAGES

English, Chinese Mandarin, Chinese Cantonese, Malay, Indonesian

## LEGAL EXPERTISE

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### Arbitration (As Arbitrator)

- Appointed as arbitrator in 26 cases – sole arbitrator (14), co-arbitrator (11) and presiding arbitrator (2).
- Appointed in *ad hoc*, ICC, SIAC, HKIAC, LCIA and PCA arbitrations seated in London, Singapore, Hong Kong and Kuala Lumpur.
- Subject matters of appointments are diverse and cover joint venture, share sale, energy, sale of goods and disputes involving States and State-related entities. Governing law: English law, Chinese law, Hong Kong law.
- Published 10 awards and was effectively upheld by the Beijing No. 4 Intermediate People's Court on a decision that turned on the application of Chinese law.
- Co-authored the chapters on evidence, stays of proceedings and interim relief in David Joseph QC and David Foxton QC (gen eds), *Law & Practice of Singapore International Arbitration*, 2nd edition (2018).

### Arbitration (As Counsel)

Currently acting in international arbitrations where in excess of US\$2.5bn is at stake. Instructed in 23 international arbitrations since taking silk covering disputes as diverse as share sales, joint ventures and biopharma. Cases instructed as counsel include:

- Acting for the Chinese respondents in a US\$1.5bn private equity dispute involving a failed acquisition of a company. Important point of law as to whether the doctrine of repudiatory breach applies to partnerships. Seat: Hong Kong (HKIAC Rules). Governing law: Cayman Islands law.
- Acting for Chinese investors in a share sale and purchase dispute involving sums in excess of US\$20m relating to the non-completion of an equity investment agreement in the mining industry. The case involves allegations of bribery by the other side of public officials of an African country and

misappropriation of partnership assets by the other side. Seat: Hong Kong (HKIAC Rules). Governing law: Hong Kong law.

- Acting for a Singapore company against a Chinese respondent in four arbitrations worth US\$600m collectively. Involves a dispute arising from the sale of an oil rig. Succeeded on 8 applications against the other side, including obtaining an order for security for costs against the other side. Seat: London (LMAA Terms). Governing law: English law.
- Acted successfully for the Korean pharmaceutical company in defending claims for US\$53m following a two-week hearing and secured a substantial costs award in the client's favour. Seat: Singapore (ICC Rules). Governing law: English law.
- Acted successfully for a leading Chinese manufacturer of consumer products in resisting two arbitrations worth US\$25m relating to the manufacture and sale of air-conditioners. Seat: Singapore (SIAC Rules). Governing law: PRC law.
- Acted successfully for a Singapore company in defeating a jurisdictional challenge by the Malaysian respondent to a US\$47.5m claim arising out of a contract for the fabrication of an oil well. Dispute settled after jurisdictional hearing. Seat: Singapore (UNCITRAL Rules). Governing law: English law.
- Appeared for a Chinese SOE in an arbitration brought against it by one of the world's largest commodity traders. Succeeded in defending the claim on jurisdictional grounds with costs awarded against the other side. Seat: Singapore (LMAA Terms). Governing law: English law.
- Acted successfully for a Thai corporation against a well-known FTSE 100 company in resisting claims of *force majeure* relating to a crude oil deal. Damages and interest in the sum of US\$20.4m plus costs were awarded against the other side. Seat: London (ad hoc). Governing law: English law.
- Acted for a former Iraqi Finance Minister in setting-aside proceedings in relation a dispute concerning the construction of a liquid petroleum gas terminal in Pakistan. Instructed in the challenge proceedings but not in the underlying arbitration itself and cross-examined the former Prime Minister of Pakistan in the course of the hearing.

## Civil Fraud and Asset Recovery

Instructed in some of the largest civil fraud actions heard in England in recent years, including the US\$1 billion *Fiona Trust* litigation and *CNA Insurance Company Ltd v Willis Ltd* (both of which are referred to in greater detail in the Commercial Litigation section below). Has also acted extensively in international arbitrations involving allegations of dishonesty.

## Commercial Litigation and Civil Fraud

Acts in an broad range of commercial and civil fraud disputes, the highlights of which include the following:

- *Fiona Trust* litigation. Successfully represented Tagir Izmaylov, the former chief executive of Novoship (the second largest shipping corporation in Russia), in defending a web of complex claims for bribery and conspiracy. The trial lasted for 76 days and the claims against Mr Izmaylov were dismissed in their entirety: see [2010] EWHC 3199 (Comm). Subsequently appeared unled in securing indemnity costs in favour of Mr Izmaylov: see [2011] EWHC 664 (Comm).
- *CNA Insurance Company Ltd v Willis Ltd*. Acted for CNA in claiming damages for deceit against Willis,

the third largest insurance brokers in the world. The action was set down for a 10-week hearing in the Commercial Court and was settled a month prior to the start of trial for the sum of US\$130 million, the settlement payment to CNA having been reported extensively by the financial press, including the Wall Street Journal, Bloomberg, Forbes and CNBC.

- *Ikos Litigation*. Instructed by one of the largest hedge funds in Europe in proceedings brought against a number of its former employees for breach of fiduciary duties, dishonest assistance and conspiracy.
- *PT Thiess Contractors Indonesia v PT Kaltim Prima Coal*. Retained by Thiess in a US\$146m claim relating to the operation of a large coal mine in Indonesia. Succeeded in defeating the Defendant's challenge to the jurisdiction of the English courts: see [2011] EWHC 1842 (Comm).
- *Chambers Finance Ltd v Brent and 12 others*. Acted as sole counsel for the claimant in a A\$23m dispute involving complex conflict of laws issues, all of which are related to the manufacture and storage of casks of whisky in Scotland. Settlements entered into with four defendants and judgments entered into against the rest.
- *Sunico Litigation*. Acted for one of nine co-defendants in a massive £40m fraud claim involving claims for unlawful means conspiracy. Concurrent proceedings in Singapore, London and Hong Kong in relation to 719 transactions. Secured summary judgment and dismissal of the claim with costs six weeks before trial: see [2012] EWHC 2892 (Ch).

## Energy and Natural Resources

Frequently instructed in energy and commodity disputes, particularly those involving a cross-border element. Experience ranges from claims arising from the sale of coal to the construction of offshore oil platforms to disputes revolving around alternative energy sources, such as those related to the supply of PV solar modules. Recommended by *Legal 500 UK* (2013) and *Chambers UK* (2014) for Energy. For further details, please see the Arbitration section above.

## Revenue Law (Including VAT, IPT, Duties & Excise)

Advised and acted in a number of indirect tax cases, including:

- *American Express Services Europe Ltd*. Acted for American Express in a partial exemption special method dispute. Commissioners withdrew their case during the course of the substantive hearing.
- *BlackRock International Ltd*. Instructed on behalf of BlackRock in bringing claims for recovery of compound interest from HMRC.
- *Birkdale School, Sheffield*. Appeared successfully for Birkdale School in the High Court in a single/multiple supplies case concerning tuition fees: see [2008] STC 2002; Times Law Reports 23 April 2008.
- *Chubb Insurance Company of Europe SA*. Acted for Chubb in a dispute in which the Revenue withdrew their case following the service of witness statements.
- *RBS Deutschland Holdings GmbH*. Acted successfully for RBS as sole counsel in one of the leading abuse of right cases to be heard by the European Court of Justice [2011] STC 345.

## Shipping & Admiralty

- Advised and acted in a large number of charterparty, bill of lading, second hand ship sale and purchase, shipbuilding and shipbroking claims, including cases concerning the cancellation of charters, demurrage, employment clauses and hire (and off-hire).
- Appeared in the trial of the *Fiona Trust* action, which was described by *The Times* as “the shipping trial of the century” and by *TradeWinds* as the “trial of the decade”: see the Commercial Litigation section above.
- Appeared for a Chinese yard in two arbitrations involving allegations of renunciation and repudiatory breach of contract. Secured dismissal of buyers’ claims for US\$23.5m in damages. Succeeded in resisting s.68 challenge to the award by the buyers: see *Primera Maritime (Hellas) Ltd v Jiangsu Eastern Heavy Industry Co Ltd* [2013] EWHC 3066 (Comm).
- Acted as lead counsel for a Korean yard in a dispute involving allegations for repudiatory breach of five shipbuilding contracts worth US\$182m in total.

## Appointments

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- 2003 Levitt Scholarship, Lincolns Inn
- 2002 Hollond Scholarship, Trinity College (awarded but unable to accept)
- 2001 Whittaker Scholarship, Trinity College
- 2001 Sir Thomas More Award, Lincoln’s Inn
- 2000 Hardwicke Scholarship, Lincoln’s Inn
- 1999 Fellowship, Cambridge Commonwealth Trust