


## Deborah Barker, S.C.

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OPERATING AS WITHERS KHATTARWONG LLP IN SINGAPORE.

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### Deborah is a partner in the litigation and arbitration team.

Deborah Barker, S.C. was called to the Bar on 19 January 1977 and was appointed Senior Counsel on 6 January 2001. She has worked for more than three decades in the areas of civil and commercial litigation and has extensive experience in both trial and appellate litigation.

In addition, she regularly acts for banks, financial institutions, insurance companies and multinational corporations in a wide range of matters, and is instructed to act in various complex corporate and trust claims, family and property related matters and cross-border disputes. She also conducts both local and international arbitrations.

Many of Deborah's cases have been reported in the Singapore Law Reports and international legal guides have named her as a leading practitioner in both dispute resolution and employment law. Her areas of practice include Arbitration; Civil and Commercial Litigation; Family Law; Corporate and Commercial Law; Property Law; Employment Law and Labour Relations; Banking, Finance and Securities; Estates and Trusts, Landlord and Tenant, Hire-Purchase, Leasing and Factoring; and Bankruptcy and Insolvency.

Deborah has been cited for her expertise in dispute resolution and labour and employment law in various publications, including the Chambers Asia Pacific Guide, Asialaw Leading Lawyers, Legal 500 Asia Pacific Guide, Doyle's Guide and Who's Who Legal Singapore.

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# Track record

## A major Singaporean communications services provider

Represented the Company and its Chief Executive Officer, who are co-defendants in an ongoing litigation commenced by an ex-employee of the Company in respect of alleged wrongful termination of employment, and alleged defamation by the Company's Chief Executive Officer.

## Fraud and conspiracy involving 4 jurisdictions

Represented 4 Cypriot companies in proceedings based on fraud and conspiracy commenced by the Singapore-based investment arm of a Japanese public listed company.

## Alleged wrongful termination and defamation

Represented the Company and its Chief Executive Officer, who are co-defendants in an ongoing litigation commenced by an ex-employee of the Company.

## Fraudulent conspiracy

[2020] SGHC 29: *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd and others* - Successfully defending 4 Cypriot companies against a claim of more than USD220 million based on fraudulent conspiracy. The Plaintiff made claims of multi-jurisdictional fraud involving large and established listed companies, complex commercial structures and international transactions. The Plaintiff alleged that there was fabrication of the financial records of a Thai public listed company, round tripping of funds, sham loans and related party transactions in several jurisdictions. The claim was dismissed and an appeal has been filed.

## Evidence by video link

[2020] SGCA 5: *Anil Singh Gurm vs J S Yeh & Co. and another* - Successfully obtained leave in the Court of Appeal for a foreign witness to give evidence by video-link from Australia. The witness had a fear of being prosecuted for an offence under Singapore's Residential Property Act were he to come to Singapore. In a ground-breaking decision, the Court of Appeal held that this was not a bar to his giving evidence by video-link.

## Professional negligence claim

HC/S 580/2016: *\*\* Anil Singh Gurm vs J S Yeh & Co. and another* - Acting for the Plaintiff in a claim for damages exceeding SGD 5 million based on professional negligence against an established law firm and its former solicitor. The claim is based on the failure to advise adequately or at all that a transaction pursuant to which the Plaintiff, a Singaporean, agreed to purchase and hold a landed property in Singapore on behalf of his cousin, an Australian, was unlawful and exposed the Plaintiff to imprisonment, a fine and a confiscation order for an amount equivalent to the whole sale proceeds.

## Res judicata

CA 200 of 2019: \*\* *TMT Asia Limited vs BHP Billiton Marketing AG and another* - Argued in the Court of Appeal on 21 August 2019 on issues including res judicata, and whether the matter involves an important question of law in view of amendments to the Securities and Futures Act (Cap. 289)

## Arbitral award resistance

[2018] SGHC 157: *Sinolanka Hotels & Spa (Private) Limited v Interna Contract SpA* - Acted on behalf of Interna Contract SpA and successfully resisted an application in the High Court to set aside an arbitral award for Euro 7.4 million issued under the ICC Rules. The applicant's contention that the arbitral tribunal had no jurisdiction was rejected.

## Trademark and distributorship disputes

[2018] SGHC 190: *Naughty G Pte. Ltd. v Fortune Marketing Pte. Ltd.* - Acted in the High Court on behalf of the Plaintiff, an energy drinks' supplier, in disputes relating to the trademarks and distributorship agreement and successfully obtaining judgment against the Defendant for all the Plaintiff's claims.

## Non-existent insurance policy

[2017] SGHC 327: *Dr Ong Han Ling & Enny Ariandini Pramana v American International Assurance Company Ltd. and others* - Conducted a lengthy trial against a leading insurance company on behalf of two individuals claiming damages in respect of a non-existent insurance policy fraudulently sold by an insurance agent for US\$5 million on the basis of vicarious liability, negligence and trust. The case involved complex issues of fact and law. The Court ruled that the insurer was vicariously liable for the agent's fraud and awarded damages.

## Breach of duty, fraud and conspiracy

[2017] SGHC 21: *TMT Co. Ltd v The Royal Bank of Scotland PLC* - Acted in the High Court and Court of Appeal on behalf of a Company in a claim in excess of USD 400 million for breach of duty, fraud and conspiracy.

## Disposal of shares

[2017] SGHC(I) 03: *Telemidia Pacific Group Limited & Hady Hartanto v Yuanta Asset Management International Limited & Yeh Mao-Yuan* - Acted on behalf of a BVI company and an individual in an appeal from a decision of the Singapore International Commercial Court relating to a \$ 150 million dollar claim pertaining to the disposal of shares allegedly intended to be used as collateral. The case involved novel and complex loan agreements and the relationships between the disposal of the shares and share prices.

## Breach's of confidentiality and fiduciary duties

*High Court Suit No. 807/2017*: Acted on behalf of a Singapore company and its directors in a dispute with two other companies in relation to breaches of confidentiality and fiduciary duties. This dispute involved an Anton pillar order (or search order) being carried out at the residential premises of the directors and the business premises of the company and was settled in mediation at the Singapore Mediation Centre.

## Upholding of will

[2016] SGHC 220: *Yeo Henry v Yeo Charles and others* - Acted on behalf of a beneficiary of a will pertaining to a substantial estate and successfully obtaining an order upholding the will on the basis that the executor had testamentary capacity, despite suffering from depression.

## Market manipulation and freight forwarding agreements

[2015] SGHC 21: *TMT Asia Ltd v BHP Billiton Marketing AG & Anor* - Acted in the High Court in disputes relating to market manipulation (iron ore) and freight forwarding agreements, and involving violations under the Securities and Futures Act (Cap. 289) and successfully resisting a striking-off application.

## Mareva injunction

*High Court Suit No. 679 of 2014: Murakami Takako v Astoeti Gunanto* - Acted on behalf of an executrix of an estate and obtaining a mareva injunction over assets in Singapore on the basis of a claim for the return of sales proceeds by a solicitor acting for the estate.

## Constitutional issues

CA 54/2013: *Lim Meng Suang, Kenneth Chee Mun-Leon & Attorney-General* - Acted in an appeal involving constitutional issues of public importance, namely, whether Section 377A of the Penal Code infringes the constitutional rights to equality, life and liberty.

## Former employee of liquidated company

[2013] SGHC 128: *Firoudin Aliev v Kon Ying Tong the joint and several liquidator of Agrosin Pte Ltd* - Acted in the High Court and the Court of Appeal on behalf of a former employee of a Company in liquidation to challenge the rejection of his proof of debt claiming salaries and other monies.

## Defamation and breach of confidentiality

[2013] SGHC 78/[2013] 3 SLR 354: *World Sport Group Pte Ltd v Dorsey James Michael* - Acted in the High Court and the Court of Appeal on behalf of a leading sports marketing, media and event management company in a claim for pre-action discovery relating to potential claims for defamation and breach of confidentiality.

## Fraudulent misrepresentation, unjust enrichment and constructive trust

[2013] SGCA 36 / [2012] SGHC 197: *Wee Chiaw Sek Anna v Ng Li-Ann Genevieve (sole executrix of the estate of Ng Hock Seng deceased) and another* - Acted in the High Court and the Court of Appeal on behalf of an executrix of an estate and successfully resisting a claim for the setting aside of various trust allegedly established using matrimonial property on the grounds of fraudulent misrepresentation, unjust enrichment and constructive trust.

## Property easement

[2012] 3SLR 1053; [2012] SGCA 33: *Wee Siew Bock & anor v Chan Yuen Yee Alexia Eve* - Acted in the High Court and the Court of Appeal in a dispute between owners of landed property relating to an easement, involving the issues whether the easement had been abandoned and whether there had been substantial interference with it.

## Matrimonial property

[2011] SGHC 138: *AQT v AQU* - Acted on behalf of the husband in a dispute over matrimonial property.

## Fish farm losses

[2010] SGHC 245: *OTF Aquarium Farm v Lian Shing Construction Co Pte Ltd (formerly Liberty Insurance Pte Ltd, Third Party)* - Appeared in the Court of Appeal in a matter involving losses arising out of the flow of water from the Appellant's land to a neighbouring fish farm.

## Breach of fiduciary duty and copyright

[2009] 4SLR(R)111; [2009] SGHC 157: *ABB Holdings Pte Ltd & others v Sher Hock Guan Charles* - Acted in High Court proceedings on behalf of a former employee of a company within a multinational group specializing in power and automation technologies with respect to claims based on breach of fiduciary duty, confidentiality and breach of copyright.

## Estate with properties in various jurisdictions

[2009] 3 SLR(R)765; [2009] SGHC 90: *Peter Roger May v Pinder Lillian Gek Lian* - Acted in a matter pertaining to the estate of a testator with substantial properties in various jurisdictions, involving disputes as to domicile and forum non conveniens.

## Holland Hills Mansions

[2008] 1SLR(R)729; [2007] SGHC 216: *Dynamic Investments Pte Ltd v Lee Chee Kian Silas & others* - Appeared in the High Court and the Court of Appeal and successfully resisting the objections of a minority owner to the en-bloc sale of Holland Hills Mansions.

## Division of matrimonial property

[2007] SGCA 35 NK v NL: Acting in the Court of Appeal in a leading decision involving the division of matrimonial property, custody, care and control and access.

## Corporate fraud

*High Court Suit No. 225 of 2006*: Acted on behalf of a defendant with respect to a claim exceeding €40 million based on corporate fraud and successfully obtaining a stay pending the resolution of similar proceedings in England.

## Employment matters

Advising various multi-national corporations and individuals on employment matters, including reviewing, drafting and advising on terms of employment, non-competition clauses, confidentiality agreements and severance agreements, and advising on the employee's duties of fidelity, confidentiality, post-employment restrictions and other issues.

## Share Purchase Agreement disputes

*SIAC Arbitration (Details Confidential: Ongoing)* - Acting on behalf of an individual against a listed company with respect to disputes on a Share Purchase Agreement and Shareholder's Agreement and claiming damages in the region of SGD 20 million.

## Philippines based coal company

*SIAC Arbitration (Details Confidential: Ongoing)* - Acting on behalf of a Philippines-based coal company in a dispute pertaining to a long term contract for the supply of coal.

## Fraud and conspiracy

*SIAC Arbitration (Details Confidential)* - Conducted an arbitration in Singapore under the SIAC rules, on behalf of a major regional education provider against an international equity firm in respect of a multi-million dollar investment by the latter and relying on fraud and conspiracy.

## Indonesian mine dispute

*SIAC Arbitration (Details Confidential)* - Acted on behalf of a Seychelles company and a Singapore company in a dispute with a Singapore company pertaining to coal from an Indonesian mine.

## Indonesian mine dispute

*SIAC Arbitration (Details Confidential)* - Acted on behalf of a BVI company in a dispute with a Dubai-based company pertaining to coal from an Indonesian mine.

## Software contract claims

*ICC Arbitration (Details Confidential)* - Conducted an arbitration in Singapore under the ICC Rules on behalf of a foreign bank with respect to claims arising out of a software contract.

## Software contract claims

*SIAC Arbitration (Details Confidential)* - Conducted an arbitration in Singapore under the SIAC Rules on behalf of a foreign bank with respect to claims arising out of a software contract, including a claim against former employees for conspiracy.

## Distributorship dispute

*ICC Arbitration (Details Confidential)* - Acted on behalf of a US corporation in a dispute with an Indonesian entity relating to a distributorship agreement.

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## Talks

- 'My Property and the property of others: Acquiring and disposing ownership of land (including HDB flats) and acquiring and defending other property rights', Grassroots Club on Me - 16 March 2013, lecturer

## External publications

Author of *A Guide to Termination of Employment in Singapore* published by Lexis-Nexis, currently in 2nd edition

Contributor to *Civil Litigation in Singapore*, published by Sweet and Maxwell, 2016

Contributor to '*Singapore Precedents of Pleadings*', published by Sweet and Maxwell Asia

Contributor to *Employment and Labour Law* produced by the European Lawyer, 2012

## Admissions

Singapore, 1977

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## Education

University of Singapore, LL.B (Hons)

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## Languages

English

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## Memberships

Senior Counsel (2001)

Referee, Industrial Arbitration Court

Organising Committee, Singapore Academy of Law Lecture

Committee of the ASEAN Law Association

International Bar Association

Military Court of Appeal

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## Key dates

Year joined: 1980

Year became partner: 2015

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