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## JOSH BAKER

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### Year of Call

2019 Barrister, Hong Kong

### Academic

2018 PCLL, University of Hong Kong

2016 LLM (Distinction, First in Year), University of Hong Kong

2014 MA, University of Cambridge

### Practice profile

Josh was called to the Bar in 2019 having worked in litigation in Hong Kong with solicitors' firms for seven years. He practices in commercial, public and family law.

Josh graduated first in his year from the LLM in Human Rights at the University of Hong Kong in 2016. He read law as an undergraduate at the University of Cambridge.

Josh is ranked as a 'Leading Junior' for Public Law by Legal 500 2023. He acts for individuals, NGOs and corporates, and often advises on matters with a civil liberties and fundamental rights dimension and where international law is material. He is very familiar with discrimination law in the private and public law contexts, immigration, asylum claims and administrative detention.

Josh has experience across a range of commercial matters, and is comfortable handling heavy work as part of a team as well on urgent and ex parte applications. He has a particular knowledge of civil fraud, asset tracing and recovery, and has advised in the banking and financial services context. He frequently advises on strategy and the preparation of evidence. Josh is building a commercial arbitration practice. He is the author of the new chapter on agency in Chitty on Contracts: Hong Kong Specific Contracts and a contributor to the White Book.

Josh works in all areas of family law including matrimonial finance, private law children's matters and child protection at public law. He is co-author of Atkins' Court Forms in family law and a contributor to Duxbury, Etc. In March 2019 he served as marshal to Her Honour Judge S D Melloy.

Josh serves on the Constitutional Affairs and Human Rights Committee and the Legal Aid Reform Committee of the Bar Association.

### Selected work

#### Commercial practice

- *Mark Richard Charles Sutherland v CRB (a firm)* [2023] 1 HKLRD 1. Resisting application for orders to tax solicitor / client bills. Questions of retainer by conduct and whether bills 'final' in nature. High Court guidance for applications to tax solicitor / client bills.
- *Hydrotech Waterproofing Solutions v Shun Yuen Construction* [2023] 2 HKLRD 173. Non-party costs order against third party.
- *Hydrotech Waterproofing Solutions v Shun Yuen Construction* [2022] HKCFI 2785. Three day trial of \$16.6m contract claims. Questions of the formation of contracts across sub-contracting relationships.

- *HKIAC arbitration* (2023). \$88m claim for breaches of Series C financing agreement and for asset stripping. Interim measures granted. Hong Kong and PRC law. Five day trial.
- *HKIAC arbitration* (2022). \$29m claim for breach of guarantees in \$200m product distribution agreements. Hong Kong and Singapore law.
- *LMR Partners Limited & LMR Partners LLC v LFD* HCA 1632/2010. Claim against former hedge fund portfolio manager for clawback of \$13.6m in compensation.
- *Golf Gifts & Gallery, Inc v Sinorise Asset Management Ltd & Anor* HCA 560/2021. Mareva and Norwich Pharmacal relief in aid of tracing and recovery efforts of \$3.4m misappropriated in an email and invoice fraud.
- *Selfcare Corporation Pty Ltd v Wan Ke Fei & Anor* HCMP 793/2021; HCMP 813/2021. Mareva injunction order and discovery relief under the section 21M jurisdiction, in aid of three worldwide freezing orders made by the Federal Court of Australia, for \$5.7m in damages for intellectual property wrongs.
- *KH Foundations v Chun Yip Construction Co Ltd* [2020] HKCFI 3019. Applications for production of documents said to be commercially sensitive under O.24 r.11 and further and better particulars.
- *Asia Steel & Metals Limited v The Hongkong and Shanghai Banking Corporation Limited* HCA 578/2020. Acted for commodities group in US\$1.24M claim for negligence and dishonest assistance arising from its bank's handling of payment instructions.

#### Public law and commercial judicial review

- *Harjang Singh v Secretary for Security & Anor* [2022] 4 HKLRD 99; [2022] 5 HKC 718 (CA). Leading authority on the principles constraining administrative detention for the purposes of removal from Hong Kong. Discussion of time taken pursuing non-refoulement claims; fresh justifications discerned by the court; re-offending risk; how a 'reasonable period' is to be specified; impact on family members; appeals in a Hardial Singh cases.
- *AB v X & Ors* [2022] 2 HKC 604; [2021] 1 HKLRD 1259. Application to set aside order effecting letter of request issued by administrative judge of the United States Federal Board of Reserve, in aid of \$8m claim for 'civil monetary penalty'. Whether the Board was a 'court or tribunal' and whether the US proceedings were 'civil proceedings', such that the Hong Kong court had jurisdiction.
- *Gurinder Preet Singh & Anor v TCAB* [2022] HKCA 587. Appeal for leave to apply for judicial review of Board's non-refoulement decision. Questions of correct approach to internal relocation, and use of outdated COI.
- *Safder Tehseen v Secretary for Security & Anor* [2022] HKCFI 2472. Application of Hardial Singh / Harjang Singh principles where individual on recognizance was arrested but not charged.
- *Chairman of the Southern District Council v Secretary of the Southern District Council* [2021] HKCFI 500, [2021] HKCFI 1920. Challenge to decision not to provide secretarial services in respect of meeting agenda items said to be ultra vires the Council's statutory powers.
- *Riaz Hussain & Anor v Permanent Secretary for Security* [2021] HKCA 1017. Appeal in challenge to refusal to suspend or rescind deportation order. Whether seriousness of offence and rehabilitation 'mandatory' considerations. Whether BL31 right to enter and remain engaged where deportation order invalidates permission to remain.
- *Y v The Commissioner of the Independent Commission Against Corruption* [2020] HKCFI 161. Judicial review of ICAC warrant to enter and search premises granted under the Prevention of Bribery Ordinance. Whether warrant defective for insufficient specificity.

- *He Wei v Director of Immigration* [2020] HKCFI 328. Judicial review (leave) of prospective investment visa decision. Whether Director's valuation of company was rational and lawful, and whether a premature application for JR should be permitted.

#### Matrimonial finance and family practice

- *ALDL v FTFC & Anor* [2023] HKFC 6. Resisting second application for litigation funding. Questions of the scope of previous award, the status of costs already ordered to be taxed and the effect of delay.
- *YSG (YX) v LYAG* [2022] HKFC 114. Nine day trial of ancillary relief claim involving assets of \$248m.
- *BBM v BKR* [2022] HKFC 114. Four day trial of permanent relocation application following abduction from Hong Kong to the United States.
- *Singh Sandeep v Adita Adila Afriani* [2021] HKCA 469. Procedure to set aside decree nisi on grounds of fraud, misrepresentation and non-service.
- *SG v GDV* [2021] HKFC 163. Resisting applications for MPS and children's maintenance on grounds of collateral High Court proceedings and fairness of offer.

#### Publications

- Agency (chapter 1) in *Chitty on Contracts: Hong Kong Specific Contracts* (6th ed, 2019; 7th ed 2022)
- *Halsbury's Hong Kong, Misrepresentation and Fraud* (2022)
- Contributor, *Hong Kong Civil Procedure 2020-2023*
- *Butterworths Hong Kong Banking Law Handbook* (5th ed, 2020; 6th ed 2023)
- Contributor, *Duxbury, Etc: Practical Guide to Hong Kong Family Law and Courts* (2019-2023)
- *Novelty and Orthodoxy: 2018 in Civil Justice*, Special Release to *Hong Kong Civil Procedure 2020*
- *Family Law in Atkins' Court Forms Hong Kong* (2019 reissue) *Eastern and Western perspectives of surrogacy: out with the old, in with the best interests?* [2016] 4 *International Family Law Journal*