

## MING-YEE SHIU

Call: 2000



Ming-Yee Shiu is an experienced junior barrister specialising in company and insolvency, commercial litigation and employment law. Her expertise encompasses company and insolvency, commercial fraud, intellectual property and all aspects of employment law. She has extensive experience of High Court injunctions, including applications for search orders, freezing injunctions and other forms of interim relief.

Ming-Yee is recommended as a leading junior in Chambers UK 2017 and the Legal 500 in employment law. Recent comments include:

- ***"she is ferocious when she needs to be in court and very good at getting her views across."***
- ***"a tenacious advocate, who will roll up her sleeves and work through the night if necessary"***
- ***"technically excellent" and "very quick and helpful"***
- ***"praised for her knowledge of the law and for her efficacy as an advocate"***
- ***"recommended for her work on restrictive covenants and injunctions"***
- ***"an impressive junior barrister who has expertise in handling cases that straddle both employment and commercial law"***
- ***"very client-focused and very reliable"***
- ***"frequently instructed in discrimination matters and cases with a commercial law element"***
- ***"impresses with her careful analysis and persuasive advocacy"***
- ***"an assured and knowledgeable performer with a quiet, confident delivery"***
- ***"wins market approval"***

### Company & Insolvency

Ming-Yee advises and acts in relation to all areas of company law, including directors' duties, shareholder disputes (including unfair prejudice petitions and derivative actions), breach of warranty in share sale agreements, schemes of arrangement and directors' service agreements. She is accustomed to acting as sole counsel or with leading counsel in complex and sensitive litigation requiring specialist expertise.

She is often instructed to advise and appear in relation to bankruptcy proceedings, applications for restoration, the powers and duties of administrators, the priority of claims against companies in liquidation and proceedings for the recovery of assets, including claims in relation to transactions at an undervalue, preferences and transactions defrauding creditors.

Notable cases include:

- **Maroudas v (1) Eversholt Investment Group SARL (2) Eversholt Investment Group SCS** (2015-2016), High Court, Chancery Division (led by Stuart Ritchie QC in relation to disputed compulsory transfer of shares in a Luxembourg company)
- **Pyrrho Investment Limited v MWB Property Limited and four others** (2014 - 2016), High Court, Chancery Division (led by Clive Freedman QC in high value claim of breach of fiduciary duties against former directors of a property company.)
- **H v L Limited** (2014) (acting on behalf of the founder and minority shareholder of a multi-million pound insurance claims company being threatened with the compulsory transfer of his shares)
- **Cant v Brady** (2012-2014) (acting for director and shareholder in long-running dispute involving a quasi-partnership, injunctive relief, unfair prejudice proceedings and contempt proceedings. Led in part by Ed Peppercall QC)
- **Midlands Regen Ltd v Collyer and others** (2012), High Court, Chancery Division (acting for two Part 20 defendant directors in a claim arising out of an £8 million development in Birmingham.)
- **Rayment v Remnart Agencies Ltd (In Liquidation)** (2011), High Court, Companies Court (handling of claims against insurer of financial adviser in liquidation)
- **Re P & O plc** [2007] Bus LR 554, High Court, Chancery Division (part of 2tg team opposing £4bn scheme of arrangement under Companies Act 1985)
- **Raffles Town Club v Lim** (2006) (led by Michael Black QC in relation to appeal in Singapore regarding piercing the corporate veil, ratification and breach of directors' duties)

## Commercial Litigation & Commercial Fraud

Ming-Yee is instructed in a wide range of commercial litigation, including restrictive covenants and intellectual property claims involving breach of confidence, trademarks, design rights, copyright and database rights.

Ming-Yee has particular experience of commercial fraud disputes, including constructive trust, breach of fiduciary duty, knowing receipt and dishonest assistance. Ming-Yee is frequently instructed in cases involving the commercial aspects of the employment relationship, including fraud claims against dishonest directors and employees, breaches of directors' duties and the enforceability of restrictive covenants in share sale agreements, service agreements and contracts of employment.

Notable cases include:

- **Financial Conduct Authority v Capital Alternatives Ltd & 15 others** (2016), High Court, Chancery Division (acting for former director of a company in relation to investment schemes alleged to have been mis-sold under s. 397 of the FSMA 2000. Appeared in relation to application to vary freezing injunction and acting in main proceedings)
- **Louis Dreyfus Commodities MEA Trading DMCC v Concorde pour L'Industrie et L'Exploitation SPRL** [2015] EWHC (Comm) 1711 (led by Charles Samek QC in relation to worldwide freezing order and anti-suit injunction obtained to restrain proceedings in Democratic Republic of Congo; unsatisfactory disclosure of assets by Defendants)
- **Locum Staffing v Primary Care People** (2015) High Court, Chancery Division (acting for market-leading medical recruitment agency against defendants for misappropriation of a database of confidential information. Obtained search order and order for forensic imaging of electronic devices)
- **(1) KLH UK (2) KLH Massivholz v Weiss and others** (2014), High Court, Commercial Court (acting for the claimants in a claim of breach of fiduciary duties, breach of contract and conspiracy to injure by

unlawful means against the former managing director and other senior managers of an international manufacturer in the timber industry.)

- **Fundicion Nodular SA v Orchard Development Holdings plc** (2012), High Court, Chancery Division (appeal against registration of foreign judgment for €4 million against parent company in United Kingdom arising out of property development in Spain.)
- **Kar Oil v Frion Ltd & Others** (2011), High Court, Chancery Division (defending \$10 million claim for breach of contract and conspiracy)
- **Industrial Speciality Lubricants Ltd v Rosenzweig** (2011), High Court, Chancery Division (claim of conspiracy and breach of contract against sales agent; applications for search order and to use documents in Texas proceedings)
- **Exception Var Ltd v Goff and others** (2010), High Court, Chancery Division (led by Paul Downes QC in relation to management team move to competitor. Acting without leader, successfully opposed application by Defendant to set aside search order on day of search)
- **Re New York Hedge Fund** (2010) (advising on the availability of a freezing injunction as ancillary relief in support of proceedings in New York)
- **H v M & C** (2010), High Court (defending application to commit for contempt of court relating to alleged breach of freezing injunction)
- **Halcyon International Group Ltd t/a PPLS International v Hughes** (2009), High Court, Chancery Division (successful application for search order and interim injunction; proceedings for breach of confidence, infringement of database rights, breach of contract and breach of copyright)
- **Titan Europe plc v Passini and others** (2008), High Court, QBD, Commercial Court (led by Paul Downes QC in multi-million pound claim for breach of restrictive covenants in a director's service agreement and share sale agreement in an Italian company)

## Employment

Ming-Yee frequently appears in the Employment Tribunal, the Employment Appeal Tribunal and the High Court on behalf of companies, partnerships, charities, NHS trusts, local authorities and individuals. She has substantial experience of issues relating to race, sex, disability and age discrimination, unfair dismissal, wrongful dismissal, redundancy, TUPE, unlawful deductions from wages, employment status, including claims by agency workers, and matters relating to jurisdiction.

Ming-Yee has in-depth knowledge and experience of cases involving the interaction of employment and commercial issues. She has been instructed in many cases in the High Court involving employee competition, fraud, misappropriation of intellectual property, breach of confidence, the fiduciary duties of directors and senior employees, breach of contract and breach of restrictive covenants. She is often asked to advise in relation to the enforceability of restrictive covenants on behalf of former employers, prospective employers and departing employees. She has particular experience of obtaining injunctions in relation to the IT sector and on behalf of recruitment agencies.

Notable cases include:

- **Shaikh v BMC Software** (2015-2016), Employment Tribunal and Employment Appeal Tribunal (acting for employer in relation to high value claim for sex discrimination and equal pay against an international technology company. The appeal relates to the burden of proof in equal pay claims and the defence of genuine material factor)

- **Locum Staffing Ltd v Primary Care People** (2015) High Court, Chancery Division (acting for market-leading medical recruitment agency against defendants for misappropriation of a database of confidential information. Obtained search order and order for forensic imaging of electronic devices)
- **Firecracker Talent Ltd v A J Rolls** (2014-2015) High Court, Queen's Bench Division (acting for major recruitment agency against former managing director. Obtained doorstep disclosure order, imaging of devices and interim injunction)
- **Lu v Nottingham University Hospitals NHS Trust** (2014), High Court, Queen's Bench Division (led by Damian Brown QC in sensitive and high profile dispute between consultant cardiac surgeon and his employer)
- **BFCA v Butt & Ors** (2013), High Court and Court of Appeal (acted on behalf of claimant accountancy firm in application for urgent injunctive relief against departing employees)
- **Mitra v Montpelier Professional Limited** (2013), Employment Appeal Tribunal (acted for respondent employer in appeal relating to the test for age discrimination)
- **A S Ltd v (1) A and (2) E Ltd** (2012), High Court, Chancery Division (advising software company and preparing application for delivery up and disclosure orders and interim injunctions against former employee and new employer in relation to misappropriation and misuse of customer database)
- **Palmer v East & North Hertfordshire NHS Trust**(2010-2012), Employment Tribunal (acting for employer in £1.5 million claim for age discrimination brought by consultant surgeon)
- **Bowers v University Hospitals Birmingham NHS Trust**(2011-2012), Employment Tribunal (acting for employer in 3 week hearing of claim by nurse alleging 5 year campaign of race discrimination, victimisation and whistleblowing)
- **W (a firm) v J** (2011) (advising law firm in respect of restrictive covenants in limited liability partnership agreement following departure of a senior partner)
- **Lipscombe v The Forestry Commission** (2011), High Court, QBD (defending claim of breach of contract by former employee in relation to early retirement scheme)
- **Stone Computers Ltd v Ward & Ors** (2010), High Court, Chancery Division (led by Paul Downes QC in applications for injunctive relief including delivery up and disclosure orders, interim injunctions and a springboard injunction in proceedings for breach of confidence, conspiracy, breach of contract and breach of copyright against former employees)
- **Quadrant Catering Ltd v Smith** (2010), EAT/0362/10, Employment Appeal Tribunal (defending appeal by employer relating to test for unfair dismissal)
- **Bastien v Kone Elevators Ltd** (2009), Employment Appeal Tribunal (defending appeal in race discrimination claim on grounds of perversity)
- **Meridian Productivity Ltd v Grimes** (2008), High Court, Chancery Division (application for "doorstep" disclosure order and interim injunction against former employee; proceedings for breach of contract, breach of confidence and breach of copyright)
- **Beckett Management Group Ltd v Hall** [2007] IRLR 793 (led by Christopher Lundie)

## Professional Negligence

In the field of professional negligence, Ming-Yee is equally accustomed to dealing with multi-million pound cases involving multiple losses and claims by individuals against their professional advisers, including surveyors, accountants, brokers, financial advisers and solicitors.

Ming-Yee has significant experience of cases involving related complaints to the Financial Ombudsman. She has

been instructed in relation to professional negligence, insurance and insolvency issues arising out of the failure of Lehman Brothers as the counterparty to a range of structured investments giving rise to multiple claims (Re Arc Capital and Income PLC (in administration)).

## Insurance & Reinsurance

Ming-Yee advises and acts in relation to all aspects of insurance and reinsurance disputes including misrepresentation, non-disclosure, fraud and subrogation arising out of property, professional indemnity, directors and officers and public liability policies.

She has particular experience of issues of jurisdiction and choice of law.

## Seminars

- Changes to Part 36 Offers (2015)
- Forensic Dissection of a High Court Employment Claim (2015)
- Transactions Defrauding Creditors (2014)
- Disciplining Doctors (2013)
- Restrictive Covenants and Injunctions (2012)
- Age Discrimination (2011)
- Whistleblowing – the state of play (2010)
- Constructive Dismissal (2010)
- Employment Status (2010)
- Aspects of insolvency – the implications for employment lawyers (2010)
- Remedies for Unfair Dismissal (2008)
- The Companies Act 2006: The New Regime (2007)
- Restrictive Covenants (2007)
- Directors' Duties to Review and Report (2006)
- Commercial Injunctions: The Pre-emptive Strike (2006)
- Local Authorities and TUPE (2006)

## Publications

- "A position of trust – employees as fiduciaries" (New Law Journal, November 2011)
- "A practical guide to restrictive covenants" (New Law Journal, October 2010, with Bruce Gardiner)

## Memberships

- Commercial Bar Association (COMBAR)
- Chancery Bar Association (ChBA)
- London Common Law & Commercial Bar Association (LCLCBA)
- Employment Law Bar Association (ELBA)
- Employment Lawyers' Association (ELA)
- Professional Negligence Bar Association (PNBA)