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By **Abert Wan** and **Thomas WK Wong**

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Call: 2017 (HK)

Albert accepts instructions for both advocacy and advisory work and has been instructed on matters covering a wide range of areas of law. His practice covers Administrative and public law, Commercial disputes, Construction and property, Family and private client, Intellectual property, Labour and employment, Regulatory, investigations and crime.

Outside of his practice, Albert is a part-time law lecturer in various universities teaching Contract, Tort, Company, Competition and Employment Law. Albert is also a contributing author for Lexis Advance Hong Kong Practical Guidance, member of Panel of Adjudicators of the Obscene Articles Tribunal, member of the Standing Committee on Legal Aid Reform of the Hong Kong Bar Association and participating lawyer in the Duty Lawyer Service Free Legal Advice Scheme.

Before he joined the bar, Albert obtained a Master of Law (LLM) at University of Cambridge and Bachelor of Laws (LLB) at City University of Hong Kong with First Class Honours. He was awarded several scholarships and prizes for his academic excellence.

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Thomas WK Wong

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Call: 2018 (HK), 2021 (England & Wales)

Thomas is a Barrister called to the Hong Kong and English Bars, and one of a handful who maintains an active and vibrant practice in both jurisdictions. He has a broad Commercial, Company / Insolvency and Offshore litigation, and arbitration practice. He has been in practice at the Hong Kong Bar since 2018 (and Called to the English Bar in 2021), but also a Hong Kong commercial litigation solicitor since 2010.

For the past 15 years, Thomas has been serving clients in Hong Kong, the Greater China Region and internationally, and is a native Chinese speaker (both Mandarin and Cantonese). He also has considerable experience in Company / Insolvency matters including in Offshore jurisdictions, and Hong Kong Chancery matters. In particular, he has been acting as a led junior in the Cayman Islands and the BVI, and has recently defended a 2-month US$250 million Company and Trusts trial before the Grand Court (Financial Services Division) of the Cayman Islands. His work has been recognised by his ranking as a Leading Junior (Tier 2) in Hong Kong Bar – Commercial Disputes for six consecutive years to date, as well as a Rising Star in the London Bar – International Arbitration: Counsel and The English Bar Offshore – Commercial Disputes, both by Legal 500.

Prior to his move to the Bar, Thomas was a commercial litigator at Hogan Lovells and Clifford Chance during which time, he worked with clients directly and gained an understanding of their commercial objectives.

Thomas is a Fellow of the Chartered Institute of Arbitrators and the Hong Kong Institute of Arbitrators, and is also on the Hong Kong International Arbitration Centre ("HKIAC")'s List of Arbitrators as well as the Singapore International Arbitration Centre ("SIAC")'s Reserve Panel of Arbitrators. Thomas often sits as arbitrator and has sat as a Deputy District Judge in Hong Kong in 2023 – 2024.

View Thomas's profile

Case 1

"Fails to proceed to convene": clarifying the board's duty upon shareholder requisition

Oriental Textile Products Limited (東方紡織有限公司) (a company incorporated in Hong Kong) v Asia Television Holdings Limited (亞洲電視控股有限公司) (a company incorporated in the Cayman Islands) [2025] HKCFI 5387

Date of Judgment: 7 November 2025
Coram: DHCJ Gary CC Lam

The Plaintiff was a shareholder of the 1st Defendant. On 27 June 2025, the Plaintiff requisitioned an EGM under the 1st Defendant's articles to remove five directors (the 2nd to 6th Defendants) and any directors appointed by the board without shareholders' approval during the relevant period. The articles provided that *"If within twenty-one (21) days of such deposit the Board fails to **proceed to convene** such meeting the requisitionist(s) himself (themselves) may do so in the same manner"*. The board, controlled by those directors, did not issue a formal EGM notice within 21 days, but on 18 July 2025 (the expiry of the 21-day deadline) issued an announcement saying it was *"proceeding to convene"* an EGM to be held on 27 August 2025, without specifying the time or the venue.

On 23 July 2025, the Plaintiff itself issued a notice convening an EGM on 12 August 2025, at which the requisitioned resolutions were passed, and the 2nd to 6th Defendants were (purportedly) removed, while the board continued to dispute the Plaintiff's standing and later convened its own EGM on 27 August 2025, which the chairman adjourned indefinitely pending various investigations and court actions.

DHCJ Gary CC Lam considered that the purpose of the above-cited article was to let the requisitionist(s) decide whether to call the EGM himself, for which purpose he had to decide whether the board had taken any step to do so. The learned DHCJ also held that there had to be a board's manifestation of its intention to the members to call a meeting, to carry out which the board had at least to inform the members of the necessary information that would be contained in the notice to be issued, namely the EGM's date, time, and venue. In the present case, a notice fixing the date only, but not the time or venue of the EGM, was deemed insufficient.

The Court therefore upheld the validity of the 12 August 2025 EGM and the resolution to remove the directors passed thereat.

Case 2

No defence in delegation: court finds director breached duties of care and independent judgment

Hansom Finance Limited (in creditors' voluntary liquidation) v Yang Haoying [2025] HKCFI 5278

Date of Judgment: 7 November 2025
Coram: Au-Yeung J

The Plaintiff sued its former director for breach of his director's duties, in having approved five unsecured loans totalling HK$799m to Mainland borrowers between September 2017 and March 2018, all now irrecoverable after default. The Defendant's former director had signed credit assessment reports (as approver), board resolutions, loan / repayment agreements, and drawdown requests paying proceeds directly to third parties. The Defendant had also extended two loans post-default at lower rates without security or justification.

Au-Yeung J applied *Re Copyright Ltd* [2004] 2 HKLRD 113, restating that directors had a continuing duty to acquire and maintain a sufficient knowledge and understanding of the company's business to enable them properly to discharge their duties as directors (being part of the director's duty under s 465 of the Companies Ordinance, Cap 622), and that the delegation of such tasks did not absolve the director to supervise the discharge of the same. The learned Judge further restated that the duty to act in the best interest of the company was an objective one and that an honest belief without reasonable basis was no defence.

In the present case, Au-Yeung J found that the Defendant's role was an "approver" (審批人) of loans, and that the statutory duty of care under the Companies Ordinance applied. He was found to have acted in breach of his director's duty of due care and skill, and duty to act in the best interest of the company. In having approved the material loans, the Defendant thereby exposed the Plaintiff to a great risk of non-recovery. The credit assessment process was wholly flawed, with glaring deficiencies in the due diligence process. One instance was that the supposed company search in relation to a loan had shown "正在加载，请稍后", but there was no attempt to obtain the full search. The Judge also found that the payment of the loans to third-party recipients was without reason, and the extension of the defaulted loans (at a reduced interest rate, with discounted settlement for the interest accrued, and without demanding security) was uncommercial.

Furthermore, the Defendant was also held to have acted in breach of his duty to exercise independent judgment as director. Given his background in the financial industry, he had unreasonably relied on oral confirmations from another director that due diligence had been conducted (without seeking documentary proof), and had failed to identify glaring inconsistences regarding the purpose of the loans across the loan documentation.

Case 3

Share ownership battle: court rejects summary judgment on "fraud exception" and declines interim receivership

Suen Wai Mo v Lam Hong Ki [2025] HKCFI 5475

Date of Judgment: 13 November 2025
Coram: Coleman J

The Plaintiff, Suen Wai Mo (**"Uncle"**), sued three Defendants, Lam Hong Ki (**"Connie"**, the Wife), Ng Ping Hei Francis (**"Francis"**, the Husband and Nephew), and Forever Up Asia Ltd (**"Forever Up"**; solely owned by Francis), over the respective beneficial ownerships of shares in two investment / asset-holding companies, Panven Ltd and Yat Sen Foundation Ltd, which together controlled ~77% of Clustertech Ltd (**"CT"**), a high-performance computing firm co-founded by the Uncle in 2000. The Uncle claimed that 800 Panven shares (representing 80% of Panven's shareholding; held by Connie allegedly on trust) and 800 Yat Sen shares (representing 80% of Yat Sen's shareholding; held by Francis via Forever Up) were both beneficially owned by him.

The Uncle applied for (1) summary judgment on the Panven claim (**"Order 14 Summons"**) and (2) interim receivership over both sets of shares (IR Summons). Meanwhile, the Defendants applied to expunge parts of the Uncle's affidavit evidence which contained allegedly without prejudice communications. After the Summonses had been heard, and whilst the judgment was pending, the Defendants sought to file further affirmation evidence to the effect that the deponent sought to retract matters deposed in his previous affirmation.

The learned Judge dismissed the Order 14 Summons on the grounds that the "fraud exception" applied and therefore the matter was outwith Order 14. The Judge went on to hold that even if the fraud exception had not applied, he would still have refused summary judgment given various triable issues. The Judge also rejected the Uncle 's argument that the Panven claim could be viewed separately from the Yat Sen claim, considering that the two claims had overlapping allegations from both sides and therefore could not be *"hived off"* even for the purposes of the Order 14 Summons.

The Judge also dismissed the Uncle 's IR Summons due to unsuitability, the lack of any real risk of dissipation, and the insufficient strength of the Uncle 's claim on the merits.

As for D's application to expunge the purported without prejudice communications, Coleman J declined to resolve the issue based on affidavit evidence, and left the issue for trial. His Lordship also dismissed D's application to file further affirmation evidence, because that deponent's evidence was only marginally relevant to the issues in dispute, and in view of overall procedural fairness.

Denis Chang SC and **Thomas WK Wong** *et al* appeared for the successful Defendants.

Case 4

Court of Appeal guidance on non-party costs order against company director

Target Insurance Co Ltd v Nerico Brothers Ltd [2025] HKCA 1024

Date of Decision: 17 November 2025
Coram: Chu VP, Barma and Au JJA

Nerico Brothers Ltd ("the Company") was wound up based on the winding-up petition presented by the Petitioner. The Company filed a Notice of Appeal to appeal against the winding up order. The Notice of Appeal was struck out as it disclosed no reasonable ground of appeal or was an abuse of process. The Petitioner applied for the Company's director to be personally liable for the costs of the appeal.

The Court of Appeal ordered the director to pay the costs of the appeal. The Court held that where a company is insolvent or nearing insolvency, the directors are under a duty to consider the interests of the company's creditors and take their interests into account when exercising their powers. This is a pertinent factor that the court should take into account in considering the question of whether the relevant director had acted in good faith or improperly in causing the company to pursue a hopeless or frivolous defence or appeal.

The crucial questions to consider are whether:

1. The director held a *bona fide* belief that the Company had an arguable appeal, and
2. The director held a *bona fide* belief that it was in the best interests of the Company for it to advance the appeal.

The Court found that the director did not hold a *bona fide* belief that the Company had an arguable appeal and that it was in the best interests of the Company for it to advance the appeal. In particular, the director failed to say whether and how he had considered the interests of the Petitioner, which is the most substantial creditor of the Company. For these reasons, the Court allowed the Petitioner's application for a non-party costs order against the director.

Case 5

Court of Appeal guidance on order to submit affidavit and provision of information under section 286B of Cap 32

Lau Siu Hung and Kwok Sin Kwan (being the joint and several liquidators of Tom Ip & Partners, Architects, Engineers & Development Consultants Limited (in liquidation) v P&T International Inc [2025] HKCA 1032

Date of Judgment: 18 November 2025
Coram: Chu VP and G Lam JA

Before its liquidation, Tom Ip & Partners, Architects, Engineers & Development Consultants Limited ("TIPHK") had been involved in a litigation in Mainland China together with P&T International Inc ("P&T") in which TIPHK and P&T together eventually prevailed. Despite a letter from the majority shareholders of TIPHK, who together held 53.125% (the remaining 46.875% being held by Tom Ip), asking P&T to refrain from remitting the money to TIPHK's account, an agreement was executed among 5 parties ("Five-Party Agreement"), not including the majority shareholders, to deal with the proceeds of recovery from the Mainland judgment. In particular, a company wholly owned by Tom Ip, will receive the payment to which TIPHK was entitled.

TIPHK was eventually wound up and liquidators were appointed. The liquidators demanded under section 286B that P&T provide information and documents concerning certain matters relating to the affairs of TIPHK, particularly on the Five-Party Agreement.

P&T's director made affirmations producing some of the documents requested but stated that P&T was unable to provide anything further "because it is not in possession of any of such requested documents" and the persons involved in handling the execution of the Five-Party Agreement had left P&T.

The first instance judge dismissed the application because it serves no useful purpose as P&T will simply provide an affirmation which repeats the contents of the previous affirmations.

The Court of Appeal allowed the appeal and ordered P&T to submit an affidavit to provide information. The Court held that section 286B(1)(d) refers to books and papers in the person's "custody or power". "Power" means a presently enforceable legal right to obtain the document from the holder without the need to obtain the consent of anyone else. Records (including those in electronic form) of a company held by a former director may well be documents within the power of the company.

The affirmations made by P&T's director only dealt with the documents he had located in P&T possession and the information known to himself. This is not sufficient because it does not cover documents in its power. Neither affirmation mentioned any inquiry whatsoever made of any present or former director, employee or agent of P&T.

Case 6

Court of Appeal guidance on an application to adduce fresh evidence on appeal in the case of a judgment obtained by fraud

Grade One Ltd and Others v Chow Chin Yui, Angela and Others [2025] HKCA 1051

Date of Judgment: 25 November 2025
Coram: Kwan VP, Barma JA and G Lam JA

The plaintiffs are Grade One Ltd ("GOL"), Surplus Gain Global Limited ("SGGL") and Mr Lau Wang Chi Barry ("Lau"). The 3rd and 4th defendants, CAM and CMS, are part of the Cachet group controlled by Ms Anglela Chow. CAM and CMS had earlier obtained summary judgment on their counterclaims for approximately HK$16.96 million and £905,925, based on alleged outstanding liabilities under the Facility Agreement and Supplemental Deed. The plaintiffs appealed, abandoned their original grounds, and instead pursued a new defence based on alleged discharge of their liabilities, supported by new evidence including multiple affidavits and documents obtained after the summary judgment.

The Court of Appeal held that to demonstrate that the judgment below was obtained by fraud, it is necessary to show:

1. there is conscious and deliberate dishonesty in relation to the relevant evidence given;
2. the fresh evidence must be "material", in that the conscious and deliberate dishonesty must be causative of the impugned judgment being obtained in the terms it was; and
3. the question of "materiality" of the fresh evidence is to be assessed by reference to its impact on the evidence supporting the original decision.

In an application to adduce fresh evidence on appeal alleging fraud was practised in the trial, the possible relaxation of the reasonable diligence requirement under condition 1 of *Ladd v Marshall* is confined to the situation where an applicant can demonstrate a "reasonable prospect of success" that the judgment was obtained by fraud. Conditions 2 and 3 must still be satisfied for the admission of the proposed new evidence.

The Court of Appeal held that the new evidence is apparently credible, material and capable of showing that the plaintiffs' liabilities were discharged by the US$3 million loan before CAM and CMS pursued their counterclaims, and that Angela Chow, as director of both entities, could not have been unaware if this were so. On that basis, there is a reasonable prospect of establishing that the summary judgment was obtained by conscious and dishonest suppression of material facts, satisfying the threshold for a possible fraud on the court and justifying relaxation of strict *Ladd v Marshall* diligence while still meeting its second and third conditions. The Court therefore admitted the new evidence, set aside the summary judgment and granted the plaintiffs unconditional leave to defend the counterclaims.

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