

# Herman Jeremiah

## Senior Partner



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## Overview

Herman Jeremiah is a senior partner in the Dentons Rodyk's Litigation & Dispute Resolution and and Co-Head of the International Arbitration practice.

His areas of practice include international arbitration, banking and finance litigation, insolvency litigation and restructuring, high value contractual disputes resolution, general litigation in insurance, employment disputes and competition law.

In international arbitration, Herman's experience includes representation in respect of matters as varied as oil and gas price dispute in the context of the Indonesian Production Sharing Contracts, CISG contracts, Islamic finance facilities, standby off-take agreements, joint venture disputes, airline software solutions and the termination of shipbuilding contract under various institutional rules of SIAC, ICC and LCIA arbitrations. He also accepts appointments as an arbitrator.

Herman is a Fellow of the Chartered Institute of Arbitrators (CI Arb), Fellow of the Singapore Institute of Arbitrators (Si Arb), Member of the Singapore International Arbitration (SIAC) Panel of Arbitrators, Panellist of the Asian International Arbitration Centre (AIAC), Fellow of the Insolvency Practitioners Association of Singapore and Member of the ICC Singapore Arbitration Group.

## Experience

### Arbitration Experience

- Acting for a founding shareholder in a joint venture dispute with an Indian conglomerate in the logistics business in an SIAC arbitration involving a claim in excess of S\$70 million. The issues involve allegations of breach of directors' duties, termination of employment for cause amidst oppression by majority shareholders through improper corporate actions to force out a minority shareholder, valuation of shares in a start up joint venture company. Singapore law was the governing law. [2020 to 2021]
- Acting for a major international bank in respect of an Indonesian State Owned Enterprise's significant claim in an SIAC arbitration. The applicable governing laws are Queensland law and Indonesian law. [2020 to 2021].

- Acted for a diversified Indonesian conglomerate in an ICC arbitration relating to a gas dispute against an Indonesian Production Sharing Contractor. Indonesian law was the governing law. [2019].
- Acted for a PRC state owned enterprise in an ICC arbitration relating to the sale of solar/ photovoltaic modules in a high value dispute [2016 – 2017] and in setting aside proceedings in the Singapore High Court [2017 to 2018]. The CISG or Convention of the International Sale of Goods was the governing law.
- Acted for a bank in 2 SIAC arbitrations relating to Islamic finance facilities against 2 separate Middle Eastern parties [2014 - 2016]
- Acted as co-counsel with a US law firm in an ICC arbitration between a purchaser and a development bank and as lead counsel in the jurisdictional challenge before the Singapore High Court [2015 – 2016], reported in *BCY v BCZ* [2016]
- Acted for a subsidiary of a Singapore listed entity in 2 LCIA arbitrations (against a Dutch and a German party respectively) in relation to shipbuilding contracts [2013 – 2015]. English law was the governing law.
- Appointed an arbitrator (of a 3 member tribunal) in SIAC arbitrations between Austrian/Swiss parties and a Malaysian entity in respect of rolling stock dispute [2014 to 2016]
- Acted for a Spanish multinational in an SIAC arbitration in a shareholder dispute against a Vietnamese party [2014 - 2015].
- Acted for a subsidiary of a Singapore listed entity in an ICC arbitration in respect of an agency agreement [2013].
- Acted for a US listed pharmaceutical company in a joint venture dispute against Indian parties in an SIAC arbitration [2012 – 2013] in which he co-counselled with counsel from a well known Indian law firm. Indian law governed.
- Acted for a foreign bank against a PRC state owned subsidiary in respect of a standby off-take contract in an SIAC arbitration [2009 – 2012].
- Acted for a foreign creditor in respect of enforcement proceedings on an arbitration award in the Singapore Courts. Reported in *Denmark Skibstekniske Konsulenter A/S I Likvidation v Ultrapolis 3000 Investments Ltd* [2010].
- Acted for a foreign national carrier in its dispute with a notable German systems provider and for the same client in another related arbitration in respect of a claim by an Indonesian joint venture entity, both SIAC arbitrations, in which he co-counselled with an Indonesian law firm. Indonesian law was the governing law.
- Acted for an owner in respect of a claim by the main contractor in a building dispute (a domestic arbitration).
- Acted for a shipbuilding yard in a claim by its main contractor in respect of dredging works (a domestic arbitration).

## Banking & Finance Litigation

- Acting for a bank against a major international commodity trader for a letter of credit fraud, in the collapse of a major oil trader Hin Leong Trading. Causes of action include in deceit, restitution for unjust enrichment for mistake of fact and conspiracy to injure by unlawful means. [2020].
- Acted for a bank in a claim against a collateral manager. Reported in *ABN Amro Bank v CWT* [2011]. Matter proceeded to the Court of Appeal [2011].
- Acted for a major bank in defence of claims in fraudulent misrepresentation and wrongful dismissal. Reported in *Fermin Aldabe v Standard Chartered Bank* [2010].
- Advised a major German bank in relation to a claim against the subsidiary of a listed company, whose employee had through deceit procured a substantial loan from the said bank (and also 3 other banks) and in

relation to the sub-participation by another bank in the said loan.

- Acted against an investment manager in respect of its breach of duty in respect of funds held by joint owners and for accessory liability. An ancillary issue to do with the procurement of evidence with the assistance of a foreign court is reported in *Kea Meng Kwang & Anor v Merrill Lynch Investment Managers (Asia Pacific Ltd)* [2006].
- Represented a major German bank creditor in the Asia Pulp & Paper collapse.
- Advised and strategised for a foreign bank in respect of potential litigation against one of its overseas branches by various parties and in respect of regulatory issues.
- Acted for a bank in an action against its customers for dishonest assistance in the breach by the bank's employee of his fiduciary duties. The case applied and to some extent extended the principles in the seminal decision of Lord Nicholls in the Privy Council decision of *Royal Brunei v Tan*. The decision of the trial judge against the bank after some 20 days of trial was reversed by the Court of Appeal on agency principles, despite findings of fact made by the 1st instance judge. Reported in *BNP v Nancy Tan & Tan Shee Chin* [2000, 2001].
- Acted for a major French bank in its claim for repayment of a multicurrency loan used for margin financing. The case raised questions of the lender's duty to the client in relation to advice on the risks attendant in borrowing of foreign currencies and the bank's duties in general. The first instance judgment in favour of the bank after a 31 day trial was affirmed by the Court of Appeal. Reported in *BNP v Wuan Swee May* [1999].
- Acted for a major Dutch bank (suing in the name of its then customer) in a trial against the Industrial and Commercial Bank of China ("ICBC") which had defaulted on its payment obligation under a letter of credit. Judgment was given against ICBC, a PRC bank with a branch in Singapore. The issues raised included the relevance of a Chinese Order of Court on the obligations of a PRC bank with a presence in Singapore, the obligations of an issuing bank in a transferable letter of credit, whether fraud on the documents is still a defence when the goods in the underlying contract have been delivered and accepted by the beneficiary of the letter of credit [1997].
- Acted for various parties in the Barings' debacle:- a major foreign bank in relation to the recovery of a sum of US\$25 million paid under a standby letter of credit in favour of SIMEX and a Japanese subsidiary of a major foreign bank in relation to the recovery of the trust money paid by the client to Baring Futures (Singapore) Pte Ltd.
- Acted for the plaintiff to restrain the call on a performance bond, reported at *Kvaerner Singapore Pte Ltd v UDL Shipbuilding (Singapore) Pte Ltd* [1993].

## Commercial / General Litigation

- Acted for the executors of an estate to recover sums (in Singapore, India and Sri Lanka) paid by the donor when mentally incapacitated [2016 to 2020].
- Acted for Edith Cowan University in an action by Management Development Institute of Singapore for breach of contract, conspiracy and defamation [2012 to 2014].
- Acted for a company listed on the secondary board in the Singapore Exchange against a Canadian listed company in its joint venture dispute in respect of a power project in Andhra Pradesh, India. The clients were successful in their claim and in resisting the appeal by the Canadian party. Managed and strategised the clients' representation in respect of legal proceedings in Ontario, Canada in connection with the enforcement of the Singapore judgment in Canada as well as in insolvency proceedings of the Canadian party with a view to maximising recovery for the clients. Also managed and strategised the representation of the clients in respect of proceedings in India.
- Acted for consultants against claim by a large utility in respect of the implementation of a customer care system/software.
- Acted for a subsidiary of a Malaysian listed entity in respect of its dispute with a Singapore service provider.

Reported in *T2 Networks v Nasioncom Sdn Bhd* [2007].

- Acted for the auditor in an advisory capacity in respect of its adversarial dealings with its clients, in respect of the auditor's statutory obligations and in the review by the regulators.
- Acted for a major insurer in respect of its prospectus liability policy dispute with its insured.
- Acted for auditors in a negligence action by a company in liquidation.
- Acted in various shareholder disputes [1996, 2004 to about 2006],
- Acted for the defendants in the 1st reported Singapore Court of Appeal decision on security for costs applications for plaintiffs resident outside the jurisdiction of Singapore. Reported at *Creative Elegance (M) Bhd v Puay Kim Seng* [1999].

## Competition Law

- Acted for a Japanese elevator manufacturer in respect of a Competition Commission of Singapore ("CCS") investigation into a complaint.
- Acted for a major Singapore insurance company in respect of a CCS investigation into a complaint made by a private education organisation.

## Insolvency

- Acting for a secured lender to subsidiaries of a major ship owning holding company (in judicial management) connected to the collapsed major oil trader Hin Leong Trading, appointment of receivers and managers over the mortgaged vessels [2020 to date]
- Acting for a trade bank lender to the collapsed major oil trader Hin Leong Trading (in judicial management) with some USD4 billion owed to various trade bank lenders [2020 to date]
- Acting for a secured lender in respect of an insolvency of a major shipping company [2019 to date]
- Acting for a debt trader in an insolvency [2019]
- Acted for a third party group in respect of Swiber's major insolvency in the marine and offshore industry sector [2017]
- Advising a bank lender in a major restructuring in the Middle East involving a total debt of US\$9.2 billion involving some 118 bank creditors.
- Acted for secured creditor that appointed receivers over the Singapore Flyer, an icon in the Singapore skyline.
- Acted for the Austrian liquidators in respect of the liquidation of the Singapore Branch of Alpine Bau GmbH, following its collapse in Europe.
- Acted for a creditor in the liquidation of Dynamic Oil Trading Singapore Pte Ltd.
- Acted for various parties in the MF Global Singapore (provisional liquidation) [2011, 2012].
- Acted for lender in the judicial management of Renewable Holdings Pte Ltd. a principal subsidiary of China Enersave Limited (a listed company) and for the lender in the scheme of arrangement of China Enersave Limited.
- Acted for creditor banks in the judicial management of SGX-listed Jurong Technologies Industrial Corpn Ltd and its operating subsidiary.
- Acted for a lender in the debt restructuring of the Jaya Holdings Group of companies, the holding company of which is listed.

- Acted for the Security Trustee of the group of lenders in the enforcement of the security over shares in a substantial listed company, Sincere Watch Limited, when the ultimate parent company (Peace Mark) of the borrower was put into liquidation. We acted in the sale of that security in Sincere Watch Limited to a consortium of buyers for S\$113 million.
- Acted for the common interests of several creditors of China Aviation Oil (Singapore) Corporation Ltd in respect of the scheme of arrangement between the said company and creditors as well as in the judicial management proceedings against the said company brought by another creditor.
- Acted for a large US MNC on a proprietary claim against Citiraya Limited.
- Acted for an interested party in the Accord Customer Care and Solution Ltd matter.

## Investigations

- Acted for a major bank in its internal investigation of senior employees for alleged misconduct.
- Acting for a major accounting firm in respect of investigations by regulators against a former main board listed company. [2018 to date]

## Recognition

- *Best Lawyers in Singapore*: Recognized in the areas of Arbitration and Mediation, and Litigation, 2021 – 2022
- *Best Lawyers in Singapore*: Recognized in the area of Insolvency and Reorganization Law, 2022
- *Best Lawyers in Singapore*: Recognized in the area of Litigation, 2020
- *The Legal 500 Asia Pacific* Restructuring and Insolvency, 2015, 2016
- *Chambers Asia*: Mentioned for the area of Restructuring and Insolvency, 2010, 2011, 2013, 2015, 2016, 2017, 2018
- *Asialaw*: Recognized in banking and finance litigation area, 2011, 2012
- *The Legal 500 Asia Pacific*: Recommended lawyer, 2009 - 2012
- *Practical Law Company*: Recognized as a recommended lawyer for restructuring and insolvency, 2008

## Insights

- Co-author, "Coming to terms with COMI", *Dentons Rodyk Reporter Issue 03*, June 2019
- Co-author, "Perspectives from the Dentons Global Restructuring, Insolvency and Bankruptcy Team", *Dentons Rodyk Reported Issue 02*, May 2019
- Co-author, "“Limited recognition” of foreign insolvency proceedings in Singapore where the circumstances warrant it", *Litigation Brief*, March 2018
- Co-author, the Singapore Chapter in *Financing Company Group Restructurings*, Oxford University Press, 2015
- Co-author, "Approval for Super Priority Rescue Financing - What does an applicant need to show a Singapore court?," *Litigation Brief*, December 2017
- Co-author, "Recognising foreign insolvency proceedings arising in jurisdictions other than the place of incorporation", *Litigation Brief*, October 2016
- Author, "Of Promissory Notes, Assignments And Arbitration Agreements," *Arbitration Review*, November

2015

- Co-author, "DSK v Ultrapolis [2010] SGHC 108 - A Lesson In Delay Tactics?," *Rodyk Reporter - Litigation Brief*, June 2010
- Author, "The 'Client' In Legal Advice Privilege: Singapore Courts Consider Three Rivers," *Rodyk Reporter - Litigation Brief*, September 2006
- Co-author, "Guide To Office Raids," *Rodyk Guides*, April 2006
- Co-author, "Competition Law Guide - Q&A," *Rodyk Guides*, 1st issue January 2006
- Co-author, "Competition Law Guide - Q&A; On The Competition Act 2004," *Rodyk Guides*, December 2005

## Activities and Affiliations

### Appointments

- Fellow, Singapore Institute of Arbitrators (FSiArb)
- Fellow, Insolvency Practitioners Association of Singapore (FIPAS)
- Fellow, Chartered Institute of Arbitrators (FCiArb)
- Member of the Singapore International Arbitration (SIAC) Panel Of Arbitrators
- Panellist of the Asian International Arbitration Centre (AIAC)
- Member, Inquiry Panel Committee appointed by the Honourable Chief Justice pursuant to section 84 of the Legal Profession Act
- Teaching Fellow of the Singapore Institute of Legal Education for the years 2011 to 2014
- Member, Insolvency Practice Committee 2010, 2011 and 2012, The Law Society of Singapore
- Membership Officer, Section on Insolvency, Restructuring and Creditors' Rights (SIRC) of the International Bar Association, 2010 and 2011

### Presentations

- "A to Z of Persuasive Written and Oral Advocacy" and "Early Dismissal" as panellist and Faculty Member, SIAC Academy Manila November 7 and 8, 2019
- Moderator for a panel discussion in the 1st ICC Indonesia Arbitration Day, November 23, 2018
- "Insolvency Law Reform – An overview of Singapore's reforms and the potential impact for Australia", to the Australian Restructuring Insolvency Turnaround Association (ARITA), Sydney, April 17, 2018
- "Saving Time and Costs in International Arbitration – Role of Institutions" as panellist, 1st ICC India Arbitration Day, October 14, 2017
- Dispute Resolution Internationalised - Arbitration, Litigation & Mediation Part 2 - Jakarta IHC Congress, May 11, 2016
- Dispute Resolution Internationalised - Arbitration, Litigation & Mediation - Jakarta IHC Congress, April 22, 2015

- The SIAC Emergency Arbitrator Experience: How Does It Work, SIAC Workshop, Tokyo, October 16, 2014
- Looking At The Crystal Ball For Contracts And Arbitrations With Indian Parties, April 27, 2013
- Lecture at Symbiosis Law School, Noida, India - "International Commercial Arbitration - An Imperfect Solution But The Best That We Have, If We Will It", February 15, 2013
- Singapore Legal & Compliance Roundtable - hosted by Pictet & Cie (Asia) Ltd, February 29, 2012
- A Hands On Workshop On Drafting Arbitration Clauses - Old Wine In A New Bottle - Mumbai IHC Congress, February 1, 2012
- A Hands On Workshop On Drafting Arbitration Clauses - Jakarta IHC Congress, April 13, 2011
- ICC Dispute Resolution Seminar - Mediation and ADR in Banking and Financial Disputes, Jakarta, February 21, 2011
- Avoiding Arbitrary Choices In The Arbitration Process: Managing The Arbitral Process with a Focus On China & Indonesia - Mumbai IHC Congress, February 1, 2011
- International Arbitration for The IHC - More Than Just Having An Arbitration Clause, Jakarta, May 25, 2010
- How To Get The Best Results In International Arbitration For Your Company - Without Breaking The Bank, May 12, 2010
- Arbitration & International Dispute Resolution (In House Congress, Jakarta), May 26, 2009
- Legal Professional Privilege In Singapore And Some Aspects Of Litigation Management, October 7, 2008
- The Impact Of *Skandinaviska Enskilda Banken AB (Publ) v Asia Pacific Breweries*, August 22, 2008
- Crossing The Line: In House Counsel And Privilege, June 20, 2008
- Corporate Authority, April 24, 2008
- Judicial Management, March 28, 2008
- Resolving Business Disputes Via Arbitration, November 13, 2007
- Resolving Business Disputes Via Arbitration, November 5, 2007
- Lunchtime Talk For Clients On Recent Banking Issues, August 13, 2007
- Corporate Governance & Corporate Counsel: Does the Buck Stop Here?, February 8, 2007
- Competition Law: An Overview of S47 of the Competition Act (Cap 50B) and Market Definition, January 18, 2007
- Litigation Talk: Duties Of Practising Accountants, December 4, 2006
- Workshop On Legal Professional Privilege, July 27, 2006
- Investing In Indonesia: Legal & Regulatory Framework Resolving Indonesian Investment Disputes, May 25, 2006
- Why Arbitrate Or Not, May 4, 2006
- Competition Law Updates, March 1, 2006

## Memberships

- Member, ICC Singapore Arbitration Group
- Member of The Honourable Society of Gray's Inn

## Prior and Present Employment

- Senior Partner, Dentons Rodyk (formerly Rodyk & Davidson LLP), 2002 - present
- HelenYeo & Partners, 1997 - 2002
- Haridass Ho & Partners, 1988 - 1997

## Areas of focus

### Practices

- Arbitration
- Commercial Litigation
- Financial Markets Litigation and Regulation
- Financial Services Litigation
- Litigation and Dispute Resolution
- Restructuring, Insolvency and Bankruptcy

## Education

- National University of Singapore, 1987, LLB (Hons)

## Admissions and qualifications

- Called to the Bar of England & Wales, Gray's Inn, Hilary Term 2020
- Advocate & Solicitor, Singapore, 1988