



Elaine Lim
Associate Director, Dispute Resolution

LL.B. (Hons), National University of Singapore (2012)

Admitted to the Singapore Bar (2013)

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ABOUT ELAINE

Elaine is actively engaged in a wide spectrum of domestic and cross-border litigation and arbitration matters. A significant part of her practice revolves around banking and financial, commercial and property disputes. She regularly handles bank-customer disputes, tenancy disputes, construction disputes, minority oppression disputes, claims for breach of commercial agreements, and tortious claims.

Elaine also advises financial institutions on regulatory matters and investigations.

Elaine's clients include major financial institutions such as Standard Chartered Bank, OCBC, Bank of Singapore, Bank of China, UBS AG and ABN AMRO Bank N.V.. Elaine also acts for payment services companies, property developers, and public listed companies.

Elaine was placed on the Dean's List in her first and final years in the National University of Singapore.

Prior to joining Drew & Napier in 2015, Elaine was an associate in the chambers of a renowned arbitrator, Dr Michael Hwang S.C., assisting him in the administration and conduct of complex international commercial arbitrations and investment arbitrations.

Elaine currently also serves on the Panel of Assessors for COVID-19 Temporary Relief.

EXPERIENCE

Some of the matters in which Elaine has acted include the following:

Banking and Finance Disputes

- Successfully defended Standard Chartered Bank (Singapore) Ltd in the High Court and the Court of Appeal, against claims for breach of its duties to the customer in executing allegedly fraudulent remittance instructions (*Major*

Shipping & Trading Inc v Standard Chartered Bank (Singapore) Ltd [2018] SGHC 4, upheld on appeal). The case involved complex issues of banking practice, digital forensics, and the applicability and effect of MAS regulations, guidelines and notices on a bank's duty of care to its customers.

- Successfully represented ABN AMRO Clearing Bank NV to obtain summary judgment for outstanding amounts under a credit facility (*ABN AMRO Clearing Bank NV v 1050 Capital Pte Ltd [2016] 1 SLR 186*). The case involved allegations of wrongful liquidation of the customer's securities.
- Representing a Singapore company in High Court proceedings against a foreign bank, involving letter of credit fraud and trade financing practice, in claims exceeding US\$65 million.
- Advising a major local bank in various claims against its insurers arising from letter of credit and trade financing fraud. The total value of potential claims is in the sum of approximately US\$380 million.
- Representing a bank customer in High Court proceedings against a major local bank for misrepresentation and mis-selling of bonds, and breaches of the bank's duty to monitor the customer's investment portfolio.
- Represented a bank to make representations in relation to a document production order issued by a regulatory authority against the bank.
- Advised a bank on potential civil liability arising from various regulatory breaches, including breaches of anti-money laundering regulations.
- Advised a bank on seizure orders issued by a regulatory authority against bank accounts.

- Advised a bank on customer complaints in respect of credit facilities extended for the purpose of purchasing securities. The complaints included mis-selling.
- Advised banks on a myriad of issues, including but not limited to (i) competing claims on assets in joint bank accounts; (ii) enforcement of securities; (iii) banking secrecy, (iv) impact of foreign bankruptcy and liquidation proceedings, and Mareva injunctions, on the operation of bank accounts.
- Advised various businesses on the Payment Services Act 2019.

Commercial and General Disputes

- Successfully defended a major payment services company against claims by multiple users in relation to alleged wrongful withdrawal of monies from their account. Elaine argued a number of interlocutory applications, including applications for unless orders, and succeeded in striking out the claims for the defendants' failure to comply with discovery obligations.
- Successfully defended MWA Capital Pte. Ltd. against a challenge, under section 23 of the Moneylenders Act, to the interest rates it charged under a loan (*Evan Lim Industrial/Warehousing Development Pte Ltd v MWA Capital Pte Ltd and another* [2019] 1 SLR 191). This was the first occasion that the Court of Appeal ruled on the construction of section 23. The case also involved novel issues of law, such as whether the creditors of the borrower were entitled to challenge the liquidator's decision to uphold the loan under section 23.
- Defended a shareholder against a claim for minority oppression. The case involved allegations such as failure to account for trust property, conversion of company property, obtaining unauthorised loans from the company, and diversion of business opportunities from the company.
- Instructing counsel for a bank in a claim in the English courts for breach of warranty in an agreement for the sale and purchase of a US\$1.4bn business. The case involved complex issues of Singapore

accounting standards, derivatives valuation and Swiss insolvency law.

- Instructing counsel for a property developer in a claim in the Malaysian courts involving allegations of wrongful termination of a settlement agreement, invalid call on a guarantee, breach of contract and conspiracy.
- Representing an individual *pro bono* in a personal injury claim against an e-scooter rider before the State Courts. This is the first personal injury claim brought in the Singapore courts arising from e-scooter accidents.
- Advised a major payment services company on disputes with a business partner arising out of wrongful use of trade marks.
- Advised a US private equity firm on disputes with its business partner in relation to various misrepresentations which induced the conclusion of a share sale and purchase agreement.
- Advised a foreign bank on claims under an agreement for the provision of exclusive financial advisory services for the acquisition of a business.

Property and Construction Disputes

- Represented a subcontractor and the guarantor of its debts to defend payment claims by a main contractor in the High Court.
- Represented an employer to defend payment claim by a main contractor in arbitration proceedings.
- Representing the purchaser of an industrial property in High Court proceedings against the seller, for claims for shortfall in the floor area of the property and unauthorised additions and alterations to the property.
- Successfully resisted garnishee proceedings for a leading international property and infrastructure company. The case involved the novel issue of whether retention monies are capable of being attached under a garnishee order. Elaine argued the matter in the High Court.
- Advised a major public listed property developer on claims by a MCST.

- Represented a major public listed property developer in various tenancy disputes.

Arbitrations

- Represented an Indonesian national in a SIAC arbitration against an Indian MNC, involving coal mining concessions in Indonesia. The quantum of the dispute is in excess of US\$350 million. The case involved highly technical issues of Indonesian mining law, coal exploration and mining, and quantification of damages for loss of profits.
- Represented a Singapore subsidiary of a public listed company, in two SIAC arbitrations regarding back-to-back sale of goods contracts. The case involved allegations of fraud in relation to certain international trade documents, and expert evidence on customs laws.
- Represented a Vietnamese national in an SIAC arbitration involving a claim for breach of a share sale and purchase agreement. The case involved issues of Vietnamese law. The matter was resolved favourably.

PUBLICATIONS

- Assisted in drafting the chapter on Defamation in *Singapore Precedent of Pleadings* (Sweet & Maxwell, 2015).
- Assisted in drafting the chapter on Costs in *Civil Litigation in Singapore* (Sweet & Maxwell, 2016).
- Assisted in the publication of *Selected Essays on International Arbitration* (2013) by Dr Michael Hwang S.C.

MEMBERSHIPS

- Member, Law Society of Singapore
- Member, Singapore Academy of Law
- Member, Criminal Legal Aid Scheme
- Assessor, Panel of Assessors for COVID-19 Temporary Relief