



Austen Emmanuel Pereira

Partner

Austen was called to the English Bar and Malaysian Bar, where his primary area of practice is general and corporate and commercial litigation. He is also actively involved in various modes of construction dispute resolution such as statutory adjudication under the Construction Industry Payment and Adjudication Act 2012 (CIPAA 2012), domestic and international arbitration and Malaysian court proceedings. He has appeared at all levels of the Malaysian courts.

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Qualifications

- LL.B, Aberystwyth University
- Cardiff University, UK Bar Professional Training Course (BPTC)
- Advocate & Solicitor, High Court of Malaya

Practice Areas

- Corporate and Commercial Litigation
- General Litigation
- Arbitration
- Construction & Engineering Disputes
- Statutory Adjudication Under CIPAA 2012

**REIMAGINING
LEGAL
SOLUTIONS**

Relevant Experience

- Appeared in multiple Construction and Commercial Arbitrations conducted under the Kuala Lumpur Regional Centre for Arbitration (KLRCA) Rules, Institute of Engineers Malaysia (IEM) Rules, Pertubuhan Arkitek Malaysia (PAM) Rules, the London Court of International Arbitration (LCIA) Rules and the UNCITRAL Rules.
- Appeared in multiple Construction and Oil & Gas Statutory Adjudications conducted under the Construction Industry Payment Adjudication Act 2012 (**CIPAA 2012**).
- Appeared in multiple construction, commercial and corporate & arbitration litigation cases in all levels of the courts namely:
 - a) Appeared for several subsidiaries of a foreign multinational oil & gas company in a claim for more than RM300 million against 14 defendants for fraud, knowing receipt, dishonest assistance and conspiracy and to trace the monies and assets moved into different jurisdictions. Successfully obtained a Worldwide Mareva freezing order for millions worth of assets over different jurisdictions, and multiple Bankers Trust discovery orders against banks to aid in the tracing the movement of monies thus far. Assisting in a team made up of foreign lawyers in various jurisdiction;
 - b) Appeared in a land dispute involving the law relating to caveats, constructive trust and alienation of state land;
 - c) Appeared in a Federal Court Appeal Proper in relation to questions of law on sections 9 and 10 of the Arbitration Act 2005 and whether or not a non-party can be bound or be a party to an arbitration agreement;
 - d) Appeared in a Federal Court Appeal Proper in relation to a question of law arising from whether or not withdrawing a suit in order to avoid a disadvantage not of a party's own making tantamounts to an abuse of the Court's process;
 - e) Appeared in a High Court case involving section 42 of the Arbitration Act 2005, in which arguments on the prospective and/or retrospective effect of the Arbitration (Amendment) (No. 2) Act 2018 were canvassed;
 - f) Appeared in the Federal Court Review of View Esteem Sdn Bhd v Bina Puri Holdings Bhd (i.e. a landmark CIPAA 2012 decision by the Federal Court);
 - g) Appeared in the Court of Appeal in respect of the scope of Section 181 and whether or not it extends to complaints of oppression in respect of a company other than the one brought by the latter's registered member;

- h)** Appeared in the High Court in respect of several claims made against Corporate and Personal Guarantors for sums of up to RM126 million by a bank. Assisted with various related interlocutory applications including Summary Judgment Applications, Striking Out Applications, Third Party Applications, Fresh Suits and Leave to Proceed;
- i)** Appeared in the High Court in respect of several confidentiality applications and security for award sum and costs applications in respect of a section 42 of the Arbitration Act 2005 case;
- j)** Appeared in a Federal Court Leave Application in relation to a question of law on whether for the purposes of an recognition and enforcement application made under section 38 of the Arbitration Act 2005, is the recognition and enforcement of an arbitration award by way of entry as a judgment of the High Court to only relate to the disposition of the said award and not the entire award containing the reasoning, evidentiary and factual findings of the arbitral tribunal;
- k)** Appeared in the High Court and Court of Appeal in relation to various anti-arbitration injunction applications and stay pending arbitration applications, involving novel issues concerning third parties;
- l)** Appeared in the High Court and Court of Appeal in relation to a contentious dispute concerning put and call option agreements;
- m)** Appeared in the High Court, Court of Appeal and Federal Court in relation to various disputes concerning Construction and Oil & Gas Statutory Adjudications conducted under the Construction Industry Payment Adjudication Act 2012 (CIPAA 2012);
- n)** Appeared in the High Court, Court of Appeal and Federal Court in relation to various contentious intellectual property litigation concerning, amongst others, passing-off, patent infringement and trademark expungement;
- o)** Appeared in the Federal Court in relation to a landmark decision on constructive trust and limitation; and
- p)** Appeared in the High Court concerning a section 18 Arbitration Act 2005 jurisdictional challenge.

Publications

- Co-authored a Current Law Journal article titled “Incorporation of an Arbitration agreement” [2017] 1 LNS(a) lix
- Co-authored a case commentary on the High Court decision in Dato Hew Hoi Lam @ Kew Hoi Lam (practicing as Arkitek Supra) v Michigan Properties (M) Sdn Bhd [2016] 1 LNS 1537; [2016] MLJU 1259; [2017] AMEJ 0005 for the CIDB Construction Law Report

Notable Reported Cases

- Appraisal Property Management Sdn Bhd & Ors v Singham Sulaiman Sdn Bhd [2023] 2 CLJ 206
- Kemacahaya Development Sdn Bhd v Pywatec (M) Sdn Bhd & Anor and another appeal [2022] 9 CLJ 161
- Perbadanan Pengurusan Trellises & Ors v Datuk Bandar Kuala Lumpur & Ors [2021] 3 MLJ 1
- Federal Land Development Authority & Anor v Tan Sri Haji Mohd Isa bin Dato’ Haji Abdul Samad & Ors [2021] 8 MLJ 214
- Synergy Promenade Sdn Bhd v Felda Investment Corporation Sdn Bhd & Anor [2021] 9 MLJ 770
- Yeo Ping Tieng & Ors v Elitprop Sdn Bhd [2020] 3 MLJ 269
- AWH Equity Holdings Sdn Bhd & Ors v GMV-Borcoss Sdn Bhd [2020] 11 MLJ 212
- Emas Kiara Sdn Bhd v Michael Joseph Monteiro (Receiver and Manager of Lembah Beringin Sdn Bhd) & Ors (Farcoll Estate Sdn Bhd & Ors, Interveners) [2018] 5 MLJ 54
- Detik Ria Sdn Bhd & Anor v Prudential Corporation Holding Ltd & Anor [2022] 10 CLJ 171
- NBC Land Sdn Bhd v Majlis Perbandaran Klang [2021] 1 LNS 799
- Nik Sarina Lugman Hashim v Mohamed Moiz Jabir Md Ali Moiz & Ors [2021] 1 LNS 2226