



Gan Khong Aik FCI Arb

Partner

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Gan Khong Aik is a dispute resolution partner with over 25 years' counsel experience before all levels of Malaysian courts. He is a Fellow of the Chartered Institute of Arbitrators (CI Arb), United Kingdom, who sits on the panel of arbitrators in various Chinese arbitration institutes include international arbitration court. He is also a mediator with the Malaysian Mediation Centre.

Khong Aik's extensive practice experience includes corporate and commercial disputes, insurance and reinsurance claims, insolvency and liquidation, land and property disputes, defamation, anti-bribery and corruption, and employment and industrial relations disputes with specific reference to restrictive covenants, protection of trade secrets, and confidential information. His notable matters include a landmark apex court decision which led to the significant developments in the arbitration landscape. Building on his wealth of knowledge and experience in corporate disputes, he advises companies on corporate governance and corporate liabilities since the enforcement of section 17A of Malaysian Anti-Corruption Commission Act 2009 on 1 June 2020.

Khong Aik has been recommended by Legal 500 and Benchmark Litigation for his depth of legal knowledge and troubleshooting skill complemented by a meticulous and solution driven approach in managing the dispute strategy. In the 2010/2011 issue of Legal 500 Asia Pacific, Khong Aik was described as "an 'experienced litigation lawyer' who has a 'depth of knowledge' and 'trouble shooting skills' that are complemented by a 'meticulous and thorough approach'. This expertise extends to industrial relations."

Khong Aik's continuous commitments to deliver the best of himself in serving his clients' cause are seen in the clients' feedback to the 2019 issue of Benchmark Litigation – "Very professional, effective and efficient" and "Extremely knowledgeable, effective and practical". He has been listed as a Litigation Star in Commercial and Transactions, Dispute Resolution, and Labor and Employment by Benchmark Litigation in 2020.

Khong Aik has penned a book chapter on International Arbitration and articles on various emerging areas of law. He is recently appointed to chair the International Conventions and Trade Agreements Subcommittee of International Commerce and Distribution Committee, International Bar Association.

Practice Areas

- Arbitration, Litigation & Risk Management
- Anti-Bribery & Corruption
- Boardroom Risk & Reputation
- Corporate Governance & Compliance
- Employment, Benefits and Incentives & Industrial Relation
- Insurance
- Regulatory & Compliance
- Restructuring & Insolvency

Admission

Advocate and Solicitor of the High Court of Malaya

Languages

English, Malay, Mandarin

Qualifications

- LL.B (2nd Class Honours), University of Malaya.
- Postgraduate Diploma in International Legal Practice, The University of Law

Notable Matters

Corporate Disputes

- Acted and advised a multinational company in relation to debt recovery arising from construction dispute.
- Acted as a co-counsel before the apex court for the breach of a charter party agreement claiming for the damages in the sum of approximately USD3.1 million.
- Acted as a lead counsel for a company in the sale of health food industry before the Federal Court in Malaysia in a matter concerning enforcement or exercise the right of option to sell its shares pursuant to an exit clause in the joint venture agreement.
- Acted as a lead counsel in a highly publicised dispute involving Chinese Educationist in Malaysia over a shareholder oppression claim.
- Acted as a lead counsel in disputes involving renowned properties construction developers in Malaysia where one of the suits was against a state government for damages over RM25 million.
- Acted as one of the lead counsels in an appeal where the Court of Appeal decided over the power of liquidator vis-à-vis the power of the minority shareholder for the first time, subsequent leave application to the Federal Court was dismissed.
- Acted in a matter concerning re-assessment of damages of a land worth more than RM12 million before the Court of Appeal.
- Acted for a company in a suit to recover a sum of RM8.61million (approximately USD2.01million) against its director for breach of fiduciary duty and duty of fidelity.

Employment & Industrial Relations Disputes

- Acted for a telecommunication company in disputes involving abuse of power and issue pertaining to renewal of fixed-term renewable.
- Acted for a tertiary educational group of companies and an oil and gas multinational company in disputes over conflict of interest by a member of the senior management.
- Acted for an international banking institution on issue pertaining to forced resignation.
- Acted for manufacturing and production companies in disputes in respect of retrenchment due to economic reasons and functional needs.
- Advised a company on the adequate procedures to prevent corruption in the light of Section 17A of the Malaysian Anti-Corruption Commission Act 2009.

Notable Matters

Insurance Disputes

- Advising Insurers on coverage and defence in a MYR 12.5 million Directors & Officers liability claim initiated by a Bursa Malaysia Mainboard-listed company against its former directors.
- Advised and acted for Insurers and Reinsurers in a MYR 125 million Machinery Breakdown/Loss of Profit claim arising from a 2013 aluminium smelter incident in.
- Advised and acted for Insurers in a reinsurance claim on a Civil Engineering Completed Risks Insurance Policy claim over a collapse of folded plate retaining wall incident.
- Advised and acted for Insurers in an occupier liability claim in respect of a high-profile escalator incident happened in a renowned shopping mall in Malaysia.
- Acted for Insurers in a reinsurance claim over MYR 22 million involving fraudulent cheque payment by a bank.

Awards & Accolades

Among others, Khong Aik has been recognized by independent rankers and client testimonials as, *inter alia*:

- *‘experienced litigation lawyer’ who has a ‘depth of knowledge’ and ‘trouble shooting skills’ that are complemented by a ‘meticulous and thorough approach’. This expertise extends to industrial relations.”*
- *“very competent and commercial in his approach”*
- *“Very professional, effective and efficient” and “Extremely knowledgeable, effective and practical”*

Publications

Khong Aik has authored/ co-authored various publications including:

- “Managing Contracts of Employment in Mergers and Acquisitions in Malaysia” in Inter Pacific Bar Association Journal
- Global Legal Insights, International Arbitration 2019 – Chapter on Malaysia
- Media, Advertising, and Entertainment Law Throughout the World (Multilaw, 2008)
- Selected Articles
 - Apex court rules that foreign employee on successive fixed-term contract is permanent employee
 - Apex court finds controller of housing’s powers to waive or modify provisions of statutory contract invalid
 - Chargee not liable to purchaser when order for sale is set aside
 - Court rules on banks’ rights under absolute assignment after issue of title to land
 - Courts weigh in on requirements for breach of confidentiality claims
 - COVID-19 - Legal Mechanisms for Companies and Individuals Facing Financial Distress
 - Dishonesty must be present before debtor in assignment can be made liable
 - Embrace the storms of the Movement Control Order
 - Embassy dismisses employee: exercise of jure imperii or act of jure gestionis?
 - Federal Court maintains wide scope of Companies Act 1965 in oppression cases
 - Federal Court rules that Arbitration Act provisions do not apply to non-parties to arbitration agreements
 - Movement Control Order & Employment - 4 Key Aspects for Employer
 - Movement Control Order & Employment Workplace Safety and Health
 - Origin of section 17A of MACC Act 2009 - Lessons from UK Experience

Publications

- Selected Articles
 - Section 17A of MACC Act - What are the lessons learnt from foreign case studies
 - Section 17A of MACC Act - Have you adopted Adequate Procedures
 - Section 17A of MACC Act - How to safeguard your company against corporate corruption
 - Stricter confidentiality obligation on lawyers