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CAVINDER BULL, SC

Drew & Napier

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Bae, Kim & Lee

SEON TAE KIM

Lee & Ko

STEVE KWOK

Skadden, Arps, Slate, Meagher & Flom

LEE ENG BENG, SC

Rajah & Tann Singapore

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ASIAN LEGAL BUSINESS

ASIA'S TOP 15 LITIGATORS 2022

Litigators are valued for their ability to solve complex problems and adapt quickly to changing circumstances. As the second edition of this annual ranking shows, these attributes have never been more valuable, particularly in the shadow of the COVID pandemic.

RANKING BY ASIAN LEGAL BUSINESS, TEXT BY ELIZABETH BEATTIE

A conversation with Tony DongWook Kang, one of ALB Asia Top 15 Litigators 2022

Can you tell us about some of your notable cases in the past 12 months?

Most of them are confidential. One that has already been published in the news would be the diesel-gate rooted criminal/civil case in which Client had great success, especially compared to other giant global motor makers. Another case where a globally well-known candy brand was involved, Client has multi-jurisdictional dispute in Germany, Singapore and Korea. We had a huge victory in the Singaporean court case last year, and hope it would trigger a chain effect in Germany and Korea.

What has been your biggest motivation in your career?

As a judge, I believe it was justice. As a litigator in private practice, it was and still is the desire to win and/or provide the best solution for Client.



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In your opinion, what separates a great litigator from a merely good one?

Frankly not sure if I deserve this fundamental question, but roughly, maybe it would be the possession of both of the bird's eye view and the worm's eye view. It requires to carefully review raw materials while possessing the ability to design a master plan, and is a very tough task since you have to be versed in every details of the (usually extremely complicated) case.

As cases become increasingly complex and processes change continuously during the ongoing pandemic, litigators need to be both sure-footed and nimble. And having honed their craft over years, apart from managing client needs and relationships under immense pressure, lawyers who made the second annual ALB Asia's Top 15 Litigators list stand out for being resilient, tenacious and strategic.

Some of these lawyers have known that litigation was their calling from the very beginning. Eugene Thuraisingam, partner at Singapore's Eugene Thuraisingam, has had a particular interest in criminal litigation since he was young. "I used to look out for newspaper articles reporting on criminal cases as well as always looking forward to television shows involving lawyers," he says.

"It was therefore natural that when I graduated from law school, I decided on a career in litigation which I have found to be fruitful. I have learnt that I enjoy solving problems immensely. I

SUBMISSION BREAKDOWN

Country	Number of submissions
Hong Kong	11
India	18
Indonesia	4
Japan	2
Korea	11
Malaysia	9
Philippines	3
Singapore	17
Thailand	3
Vietnam	7
Saudi Arabia	1
TOTAL	86

see every dispute as a problem to be overcome from the client's perspective," Thuraisingam adds, noting that the challenging aspects of the profession are often where he finds enjoyment.

"The challenge of immersing myself into that dispute, and strategising and challenging myself to find that one thing that will win the case is something I have found rewarding, fulfilling and most importantly, enjoyable," he explains.

For Cavinder Bull, chief executive officer at Singapore Big Four firm Drew & Napier, hands-on experience provided him with a lightbulb moment.

"I found it a very stressful experience preparing for the moot [at university] and had come to the conclusion that the experience was teaching me that I could not be a litigator. However, when I stood up to speak and questions started coming from the judge, I realised I could do this," Bull says.

In South Korea, Tony DongWook Kang, partner in charge of international arbitration and litigation of Bae, Kim &

A conversation with Cavinder Bull, SC, one of ALB Asia Top 15 Litigators 2022

Please tell us a briefly about your practice and your most notable cases in the past 12 months.

My practice is fairly diverse and covers both court work as well as international arbitration. My court work focuses on corporate and commercial disputes, albeit across a wide range of industries, and conduct trials as well as engage in appellate advocacy. I enjoy the dynamism of conducting trials in the Singapore Courts and I enjoy the high intellectual challenge of appellate advocacy.

The international arbitration work is also engaging. I act as counsel in international commercial arbitrations and sit as an arbitrator in Investor state arbitrations. I have done arbitration hearings in various cities including Singapore, Hong Kong, London, Milan, Tokyo, Paris, Washington.

The last 12 months has been busy. I acted for the liquidators of oil trading company Hin Leong Trading in a fraud claim for US\$3.5 billion against the former directors and shareholders of the company. In particular, I led an application for a worldwide freezing order to be granted against the defendants in this case and following a number of hearings,



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successfully obtained the freezing order in the amount of US\$3.5 billion. I also continue to act for the former Prime Minister of Georgia in his claim against a professional trust company for

a breach of trust which led to massive losses in an investment portfolio worth over US\$1 billion. Another noteworthy case was my representation of a Chinese State-owned company in a claim against an Indian conglomerate relating to the supply of equipment for the construction of a power plant in India. It has been satisfying to be involved in a broad range of cases in the last year and I'm hopeful that this will continue.

What has been your biggest motivation in your career?

I want to be involved in the most significant cases of the day so that I can have a part to play in helping to determine the important issues of the day.

In your opinion, what separates a great litigator from a merely good one?

To me, a great litigator is one who deploys his skill in court with integrity and marries that with a great thirst for knowledge of the law and beyond. He (or she) is someone who loves a challenge, values diligence and hard work, speaks clearly, listens carefully, and is tenacious in getting to the truth.

Lee, found his way to litigation as the result of a career evolution.

"I started my career as a judge 28 years ago, so after 12 years in the Korean judiciary, I did not actually have a choice but to adapt my prior training and experience in my private practice," says Kang.

CHANGING LANDSCAPE

Adaption is a critical attribute for lawyers, and for disputes lawyers in particular. Over the years, court craft has continued to evolve, requiring practitioners to adjust approach at the same time.

Kang notes such changes require a careful balancing act. "With advanced technology, court briefs are getting thicker.....colourful and enriched with pictures, diagrams, charts etc that were never seen 20 years ago. However, this also is now causing extreme fatigue and stress to Korean judges. Since we have to eventually persuade the judges in the direction of our clients' favour, this always should be the most important

factor to keep in mind. How to convince the judge more efficiently," he says.

Bull, meanwhile, observes that advocates now have less time to persuade a judge or cross-examine a witness. "It has required us to be much more surgical in our advocacy," he says of developments in this area.

While many things have changed as a result of technology, Thuraisingam says "the essence of lawyering remains undisturbed."

"At its core, good lawyering requires one to identify the one or two key issues that a case would turn on and to construct a case around the same," he says.

Considering the experience required for young lawyers in this field, Bull says "any aspiring advocate needs to immerse themselves in the courtroom."

"They need to spend time watching all sorts of hearings in court and they must seize opportunities to speak in court, even if they are simple and unglamorous opportunities. Often the

price that needs to be paid to be able to spend time in court is hours of preparation; don't be afraid of that. It will pay dividends as it will enable you to understand what is going on in the courtroom and deepen your experience and you watch, learn and then step forward and speak. Do not be afraid. If you prepare well and speak clearly, you will do fine," he says.

But while preparation is key, there is also something to be said for a selective approach.

"For young lawyers, the temptation to throw the kitchen sink must be tempered," Thuraisingam says. "Instead of devoting equal air-time to all six arguments, one needs to learn how to prioritise the arguments. At the same time, being nimble and responsive to the court is vital."

"Good oratorical ability and drafting skills can only take one so far without efficient deployment. With experience, even in the most complex of cases, you will be able to identify the few issues that

A conversation with Eugene Thuraisingam, one of ALB Asia Top 15 Litigators 2022

What were the highlights of the past 12 months?

We have a strong pro-bono public interest litigation practice that sits alongside a robust commercial disputes and criminal investigations practice.

We brought three important constitutional law challenges to the Singapore Court of Appeal. These challenges related to freedom of speech, the freedom to assemble, and Section 377A of the Penal Code, a law that criminalises sexual relations between male adults. We are grateful for the opportunity to contribute in our small way to Singapore's jurisprudence on fundamental liberties through these cases.

Our criminal practice has savoured some sweet victories, including acquittals for clients who faced the death penalty for murder and drug-trafficking, and two doctors accused of sexual offences.

It was also a busy year for our commercial disputes practice. We acted for the claimant in a large multinational arbitration concerning the ownership of a lucrative oil and gas concession. We also acted for the defendant in an arbitration over claims brought by a large financial institution



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arising out of a shareholders' agreement for a listed company. In both matters, the claims exceeded USD100 million. After fighting long and hard, we were happy to have positioned these and other matters towards successful settlements.

What drives you?

Due to the nature of our practice, many times we find ourselves on the side of the 'little guy'. I am motivated to help the 'little guy' in tough arenas. We have been blessed to possess a particular skillset that enables us to alleviate the problems of others and I strive to use that skillset to the best of my ability. I strive to be in their corner, to fight with them, and to act in their best interests at every turn. That is what fighting in the litigation arena is.

What separates a great litigator from a merely good one?

One must be able to identify quickly what are the key issues in any dispute. Having identified the issues, one has to have a good grasp of the evidence and the rules of procedure so as to be able to develop a core strategy for positioning the case for trial.

Cases are often won or lost on a few documents or on the credibility of a single witness. One must be able to identify what is it that is going to win you the case and to bang hard on that instead of being distracted by issues which may not move the needle.

will weigh heavily on the court's mind in the final analysis," he says.

In addition to advocacy skills, young lawyers must have a strong ethical and moral compass Thuraisingam says, after all "a disputes lawyer's fundamental duty is to be honest."

"Be honest with the court and the client. Always treat others – opposing counsel, juniors, anyone around you really – with decency and fairness. Never stop doing this, even if sometimes your efforts go unreciprocated. These virtues have stood the test of time, and will continue to persist and remain relevant, especially when sieving the great litigators from the good ones," he says.

CLIENT RELATIONSHIPS

Strong client relationships are critical, but since the pandemic shifted meetings online, lawyers have had to mitigate against the challenge this poses, and ensure strong ties despite the distance.

"Initially, it was difficult to achieve the same level of rapport with clients via

METHODOLOGY

- Submissions were open to practicing litigators permanently based and practicing law in Asia
- One firm could nominate up to two lawyers
- Lawyers were assessed on outstanding achievements in litigation case(s) either taking place in Asia or representing an Asian client overseas between Nov. 1, 2020, and Nov. 1, 2021
- 'Submissions from mainland China, Australia and New Zealand were not considered for this list

a virtual meeting," Thuraisingam says. "This is understandable as, many a time, our clients are facing a very troubling financial or criminal issue. During such times, the value of a firm handshake, the comfort that one takes in the physical presence of another, and the 'feeling' that the person across the table will be in your corner through thick and thin, cannot be understated."

"However," adds Thuraisingam, "we all had to adapt and deliver, in so far as it is possible to do so, the same level of confidence and reassurance as one would have after an in-person meeting."

Another approach he deploys where possible, and usually on a smaller scale as a result of the prevailing COVID-19 measures, is to try to connect with clients in person to touch base.

"Although virtual meetings are great, I do not believe they are a complete substitute for in-person meetings, especially when it comes to building deep and lasting working relationships," Thuraisingam says. 