



CPD 3/19
Dated 9 Apr 2019

The Continued Professional Development Subcommittee presents a talk on
“The End Game for Exclusion Clauses?”

10 May 2019 (Fri)
2:30pm to 6:00pm (Registration will begin at 2:00pm)
Penang Bar Auditorium, No 4 Green Hall
10200 Penang

Registration Fees:

- RM60.00 Members of the Bar
- RM30.00 Members Admitted from 1 July 2011 & Pupils In Chambers
- RM120.00 Non-members

Synopsis:

In 2018, the Federal Court delivered a decision that shook the landscape of contractual law; that all-encompassing exclusion clauses will no longer afford absolute protection to banks and other financial institutions from being sued. The unfairness of such clauses was also held to be against public policy, and that courts can now intervene in contracts of such nature. This decision has sent shockwaves across various industries, with many institutions or bodies who traditionally rely on such absolute protection now having to overhaul their contracts to reflect the change in law. Even Bank Negara Malaysia has gotten in on the act, by recently giving a new directive to all banks requiring them to use simple language and avoid unfair contract terms, citing this landmark decision as a platform for this reform.

Does this decision mark the beginning of judicial activism in upholding fairness in contract, despite the lack of statutory provisions to do so? Does this decision impinge upon the freedom to contract? Will this decision become the endgame of all exclusion clauses?

ONG YU JIAN, the Counsel who argued this case at the Federal Court, and won, will be sharing his views on this decision, giving his thoughts on the practical effects of this legal development and on hand to answer any burning question you may have about this change in law.

The speaker:

A product of Penang Free School, **Ong Yu Jian** obtained his law degree from the University of Northumbria at Newcastle, UK in 2003. He was called to the English Bar in 2005 from the Honourable Society of Gray's Inn. Upon returning to Malaysia, he commenced pupillage at Messrs Ghazi & Lim in Penang and was called to the Malaysian Bar in 2006.

He commenced practice as an associate at Messrs Raja, Darryl & Loh in their Dispute Resolution department. 5 years later, he left to become a Founding Partner at Messrs Raj, Ong & Yudistra, where he currently practices from.

Primarily a civil litigator, Yu Jian's area of practice include corporate & commercial litigation, intellectual property, contested probate & administration dispute, trust and real property law, insolvency & restructuring, banking, debt recovery, appellate Court counsel work, entertainment law and selected corporate advisory.

Yu Jian is also a firm believer in legal development and raising awareness to both Bar and society; where he has actively involved himself in talks, seminars, presentations and contributing articles of legal interests and development.

In his spare time, Yu Jian is an avid football fan, animal lover, food & drink connoisseur and complete geek when it comes to pop culture and movies.

Issued by:

Tan Swee Cheng & Dev Kumaraendran
Co-Chairpersons
Continued Professional Development Subcommittee

Bar Council CPD Accreditation Code:
T3/10052019/PGB/PGB192251/3
3 CPD points

I would like to register for the event (all fields must be completed):

Name: _____

[tick where applicable]

Member of the Bar (BC Membership No.): _____

Member Admitted from 1 July 2011 (BC Membership No.): _____

Pupil in Chambers (Petition No.): _____

Non-Member (NRIC No.): _____

E-mail Add: _____

Name of Firm/Organisation: _____

Address: _____

Tel No: _____ Fax No: _____

Date: _____

Signature: _____

Payment options:

- (1) Direct deposit to Public Bank Berhad (Account: 3060545211); or
- (2) Cheque or bank draft, payable to "Penang Bar Committee"; or
- (3) Cash payment, at the Penang Bar Secretariat.

All payments must be made in advance of the event, and include all bank charges. Registration must be accompanied with payment to guarantee your place.

- Places are limited and registration is on a first-come, first-served basis.
- Cancellations must be made in writing. There will be no refunds for cancellations made after 8 May 2019 (Wed) but substitutions are allowed.
- The organiser reserves the right to modify, cancel or postpone the event, should circumstances arise that make such action necessary.
- Points for the Continuing Professional Development ("CPD") Scheme will not be awarded to Members of the Bar and pupils in chambers who arrive more than 15 minutes late, are not present throughout the event, or leave before its scheduled end.
- Please direct all correspondence (including completed registration forms) and enquiries to:

Charmaine Rodrigues
(T: 04-261 5669 / F: 04-262 8664 / E: secretariat@penangbar.org)

The personal information that you provide to the Penang Bar Committee, whether now or in the future, may be used, recorded, stored, disclosed or otherwise processed by or on behalf of the Penang Bar Committee for the purposes of facilitation and organisation of this event, research and audit, and maintenance of a participant database for the promotion of this event, and such ancillary services as may be relevant.