

# Peter Justin Skelchy

PARTNER



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## PROFILE

Peter Skelchy is an accomplished advocate with over 26 years of experience in high value complex commercial, corporate and civil disputes. Within that time, he has appeared in all the divisions of the High Court in Malaya, the Industrial Court, the Court of Appeal and the Federal Court. The cases he has handled have been reported in the Malaysian Law Journals and even referred to in judgements in the United Kingdom.

Known for his exceptional attention to detail and strategic thinking, he has a reputation for working hard to achieve his clients' objectives.

## WORK HIGHLIGHTS

### ADMINISTRATIVE & PUBLIC LAW

- › Acted for the State Finance Officer of the State of Pahang at the High Court, Court of Appeal and Federal Court in opposing a judicial review application to apply for an order of mandamus (see: *Seruan Gemilang Makmur Sdn Bhd v. Pegawai Kewangan Negeri Pahang [2016] 2 MLRA 597*).
- › Represented the Advocates & Solicitors Disciplinary Board at the Federal Court, where the court affirmed the finding of professional misconduct in a matter involving breach of stakeholder duties (see: *Datuk M Kayveas & Anor v Bar Council [2013] MLJU 714*).
- › Acted in a Federal Court matter involving the ad hoc application of a foreign counsel to the Malaysian Bar under Section 18(1) of the Legal Profession Act 1976 (see: *Cherie Booth QC v Attorney General, Malaysia & Ors [2006] MLJU 423*).
- › Acted in proceedings for a company concerning the exercise of judicial functions in the Court of Appeal in relation to whether adverse findings made by the Court of Appeal showed a real danger of bias.

### ARBITRATION

- › Acted in an arbitration for, inter alia, a Malaysian party for a claim brought by a company registered in the Kingdom of Thailand in relation to a contractual dispute involving a petroleum development project.

### CIVIL & COMMERCIAL LITIGATION

- › Acted for a publicly listed software company in a contractual dispute arising from a financial software development contract where the court held that the statutory body was not entitled to rescind the agreement and awarded the software company RM6,638,396.30 in losses and damages for works performed (see: *Amanah Raya Berhad v Mesiniaga Berhad [2024] 3 AMR 258*).

## QUALIFICATIONS

### Advocate and Solicitor

High Court in Malaya

2000

### Certificate in Legal Practice

1999

### BA Laws (Hons)

University of Leeds

1997

## PRACTICE AREAS

- Administrative & Public Law
- Arbitration
- Banking & Finance Litigation
- Civil & Commercial Litigation
- Corporate Litigation & Shareholders' Disputes
- Employment Law & Industrial Relations
- Restructuring, Insolvency & Bankruptcy
- Wills, Probate & Estate Planning

## WORK HIGHLIGHTS

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- › Acted for a public listed company in a commercial fraud litigation matter against an Indonesian entity and 2 former directors where the court found the former directors liable for, inter alia, breach of fiduciary and statutory duties, and conspiracy to defraud and injure, resulting in a USD 27 million award (decision upheld by Court of Appeal) (see: *Protasco Bhd v PT Anglo Slavic Utama & Ors* [2023] MLJU 2435).
- › Acted for a public listed company in a landmark Federal Court case which established that Section 7 of the Bankers' Books (Evidence) Act 1949 ("BBEA") allows direct inspection of banking records without the procedural constraints of Order 24 of the Rules of Court 2012. The decision further clarified the statutory definition of "banker's books" under the BBEA (see: *Protasco Bhd v Tey Por Yee & Anor and other appeals* [2021] 6 MLJ 1). The Federal Court upheld the High Court's decision in *Protasco Bhd v PT ASU & Ors* [2019] 9 MLJ 417; the aforesaid High Court decision was referred to in *Meng v HSBC Bank plc and others* [2022] QB 71 (England and Wales King's Bench Division).
- › Acted for a public listed company in a Court of Appeal matter concerning a stay of court proceedings granted to non-parties to an arbitration agreement (see: *Protasco Bhd v Tey Por Yee and another appeal* [2018] MLJU 993).
- › Acted for a public listed company, its subsidiary and its director at the High Court and Court of Appeal against a claim premised on breaches of trust, fiduciary and statutory duties and contract, negligent misstatement and the tort of conspiracy to injure (see: *Seow Hoon Hin v Hartalega Holdings Bhd & Ors* [2019] 5 MLJ 421).
- › Successfully defended a financial institution against a claim premised on the tort of negligence (see: *Sugi Sinar Sdn Bhd v Bank Muamalat Malaysia Berhad; Small Medium Enterprise Development Bank Malaysia Berhad (Third Party)* [2017] MLRHU 37).
- › Acted for the appellants in a landmark Federal Court case where the court considered whether an order made by the Court of Appeal under Section 44 of the Courts of Judicature Act 1964 ("CJA") is appealable under Section 96(a) of the CJA (see: *Metramac Corp Sdn Bhd (formerly known as Syarikat Teratai KG Sdn Bhd) v Fawziah Holdings Sdn Bhd* [2006] 4 MLJ 113).
- › Acted for a company in proceedings against a state-owned national land development agency in a claim for, inter alia, unjust enrichment seeking damages of RM170 million.
- › Acted in proceedings for various types of injunctions e.g. Mareva (Freezing) Injunctions, Anton Piller, Erinford Injunction.
- › Acted in proceedings for stay of legal proceedings e.g. stay pending arbitration, stay pending appeal, stay pending the determination of other suits.
- › Acted for family members in a claim for willful default and misconduct in the administration of the Estate of a deceased patriarch of a prominent family which has a substantial interest in a bank.

## CORPORATE LITIGATION & SHAREHOLDERS' DISPUTES

- › Successfully represented the shareholder of Papparich Group Sdn Bhd at the High Court and Court of Appeal in a claim for breach of an oral share acquisition agreement (see: *Chen Khai Voon v Lim Beng Guan* [2021] MLHU 2778 (HC)).
- › Acted for a public listed company in successfully striking out a derivative action brought by a minority shareholder (see: *Kingdom Seekers Ventures Sdn Bhd v Dato' Seri Chong Ket Pen & Ors* [2015] MLJU 390).
- › Acted for a public listed company and its major shareholders in a claim brought by a shareholder for breach of trust and breach of statutory duties pursuant to the Capital Market and Services Act 2007.
- › Acted in proceedings on oppression of shareholders.
- › Acted in various proceedings involving shareholders' disputes.
- › Acted in petitions to wind up companies on various grounds e.g. just and equitable, that the directors have acted in the affairs of the company in their own interests, etc.
- › Acted in proceedings for injunctions to restrain the removal of directors and to restrain the transfer of shares.
- › Acted in proceedings for directors to inspect a company's accounting records.