

Siva Kumar Kanagasabai

Senior Partner & Head of Dispute Resolution

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Qualifications

- Diploma in International Arbitration, Chartered Institute of Arbitrators (2012)
- Advocate and Solicitor, High Court of Malaya (1995)
- Bachelor of Laws (Hons), University of Adelaide (1994)
- Bachelor of Commerce, University of Adelaide (1993)

Languages

- English
- Malay



Kumar is the firm's Head of Dispute Resolution and Senior Partner who has been in legal practice for more than 30 years. He is actively involved in corporate and commercial litigation and arbitration with specialisation in maritime and shipping law, fraud and asset recovery, employment and general commercial disputes.

He has acted in complex and high value disputes including in one of the largest ever fraud recovery actions globally. He has been praised for his practical and pragmatic approach in finding solutions for clients involved in disputes.

Kumar's experience in maritime and shipping issues is extensive. He has been engaged in various types of maritime related disputes including those involving in ship arrests, charterparty disputes, oil pollution claims, vessel detentions, cargo claims, commodity contracts and enforcement of ship mortgages under both conventional and Islamic facilities.

He also has an active arbitration practice. Apart from being appointed as arbitrator, he has acted as counsel in both domestic and international arbitrations, sought interim measures in support of foreign seated arbitrations and dealt with challenges to arbitral awards in the Malaysian Courts.

Kumar has been actively involved in employment issues and investigations. He has acted as lead counsel in a full range of employment-related disputes including in some landmark cases.

Kumar also receives appointments by external solicitors to act for their clients at major hearings involving commercial matters. He is a regular contributor to law publications and is often invited to speak at legal conferences.

He is a Fellow of the Chartered Institute of Arbitrators.

Experience

(includes experience prior to joining HHQ in 2026)

Maritime and Shipping

- Acting in inter-related claims for breach of ship management agreement in the High Court and an alleged breach of the bareboat charter agreement in arbitration involving a claim in excess of RM100m.

Practice Areas

- Maritime and Shipping
- Commercial Litigation
- Arbitration
- Fraud and Asset Recovery
- Employment
- Company and Shareholders Disputes

- Acting in a claim in excess of US\$20m to set aside an arbitration award involving the sale and purchase of commodities involving shipping and incoterm issues (*Olam Global Agri Pte Ltd v Aastar Trading Pte Ltd* [2025] CLJU 1413; *Olam Global Agri Pte Ltd v Aastar Trading Pte Ltd* [2025] CLJU 1250).
- Acted for shipowner in an in rem claim by the charterers arising from the operation of a casino business on board a vessel in international waters.
- Acted in *Nassau Maritime Holdings Designated Activity Co v The Owners of the Ship or Vessel 'Cape Lambert' of The Port Of Marshall Islands* [2020] 11 MLJ 561 which decided the Constitutional issue of whether the High Court of Malaya had jurisdiction to arrest a vessel in the territorial waters under the jurisdiction of the High Court of Sabah & Sarawak.
- Acted as counsel in *New World P&I Service Co Ltd v The Disponent Owner and/or The Demise Charterer of The Ship and/or Vessel "Es Valor" of The Port of Monrovia, Liberia (Huihong (Tianjin) Shipping Lease Co Ltd, intervener)* [2024] MLJU 3653 which decided the issue of whether the termination of the bareboat charter required the redelivery of the Vessel and the standard of proof to be applied when invoking the Court's in rem jurisdiction.
- Acted in several claims where vessels were arrested as security for local and foreign seated arbitrations.
- Acted in an *in rem* claim by charterers for monies paid to operate a casino business on board a vessel.
- Acted in obtaining an order to prevent dealings with a luxury yacht under the Langkawi International Yacht Registry Act 2003 in a matter involving claims by a sovereign nation and issues of conflict of laws.
- Acted in an *in rem* claim involving crude oil delivery of approximately 1 million barrels worth in excess of US\$76m.
- Acted in claim for undelivered cargo involving multiple claimants, issues on title to the cargo and priority/validity of security issues.
- Engaged by MLC underwriters in relation to unpaid crew claims.
- Acted as counsel for shipowner in multi-million dollar cross-border cargo damage claim in an international arbitration.
- Acted as counsel for ship owners in claims against port authorities for damage to a vessel during loading.
- Acted as counsel in a multi-million dollar claim for alleged breach of bunker supply agreement as well as in other bunker supply claims.
- Acted for mortgagees and receivers in enforcement and recovery actions against vessels.
- Acted in a multi-million dollar shipbuilding contract and charterparty dispute.
- Acted in ship arrests and setting aside orders for ship arrests in Malaysian ports in connection with various maritime claims.
- Gave expert evidence on Malaysian law on ship arrest in an LMAA international arbitration whose seat of arbitration was in Singapore.
- Acted in shipping-related insolvency matters, including for bank, receivers and liquidators in priority claims brought by an equitable mortgagee involving the liquidation of a shipyard.
- Acted in an arbitration claim involving a breach of commodity supply contract.
- Acted in various judicial sales of vessels including in applying to set aside arrest.
- Acted as counsel in a claim involving the novel issue of the jurisdiction of the admiralty court to arrest Vessels in the context of Malaysia having 2 High Courts with separate territorial jurisdictions.
- Advised and acted for clients in claims involving security over vessel and cargo and priority claims.
- Acted in ship collision matters including in rem claims in Court for loss or damage caused by a ship.
- Acted in claim for demurrage charges in excess of US\$1.7m due to alleged misrepresentation on loading rate by service provider.

Commercial Litigation and Arbitration

- Acted as counsel in the enforcement of a foreign court judgment at common law for the sum in excess of RM140 million which involved issues of private international law (*PT Sandipala Arthaputra v Muehlbauer Technologies Sdn Bhd* [2021] 9 CLJ 484).
- Acted as counsel in successfully obtaining an injunction to freeze assets in excess of US\$76 million as an interim measure in aid of a foreign seated arbitration involving an oil trading dispute (see *Atlantis Commodities Trading Pte Ltd v Orin Energy Investments Ltd* [2024] MLJU 705).
- Acted as counsel in seeking the arrest of a Vessel in aid of an arbitration involving a charterparty dispute (*New World P&I Service Co Ltd v The Disponent Owner and/or The Demise Charterer of The Ship and/or Vessel "Es Valor" of The Port of Monrovia, Liberia (Huihong (Tianjin) Shipping Lease Co Ltd, intervener)* [2024] MLJU 3653).
- Acted as counsel in an arbitration in a bareboat charterparty dispute involving a claim in excess of RM100m.
- Acted as counsel in an arbitration claim for an alleged breach of warehouse services agreement.
- Acted as counsel in a domestic arbitration in relation to alleged breaches of a concession agreement involving total claims in excess of RM100 million and in subsequent applications and appeals to set aside the award (*Dawama Sdn Bhd v The Board of Control of Dewan Bahasa dan Pustaka* [2021] 12 MLJ 747, [2021] 8 CLJ 805).
- Engaged as counsel to defend and challenge an arbitration award in the High Court and thereafter on appeal.
- Acted as co-counsel in a partnership dispute involving a large Malaysian law firm which has been referred to

arbitration.

- Acted for the Defendant in a securities and margin financing claim in excess of RM600 million.
- Acted for mutual organisation in a claim by a member against the mutual organisation on the right to seek support.
- Acted as counsel in a land dispute where a challenge was made on the indefeasibility of registered title and which involved allegations of illegality and forgery.
- Acted for major insurance companies in obtaining vesting orders in relation to business transfers.
- Acting as counsel for the Malaysian Bar in seeking an injunction in a claim against a leading corporation for carrying on practices within the exclusive domain of lawyers.
- Acted as counsel in whether a claim commenced in non-compliance with small claims procedure is null and void : *Pushpaneela A/P Suppiah v Ong Yen Chong [1999] MLJU 369*.
- Acted as counsel in an action to set aside the Court auction of a land due to alleged irregularities in the process : *MCGP Utilities Sdn Bhd lwnNishihara Environmental Sanitation Research Corp Ltd & Ors [2007] 3 MLJ 278*.

Fraud & Asset Recovery

- Acted in one of the largest ever fraud recovery actions globally against the shadow director, parties who participated in the fraud and provided dishonestly assistance; as well as beneficiaries who knowingly received company assets.
- Engaged to act in various fraud recovery action against directors, employees and third parties who facilitated fraud/misappropriation of monies.
- Acted in a multi-jurisdictional recovery action against the Defendant who had defrauded a foreign company, including obtaining injunctions and other interim orders.
- Acted in investigations/inquiries into fraud and corruption by employees including where the FCPA applied.

Employment

- Acted as counsel in the Court of Appeal in *Telekom Malaysia Kawasan Utara v Krishnan Kutty Sanguni Nair [2002] 3 CLJ 314* which is the landmark case which decided the standard of proof to be applied by the Industrial Court when adjudicating unjust dismissal claims.
- Acted as counsel in *Ching Hong Seng v Kumpulan Hartanah Selangor Berhad & Anor [2021] 1 LNS 1760*, a case that was argued at every Court level and involved the issue of whether the CFO acted with authority in approving payments.
- Advised local and international clients to crisis manage issues for companies in Malaysia in respect of senior management misconduct, acting in excess of authority and other wrongdoing and removal of senior personnel, including in the context of the US Foreign Corrupt Practices Act.
- Advised on the employment aspects in numerous mergers and acquisitions; and business takeovers.
- Acted as counsel in the Court of Appeal which decided an important point of law about the legal rights of an employee after privatization.
- Acted as Counsel in the Court of Appeal and as junior counsel in the Federal Court in the landmark case of *Padiberas Nasional Bhd. V Zainon Ahmad [2011] 8 CLJ 38* on the effect of a voluntary separation scheme on the rights and obligations of parties under the contract of employment.
- Acted in various claims for unjust dismissal involving senior management including claims of abuse of position, sexual harassment and breaches of duty.
- Acted as counsel in a claim by 292 employees of fraud, misrepresentation and conspiracy on the part of a corporation in a VSS exercise.
- Advised and acted in various industrial relations matters, issues relating to trade union competency and the locus standi of trade union to represent employees.
- Acted as junior counsel in the landmark case of *Kesatuan Kebangsaan Wartawan Malaysia v Syarikat Pemandangan Sinar Sdn. Bhd. [2001] 3 MLJ 705, [2001] 3 CLJ 547* on whether the transferee of assets is bound by the collective agreement between the transferor and the trade union.
- Acted in various contractual claims involving employees including in *Abracadabra Speculative Ventures Inc. v Colin David Patterson [2014] 1 LNS 1491* which involved the interpretation of a contract in relation to a bonus claim.
- Acted in various actions involving breach of confidentiality and tortious acts by employees.
- Acted as Counsel in a claim against a statutory body on the legality of the appointment of a senior employee (High Court decision reported as *Kesatuan Pekerja-pekerja Dewan Bahasa dan Pustaka v Lembaga Pengelola Dewan Bahasa dan Pustaka [2010] LNS 431*).
- Acted in various judicial review applications involving challenges against decisions of the Industrial Court or the Minister of Human Resources to refer the dispute to the Industrial Court for adjudication, including in *Hasni Hassan v Menteri Sumber Manusia [2013] 6 CLJ 74; Germax Sdn. Bhd. V Menteri Sumber Manusia [2002] 5 CLJ 466*.
- Acted as counsel in the Court of Appeal case of *Germanischer Lloyd Industrial Services Asia Sdn Bhd v Raza Amin*

[2022] 10 CLJ 333 which upheld the decision of the Industrial Court that the dismissal of the Country Manager due to widespread inflating of timesheets by his organisation was with just cause or excuse.

- Investigations into various cases involving allegations of employee fraud, misconduct and corruption.

Company and Shareholder Disputes

- Acted as counsel on appeal in a claim for dividends which involved the issue of whether it was in breach of the Companies Act.
- Acted as counsel in a claim by multiple house purchasers to challenge the appointment of the liquidator and the voluntary creditors winding up of the developer who owed the house purchasers liquidated damages for late delivery.

Membership

- Fellow, Chartered Institute of Arbitrators
- Member, Shipping & Admiralty Law Committee, Bar Council
- Council member of Ikhtisas Kelautan Malaysia (Association of Malaysia's Maritime Professionals)
- Jurisdiction Council Member for Malaysia & Vice-Chair, Anti-Corruption and Rule of Law Committee, Inter-Pacific Bar Association
- Panel member, Asian International Arbitration Centre (AIAC)

Publications

- Author, Malaysian Court Practice - Appellate Court: Courts of Judicature Act 1964 (update), Rules of Court of Appeal and Rules of the Federal Court 1995 (update) (2024)
- Author, Malaysian Chapter in "Remedies for International Sellers of Goods – 2nd Edition", Juris Publishing (2012).
- Author, Malaysian Chapter in Restrictive Covenants and Trade Secrets in Employment Law, American Bar Association (2011).
- Contributing Editor, Malaysian Civil Procedure, Sweet & Maxwell Asia.
- Author of Halsbury's Laws of Malaysia Employment (Original & 2007 Reissue) and Industrial Relations (Original & 2007 Reissue)

Accolades

- Listed as a "Leading Partner" for Shipping by Legal 500 Asia Pacific 2020–2026
- Listed as a "Leading Partner" for Labor and Employment by Legal 500 Asia Pacific 2021-2025
- Ranked in Chambers Asia-Pacific from 2018 – 2026 for Shipping
- Ranked by Chambers Asia-Pacific from 2018 – 2026 for Employment and Industrial Relations
- Recognised as a recommended 'Global Leader' in the Who's Who Legal: Transport – Shipping 2020 – 2024
- Listed in Malaysia Top 100 lawyers by Asian Business Law Journal 2019-2026
- Listed as a "Litigation Star" by Benchmark Litigation Asia-Pacific 2018 – 2026
- Listed as a "Leading Lawyer" by Asialaw Profiles 2018 – 2023 Edition for Labour and Employment
- Listed as a "Leading Lawyer" by Asialaw Profiles in 2017 – 2019 Edition for Shipping, Maritime and Aviation

Client Testimonials

- *'His impressive experience in handling disputes has always proved to garner outcomes that are commercially positive whilst keeping us within the confines of the law'* – Chambers Asia Pacific 2026
- *'Siva Kumar Kanagasabai has sound legal knowledge and provides strong commercial guidance'* – Chambers Asia Pacific 2026
- *'He has strong understanding of the subject matter and provides practical solutions.'* - Chambers Asia-Pacific 2024
- *'Siva Kumar Kanagasabai has a pragmatic approach and deals well with issues at hand.'* - Legal 500 Asia Pacific 2024