

Samantha Gershon

PARTNER | HONG KONG



SAMANTHA.GERSHON@WITHERSWORLDWIDE.COM



+852 3711 1606

SECRETARY CAROL WONG



CAROL.WONG@WITHERSWORLDWIDE.COM



+852 3711 1684



Samantha is a partner in the divorce and family team.

She has over 20 years' experience in litigation and uses her commercial litigation experience to provide a unique perspective to family law cases. Samantha is the Vice-Chair of the Hong Kong Family Law Association ('HKFLA') after having served as its Chair from 2018 to 2021. She is a Fellow of the International Academy of Family Lawyers and is on its Board of Governors as an Asia Pacific Chapter Delegate. She has just been re-appointed for a further three year term by the Chief Justice as a Practising Solicitor Member of the Solicitors Disciplinary Tribunal Panel. Samantha was previously the Honorary Secretary of the HKFLA from 2016 to 2018 and an Executive Member of the Hong Kong Committee on Children's Rights.

Samantha advises on all children issues and has acted in a number of high conflict children cases where one parent has addiction issues. This has meant ensuring that safeguards are in place to protect children before access can take place. Prior to moving to Hong Kong, Samantha worked as a solicitor for the Metropolitan Police Service. Her background in the police assists with being able to recognise techniques used by parties who try to circumvent protective measures set by the Court. This may mean they have resorted to falsifying breathalyser/urine/hair tests or forging documents. With her background, she is able to adapt to fast changing "twists" and "turns" of a case with ease. Nothing fazes her. She has also acted and advised on a number of international relocation cases where one parent wishes to move abroad permanently with the children.

Samantha works equally on a number of complex financial disputes some involving multi-jurisdictional corporate issues and trust structures. With her commercial litigation experience, she is able to obtain injunctive relief if required whether in Hong Kong or worldwide.

Although Samantha is a tenacious litigator and at times has to deal with acrimonious and highly contested cases where no issues can be agreed upon, she is a strong advocate for alternative dispute resolution methods. She is a trained collaborative practitioner. She assists a number of parties through the mediation process in order to avoid contested proceedings and often attends mediation sessions involving complicated legal issues in an

effort to reach amicable solutions. She is on the ad hoc committee (and a founder member of the company set up in Hong Kong) to promote Private Financial Adjudication ("PFA") in family cases and one of the first cohort in Hong Kong to pass the exam allowing her to be accredited as an adjudicator.

Whilst working as a solicitor for the Metropolitan Police Service, Samantha was solely responsible for an action that was to be the largest jury trial ever to be held in a County Court in London. She was awarded a police Commendation for her legal advice and case management skills in handling that action. Whilst with the Metropolitan Police she had a special role within the department dealing with children and wardship issues. This helped recently when she was asked to comment on the Hong Kong Judiciary's draft guidance notes on wardship cases.

Samantha is ranked in Chambers Greater China region in 2023, where her clients noted that "she is very numerate which, of course, is always an important asset in big-money cases" and "Samantha is a solid lawyer and she works enormously hard – not just on cases in front of her but on professional knowledge too". She has also been recommended in the Doyle's Family Law Guide for 8 years in a row.

Track record

Acrimonious divorce proceedings

Acting for and conducting a children's trial on behalf of a mother in highly acrimonious divorce proceedings seeking extreme safety measures to be put in place to protect the children before the father would be able to commence access after not seeing the children for some time. This resulted in a successful Judgment which included written questions being put to the father by the children with the suitability of the answers having to be considered by child psychologists before even telephone access could commence.

Cross examination prevention

Acting for a mother in the first application of its kind made to the Hong Kong Court to prevent the father who was acting in person, from cross examining her in Court whilst there was a non-molestation order in place to protect the mother and the children.

Enforcement matters

Advising the client in relation to enforcement matters such the use of Hadkinson orders to block a litigant who was in contempt of court from making further applications to the court.

Section 17 application

Acting for a client where the spouse alleged that shares held under a trust arrangements for a member of their family which returned substantial dividends when the money came into the spouse's bank account under the same arrangement. This led to the necessity of issuing a Section 17 application under the Matrimonial and Property Ordinance (Cap 192) and the member of the family was successfully added as a party to the proceedings as an intervener.

Family case litigation funding

In the trust case outlined above, following the many preliminary issue hearings which had to take place (which included access arrangements for the children), the client required litigation funding. An application was made seeking litigation funding from a third party. This was the first time such an application had been made in a family case in Hong Kong and involved the consideration of the concepts of champerty and maintenance and access to justice in Hong Kong's Basic Law and Bill of Rights.

Preventing spouse from relocating

Advising a pilot who was fighting to prevent his spouse from relocating from Hong Kong on the basis that due to the nature of the airline's flying roster the pilot was able to split time with the children 50/50 and therefore it was not in the best interests of the children to leave Hong Kong.

Premarital assets

Acting for a high-net-worth individual concerning premarital assets and his retirement payments which involved arguments in respect of assets accrued post separation. There were also issues in respect of his decision to change direction and take on a less lucrative role and the impact that this would have on the family's lifestyle.

Protection of children

Acting for a father whose wife had alcohol addiction issues and ensuring measures were in place to protect the children whilst the children were in her care so that she could both continue to have access and recover from her addiction issues.

Hong Kong family case

Acting for one of the parties in one of the most regularly Hong Kong quoted family cases relating to maintenance pending suit and litigation funding. It was the largest award of maintenance pending suit in Hong Kong made and was later appealed *HJFG v KCY* [2011] HKCA 402 [2012] 1 HKLRD 95. With the same parties she was also involved in an application for the appointment of an interim receiver over the Husband's worldwide assets. *KCY v HJFG* [2011] HKCFI 452.

Prenuptial agreement

Acting for a high-net-worth individual in divorce proceedings where we were seeking an Order in terms of the prenuptial agreement signed by the parties. This case was transferred to the High Court and was the first case where the High Court was due to provide guidance on the procedure to be followed post *SPH v SA* [2014] HKFLR 263.

Ground breaking insolvency case

Working on a ground breaking insolvency case, which is the largest in Hong Kong insolvency history. The liquidators sought to hold the Executive Chairman and CEO accountable and to recover compensation for its creditors and shareholders. The Final Judgment awarded against him was US\$1.2 billion. *Akai Holdings Ltd* [2015] HKCFI 2280.

Talks

- *'Deeds of temporary guardianship'*, Jan 2022
- *'Pre-nups, post-nups and divorce'* - Carlyle Club, Dec 2021
- *'Wills and children matters'* - The Jewish Women's Association of Hong Kong, Dec 2021
- *'Two's company, but is three always a crowd?'* - HKFLA talk, Oct 2021
- *'Facing Challenge | Fuelling Change'* - The Women's Foundation Hong Kong - Virtual Gala 2020, Nov 2020
- *'Financial Discovery for the globally transparent'* - joint webinar with FTI Consulting, Aug 2020
- *'Access to family justice internationally during the Covid-19 crisis'* - Resolution, May 2020
- *'What you need to know about Guardianship in Hong Kong'* - Goldman Sachs, Apr 2020
- *'Planning for the future and keeping it in the family'* - Rotary Club of Kowloon, Sept 2018
- *'Wills and Guardianship'* - Barclays Working Families Network, Apr 2017
- *'Alternative Dispute Resolution for Family Matters in Hong Kong'* - ALB Asia Pacific Arbitration Conference Singapore, Nov 2016
- *'Financial discovery for the globally transparent or not so transparent divorce litigants, the first C5 Fraud, Asset Tracing and Recovery Asia'* conference, Hong Kong - Jun 2015

External publications

- 'Handling cryptocurrencies in Hong Kong divorce proceedings'* - Jan 2022, author
- 'Hong Kong: To quarantine or not to quarantine? That is the question!'* - May 2021, author
- 'Children's well-being in Hong Kong during Covid-19: How We Can Help'* - Mar 2021, co-author
- Parent's Voice and Possible Solution to Ease the Anxiety of the Families during the Pandemic* - Mar 2021, co-author
- 'When Cross Examination Gets Too Tough'* - Jan 2021, author
- 'Are you a divorcee looking to relocate from Hong Kong with your children?'* - Dec 2020, author
- 'Third Party Funding in Hong Kong'* - April 2020, co-author
- 'Prolonged closure of the HK Courts - Time to bring in The A-Team?'* - Mar 2020, author
- 'Chapter 13 on Cohabitation "Family Law & Practice in Hong Kong', Sweet & Maxwell edition 3 [2018] - co-author*
- 'How Hong Kong's children of unwed parents miss out in a break-up - the disparity of treatment between children of unmarried parents and those of married parents', South China Morning Post - Dec 2015, co-author*

Admissions

- England and Wales, 1996
- Hong Kong SAR, 2008

Education

- College of Law, 1996
- Fellow of the Institute of Legal Executives, 1995
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Languages

English

Memberships

Hong Kong Committee on Children's Rights, Executive Member

Hong Kong Family Law Association, Vice-Chair

International Academy of Family Lawyers, Fellow

Hong Kong Family Law Association, Honorary Secretary (2016 - 2018)

Hong Kong Collaborative Practice Group

Member of the International Academy of Collaborative Practitioners

Prosecution Panel for Disciplinary Tribunal Proceedings for the Hong Kong Law Society (2018-2020)

Practising Solicitor Member of the Solicitors Disciplinary Tribunal Panel Hong Kong (2020-2023)

Editorial Board LexisAdvance HK Practical Guidance Dispute Resolution (2014 - Present)

Mentor on the TWF Mentoring Programme for Women Leaders (2015-2016)

Mentor on the Women in Law Hong Kong (WILHK) Mentoring Programme 2017

Key dates

Year joined: 2014

Year became partner: 2016

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