

SPOTLIGHT ON: SIMON CHAPMAN, PARTNER HONG KONG

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Legal Briefings - By **Simon Chapman, Partner**

After Wadham College, Oxford and Nottingham Law School, Simon joined Herbert Smith's London office, where he was the first trainee in the firm's newly-established international arbitration group. He moved to Paris shortly after the London and Paris arbitration teams were formally integrated. And when the firm re-launched its China arbitration team, Simon was one of its founding members, relocating to Hong Kong in 2011, and joining the partnership in 2013. Since then, he has gained a reputation as one of arbitration's most talented practitioners and gifted advocates. He appears in Global Arbitration Review's list of "future leaders", where he is recognised as "a real up-and-comer". Last year, Simon was named Asia-Pacific Rising Star of the Year at the Asialaw APAC Dispute Resolution Awards.

SIMON, YOU ARE AN HSF "LIFER", AND WERE PROMOTED TO PARTNERSHIP AS SOON AS YOU WERE ELIGIBLE. WHAT WOULD YOU SAY HAS CONTRIBUTED TO YOUR SUCCESS IN THE FIRM?

Mainly, it has been the opportunity to work with a group of talented lawyers and great mentors in all the offices where I have spent time. There is also an element of being in the right place at the right time. In particular, the Asian market presents huge opportunities for international arbitration; we have seen exponential growth in the time I've been here, and it is set to continue.

YOU HAVE A REPUTATION AS ONE OF THE BEST ADVOCATES IN YOUR GENERATION OF ARBITRATION LAWYERS. WHAT MAKES A GOOD ADVOCATE? DOES AN ADVOCATE IN ARBITRATION PROCEEDINGS NEED DIFFERENT SKILLS THAN ONE WHO APPEARS BEFORE NATIONAL COURTS?

Advocacy - written or oral - is all about persuasion. There isn't a "one size fits all" approach; the skill is in engaging with the tribunal and developing techniques to persuade each specific decision-maker. This is particularly essential in arbitration, where you have to persuade three different arbitrators, who may come from entirely different legal and cultural backgrounds, and have widely varying expectations. It's not about bombastic, TV-style delivery. It's not even entirely about public speaking skills, although those are important. The best advocates are often the most softly-spoken and least "showy". They distinguish themselves by mastering every detail of their cases, understanding where they are most vulnerable, and addressing those vulnerabilities head on. This lets them package their arguments in the way that is most likely to appeal to the tribunal.

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Good advocates understand the importance of planning and thinking ahead, really getting under the skin of a case, so they are ready for anything in the hearing. Especially in arbitration, we can't assume that we know how the tribunal will approach an issue. It's vital to adapt on your feet, and you can do that only if you are thoroughly prepared. 90% of your preparation may not even be apparent, but it is vital to delivering a polished product at the hearing.

Finally, never underestimate the importance of brevity. The more time you spend mastering the detail, the better you can explain it to the tribunal in a brief and compelling way. This is a truly powerful skill, particularly in complex cases with a lot of technical detail.

AS WELL AS ACTING AS COUNSEL, YOU HAVE RECENTLY STARTED TAKING ARBITRATOR APPOINTMENTS. WHAT HAVE YOU LEARNED FROM SITTING ON THE OTHER SIDE OF THE TABLE?

Sitting as arbitrator has definitely made me a better counsel. Like most people, my first few appointments have been as sole arbitrator in cases that are low value, but no less complex in terms of factual and legal detail. The parties in these cases generally don't have the benefit of experienced arbitration counsel - often they are not represented at all. More and more often, the respondent fails to participate in the case, or is deliberately unresponsive. In these situations, the arbitrator is left to weed through the papers and identify the issues him or herself. This really makes you appreciate the value counsel can add, simply by helping the tribunal to understand the details of the case. Basic tools, like a chronology of key events, or a well drafted pleading, make a huge difference to an arbitrator.

Starting out as an arbitrator can be hard, particularly when sitting on your own, but I have been lucky to have peers I can ask for advice (without, of course, divulging confidential details of the case). Arbitral institutions play an equally important role, by supporting arbitrators on tricky procedural issues or questions of institutional practice. Support from both these sources has been invaluable.

WOULD YOU ENCOURAGE YOUNGER PRACTITIONERS, OR EVEN NON-LAWYERS, TO CONSIDER SITTING AS ARBITRATORS?

Absolutely. It is well known that we need more diversity on arbitral tribunals. The focus has been on gender and cultural diversity, which I applaud; those are a big part of the problem. But all the stakeholders in international arbitration will benefit from an even broader pool of arbitrators, with an even wider range of backgrounds.

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For example, younger arbitrators are often less busy than their more established peers, so they can devote more time and attention to the case. They are also keen to build their reputations in the market, and generally go the extra mile in their work on the arbitration. Non-lawyers bring commercial, market or technical skills and experience to the process, which can be critical to understanding the dispute. I encourage them not to be put off if they don't have legal training. Institutions can appoint them as co-arbitrators together with legally trained tribunal members, or they can rely on counsel to explain the legal issues in cases where it is appropriate for non-lawyers to sit as sole arbitrator.

Diversity can only be an asset to any process. Arbitration is no exception.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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