

Rita is a partner of Rita Ku & Ser.

Having practiced family law for 2 decades, Rita has vast experience and knowledge in dealing with a wide range of family disputes concerning jurisdiction, divorce, children, ancillary relief, etc for successful people or their spouse. She also specializes in resolving other life issues of her clients, such as mental health related application, contentious probate and trust.

Her landmark case **ML v YJ [2010] HKEC 1924** went to the Court of Final Appeal which subsequently changed the law in Hong Kong concerning a party's ability to apply for financial provision following a foreign decree. Many of her cases have also become important precedents and have been relied upon by the legal industry.

Rita is also keen on non-contentious work. She understands the needs of different family dynamics, and often advises established families in Hong Kong to preserve and/or protect their wealth for family harmony. She was the finalist of the "People's Choice – Trusted Adviser of the Year" by STEP, and the Woman Lawyer of the Year of ALB Hong Kong Law Awards 2021. She is ranked as the Preeminent Lawyer by Doyles, and Litigation Star by Benchmark Litigation.

#### **Litigation – Jurisdiction and Finances**

Disputes relating to complex asset holdings structures and trusts, and the discovery thereof, are one of Rita's expertise:

- **WYSL v FHCBA and Ors [2019] HKEC 2379** – a case involving a trust set up by the patriarch and about the wife's needs went to the Court of Appeal and Rita helped the wife to successfully secure a higher lump sum award.
- **W v H and Anor [2009] HKFLR 230** – a case involving a set aside order against a trust created by the Husband after he left the family. This particular case is one of the leading Hong Kong cases on the consideration of special contribution by a spouse. This is a pre DD v LKW case but the principle of equal sharing of family assets was explored.
- **HJFG v KCY [2012] 1 HKLRD 95** – an extremely complicated and contentious divorce with substantial amount of assets, involving a sizeable fund and a trust. The litigation took place in Hong Kong and Cayman Islands and involved heavy negotiation with a third party for a final resolution. Rita had collaborated with legal experts in Hong Kong, UK and Cayman Islands and reputable accountants both in Hong Kong and UK to go through the legal battle for 9 years – one of the longest family litigations. This case remains the leading case on Maintenance Pending Suit in Hong Kong and is the highest interim maintenance award to date. This case also involved an extensive financial discovery against the Husband which later led to a set aside application for a Consent Order due to the Husband's material non-disclosure.
- **AWK v MLTH [2016]** – Rita successfully defended the Husband's position on the Wife's unreasonable request for financial disclosure.

She helps not only the couples who are in family dispute, she also advises their family members who are unfortunately caught up in the dispute as a result of their financial supports to one of the spouses during the marriage. She is not afraid of joining third parties in dispute if it helps to pursue her client's case.

- **CWCC v YKOP (Maintenance Pending Suit and third parties) [2018] HKFLR 320** - an application for Maintenance Pending Suit which involved third party financial assistance.
- **DX v LN & Ors (Anti suit injunction) [2015] HKFLR 525** - Rita acted for the husband's father, the patriarch from a well-known PRC family, in respect of assets held in Hong Kong and the PRC, and successfully helped him to protect the family assets.

After the case of **ML v YJ**, Rita has become a jurisdictional expert, particularly those involving the PRC:

- **CL v ZRC (Jurisdiction; forum non-conveniens) [2015] HKFLR 125** - the husband was found to have a substantial connection with Hong Kong but the PRC was the more appropriate forum for the divorce. The divorce was concluded in the PRC, and the wife invoked the Part IIA application (the change after **ML v YL**) in Hong Kong after the PRC divorce.
- **LN v SCCM [2013] HKFLR 358** - a controversial children removal case before the Court of Appeal involving the conflict of laws between Hong Kong and Singapore, which essentially prompted the judiciary to instigate the system of direct judicial communications which can now be found in Practice Direction SL7.
- **CWYJ v LTYE (Prohibition Orders) [2020] HKCA 913** - Recently, Rita was in the Court of Appeal representing a husband who had moved to Singapore for work and was at the receiving end of a Prohibition Order from the lower court. She succeeded in lifting the order on the basis which violated his right to work and his right to movement and travel which was protected under Article 31 of the Basic Law.

### Children Related Work

Rita has had extensive experience in high conflict children cases, such as on custody, care and control, relocation, Hague Proceedings and adoption:

- **ML v YJ (sole and joint custody) [2008] HKFLR 88** – a case where it is often cited by the practitioners on issue relating to joint/sole custody.
- **BKGGB v BKND [2021] HKFC 100** – a case where Rita has successfully helped the mother to remove the children from Hong Kong to their place of birth. This case also involved serious allegation against the father in respect of his substantial collection on child pornography.
- **MJB v CWC (Hague Convention) [2018] HKFLR 331, BMC v BGC [2020] HKCA 317 and FR v MF [2021] HKCFI 1557** - cases involving the unauthorized removal of a child to Hong Kong from their respective habitual place of residence.
- **YJH v LKHM [2019] HKEC 2954** – this case involved a child of unmarried parents who was abducted to Taiwan by the mother. Despite Taiwan being a non-Hague jurisdiction, the Court did consider the position of the father in the context of the Hague Convention and Wardship proceedings. Rita had led her team to successfully ensure the return of the child to Hong Kong. Further, the Court also dismissed the mother's application on the forum dispute.
- **VK v SAFG (removal) [2018] HKFLR 485** - Rita represented the father in a removal application in which the child was removed from her mother to live with him in Switzerland.

- **GDML v EJR [2019] HKFC 65** – Rita has successfully secured for the father the care and control of two young children from their mother due to safety concerns
- Rita has successfully obtained Adoption Orders for children who were born under Surrogacy arrangements.

### **Other Court Applications**

#### Contentious Trust and Probate and Mental Health

Rita also has experience to deal with disputes concerning the wider family. These include issuing an application under Mental Health Ordinance for a well known philanthropist in Hong Kong. She helped an illegitimate minor to secure his rights over his father's estate. She also issued Probate Proceedings to contest a Grant of Probate issued in favour of a Will.

#### Harassment and Intimidation

- **X and another v Z [2020] HKCFI 826** - Rita has successfully helped a client to issue an injunction for non-molestation against her ex-boyfriend for continuing harassment and intimidation.

### **Alternative Dispute Resolutions**

Rita is never shy to explore effective ways to assist clients to resolve their differences amicably. In addition to the conventional ADR, such as mediation and private FDR, she was the pioneer for:

- Hong Kong's first, and currently the only, Private Financial Adjudication case since the pilot scheme was introduced in 2015. In this landmark case, she represented the wife in a private adjudication, conducted before a retired Judge, in a timely manner during COVID-19 pandemic.
- She was also involved in one of the few Mediator-facilitated Financial Dispute Resolution Hearing and has helped to settle an impossible agreement.

### **Non-Contentious Work**

Rita has particular expertise in wealth preservation for ultra-high-net-worth and/or successful individuals, with experience in advising on Pre/Post Nuptial Agreements, Deed of Family Arrangements, Deed of Guardianship and Separation Agreement. She is the trusted adviser of individuals and their families, who are planning to get married, considering succession issues, or planning to pass their wealth onto their next generation(s) or on estate planning, including setting up trust. She gives particular insight to her clients on the trust structure from litigation perspective to minimize possible future litigation risk and to promote harmony within the family.

She is also experienced in advising clients on drafting their Wills and Letter of Wishes, having in mind the different dynamic of the families.

### **Talk sessions/Speeches**

Due to her vast knowledge and quality experience in her field, Rita has been invited to conferences, seminars, and other learning settings to share her knowledge. Some title of her talks include, but are not limited to:

- 內地與香港婚姻家事判決 - 雙互認可及執行的實務與前沿, co-presenter, July 2021
- Agender Cafe: Impact of Covid-19 on family relationships, co-presenter at RTHK Radio 3, July 2020
- 離婚後身家未必平分 律師：分一半僅為起點 | 財經加零一, HK01, October 2020
- 資產信託、婚前協議可免「分身家」?, HK01, October 2020
- 'Learn How to Handle Cross-Border Family Law Issues', International Academy of Family Lawyer- 2 November 2018
- 'Succession Planning for Family Businesses and High Net Worth Clients', Courses and Seminars - 21 May 2015
- 'Lecture on Cross-Border Family Cases', Shenzhen Lawyers Association - 15 May 2015, panelist
- 'Roundtable discussion on cohabitation', IAML European Chapter Conference 2015 - 27 March 2015, panelist
- 'Preserving Family Wealth and Legacy Across Generation (Trust/Taxes/Foundations)', 'HKUST-Campden IPI Wealth Management Program' - 16-19 June 2014, speaker
- CPD sessions for LexOmnibus and Law Society

### **Professional publications**

Rita has also featured in publications around her professional experience. Some of which include, but are not limited to:

- Court in the middle - A comparison of child removal applications in England and Wales, Hong Kong and Singapore
- Enforcement and recognition of orders between Hong Kong and the Mainland, Hong Kong Lawyer, May 2021
- Bill Gates 【離婚】蓋茨夫婦結束 27 年婚姻，香港情況會點分資產?, Hong Kong Economic Times, May 2021
- Court in the middle, STEP Journal, April 2021
- #LoveWins: Planning ahead of the future in Hong Kong - April 2021, co-author
- Symbolic but not consequential - household chores as part of divorce rulings in Hong Kong and Singapore? - 31 March 2021, co-author
- 'Parent's Voice and Possible Solution to Ease the Anxiety of the Families During the Pandemic' - 19 Mar 2021, co-author
- Children's Well-Being in Hong Kong During Covid-19: How We Can Help - 18 Mar 2021, co-author

- A year in review- #LoveWins: The journey towards equality for Hong Kong's LGBTQ community in 2020, Hong Kong Lawyer, February 2021
- 【專題】疫情下的愛情:情侶的日常/夫妻的世界/分手的結局, ELLE Hong Kong, January 2021
- 離婚夫婦採私人財務審裁加速分產, Apple Daily, August 2020
- 'Challenging times: The effect of an economic downturn on divorce settlements'; 10 Mar 2020, coauthor-2020
- 'For better or for worse: The impact of COVID-19 on weddings and divorce in Hong Kong' - 5 Mar 2020, co-author
- How to prepare prenuptial agreement 《如何準備婚前協議?》, TOPick news of Hong Kong Economic Times - 6 July 2016, author
- 'How to secure your assets when divorcing your wealthy husband?' 《嫁個有錢人 離婚怎保物業?》, Hong Kong Economic Times - 24 April 2015, author
- 'Legal Eye: how to lessen the impact of divorce on children', South China Morning Post - 18 February 2014, co-author

#### **Achievements and Recognitions**

- Band 1 Family/Matrimonial Lawyer by Chambers Greater China Region in 2024.
- Band 2 Family/Matrimonial Lawyer by Chambers Greater China Region in 2023 and 2022.
- Band 3 Family/Matrimonial Lawyer by Chambers Asia-Pacific in 2019 to 2021.
- Preeminent Lawyer in Doyle's Hong Kong Family & Divorce Law Rankings in 2024, 2023 and 2021.
- Leading Lawyer in Doyle's Hong Kong Family & Divorce Law Rankings in 2022, 2020, 2019 and 2018.
- Litigation Star and Top 100 Women in Litigation by Benchmark Litigation in Asia-Pacific in 2020 to 2024.
- Only Hong Kong lawyer being shortlisted by STEP as the "People's Choice – Trusted Adviser of the Year" in 2021.

#### **Affiliated Membership/Associations**

- Executive Committee of the IAFL Asia Pacific Region Chapter
- Fellow of International Academy of Family Lawyers
- Fellow of International Academy of Family Lawyers, and Treasurer of the IAFL Asia Pacific Region

- Member of the Family Law Committee of the Hong Kong Law Society
- Member of STEP and its Matrimonial Sub-Committee
- Member of the Hong Kong Family Law Association
- Member of Hong Kong Collaborative Practice Group
- Member of Zonta East
- Member of Rotary Club Central

**Education**

The University of Hong Kong, LLB, PCLL.

**Languages**

Cantonese, English and Mandarin

古明慧是古明慧律師行的合夥人。

古律師在家事法訴訟方面擁有近 20 年的經驗，在處理成功人士或其配偶的司法管轄權爭議、離婚、子女安排、附屬濟助等廣泛家事法律糾紛擁有豐富的經驗和知識。她還擅長為客人解決因生活而起的法律問題，例如處理有關精神健康方面的申請、遺囑和信託訴訟等。

在她處理過的案件當中，最具代表性的案件為 **ML v YJ [2010] HKEC 1924**，該案件上訴至終審法院，隨後立法會更修改了關於一方根據外國離婚令在香港申請經濟給養資格的法律。她其後的許多案件也成為了重要的案例，被法律界所重用。

古律師亦非常熱衷於法律訴訟以外的工作。她了解各類家庭有各自不同的狀況，她經常為香港不同的家庭提供法律意見，讓他們有能力可以保護和/或保障他們自己的財富，促進家庭的和睦發展。她是 2021 年 STEP「人民的選擇－本年度最值得信賴的顧問」獎項的香港執業律師。她也是 2021 年 ALB 香港法律大獎年度女性律師之一。也被 **Doyles** 評為傑出律師及被 **Benchmark Litigation** 評為訴訟之星。

### 訴訟－管轄權和財務方面

與複雜資產控制結構和信託有關的糾紛，以及其財產披露，是古律師的其中一項法律專長：

- **WYSL v FHCBA and Ors [2019] HKEC 2379** – 一宗涉及由家族父輩設立的信託與妻子需求有關的案件被提交至上訴法院處理，古律師最終成功協助該名妻子取得較高的一次性賠償金額。
- **W v H and Anor [2009] HKFLR 230** – 一宗涉及向丈夫離開該家庭後所設立的信託提出撤銷令的案件。此案件是考慮配偶的特殊貢獻其中一宗的主要香港案例。這是在 **DD v LKW** 案之前的案例，但它探討了平等分享家庭資產原則的問題。
- **HJFG v KCY [2012] 1 HKLRD 95** – 一宗非常複雜且充滿爭議的離婚案件，其中涉及大量資產、包括規模可觀的基金和信託。該案件的訴訟在香港和開曼群島進行，並與第三方進行了激烈的談判，才能得到最終的解決方案。古律師與香港、英國和開曼群島的法律專家，以及香港和英國的知名會計師合作，進行了長達 9 年的法律訴訟 – 這是其中一宗訴訟時間最長的家事案件。此案件仍是在審訊訟案期間提供贍養費的主要香港案例，也是迄今為止最高臨時贍養費的判決。此案件亦涉及對該丈夫進行非常徹底的財務披露要求，後來由於發現該丈夫未有披露重大事項，導致對方申請撤銷同意判令。
- **AWK v MLTH [2016]** – 古律師成功為該丈夫對該妻子提出財務披露的無理要求進行了辯護。

她不只會協助那些陷入家事糾紛的夫婦，她還會為其婚姻期間因向其中一方提供經濟支援，而不幸陷入糾紛的家庭成員提供專門的法律建議。如果介入糾紛對她客戶的案件有所助益，她會在沒有保留地以第三方的身份介入糾紛。

- **CWCC v YKOP**（訟案期間的贍養費和涉及第三方因素）**[2018] HKFLR 320** - 涉及第三方經濟援助的贍養費(訟案期間)申請。
- **DX v LN & Ors (禁訴令) [2015] HKFLR 525** - 古律師為該案丈夫的父親，中國知名家族的父輩長老，處理在香港和中國持有的資產，成功協助他保護其家庭資產。

在 **ML v YJ** 案之後，古律師成為了司法領域的專家，尤其是涉及中國的案件：

- **CL v ZRC (司法管轄權; 不方便法院 原則) [2015] HKFLR 125** - 該案丈夫被發現與香港存在實質性的重大聯繫，但中國是較為適合進行離婚的地點(便利公堂)。該案的離婚程序是在中國完成的，該案妻子在中國離婚後，於香港援引第 IIA 部分進行聲請 (ML v YL 案後的變更)。
- **LN v SCCM [2013] HKFLR 358** - 一宗有爭議的兒童遣送案件，案件在上訴法院審理，並涉及香港與新加坡之間的法律衝突，此案促進了司法機構設立直接的司法溝通系統，有關資訊現可在訴訟程序指南 SL7 中找到。
- **CWYJ v LTYE (禁制令) [2020] HKCA 913** - 最近，古律師在上訴法院代表一位搬到新加坡工作的丈夫進行訴訟，該案丈夫在下級法院被判需接受禁制令。她以侵犯基本法第 31 條所保護的工作權、行動權和旅行權為辯護理據基礎，成功為該案丈夫解除了該禁制令。

### 與兒童有關的訴訟經驗

古律師也參與過很多極具爭議的兒童訴訟案件，擁有豐富的經驗，例如兒童監護權、照顧權和控制權國際搬遷、海牙法律程序和收養問題：

- **ML v YJ (單獨和共同管養權) [2008] HKFLR 88** – 在有關單獨和共同管養權的問題上，這一案例經常被引用。
- **BKGGB v BKND [2021] HKFC 100** – 一宗由古律師成功協助該案母親將孩子從香港帶到其出生地的案件。此案還涉及對父親收藏大量兒童色情刊物的嚴重指控。
- **MJB v CWC (海牙公約) [2018] HKFLR 331, BMC v BGC [2020] HKCA 317 和 FR v MF [2021] HKCFI 1557** – 涉及未經授權將一名孩子從其各自的慣常居住地遷往香港的案件。
- **YJH v LKHM [2019] HKEC 2954** – 這是一宗涉及一名由未婚父母誕下的孩子被母親強行帶至台灣的案件。儘管台灣並非為海牙管轄區，但法院也有在《海牙公約》和監護權訴訟方面考慮了父親的立場。古律師曾帶領她的團隊成功把該案孩子帶返回香港。此外，法院還駁回了母親關於訴訟地爭議的申請。
- **VK v SAFG (移居) [2018] HKFLR 485** - 古律師代表該案父親處理移居申請，將該案孩子從母親帶走，並與他一起居住在瑞士。
- **GDML v EJR [2019] HKFC 65** – 古律師成功因為孩子安全的理由，替父親爭取兩名年幼小孩照顧權。
- 古律師成功為在代孕安排下出生的孩子取得領養令。



## 其他法庭申請

### 信託、遺囑的爭議和精神健康申請

古律師也有處理涉及家庭層面糾紛的經驗。其中包括根據《精神健康條例》為香港知名慈善家提出申請。她協助一名非婚生子女確立他對父親遺產的權利。她亦發起了遺囑認證程序，對所立遺囑的遺囑證提出抗辯。

### 騷擾和恐嚇

- X 和其他 v Z [2020] HKCFI 826 - 古律師成功協助一位客戶針對她的前男友對其持續的騷擾和恐嚇行動發出騷擾禁制令。

## 替代爭議解決方式（另類排解程序）

古律師一直致力為客戶們尋求各種能夠和平解決分歧的有效方法。除了傳統的另類排解程序（ADR），例如調解和私人財務糾紛排解程序（FDR），她還是以下領域的先導者：

- 自 2015 年推出試點計劃以來，香港首個也是目前唯一一個以私人財務裁決案件。在這個代表性的案件中，她在新冠肺炎疫情流行期間，及時建議和代表該案妻子於退休法官面前進行了一次私人財務糾紛案審裁。
- 她還參與了其中一次由調解員協助的財務糾紛排解聆訊，這類聆訊舉行次數並不多，她在該聆訊協助解決了一項原來不可能達成的協議。

## 非具爭議性案件方面的工作經驗

古律師擁有豐富的專業知識，能夠為擁有超高淨資產和／或成功人士保護他們的財產，在準備婚前／婚後協議、家事安排契約、監護權契約和分居協議方面有著豐富的經驗。她是非常值得信賴的顧問，可以為那些計劃結婚、正在考慮繼承問題、或計劃將財富傳承、或想進行遺產規劃（包括設立信託）的人和家庭提供可靠的服務。她會在訴訟的角度為她客戶在信託的結構上提供獨到的見解和建議，盡量為他們減少未來訴訟可能面對的風險，並促進家庭內部的和諧發展。

她在協助客戶起草遺囑和意願書方面亦有豐富的經驗，亦會同時考慮不同家庭的不同需要，為客戶提供實用的建議。

## 講座／演講

由於她在她的專業領域擁有大量豐富的知識以及實戰經驗，古律師經常被邀請出席各種不同種類的會議、講座研討會和其他學習分享會，向大眾分享她的專業知識。以下是她部分的講座分享會主題：

- 內地與香港婚姻家事判決 - 相互認可及執行的實務與前沿，聯合主持人，2021年7月
- Agender Café：新冠肺炎疫情對家庭關係的影響，香港電台第三台，聯合主持，2020年7月
- 離婚後身家未必平分 律師：分一半僅為起點，財經零一HK01，2020年10月

- 資產信託、婚前協議可免「分身家」？HK01，2020年10月
- 「了解如何處理跨境家事法律問題」，國家事法律師協會，2018年11月2日
- 「家族企業和高資產淨值客戶的繼承計劃」，課程與講座，2015年5月21日
- 「跨境家庭案例」，深圳市律師協會，小組成員，2015年5月15日
- 「關於同問題的圓桌論會議」，2015年歐洲會會議，小組成員，2015年3月27日
- 「保護家庭財富和跨代遺產（信託/稅務/基金）」，「香港科技大學 - Campden IPI 財富管理」，講者，2014年6月16-19日
- 為 LexOmnibus 和律師協會提供專業發展課

## 專業出版

Rita 也圍繞她的專業經驗發表了不出版。以下是她發表的出版刊物：

- 執行和香港與之的命令，Hong Kong Lawyer（香港律師會會），2021年5月
- Bill Gates【離婚】蓋茨夫婦結束27年婚姻，香港情況會點分資產？香港經濟日報，2021年5月
- Court in the middle，STEP Journal，2021年4月
- 具象徵意義但無關重要 - 在香港和新加坡將家務作為離婚裁決考慮的一部分？共同作者 - 2021年3月31日
- 回顧過去一年 - #LoveWins: 2020年香港LGBTQ群體平權之旅，Hong Kong Lawyer（香港律師會會刊），2021年2月
- 【專題】疫情下的愛情：情侶的日常／夫妻的世界／分手的結局，ELLE Hong Kong（香港），2021年1月
- 離婚夫婦採私人財務審裁 加速分產，蘋果日報，2020年8月
- 《如何準備婚前協議？》，香港經濟日報 TOPick - 2016年7月6日
- 《嫁有錢人離婚怎保業？》，香港經濟日報 - 2015年4月24日
- 「法律黑白眼：如何輕離婚子造成的影響」，南華早報，共同工作，2014年2月18日

## 成就與行業認可

- 於 2024 年, Chambers Greater China Region 評為第一級 Family/Matrimonial Lawyer。
- 於 2022-2023 年, 被 Chambers Greater China Region 評為第二級 Family/Matrimonial Lawyer。
- 於 2019-2021 年, 被 Chambers Asia-Pacific 評為第三級 Family/Matrimonial Lawyer。
- 於 2021, 2023-2024 年, 被 Doyle - Leading Hong Kong Family & Divorce Lawyers 評為 Preeminent Lawyer。
- 於 2018-2020, 2022 年, 被 Doyle - Leading Hong Kong Family & Divorce Lawyers 評為 Leading Lawyer。
- 於 2020-2022, 2024 年, 被 Benchmark Litigation 評為 Litigation Star and Top 100 Women in Litigation。
- 於 2021 年, 唯一一位入圍 STEP《人民的選擇 - 本年度最值得信賴的顧問》獎項的香港律師

## 會員／協會成員

- IAFL 亞太區分會執行委員會成員
- 國際家事法律師學會會員，以及 IAFL 亞太區司庫
- 香港律師會家事法委員會的委員成員
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- 香港家庭法律協會的成員
- 香港協作實踐小組的成員
- 崇德社（東區）的成員
- 扶輪社（中區）的成員

## 教育背景

香港大學法律學士及專業證書

## 語言

英文、粵語、國語。